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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 were set to expire on January 12, 2015, with no one to fill their seats.

On December 29, 2014, after months of nation-wide protests and international pressure, Haitian President Michel Martelly, representatives of both houses of Parliament and the Superior Council of Judicial Power agreed to extend the mandate of parliamentarians on the condition that amendments to the 2013 Electoral Law are passed by January 12, 2015. As of the publishing of this paper, a new electoral council had not been appointed to prepare the electoral law amendments, which must also be ratified by Parliament, casting doubt on whether parliamentary terms will be extended or whether President Martelly will be ruling without any parliamentary oversight.

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:

- One third of the Senate already termed out in 2012. With ten vacant seats, the Senate does not have a quorum to conduct business unless fifteen of the remaining twenty members participate. So six Senators can prevent a vote by refusing to participate.
- The terms of some 130 local mayors also expired in 2012. Those seats have been filled by "municipal agents," who were unconstitutionally appointed by President Martelly.
- The terms of all 99 seats of the House of Deputies and one third of the Senate (10 out of 30 seats) are set to expire on January 12, 2015; under the December 29 agreement, they would be extended until April 24 and September 9, 2015, respectively.¹
- Presidential elections must be held by the end of 2015.

Although elections must be held as soon as possible to usher in new, 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 current Provisional Electoral Council (CEP) was not constituted in accordance with the Constitution. The Consultative Commission, recently convoked by President Martelly amidst national and international pressure, has made a number of constructive recommendations to move past political and legal roadblocks and hold elections in 2015. Among the recommendations are 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. This government's repeated election-related initiatives that failed to comply with the Constitution and maximized executive branch influence over the elections provide substantial justification for informed vigilance by all who seek a sustainable resolution of Haiti's political crisis.

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 three key ministers. The Senators present overwhelmingly voted no confidence in the ministers, but fell just short of the 16 votes necessary to force their resignation due to the vacancy of one third of the Senate.² 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.³ 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 Haitian's 1987 Constitution to oversee the first election of a President, local officials and a complete Parliament. After the first election, the Provisional Electoral Council would no longer operate and a Permanent Electoral Council would then 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).⁴ 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.⁵ The permanent council is to be comprised of nine members as well, but each branch of government – Executive, Judicial and Legislative – appoints three members.⁶ 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 stalled 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 fraught with controversy. 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.⁷ According to 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.

Moreover, the legislative appointments must be approved by two-thirds of both the Senate and House of Deputies. Without one-third of its Senators, the Senate opposed forming a nine-year permanent council that would include three representatives from the legislature selected by a Senate that was not fully operational. 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.⁸

Collège Transitoire du Conseil Électoral Permanent (CTCEP) in 2013

To remedy the electoral council crisis, President Martelly appointed a compromise entity in April 2013, the *Collège Transitoire du Conseil Électoral Permanent* (known by its French acronym "CTCEP"), charged with drafting a new electoral law.⁹ The appointments were theoretically 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. After growing tensions and accusations of intentional delays, both chambers passed the electoral law at the end of 2013.¹⁰

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.¹¹ 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.¹² Although many civil society organizations signed the *Accord*, many others refused, including 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,¹³ 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.¹⁴ In protest, the G6 senators, opposition groups and human rights groups 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:¹⁵

- 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.¹⁶

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.¹⁷ On January 7, 2015, the Martelly administration announced that a new CEP would be appointed within 48 hours.¹⁸ The reconstitution of the CEP is a welcome and necessary step towards fair and inclusive elections. But in order to ensure public confidence necessary for successful elections, it is essential for the CEP to be impartial, independent, and free to run fair elections that ensure participation of all eligible political parties.

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 exercise their political and civil rights without intimidation and unlawful punishment. Since President Martelly took office, leaders of the political opposition, activists and human rights defenders have face increased harassment, threats and in many cases, arbitrary arrest and prolonged detention¹⁹. 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, an estimated 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.²⁰

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.²¹

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 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*.²² 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, the Chief Justice of the Supreme Court serves as the CSPJ President.²³ 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.²⁴ 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.

It is not clear whether the recommendation calling for the resignation of the president of the CSPJ in practice also entails his resignation from the Supreme Court. Under the Constitution, Supreme Court justices may be removed from office only if there has been a legal determination of abuse of authority, and can only be terminated during their term of office in the event of a duly determined permanent physical or mental incapacity.²⁵ The Constitution does not, however, prescribe a process for removing judges who, like Chief Justice Joseph, were appointed illegally in the first place.

According to media reports, Chief Justice Joseph resigned from the Supreme Court (and thereby the CSJP) on January 7, 2015.²⁶

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. As of the publishing of this paper, Parliament had not voted on Paul's appointment.²⁷ 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.²⁸

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 is conditioned on passing amendments to the electoral law before the terms expire on January 12, 2015. It remains unclear how a new CEP can be appointed and approve the electoral amendments, and then the amendments be voted on by both houses of Parliament before January 12. This tight time frame calls into question whether electoral amendments will be passed lawfully.

The extension does arguably contravene the constitutional prohibition of extending Parliamentary terms.²⁹ Proponents note that the alternative - not having a legislature to balance the executive branch - is also unconstitutional, and highly dangerous in practice, while the extension for the Deputies merely returns to them the three months they lost at the beginning of their term as a result of election delays.

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 prompt, 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. But the failure to make concrete progress on the CEP- the foundation of the electoral system, the apparent attempt to have a vote on the unconstitutional electoral law and the Martelly administration's failure to consult with opposition groups in assembling the consensus government raise serious concerns about the current process' viability.

While the promise to create a constitutionally-mandated Provision Electoral Council under Article 289 is welcomed and necessary, the appointment process of the CEP members can be manipulated by the Executive. The Martelly Administration's record of maximizing its influence, often illegally, in previous electoral councils raises the specter of a CEP that could be technically justified as constitutional, but would not be independent enough to inspire public confidence. Already, some political dissidents are insisting the President Martelly resign, because they do not believe that he will run fair elections. In order for the CEP to have the credibility and independence needed to organize fair and inclusive elections, the President will need to exercise substantial flexibility and demonstrate fairness in the selection process. An independent CEP is critical to ensuring full participation and inclusion of all eligible political parties.

The Haitian Constitution requires the Electoral Law to be passed by both houses of Parliament. With most of Parliament's terms set to expire on January 12, 2015, unless there is an extension, 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 the United States government and other members of the international community to:

1. Encourage the Martelly administration to work in good faith with the Parliament and opposition groups to form a consensus government;
2. 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;
3. Call on the Haitian government to ensure the Provisional Electoral Council operates with independence;
4. Call on the Haitian government and Provisional Electoral Council to ensure inclusion and full participation of all political parties in all facets of the electoral process;
5. 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
6. 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.

These elections must not repeat the errors of the past.³⁰ Illegitimate elections in 2010, contaminated by a corrupt electoral council, illegal exclusion of political parties,³¹ ballot-stuffing³² and an arbitrary revision of the results³³ 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.³⁴ 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 Amelie Baron, *Political accord in Haiti seeks to avert crisis*, REUTERS, Dec. 29, 2014, <http://www.reuters.com/article/2014/12/30/us-haiti-parliament-idUSKBN0K806L20141230>.

² AlterPresse, *Haiti-Parlement : Trois ministres du gouvernement échappent à la censure grâce à une minorité de sénateurs*, 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.*

³ HAITI CONST. OF 1987 (Amended 2012), arts. 289, 192. An official version of the Amended 2012 Constitution could not be found, but an unofficial version is available at [Constituteproject.org](http://constituteproject.org), 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.haitilibre.com/article-2964-haiti-constitution-texte-officiel-des-amendements-de-la-constitution-de-1987.html>.

⁴ *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 Groupe 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*.

⁵ *Id.* art 192.

⁶ *Id.*

⁷ *Id.*

⁸ *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>.

⁹ *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>.

¹⁰ Réseau National de Défense des Droits Humains (RNDDH), *Rapport sur la situation général des droits humains en Haïti au cours de la troisième année de présidence de Michel Joseph MARTELLY*, 5 (May 14, 2014) “RNDDH Report” available at <http://rnddh.org/content/uploads/2014/05/Rapport-Droits-Humains-Mai-14.pdf>.

¹¹ *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>.

¹² *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>.

¹³ *Haiti – Politic: The dialogue between the Executive and the Senate ends in failure*, HAITI LIBRE, Jun. 5, 2014, <http://www.haitilibre.com/en/news-11302-haiti-politic-the-dialogue-between-the-executive-and-the-senate-ends-in-failure.html>.

¹⁴ *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>.

¹⁵The 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>.

¹⁶JAKE JOHNSTON & MARK WEISBROT, CENTER FOR ECON. & POL'Y RES., HAITI'S FATALY FLAWED ELECTION 2 (2011), available at <http://www.cepr.net/documents/publications/haiti-2011-01.pdf>.

¹⁷*Haiti-Flash: Démission des 9 conseillers du CEP*, HAITILIBRE, Dec. 19, 2014, <http://www.haitilibre.com/article-12765-haiti-flash-demission-des-9-conseillers-du-cep.html>.

¹⁸Jacqueline 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>.

¹⁹*Access to Judicial Remedies in Haiti*, Institute for Justice and Democracy in Haiti *et al.*, Submission for the 112th 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_Access-to-judicial-remedies_Sept-12.pdf; see also RNDDH Report, *supra* note 9.

²⁰*Id.*

²¹*Haiti-Justice: La marche vers une libération complète des prisonniers d'opinions*, ALTERPRESSE, Dec. 16, 2014, <http://www.alterpresse.org/spip.php?article17456#.VJHB98kw8dU>.

²²*Will Former President Aristide be Arrested? After 10 Years of Investigations, He has Never Been Charged*, CENTER FOR ECON. & POL'Y RES. HAITI: RELIEF & RECONSTRUCTION WATCH BLOG, (Aug. 14, 2014 3:37 PM), available at <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>.

²³Loi Creant le Conseil Superieur du Pouvoir Judiciare, art. 1, available at <http://www.leparlementhaitien.info/lesenat/kr/article/47-49e-legislature/161-loi-creant-le-conseil-superieur-du-pouvoir-judiciaire.html>.

²⁴Loi 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).

²⁵HAITI CONST. of 1987, art. 177.

²⁶Charles, *supra* note 18.

²⁷HAITI CONST. of 1987, art. 137 (amended 2012).

²⁸Charles, *supra* note 18.

²⁹HAITI CONST. of 1987, art. 111.8.

³⁰Brian Concannon, Jr., *Haiti's Flawed Elections: They Told Us So*, BOSTON HAITIAN REPORTER, Nov. 2, 2010, <http://www.bostonhaitian.com/node/253>.

³¹Institute for Justice & Democracy in Haiti, *Haiti's November 28 Elections: Trying to Legitimize the Illegitimate* (Nov. 22, 2010), http://www.ijdh.org/haiti-s-november-28-elections-trying-to-legitimize-the-illegitimate-ijdh/#.UjoNJBb_5Rc.

³²Jason Beaubien, *Weary, And Wary, Haitians Prepare For Elections*, NPR, Oct. 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>.

³³Dan Beeton and Georgianne Nienaber, *Haiti's Doctored Elections, Seen from the Inside: An Interview with Ricardo Seitenfus*, DISSENT MAGAZINE, Feb. 24, 2014, http://www.dissentmagazine.org/online_articles/haitis-doctored-elections-seen-from-the-inside-an-interview-with-ricardo-seitenfus.

³⁴*Lawmakers Urge Clinton to Ensure Haiti Elections Are Inclusive*, REUTERS, October 8, 2010, available at http://www.nytimes.com/2010/10/09/world/americas/09haiti.html?_r=1.