

Report of the National Lawyers Guild and International Association of Democratic Lawyers Delegation on the October 25, 2015, Presidential and Legislative Elections in Haiti

November, 2015





At a voting center in Bel-Air, police put crowd into two lines. Photo: Jake Johnston

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Executive Summary

Haitian voters were called to the polls on October 25, 2015 to elect the country's next President, two-thirds of the Senate, all 119 members of the House of Deputies and all local mayors. The October 25 elections were less violent than the first round of legislative elections of August 9, 2015, but they fell far short of minimum standards for fair elections. Haitians' voting rights were violated through a combination of intimidation, irregularities and fraud that began before October 25 and continued through the publication of results. The vast majority of registered voters—over 70 percent—did not vote; many expressed fear or lost confidence in the electoral process. Ordinary voters faced intimidation, illegal influencing and privacy violations. A large percentage of ballots were cast using political party accreditations, which allow voting outside the rules applicable to regular voters, representing a major opportunity for fraud. A lack of transparency in the tabulation process has raised significant questions about whether votes have been properly counted and verified for fraud.

Without major corrective measures, these elections will represent a significant setback in Haiti's long struggle to consolidate democracy.

Impact of the Turbulent August 9 Elections

The October 25 elections were built on the precarious foundation of Haiti's August 9 legislative elections, which were marred by massive disorder, delays, and serious irregularities, including:

- Incidents of violence, fraud and voter intimidation at 40 to 67.8 percent of voting centers, with 196 of 1508 centers (13 percent) forced to suspend voting due to such incidents;
- The disenfranchisement of an estimated 315,000 voters, as a result of nearly a quarter of tally sheets (23 percent) from polling stations being destroyed, lost or excluded due to fraud and other detected irregularities; and
- Low voter turnout, which was only 18 percent nationwide and dropped to 10 percent in the Ouest Department, home to over 40 percent of Haiti's registered voters.

Haiti's Provisional Electoral Council (CEP) made some improvements in terms of organization and security from August 9 to October 25, but those changes were not enough to prevent the massive irregularities and fraud of the previous election from spilling over into October 25. The CEP largely failed to hold accountable candidates and parties that engaged in violence, voter intimidation and fraud on August 9, sending a message to perpetrators and voters alike that "crime pays." The climate of impunity fostered by the CEP eroded confidence in the CEP itself and in the electoral process more generally. Even more troubling, the integrity of the electoral results of the first-round legislative races was undermined by the fraud, calling into question the legitimacy of the second-round race.

Election Delegation Observations of October 25th

A delegation of election monitors from the National Lawyers Guild (NLG) and the International Association of Democratic Lawyers (IADL) spent two weeks in Haiti prior to the vote and observed the October 25 electoral process at 15 voting centers in the greater Port-au-Prince region.

The observation team made the following observations:

1. Low voter turnout. In what was a crucial election for Haiti's political future, only 26.6 percent of registered voters cast a ballot on October 25. Many voters, anticipating a repeat of August 9, stayed away either due to a fear of violence at the polls or the expectation that voting was futile because the votes would not be counted.

Turnout in previous presidential elections has been much higher, reaching 59.2 percent in 2006, 60.3 percent in 2000, and 50.2 percent in 1990. On October 25, turnout was comparable to that of 2010, when elections marred by widespread fraud were held after an earthquake and amid the beginning of a cholera crisis.

2. A large number of the votes cast on October 25 were potentially fraudulent. Haitian observers documented the widespread use of observer and political party accreditations to cast multiple fraudulent votes. The CEP printed and distributed 915,675 accreditations for political party representatives (*mandataires*) and several thousand more observer accreditations, which allow the possessor to vote in any polling station without being on the voter list. Such “off-list” votes potentially account for as much as 60 percent of the 1,538,393 votes cast in the presidential election. In the days before the election, a black market for these accreditations developed, with passes being sold for as little as \$3. The delegation witnessed polling stations packed with *mandataires*, so much so that the October 25 election has been dubbed a “*mandataire* election.”

3. Widespread irregularities due to lack of or inconsistent application of voting procedures. The observation team also witnessed a number of voting irregularities on October 25, including voter influencing and intimidation, inadequate assistance for confused voters, difficulties for voters in finding out where to vote, and insufficient privacy safeguards.

Protests have spread throughout Haiti since the publication of preliminary results placing the ruling party-backed presidential candidate Jovenel Moïse in first place and Jude Celestin in second place. The United States and its allies in the international community (“the Core Group”) have accepted the announced results and called on Haitians to do the same, emphasizing the need for political stability in order for the country to move forward.

Real stability in Haiti can only be achieved through free and fair elections. Unrest is likely to continue unless Haitian voters’ concerns about fraud are addressed and their faith in the electoral process is restored. If the problems observed on October 25 are not dealt with transparently and honestly, Haiti’s next government will lack the democratic legitimacy necessary to govern.

Recommendations:

1. Improved voter access, including through provision of: more neutral election observers to assist voters (*orienteurs*); standardized indelible ink procedures; more training for poll workers; improved voter registration processes; additional polling stations to allow convenient access to vote; improved voter privacy safeguards; and voter awareness campaigns.
2. An independent and in-depth investigation into the fraud witnessed by election observers to determine its scale and impact on the October 25 election results, with particular attention paid to the issue of fraudulent multiple voting by *mandataires* and national observers. All elections should be re-run unless the investigation establishes that voters were able to vote freely, and that the results accurately reflect the voters’ choices.
3. A thorough investigation of political parties, candidates and other individuals implicated in election-related violence and fraud to put an end to impunity and to determine the credibility of both the August 9 and October 25 electoral results. Where necessary, judicial proceedings must be initiated against perpetrators of election abuses.
4. Coherence, consistency and transparency in all rulings and directives by the Provisional Electoral Council, as well as Departmental and National Offices of Electoral Litigation, the BCEN and BCED.
5. Support from the international community for the Haitian people’s demands for fair and democratic elections, while refraining from interfering in ways that threaten Haiti’s sovereignty.

Methodology

This report is drafted by an election observation team composed of four international observers accredited by the Provisional Electoral Council. The team visited 15 voting centers, accounting for a total of 480 polling stations, in Port-au-Prince and its environs on Election Day, 25 October, 2015, between 6:45 a.m. and 6:15 p.m.¹ The team's observations were supplemented by an election-day groundsourcing initiative, which surveyed 4,486 Haitians by phone concerning irregularities and incidents they may have witnessed.² The delegation also gathered information from national and international electoral observation mission reports, journalistic sources, and social media.

Background

A. Haiti's Current Electoral Crisis

The stage for Haiti's current political crisis was set by the country's 2010 and 2011 presidential and legislative elections. The credibility of the 2010–2011 elections was undermined by a number of factors: an unconstitutional electoral council, political violence, voter intimidation, and the arbitrary disqualification of over a dozen political parties.³ Post-earthquake conditions and a UN-triggered cholera epidemic prevented many people from registering to vote, which directly contributed to a historically low voter turnout (below 23 percent).

When conflicts erupted over irregularities with voting tabulations after the first round of elections on November 28, 2010, the international community pressured the Haitian government to change election results based on a flawed and inconclusive partial recount from an Organization of American States (OAS) observer mission. Ricardo Seitenfus, the OAS's Special Representative to Haiti at the time, denounced his organization's involvement in a "blatant electoral intervention."⁴ After he publicly criticized the international community's influence over Haiti (the OAS played an equally controversial role in disputes that arose after the May 2000 legislative elections),⁵ Seitenfus was dismissed from his position in December 2010.

This flawed electoral process brought the administration of President Michel Martelly to power in May 2011. The Martelly government proposed several electoral councils to oversee elections between 2012 and 2014, but none of the proposed councils was considered independent or met constitutional requirements, and thus none received the constitutionally-required Parliamentary approval.⁶ As a result, no elections were held in Haiti during the first four and a half years that President Martelly was in office.

When 10 Senate seats became vacant in 2012, ensuing difficulties in reaching a quorum afforded the Executive Branch the opportunity to govern with minimal legislative oversight for the rest of President Martelly's term. The terms of all mayors also expired in 2013, who were then replaced with hundreds of "municipal agents" appointed by the Executive.⁷ As a result of further election delays, the terms of all but 10 members of Parliament expired by January 12, 2015, rendering Parliament unable to enact laws.⁸

As the crisis deepened, a wave of political protests forced the administration to appoint a Consultative Commission on November 28, 2014, which recommended the establishment of a new provisional electoral council, the resignation of Prime Minister Laurent Lamothe, and the release of political prisoners.⁹ In February 2015, President Martelly adopted the Electoral Decree, and appointed a new Provisional Electoral Council through a process that more closely complied with the Constitution. The Electoral Decree did not include the required ratification by Parliament, which had become inoperable. These measures were sufficient to defuse the political crisis, as the new CEP scheduled elections for August 9 (first round legislative), October 25 (first round presidential, second round legislative and first round mayoral) and December 27 (second round presidential and mayoral).

B. The International Community's Involvement

One month before the 2010 elections, forty-five members of the U.S. Congress warned then-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 post-earthquake reconstruction projects.¹⁰ The U.S. government nevertheless continued to support the electoral process. After intervening both directly and through the OAS to change the results, as discussed above, the U.S. provided generous financial and diplomatic support to the Martelly Administration throughout its term.¹¹ U.S. officials publicly supported President Martelly's electoral councils against widespread criticism in Haitian civil society, and criticized members of Parliament for using legislative procedures to block the unconstitutional councils.¹²

After the controversial August 9, 2015 election, U.S. Secretary of State John Kerry traveled to Haiti to meet with President Martelly, in apparent breach of State Department election protocol against meeting with heads of state holding imminent elections.¹³ Secretary Kerry publicly pledged continuing U.S. support for elections, stating that the first round presidential election must go ahead according to the originally envisaged electoral timetable.¹⁴ The U.S. has contributed \$30 million to Haiti's elections this year.

The specter of foreign intervention looms large over the 2015 elections. Haitian leaders and political commentators from across the political spectrum have expressed concerns that the country would experience a repeat of 2010-2011, where the ultimate outcome of elections was decided not by Haitians going to the polls, but by fraud and the behind-the-scenes maneuvers of foreign diplomats. Even electoral council members lamented the control exercised by the international community over the current electoral process.¹⁵ There is a wide consensus in Haiti that the 2015 elections are far from an exercise of Haitian sovereignty given the heavy influence of the U.S., the United Nations, and OAS. For example, the UN Development Program (UNDP) controls the election's finances and influences key decisions, foreign soldiers with MINUSTAH occupy the country and oversee election-day security, international observer missions (OAS, European Union) arbitrate the legitimacy of vote, and as mentioned earlier, foreign governments pay the lion's share of the cost of holding elections.

C. August 9 Legislative Elections: “An affront to democratic principles”

Haiti's first round legislative elections were held on August 9, 2015, within this context of political crisis and foreign intervention. As documented by local and international media and on the ground observers, Election Day was marred by massive disorder, delays, fraud, and violence. A coalition of Haitian human rights organizations that observed the vote labeled the August 9 elections an “affront to democratic principles,” and stated that the problems were “serious enough to put the legitimacy of Haiti's next parliament in question.”¹⁶

In the month before the first round elections, fifty-four incidences of violence were recorded. Many involved weapons; five ended in death.¹⁷ State funds for political campaigns were distributed less than two weeks before the vote, and there were numerous allegations that candidates were financing campaigns from illegal means.¹⁸ In the immediate run up to the August 9 vote, voting center officials were replaced without explanation at many polling stations and the CEP announced it was unable to print the number of political observer party passes needed, leading to the exclusion of many parties' observers from voting centers.¹⁹

On Election Day, fraud, voter intimidation, violence, and other disruptions were documented at 40 to 67.8 percent of voting centers.²⁰ Observers from the National Network for the Defense of Human Rights (Réseau national de Défense des Droits Humains (RNDDH)), the National Observation Council (Conseil National d'Observation (CNO)) and the Haitian Council of Non-State Actors (Conseil Haïtien des Acteurs Non Etatiques (CONHANE)), who were present at 48 percent of voting centers, declared that violence and fraud was “systematic,” and documented 104 cases of voting centers that experienced “massive fraud.”

The sources of the disruptions were many: candidates and party sympathizers ransacked voting centers; political party representatives (“*mandataires*”) who had not received their accreditations fought for access to polling

stations; hired thugs and security agents opened fire on lines of voters; party supporters posed as observers in order to influence and intimidate voters in the polling stations.²¹ Police officers stationed at voting centers, with few exceptions, did not intervene to halt these acts of violence, raising questions about whether officers had received an order from above directing them to stand down.²²

Nationwide, voter turnout was 18 percent, falling to 10 percent in the Ouest Department, home to over 40 percent of Haiti's registered voters.²³ Many potential voters stayed home to avoid the violence; others could not vote because many voting centers opened late and were forced to close early. Often, the closings were due to disruptions by candidates' supporters, but a number of organizational shortcomings – such as an absence of electoral materials, untrained poll workers, voter lists not being posted outside and voters not receiving their voting cards – also contributed greatly to this problem.²⁴

Many of the votes cast were never counted. Nearly a quarter of tally sheets (23 percent) from polling stations were destroyed, lost or excluded due to fraud or other detected irregularities, disenfranchising as many as 315,000 voters.²⁵ While the overwhelming majority of these votes were lost due to incidents at polling centers, leakages in the post-vote logistics chain also played a role. Logistical failings by UNOPS, which was responsible for transporting tally sheets, may have resulted in numerous tally sheets never arriving at the CEP's Tabulation Center.²⁶

D. Inadequate response by the CEP and Haitian Police

The CEP was slow to respond to the grave violations of August 9. When the CEP eventually took some steps towards accountability for Election Day incidents, its response was weak, inconsistent and partial. The CEP's response, moreover, often fell short of its obligations outlined in the Electoral Decree. Signed into law by President Martelly on March 2, 2015, the Decree gives the CEP the responsibility to swiftly condemn all known cases of electoral violence, to exclude all candidates and parties involved in such acts from participation in elections and to initiate judicial proceedings against the perpetrators.²⁷

1. Slow and inconsistent denunciation of violence and fraud

The CEP first downplayed the violence and fraud that occurred on August 9. At the end of Election Day, the CEP claimed that 54 out of 1508 voting centers, or 4 percent, had experienced violence, and 5 percent had been forced to close early. The scale of disruptions was in fact much larger, as the CEP later admitted (in part thanks to civil society observation teams who documented incidents in almost one-half of voting centers). Thirteen percent of voting centers (196 of 1508) forced to suspend balloting because of armed violence, voter intimidation, and irregularities.²⁸

Following numerous protests and widespread denunciation of the electoral process by political parties and civil society organizations,²⁹ the CEP announced on August 20 that the vote would be rerun in 25 constituencies (*"circonscriptions"*), where less than 70 percent of the tally sheets completed in polling stations had been received by the tabulation center.³⁰ The decision to rerun elections in areas that experienced serious disruptions was positive, but the CEP's threshold of 70 percent of tally sheets set a low bar, effectively declaring the disenfranchisement (by the exclusion or loss of tally sheets) of up to 30 percent of voters to be acceptable.³¹

The CEP's 70 percent rule assumed that up to 30 percent of ballots being "lost" or destroyed would not compromise the results. Yet the ransacking of voting centers often did not occur at random. According to the deputy head of the European Union (EU) observation mission, certain candidates and party sympathizers systematically attacked voting centers where they believed the results would not be favorable to their party.³² Candidates who were the target of electoral fraud or violence but whose constituencies did not fall under the 70 percent rule were prejudiced by the CEP's decision. Reports by national observer groups indicated that large-scale fraud and violence were not limited to the 25 rerun constituencies, and that other elections

would also need to be rerun to address the real scale of the problem.³³ By using an arbitrary cut-off rather than conducting thorough investigations and deciding on a case-by-case basis, the CEP turned a blind eye to tainted results for many constituencies.

Furthermore, the 70 percent rule was not applied consistently by the CEP. For example, the CEP announced a rerun of first-round elections in Cornillon (Ouest Department) where 69 percent of tally sheets were received, but decided without explanation to not rerun elections in Cerca-Carvajal/Quartier de los Palis (Centre, 66.7 percent of tally sheets).³⁴ After the ruling of the various contentious bodies and the release of the final results on September 27, the CEP endorsed first-round election results for Quartier Morin (Nord), Anse à Galets (Ouest), Ennery (Artibonite), and La Chapelle (Artibonite), in spite of having received only 31.7, 39.3, 69.1, and 69.7 percent of tally sheets for these constituencies, respectively. The CEP also reneged on its initial decision to rerun senate elections for the Artibonite, where only 67.4 percent of the department's tally sheets were received (see section III(D)(3) below for information on the Youri Latortue senate election in the Artibonite).

2. Inadequate investigation or punishment for perpetrators

Under the Electoral Decree, the CEP must initiate judicial proceedings against candidates and other individuals implicated in Election Day violence.³⁵ In the days after August 9, the CEP apparently did prepare a report for the Haitian National Police (PNH) with details of incidents of violence from their investigation and recommendations of criminal charges.³⁶ To date, however, few criminal charges have been pursued.³⁷ CEP members claim this is explained by the fact that PNH has not responded to their investigation report.³⁸

The CEP took two measures to punish those responsible for violence and disruptions. First, it excluded 15 deputy candidates and one senatorial candidate for involvement in Election Day violence. The CEP also issued a communiqué on August 24, stating that it “deplored” the fact that candidates and their sympathizers from 16 different parties had “disrupted” the voting on August 9, “ransacking Voting Centers and stealing voting materials,” and warned political parties that further disruptions would not be tolerated.³⁹ The CEP identified 8 of 10 departments where such incidents occurred and identified the parties guilty of election-day disruptions in each department. Neither measure resolved the problem of impunity.

The exclusion of 16 candidates from 10 different constituencies on August 19 was positive, but addressed only a fraction of the incidents that occurred on August 9. Questions have also been raised about the impartiality of these decisions and the lack of channels through which excluded candidates can contest the decisions of the CEP.⁴⁰

The CEP actions against the political parties most implicated in electoral violence were also inadequate. Of the 16 parties named by the CEP, President Martelly's Parti Haïtien Tet Kale (PHTK) was the most often singled out as responsible for electoral disruption.⁴¹ RNDDH-CNO-CONHANE observers judged that PHTK and Bouclier (a party closely aligned with President Martelly) were “the most aggressive in the perpetration of fraud and the use of electoral violence as a means to success.”⁴² None of the guilty parties, however, were excluded from electoral competition by the CEP, as called for by article 119 of the electoral decree. Further, as mentioned above, few criminal charges appear to have been filed in connection to August 9. The PNH may lack the political will to pursue criminal charges against prominent candidates, especially those linked to President Martelly.

The CEP's inaction allowed tainted results for deputy and senate races to stand. Many of the worst perpetrators of election-day abuses on August 9 secured a seat in the legislature or a spot in the second round of legislative elections on October 25.⁴³

3. Inconsistent application of BCED/BCEN decisions

Following the August 9 elections, 204 complaints and 119 appeals were lodged with the Departmental and National Offices of Electoral Litigation (BCED and BCEN) of the CEP.⁴⁴ The complaint hearings by

these electoral-judicial bodies represented an opportunity to redress the deeply tainted preliminary results announced by the CEP on August 20. The CEP delayed announcing final results until September 27, in order to take into account the rulings of the BCED and BCEN.

The BCED and BCEN rulings lacked uniformity and were often made without a strong legal basis. On a positive note, the BCEN threw out the first round of results and ordered new elections in three constituencies in the Grand'Anse (Jeremie, Pestel, Roseaux) due to numerous cases of violence on Election Day that forced polling stations to close early.⁴⁵ But the BCED for the Artibonite ruled that senatorial candidate Youri Latortue had received enough valid votes to win the first round of elections outright, even though, as in Grand'Anse, numerous incidents of violence had suspended voting at many voting centers in Artibonite. The CEP adopted the BCED's Latortue decision and overturned its decision to hold new races in the Artibonite, even though the decision was inconsistent with the 70 percent rule, as only 67.39 percent⁴⁶ of the tally sheets yielding Latortue's victory were counted.⁴⁷ The CEP also adopted a BECD decision in the Ouest ruling senatorial candidate Jean Renel Senatus an outright winner of the election by using a method to calculate vote percentages not provided for in the Electoral Decree.⁴⁸

The CEP claims that it must implement decisions of the BCED and BCEN. However, the Electoral Decree does not address how the CEP must respond to decisions from either the BCED or the BCEN. Moreover, the CEP acted inconsistently even in this respect, overruling the BCED's decision to reinstate Jacky Lumarque as a presidential candidate (whom the CEP had previously excluded on June 19).⁴⁹

4. CEP's credibility undermined

Systematic election irregularities on August 9, and the subsequent failure to respond, effectively undermined the CEP's credibility and perceived neutrality. Between August 9 and October 25, a growing clamor of political parties and Haitian civil society groups demanded an impartial and independent investigation into electoral irregularities. Many called for the resignation of CEP president Pierre Louis Opont and the annulment of the election.⁵⁰ Reflecting distrust in the CEP and the Martelly administration, many called for the creation of a transitional government to oversee new elections.⁵¹

Overall, the CEP's decisions and rulings have lacked transparency, have rarely been founded on clear principles and have been applied inconsistently. The Council did not produce a full list of the voting centers that were closed or impacted by irregularities on August 9, failed to publish any information about how irregularities around ballot-box stuffing and fraud were handled by the Tabulation Center, and never explained its decision to validate results from voting centers over the low threshold of 70 percent. This lack of transparency has persisted following the October 25 vote.



The Presidential ballot paper

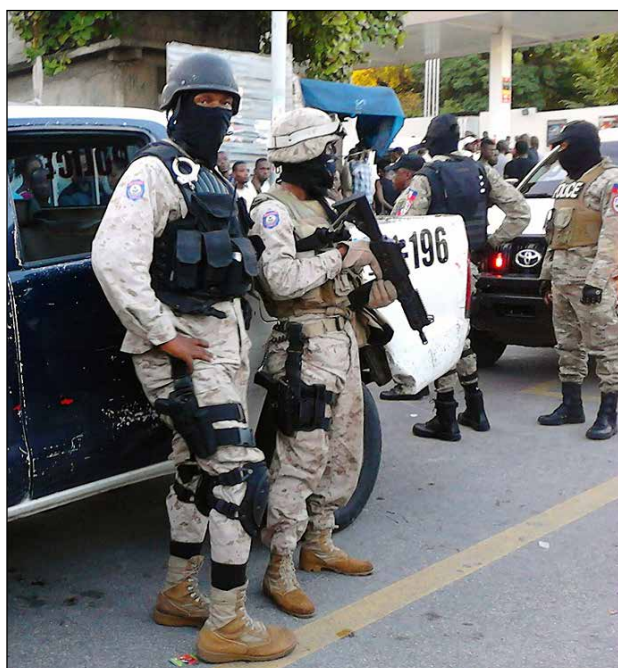
E. Gender Imbalance

Despite a Constitutional guarantee of 30 percent female representation in all aspects of political life, women made up only 10 percent of senate candidates, and 8 percent of deputy candidates. This extreme underrepresentation became even more pronounced in the October 25 vote, with women making up only 7 percent of the presidential candidates and only six women going through to the second round of legislative elections.⁵²

Observations

The observation team made a number of observations on Election Day October 25, as detailed below.

A. Improved security, but disorder and violent incidents persisted



Special unit of Haitian police securing École Nationale Horace Étheard Voting Center. Photo: Nik Barry-Shaw

Security on October 25 notably improved from August 9, largely due to the improved response of PNH, who played an active role in patrolling voting centers and conducting arrests. Police agents generally conducted themselves with professionalism.

Heavy police presence, while essential for security, was nonetheless intimidating to some voters, who saw it as a sign that violence and disorder was expected. The atmosphere remained tense and the likelihood of potential violence high in many voting centers. Among participants in the nationwide groundsourcing initiative, 8 percent witnessed incidents of violence; 37.2 percent of the 360 incidents reported resulted in injury or death.⁵³ This is similar to the level of violent incidents reported by other observers. While substantially lower than the reported rates for August 9, this frequency of violent incidents is nonetheless troubling.

B. Low voter turnout

October 25 was marked by low voter turnout, estimated at 26.6 percent nationwide and less than 15 percent in parts of the capital.⁵⁴ These numbers are historically low when contrasted with higher turnout in previous presidential elections: 59 percent voter turnout in 2006, 63 percent in 2000 and 50 percent in 1990.⁵⁵ October 25 participation rates may be inflated because of double voting, especially by people holding *mandataire* cards (see Section IV (D) below).

Logistical hurdles and inaccessibility of voting centers discouraged a number of potential voters, and created confusion over which voting centers to vote in. However, most non-voters likely never attempted to vote. Although some observers blame apathy and decreased trust in the government,⁵⁶ it is clear that many voters, especially women, were afraid of violence and disorder. Voters had to balance the perceived risks present in crowded and unruly voting centers with the anticipated impact of their vote, in a context of common knowledge regarding the botched elections of the past.

The prevalence of violence and tension in the lead-up to October 25 amply justified such concerns. Just five

days before the elections, a national observation group stated that it was “very concerned” by the “fragile security climate.” The observer group documented pre-electoral acts of violence in 16.3 percent of 52 constituencies being monitored, with election-related violence and intimidation particularly prevalent in constituencies in the Nord, Nord-Est and Nord-Ouest Departments (33.3 percent) and the Ouest Department (43 percent).⁵⁷ EU observers also noted a “palpable climate of tension” in many parts of the country prior to October 25, particularly in the 25 constituencies where first-round elections were being rerun. “These tensions ... were often due to the perception that the first round’s troublemakers had not been sanctioned.” The EU mission witnessed acts of intimidation, confrontations between party sympathizers and clashes with State representatives and heard “credible allegations of gangs in the pay of candidates sowing terror.”⁵⁸ High-profile killings in Cité Soleil (potentially linked to the elections) and violent political unrest in Arcahaie added to the sense of insecurity leading up to the October 25 elections.⁵⁹

C. Irregularities

In addition to improved security and less violence, October 25 was better organized and more orderly than August 9. Nonetheless, the observation team observed substantial irregularities. Although the available information is not sufficient to establish the full scale of these irregularities, the mounting anecdotal accounts establish a clear pattern of systemic fraud, voter confusion or intimidation and in some cases, disenfranchisement.

1. Logistical problems

a. Voting Centers Open Late

Voting centers were scheduled to open at 6 a.m. but many opened late, with delays ranging from 30 minutes to four hours.⁶⁰ Reasons for the delays included a lack of electoral materials, the absence of security forces and the late arrival of supervisors. At École Nationale Horace Ethéard (Port-au-Prince), the voting center had not opened as of 7:30 a.m., because poll workers had not completed the opening procedures (verifying electoral materials, setting up voting booths, counting ballots, registering *mandataires*). At Lycée Daniel Fignolé (Delmas), the delegation was informed that ballots and other electoral materials did not arrive at the center until 7 a.m. As a result, the voting center was not able to open its doors to voters until 8:15 a.m. Voting centers in Bel Air delayed opening without giving any explanation, leaving voters and *mandataires* waiting outside for four hours.⁶¹ One observer group reported that as of 11 a.m., election materials such as ballot boxes and ink were reportedly missing or incomplete in 4 percent of polling stations, while ballots and voter lists were still missing in 10 percent of polling stations.⁶² Nationally, 4.3 percent of participants in the groundsourcing initiative reported their polling station not being open at the scheduled time.⁶³



Thumb of voter after he wiped off indelible ink. Photo: Nicole Phillips

b. Orientation

According to election officials, each polling station was supposed to be assigned a number of “*orienteurs*” – neutral elections workers with clearly marked identification shirts responsible for helping voters who are confused about the process or unable to read the ballots. *Orienteurs* at École Nationale de Beudet and at College Jacques Stephen Alexis in Croix des Bouquets estimated that five out of every ten voters that came into these voting centers needed assistance to read, sign, or mark their ballots correctly, or to find their names on the registration lists posted outside each polling station.

The numbers of *orienteurs* were far from adequate at the voting centers visited by the observation team. École Nationale de Beudet in Croix des Bouquets, a voting center serving 5,400 registered voters, had two official *orienteurs*. College Jacques Stephen Alexis in Croix des Bouquets, with 18,900 registered voters, had eight *orienteurs* assigned, of which only six were working by afternoon. One observer group estimated that

no one was available to explain to voting process to voters at nearly 11 percent of voting centers, around 1,500 voting booths.⁶⁴ The shortage of *orienteurs* may be due to the fact that local and departmental election bodies (BECs and BEDs) were given less than a month's notice by the CEP for the hiring of personnel for these positions.⁶⁵ The absence of neutral *orienteurs* also facilitated voter intimidation and influencing, as discussed in Section IV (C)(3) below.

c. Election Materials and Procedures

While at many voting centers, poll workers demonstrated professionalism and perseverance, at others procedures for administering the vote were not consistently followed. At École Mixte La Vertu (Cité Soleil), the observation team witnessed poll workers exercising very little control over who received a ballot and people appearing to vote multiple times. Electoral staff and security seemed overwhelmed, and at one point a group of young men cut ahead of a line of voters and pushed their way into a polling station.

The practice of marking voters' fingers with indelible ink to prevent multiple voting was problematic. In École Nationale de Tabarre, one observer was marked after voting, but was able to rub off the ink immediately. There were many other reports of the ink being easily washed or rubbed off.⁶⁶ Poll workers did not always mark the same fingers or mark in the same way (on the skin and nail, or only on the nail). Many voting

centers suffered from a shortage of ink. The weakness of this safeguard is particularly disturbing given the credible allegations of multiple voting by *mandataires* and national observers (see Section IV(D) below).

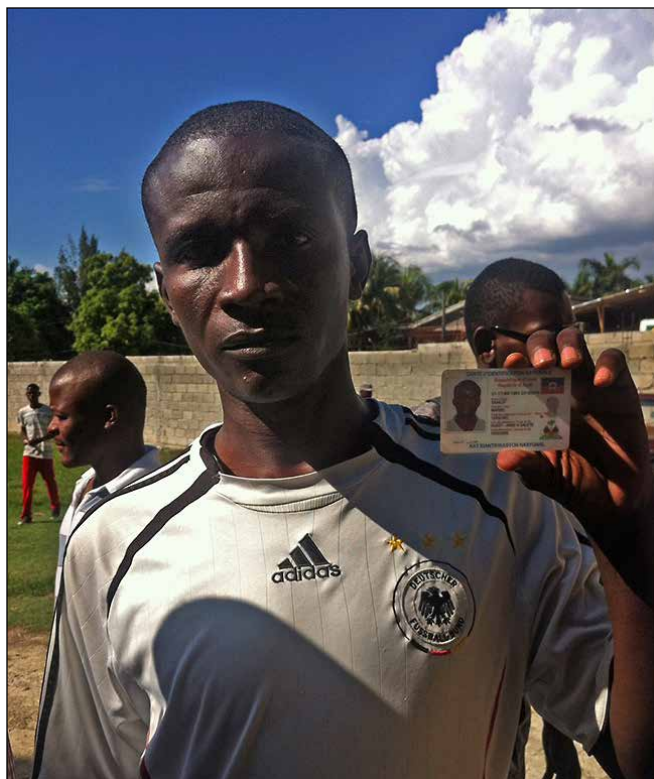
International observers have suggested that the large number of observed anomalies in voting procedures was due to a lack of standardized training for election officials.⁶⁷ Indeed, one survey of local and departmental election bodies concluded that as of October 18, over 90 percent of poll workers had still not received any training.⁶⁸

2. Voting Center Locations and Registration

a. Difficulties Finding Out Where to Vote

Voting centers consisted of numerous polling stations with up to 470 names of registered voters at each station. Some “mega-centers” housed over 75 numbered polling stations. At many large centers such as Don Bosco Projet Drouillard and École Nationale de Damien, however, stations were not laid out sequentially according to their number. With no map of the polling stations spread across a wide area and often no *orienteurs* available to offer guidance, many voters, especially elderly people, had trouble finding where to vote.

Many voters could not find their names on the registered lists of names at a particular polling station. The observation team found that the École Nationale de Beudet had turned away approximately 100 people by midday, many of whom were older persons, who couldn't find their names on the voter lists. Voters also had trouble finding their names on registration lists in Don Bosco in Cité Soleil, École Nationale Elie du Bois,⁶⁹ and in several sites along Kenscoff Road on the outskirts of Pétionville.⁷⁰ The groundsourcing initiative hotline number received dozens of SMS messages from voters unable to find where to vote. A radio report also noted that voter name lists were being destroyed at École Nationale de Frères.⁷¹



Voter living in post-earthquake settlement Canaan traveled 45 minutes to vote at College Jacques Stephen Alexis in Croix des Bouquets. Photo: Nicole Phillips

b. Missing Centers and Disenfranchised Neighborhoods

Adding to the voting center site confusion, the neighborhoods of Canaan, Canaran, and Jerusalem 1 through 7, on the outskirts of Croix de Bouquets, had no local polling places, as the communities are new and still not registered by the government as official residences. These communes are populated by hundreds of thousands of people who were displaced from their homes, especially in Port-au-Prince, following the 2010 earthquake. The closest voting center for all these voters was located in Lizon-Bon Repos, three kilometers from the closest houses at the edge of Canaran, and at least twice as far from the Jerusalem neighborhoods that are up steep mountain slopes further north. Most of these voters had no transport options other than walking. In addition, some area voters were still registered in their pre-quake neighborhoods, meaning they could not even vote at the nearest Lizon center and would be asked to cross the city back to the sites of their old homes, tens of kilometers away on a day with almost no public transport.

In lower Delmas, the observation team noted that Building 2004, a voting center supposed to house 42 polling stations, was deserted. The CEP did not list this center as one that had been relocated and even posted returns in its November 5 preliminary results from this center.

Local observer missions have noted that between 95 percent and 99 percent of polling centers were installed on Election Day,⁷² but problems remained with voters not being able to access the centers that had been assigned to them. One report estimated that over 4.6 percent of the centers had been moved since the August 9 elections.⁷³



Etant Dupain: Voters squat on ground to vote with little privacy

c. Inadequate Shelter and Minimum Standards

Some voting centers were located in places that lacked adequate shelter for polling stations. At several voting centers, polling stations were reportedly placed in the open air without protection from rain or heat, or in tents without adequate ventilation.⁷⁴ One journalist reported a polling station set up in an open yard with overturned furniture serving as makeshift partitions.⁷⁵ Lighting was problematic in some sites.⁷⁶ Special needs accommodation was made in some but not all sites, with 25 percent of polling stations lacking accommodations for pregnant women, 13 percent lacking accommodation for the elderly and nearly 29 percent lacking accommodations for the disabled.⁷⁷

3. Violation of Voting Secrecy and Vote Influencing

a. Inadequate Privacy Safeguards

Privacy violations that seriously compromised voters' free exercise of their rights were widely reported and criticized by observation missions.⁷⁸ These violations were the result of poorly designed polling stations and overcrowding. Polling stations were frequently installed in cramped, small spaces, some measuring barely 3 meters by 4 meters. In voting centers located in buildings with larger rooms, areas were subdivided into distinct booths but without physical separation. Overcrowding was a major issue, with observers, election officials, large numbers of *mandataires* and those trying to vote all crammed into a single space.

In many polling stations cardboard *isolairs* were placed with openings towards the crowds in the room, beside open windows or holes in walls, or on the floor, with little to no interference of election officials when crowds threatened voter privacy. In Delmas 17, polling booths were placed on the floor, or in long



Voter in need of assistance had crowd of mandataires shouting at her and each other. Photo: Nicole Phillips

lines outdoors beside the queues of voters. In six different sites, observers were able to easily snap photos of the voters' faces and of marked, visible ballots due to the poor set up of the voting booths. *Mandataires* circulated freely, which allowed them to observe voters marking their ballots. Voters, *mandataires*, and election officials were observed peering over the low barriers, through windows or holes in the wall, standing directly behind or even at times, in front of the voters.

b. Voter Influencing and Intimidation

The crowded, cramped conditions and inadequate privacy measures facilitated illegal and intimidating efforts by political activists and *mandataires* to influence voters at the polls. At many voting centers this produced a tense and unwelcoming atmosphere in polling stations.

The large numbers of *mandataires* (see Section IV (D) below) in and around polling stations was the main contributing factor to chaos and tension in voting centers. Observers witnessed numerous instances of political party representatives openly campaigning in polling stations, in violation of the Electoral Decree.⁷⁹ Observers noted a man in Lycée Jean Jacques 1er voting center walking around brazenly with his *mandataire* identification (ID) badge and a small campaign sign, without interference from security or election officials. According to local observer reports, “voters, representatives of political parties, and candidates showed up with bracelets carrying messages promoting their candidates, they carried with them business cards of their candidates, or were wearing t-shirts with political messages. Certain voters and political representatives openly declared their vote and continued to campaign for their candidate inside the polling stations.”⁸⁰

The large numbers of *mandataires* (see

In some cases, *mandataires* even accompanied voters into the voting booth, indicating which candidates to vote for and helping them mark their ballots. This behavior was facilitated by the shortage of official *orienteurs*, discussed above. In other cases, *mandataires* and other individuals monitored voters as they filled in their ballots, either by looking over their shoulders or through windows in the polling station. At times, *mandataires* created an intimidating or hostile environment for voters and election workers, aggressively yelling and arguing amongst one another.

- In École Nationale de Tabarre, vote influencing of older voters led to a commotion in a high-tension polling center, and as arguments escalated, PNH security forces had to insert themselves into the voting booth to expel *mandataires* and observers to restore order before letting them re-enter.
- In Lycée Jean Jacques 1er, a center with 76 polling stations and up to 760 *mandataires* permitted on the premises, one voter was observed repeatedly asking a stranger to stop looking at her ballot so she could vote. Another voter was surrounded by several young men who jokingly picked up his ballot and remarked he had chosen correctly. One man, as he was

voting, provoked an argument between two mandataires, each accusing the other of spying and trying to influence him. The voter quickly finished and left angrily while complaining he could not vote properly. An older woman who was being assisted to vote by her son was surrounded by 10 shouting young men, who started to aggressively argue amongst themselves and with the son to force him to step back from her as she voted. Not only was the woman disoriented and intimidated by the aggressive displays, she later reported to observers that some mandataires loomed behind her while she marked the ballot and took the opportunity to whisper a candidate number.

- At a polling station in Don Bosco Projet Drouillard (Cité Soleil), a group of male voters were observed gathered around a female poll worker, shouting at her and pressuring her to find their names on the voter list more quickly.
- In both École Nationale de Beudet and in Lycée Jacques 1er in Croix des Bouquets, mandataires were shouting in polling booths at CEP officials over ballots and entry, without intervention from security present at the site.
- Among respondents to the ground-sourcing initiative who witnessed incidents of violence or armed individuals in polling stations, mandataires were most frequently identified as the culprits (46.2% and 45.3%, respectively).⁸¹

Given that the overwhelming majority of *mandataires* were young men, the atmosphere in many polling stations was especially uninviting for female voters. These problems were exacerbated in many voting centers by the overcrowding and lack of privacy.

D. Haiti's Flawed Mandataire System

Haitian observers and press have dubbed the October 25 election an “*eleksyon mandatè*,” with good reason. Haiti’s electoral system allows political parties to observe the voting process via accredited representatives called “*mandataires*.” Each political party is entitled to have one *mandataire* per polling station, whose official role is to monitor the vote and the counting process after polls close.⁸² With 128 parties officially registered in Haiti’s 2015 elections, the sheer number of *mandataires* presented an inevitable challenge.

In theory, the participation of *mandataires* in the electoral process is meant to act as a check on fraud and other irregularities. In practice, *mandataires* negatively influenced the integrity of the voting process in at least two ways. First, *mandataires* tried to influence or even intimidate voters, telling them who to vote for, shouting and watching for whom voters marked their ballots, as described above. Second, *mandataires* have been credibly accused of voting multiple times, and depending on the scale on which this occurred, it may be the flaw that does the most damage to the integrity of the October 25 election.



Mandataire being arrested at École Nationale Dumarsais Estimé Voting Center. Photo: Nik Barry-Shaw

1. Mandataire rules ambiguous and often overlooked

On August 9, the unmanageable number of *mandataires*, combined with a failure of the CEP to distribute accreditations on time, led to conflicts inside and outside voting centers. The *mandataire* issue was widely recognized as one of the principal contributing factors behind the violence and disorder that affected the first-round legislative elections.⁸³ To avoid a repetition of these problems on October 25, the CEP issued a new set of rules governing access to polling stations for *mandataires*.⁸⁴

The rules, released on October 15, stipulated that no more than 10 *mandataires* could be present in a polling station at any one time. If more than 10 *mandataires* were present, then access to the polling stations would be limited to one of four time-blocks throughout the day (6 a.m.-9 a.m., 9 a.m.-12 p.m., 12 p.m.-3 p.m., 3 p.m.-closing). Polling station workers were supposed to assign *mandataires* to one of these groups by lottery at the beginning of the day, but the published rules did not clearly explain the lottery procedure so the selection process seemed to vary among polling centers.

The new rules for *mandataires* were not applied at most polling stations visited by this observation team. The observation team only witnessed a *mandataire* changeover at the designated time in one voting center. When observers questioned the *mandataires* present, few could correctly state the rules for the changeover and the time limitations. Others responded by saying the CEP or election officials would tell them when to move, or that they were allowed entry for the full day until they chose to leave.

Mandataires often numbered more than 10 to one in a polling station and were typically not divided up into groups, instead circulating freely and loitering in voting centers. At the close of the polling at École Nationale Petite Place Cazeau (Delmas), there were some 40-50 *mandataires* and other observers crowded into one polling station to follow the vote count.

2. Multiple voting by mandataires

In order to encourage voting, *mandataires* were allowed to vote wherever they were present (as opposed to regular voters, who must vote at the polling center where they are registered and whose Carte d'Identification Nationale (CIN) must be checked against the electoral list). Poll workers are supposed to record *mandataire* names and CIN numbers, but this procedure was not followed uniformly on Election Day. Lax controls and a lack of indelible ink for marking a voter's finger at many polling stations meant that *mandataires*, especially those with several accreditations, could cast multiple votes at different polling stations.

The large number of accreditation passes circulating prior to the election magnified opportunities for casting multiple fraudulent votes. On October 26, CEP president Opont informed the press that the electoral council had printed and distributed 915,675 accreditations (blank paper cards to be filled out by political parties). Most parties were small with no structure beyond a small number of leaders and supporters. Only a handful of parties had the resources to post *mandataires* at a majority of the 13,725 polling stations.

The CEP did not require parties to list their *mandataires* before handing out the accreditation. The Council issued far more accreditations than the maximum number of places available for *mandataires* (549,000) under the CEP's system of time-blocks.⁸⁵ As a result, a black market for *mandataire* and observer accreditations developed, with the passes reportedly sold for as little as \$3 (150 Haitian Gourdes) on Election Day.⁸⁶

Police intervened to stop illegal *mandataire* practice in some instances. At 8:30 a.m. on Election Day, the observation team witnessed police arresting a young man in possession of two *mandataire* passes who had attempted to vote twice at the École Dumarsais Estimé in Port-au-Prince. At 1 p.m., the observation team witnessed a similar arrest at École Nationale Tabarre. Many of the 234 arrests made by police on October 25 were related to similar instances of fraud committed by *mandataires*.⁸⁷

3. Impact of mandataire fraud on tally results

The impact of (multiple) *mandataire* voting was potentially enormous. Turnout was 26.4 percent (1,538,393

valid votes). With 916,675 accreditation passes distributed, *mandataires*' votes may have accounted for as many as 59 percent of total ballots cast (with multiple votes coming from one *mandataire*).

The *mandataire* system created a structural opportunity for fraud that favored the parties with the most money to spend. Parties with sufficient resources could guarantee votes by paying for the food and transportation necessary to get their *mandataires* out to the polls to vote. Parties also bought accreditations from other political parties who were closely aligned with theirs or who did not have the resources to mobilize their own supporters. The *mandataires* would claim they were with one party, but act as *mandataire* proxies for the party paying them.

Parties often paid individuals to work as *mandataires* for the day, which is legal. Outside École Nationale de la République de Panama, observers spoke with a group of young men who claimed to have been paid to act as *mandataires* for FUSION. LAPEH's Jude Celestin told journalists that his campaign spent nearly \$371,000 on Election Day alone for food and transportation for *mandataires*.⁸⁸ This problem was magnified by Haiti's permissive rules on political party formation, which has led to 128 parties registering candidates for legislative, local and presidential elections — dozens of which are widely believed to be proxies for the Martelly Administration.⁸⁹

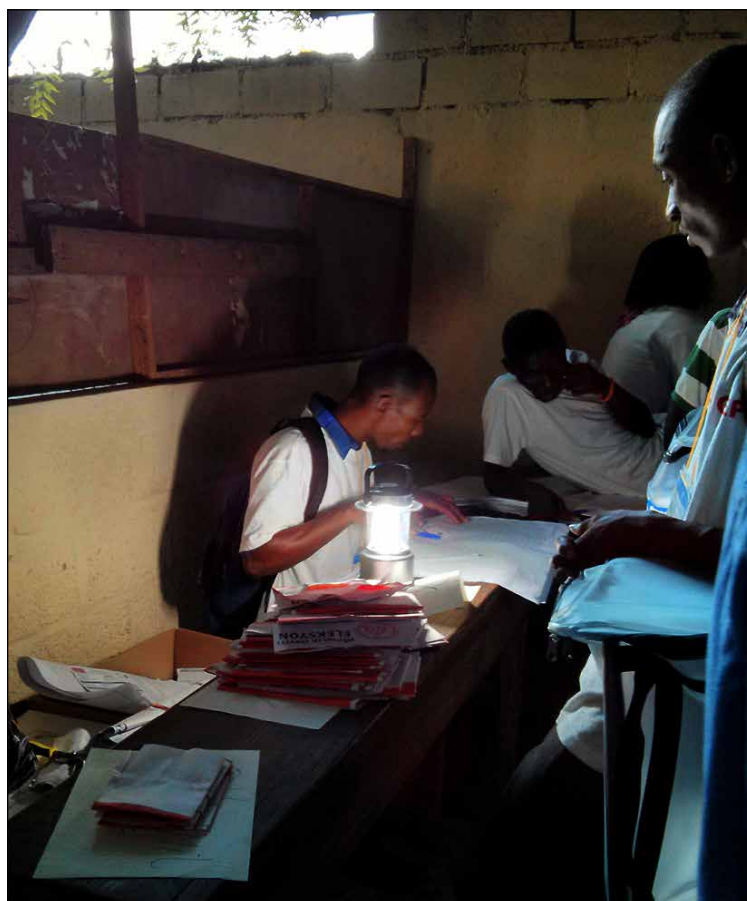
The CEP has acknowledged the fundamental problems with the *mandataire* system. In an attempt to create a more secure system, the CEP issued a new directive on November 10 requiring advance online registration of *mandataires* and observers for the second round of presidential elections.⁹⁰ In the absence of action to address fraud on October 25, however, this measure is likely to be too little, too late.

E. Initial Vote Count

Each polling station conducts an initial tabulation of votes immediately after voting closed. The observation team witnessed the initial tabulation of the 42 polling stations at College Jacques Stephen Alexis in Croix des Bouquets, which was more or less orderly. Each polling station began the process at a different time, based on when officials determined when voters had left the polling station. The BOID unit of the PNH arrived during the count, ensuring a heavy police presence and discipline.

The minutes around closing were chaotic and tense as observers and *mandataires* jostled to register to watch the vote count. Based on what the observation team witnessed, anyone who wanted to observe with a valid accreditation card could do so. There was no system to ensure *mandataires* were evenly placed, as *mandataires* organized amongst themselves. As a result many polling stations were crowded with 15-20 observers and *mandataires*, sometimes more. The different start times for vote counting in each polling station also meant that *mandataires* could miss the start of a count if they were moving between stations (as many were).

CEP officials generally broke the seals on ballot boxes publicly, pulled out each ballot, called the



Vote counting by candlelight at College Jacques Stephen Alexis in Croix des Bouquets. Photo: Sharanya Kanikkannan

name, showed the crowd the ballot, and passed the ballot to a colleague for verification. Observers were able to watch and verify, and in two cases of disagreement over what the mark was, the officials passed around the ballot for the satisfaction of *mandataires* and observers.

There were marked deviations from this process at some stations. Some polling stations officials read the vote aloud rather than showing the ballots publicly. Some CEP officials failed to check the signatures on the back of ballots, which is required as a control on ballot box stuffing. Haitian observer reports noted systematic ballot box stuffing in many polling centers⁹¹, which is facilitated by lax procedures. Ballots were also improperly stored, being thrown onto the floor, onto chairs and into cardboard boxes after the initial count.

CEP officials tallied the votes at the end of counting in each polling station, and posted the tallies (a paper hand written count) at the entrance to each polling station at the end of the day. This allows CEP election officials and *mandataires* to take photos of the final vote tallies as they are posted. The photos are sent to the CEP as a safeguard against fraud in the transportation of the ballots to the Tabulation Center. When the observation team left at 6:15 p.m., five or fewer *mandataires* remained in each polling station, and no tallies had yet been official posted or verified. It is likely that few if any *mandataires* and observers stayed late enough to perform the crucial check and balance role of monitoring the tallies.

The scrutiny applied by *mandataires* to the counting process deviated widely and *mandataires* were often poorly equipped to monitor the count. Many did not have cameras or camera phones, flashlights, or pen and paper to note down the vote counts. Poor lighting in polling stations often made monitoring difficult.

The late hour of the vote count, combined with the overwhelming number of male *mandataires* and observers, as well as some observed cases of sexual harassment, made for an inhospitable environment for female observers and *mandataires*. Women observers and *mandataires* tended to also leave the voting center earlier, in part because security outside the center and as their passage home was not guaranteed.

Developments Since October 25: Vote Tabulation and Preliminary Results

A. The CEP's Tabulation Process

After the initial vote count, the tally sheets from each polling station are transported to the municipal voting center, then the departmental voting center, and then to the Tabulation Center in Port-au-Prince to be checked for fraud and inputted into the system. The vote transport process was markedly improved since the first round of elections on August 9, when nearly 18 percent of tally sheets failed to arrive at the Tabulation Centre. For the October 25 elections, only 2.2 percent of tally sheets (representing 296 polling stations) failed to reach the Center. In the South East region, the number of missing tally sheets was higher, at 9.4 percent.

Of the votes received, the CEP quarantined 490 tally sheets for suspected fraud or irregularities (3.6 percent total).⁹² The percentage is significant, given that fewer tally sheets (312) were quarantined during the 2010 elections, which the U.S. alleged was plagued by fraud. The CEP has provided a general list of reasons why tally sheets were quarantined,⁹³ but has not indicated which types of irregularities were most frequently detected. Haitian observers have sharply criticized the CEP's lack of transparency, both in relation to the decision making process on quarantining votes and more generally. Observers have also alleged manipulation of votes during the tabulation process.⁹⁴

In an attempt to address widespread allegations of fraud by observers and political parties, on October 29, the CEP announced it had established a special commission to investigate allegations of fraud and ballot box stuffing.⁹⁵ The commission, composed of four CEP members and CEP executive director Mosler Georges, was

immediately criticized for its lack of independence. Individuals were given only 48 hours to lodge complaints, while CEP President Opont at the same time promised preliminary results 96 hours from the announcement of the commission, which called into question the thoroughness of the investigation. In the 48-hour window provided, the CEP reported receiving 162 complaints, although only one pertained to the presidential vote at the center of the controversy.⁹⁶ The commission excluded 116 complaints and accepted 43 (the three remaining were supervisor reports).⁹⁷ It is not clear what these complaints related to, the process for excluding or accepting complaints, or how they are being addressed - further highlighting the problems in transparency that undermined the vote counting process.

B. Preliminary Results

The CEP announced preliminary results for the first-round presidential election on November 5. According to the CEP's results, the two top finishers were PHTK's Jovenel Moïse (32.81 percent), and Lapeh's Jude Celestin (25.27 percent). Moïse Jean-Charles of Pitit Dessalines finished third (14.27 percent) and Famni Lavalas' Maryse Narcisse came in fourth (7.05 percent). A second round presidential run off between Jovenel Moïse and Jude Celestin is scheduled for December 27.

The preliminary results were immediately denounced as illegitimate by observers, civil society and opposition parties across the political spectrum. Accusations of political party *mandataires* voting multiple times, ballot-box stuffing, and manipulation of results at the Tabulation Center undermined many Haitians' confidence in the announced results. While OAS, EU observers and the Core Group endorsed the results, Haitian civil society groups denounced the massive fraud they claim occurred on October 25 and called for an independent investigation. Jaccéus Joseph, the human rights representative to the CEP, refused to sign off on the results, later telling journalists that he doubted the integrity of the results because allegations of fraud had not been thoroughly investigated.⁹⁸

Protests immediately broke out in Port-au-Prince on November 5, and at least one protester – a Pitit Dessalines supporter – was killed. At the time of writing, protests are ongoing. In a notable show of cooperation, seven opposition presidential candidates, including Jude Celestin and Moïse Jean-Charles, issued a joint statement refusing to recognize the results and calling for an independent investigation into 'massive fraud' on election day.⁹⁹ Two candidates, Maryse Narcisse of Famni Lavalas and Vilaire Cluny Duroseau lodged formal complaints with the CEP, which were heard by the electoral tribunal on November 10.

Although they have received far less attention, the preliminary results of the legislative elections have also been released and reveal that Haiti's next legislature will feature a formidable pro-Martelly bloc. In the Chamber of Deputies, 93 races have already been decided, while the remaining 25 constituencies rerun on October 25 will be determined via a second round on December 27. President Martelly's PHTK leads all parties with 26 deputies out of the 118 seats, while allied parties - Prime Minister Evans Paul's KID, Martelly advisor Youri Latortue's AAA, Steeve Khawly's Bouclier and former paramilitary leader Guy Philippe's Consortium - have claimed a further 19 deputy seats.

The dominance of Martelly-aligned parties is less marked in the Senate, but that could change after the six second-round races set for December 27.

Out of 20 available seats in the Senate (30 seats total), three Martelly's allied parties (KID, PHTK and AAA hold a total of six seats (holding three, two and one senatorial seats, respectively), while Vérité holds three seats, and Fanmi Lavalas and Pitit Dessalines each hold one seat.

With six senatorial seats open for the second round on December 27 and nine candidates from pro-Martelly parties in the race, the bloc of six will likely increase its Senate representation by at least three seats, and could take all six seats in the three regions (Grand'Anse, Nord, Centre).

It is therefore likely that President Martelly's political parties will hold the Presidency and control both chambers of Parliament in 2016.

Recommendations

1. Improve voter access, including voter registration, privacy, and awareness campaigns

Electoral procedures were significantly improved on October 25 from August 9, with more organization, security, and order. Nonetheless, the observation team witnessed significant irregularities, signaling that more improvements are necessary to ensure Haitians' right to vote.

- Hire more “orienteurs” (neutral elections workers) to help voters read, sign, or mark their ballots. More neutral orienteurs will decrease the influence of party observers (mandataires) on voters.
- Improve the practice of marking voters' fingers with indelible ink to prevent multiple voting.
- Increase training to poll workers to allow them to exercise control in their polling station and prevent fraudulent voting.
- Improve voter registration processes to ensure voters can easily obtain updated national identity cards to vote and that their names appear on voter registration lists.
- Add polling stations to allow convenient access to vote. In particular, install polling stations accessible for the hundreds of thousands of people relocated after the 2010 earthquake to Canaan, Canaran, and Jerusalem 1 through 7, on the outskirts of Croix de Bouquets.
- Improve voter privacy safeguards. Privacy violations that compromised voters' free exercise of their rights were widely reported and criticized by observation missions. Polling stations must be laid out better to avoid overcrowding and add physical barriers between voters and observers.
- Design voter awareness campaigns to educate voters on voting procedures and encourage them to vote.

2. An independent commission of inquiry is needed to conduct a thorough and credible investigation into allegations of fraud and multiple voting by mandataires

A thorough investigation into the fraud witnessed by election observers is needed to determine its scale and impact on election results. The decisions of the Tabulation Center should also be scrutinized, in order to verify whether alleged manipulations of results occurred. Given the deep mistrust of the CEP and the Martelly government, it is essential that this investigation be conducted by an independent commission. The commission must draw its members from many different sectors of Haitian society and have approbation of those political parties and civil society organizations contesting the preliminary results. For the duration of its inquiry, the commission must be granted full access to all necessary records by the CEP and the Tabulation Center.

With multiple sources alleging massive fraud by misuse of the *mandataire* pass system, the commission must pay particular attention to the influence of votes cast with *mandataire* accreditations on Election Day. The proportion of votes cast using accreditations is unknown, but it is potentially massive.¹⁰⁰ Although complex and time-consuming, verifying to what degree such votes distorted election results is indispensable to determining how credible the preliminary results are.¹⁰¹

To date, the CEP has declined to investigate the issue of multiple fraudulent votes cast using *mandataire* passes and its investigations of fraud allegations have lacked credibility. The Internal Commission appointed by the CEP lacked independence and was received with skepticism. Further, the commission relied on complaints filed by candidates, placing the burden of proving fraud on the claimant, rather than conducting its own investigation. Without a credible and thorough investigation by an independent body, Haitians will continue to question the announced results.

3. Perpetrators of violence and fraud on August 9 must be investigated and sanctioned

Sanctions against those responsible for fraud and violence on August 9 were weak, which sent a message to perpetrators that “crime pays.” The only two measures taken by the CEP were to issue a warning to political parties

that had ransacked voting centers and to exclude 16 candidates, only addressing a small fraction of the violence.

In addition to investigating fraud in the October 25 vote, the independent commission proposed above should be tasked with investigating the parties, candidates and other individuals implicated in electoral abuses stemming back from before the August 9 elections. Several political parties in particular were implicated in the violence, including parties allied with the Martelly administration, who have also been implicated in fraud on October 25. A thorough investigation into election-related fraud and violence initiated by political parties and candidates is critical to determining the credibility of both the August 9 and October 25 electoral results, especially for the legislative races. Elections should be rerun wherever that credibility is found lacking.

We also urge the CEP to act in conformity with the Electoral Decree by banning parties and excluding candidates found to be involved in electoral abuses and, where necessary, initiating judicial proceedings against the perpetrators. In particular, we encourage the CEP to urge the Haitian National Police to respond to the CEP's report detailing incidents of violence on August 9 and recommendations for the institution of criminal proceedings. Lack of investigation by the PHN cannot be assumed to be equivalent to clearing the parties implicated in violence of wrongdoing, and the CEP cannot proceed without awaiting the results of a thorough investigation.

4. Decisions from CEP, BCED and BCEN must be coherent, credible and consistently applied

The CEP's application of BCED and BCEN rulings has been inconsistent and at times has appeared politically motivated. The CEP enforced a legally-flawed BCEN decision granting senatorial candidate Youri Latortue's victory despite massive fraud and less than 70 percent of the tally sheets being counted, claiming that it was bound by the BCEN ruling. Yet the CEP rejected a BCED ruling to reinstate presidential candidate Jacky Lumarque.

The Electoral Decree is silent on how the CEP should respond to these rulings, but this cannot be read as permission for discretionary application of the rulings. We urge the CEP to apply BCED and BCEN rulings in a consistent manner and provide a written legal basis for their application (or lack thereof). Consistent and credible rulings by the CEP, BCED and BCEN are necessary to regain the confidence of voters and candidates in the electoral process.

5. Foreign intervention like in 2010 is a possibility to guard against, will further erode Haiti's democratic institutions

At the same time as most observers — the Haitian and international press, and Haitian human-rights and electoral observation groups — found systematic voter suppression on August 9, the CEP, the Martelly administration and the international community deemed the voting acceptable, even “nearly perfectly normal.” Outgoing U.S. Ambassador Pamela White called them “not perfect, but acceptable.” In spite of widespread protests and credible allegations of fraud since October 25, the U.S. and its allies have once again deemed the electoral process acceptable and called for it to go forward on the basis of the announced results.

Haitians deserve and are capable of free and fair elections. The U.S. and other Core Group member countries must maintain a high standard for free and fair elections for Haiti, not simply declare that they are “good enough”. We urge the international community to support the Haitian people's freedom of expression and political will, through denouncing fraud, calling for a thorough investigation into irregularities, and pushing for new fair and democratic elections. Fraudulent elections will result in a new government that lacks legitimacy and accountability to the Haitian people, and perpetuate the instability and corruption that Haiti has experienced since the 2010-11 elections. We also urge the Core Group to respect Haiti's sovereignty and refrain from interfering in its electoral process, as it did in 2011 when the U.S. pressured the Haitian government to replace flawed election results with an equally flawed and inconclusive recount from the OAS observer mission.

The Core Group claims not to have a large role in these elections, but in fact, they have helped organize and pay for these elections (the United States has contributed \$25 million so far, with more on the way) and they determine whether or not Haiti's elections are fair enough to recognize the new government. We urge the United States government to publicly link continued U.S. support for the elections to free and fair elections based on the recommendations made herein.

NLG and IADL Delegation to 2015 Election Delegation and Report Authors

Nikolas Barry-Shaw, Voting Rights Associate, Institute for Justice & Democracy in Haiti

Sharanya Kanikkannan, Bernstein International Human Rights Fellow, Bureau des Avocats Internationaux

Sienna Merope-Synge, Be Just Fellow, Institute for Justice & Democracy in Haiti

Nicole Phillips, Staff Attorney, Institute for Justice & Democracy in Haiti; Adjunct Professor, University of California Hastings College of Law

Report design & production: Philip Goldsmith

Endnotes

1. The observation team consisted of Nikolas Barry-Shaw, Sharanya Kanikkannan, Sienna Merope-Synge, and Nicole Philips and visited the following voting centers: Lycée Jacques 1er du Centre Ville (Croix des Bouquets, 77 polling stations); École Nationale de Beudet (Croix des Bouquets, 12 polling stations); École Nationale de Tabarre (Tabarre, 25 polling stations); Collège Jacques Stephen Alexis (Croix des Bouquets, 42 polling stations); École Nationale Horace Étheard (Port-au-Prince, 20 polling stations); Lycée Pierre Eustache Daniel Fignolé (Delmas, 36 polling stations); École Nationale Dumarsais Estimé (Port-au-Prince, 17 polling stations); École Nationale Caroline Chevreau (Port-au-Prince, 8 polling stations); École Nationale Seguy Ville Valex (Port-au-Prince, 18 polling stations); École Mixte La Vertu (Cité Soleil, 20 polling stations); Don Bosco Projet Drouillard (Cité Soleil, 54 polling stations); École Nationale de Damien (Cité Soleil, 51 polling stations); Lycée Guy François Malary (Tabarre, 43 polling stations); École Nationale de Petite Place Cazeau (Delmas, 30 polling stations); Lycée Marie Jeanne (Port-au-Prince, 27 polling stations).
2. This initiative was a collaboration of IJDH, BAI and VOTO. The day before the election, 80,000 SMS were sent to randomly selected numbers notifying Haitians of an election-day hotline for reporting problems via a Kreyol-language phone survey. In addition, over 30,000 calls were made to Haitians throughout the day on October 25, asking them to respond to the survey. The survey is not drawn from a statistically representative sample, but is indicative of problem areas experienced on October 25.
3. INSTITUTE FOR JUSTICE & DEMOCRACY IN HAITI (IJDH), *Haiti's November 28 Elections: Trying to Legitimize the Illegitimate*, (Nov. 22, 2010), available at <http://ijdh.org/wordpress/wp-content/uploads/2010/11/Election-Report-11-23-2010.pdf>. (hereinafter "IJDH Report")
4. Dan Beeton and Georgianne Nienaber, *Haiti's Doctored Elections, Seen from the Inside: An Interview with Ricardo Seitenfus*, (Feb. 24, 2014), available at https://www.dissentmagazine.org/online_articles/haitis-doctored-elections-seen-from-the-inside-an-interview-with-ricardo-seitenfus.
5. CENTER FOR ECONOMIC AND POLICY RESEARCH (CEPR), *The Organization of American States: Election Monitoring or Political Intervention?*, (Aug. 2011), available at <http://www.cepr.net/documents/publications/haiti-oas-2011-10.pdf>.
6. IJDH Report, *supra* note 3, at 2-4.
7. *Id.*, at 1.
8. *Id.*
9. *Id.*, at 4.
10. Lawmakers Urge Clinton to Ensure Haiti Elections Are Inclusive, Reuters, (Oct. 8, 2010), available at http://www.nytimes.com/2010/10/09/world/americas/09haiti.html?_r=1.
11. Jake Johnston, *Revealed: USAID funded group supporting Haitian President in 2011*, ALJAZEERA AMERICA, (July 15, 2015), available at <http://america.aljazeera.com/articles/2015/7/15/usa-id-funded-group-supporting-haitian-president.html>.
12. Former Ambassador Pamela White felt the need to nuance this perception in a recent essay: "Many believe that President Martelly and I as Ambassador have been too close. For the record, we have had some humdinger fights—and I've won a couple of them!" See Pamela White, *On US and Haiti Relations: The Ties that Bind*, COUNCIL OF AMERICAN AMBASSADORS, (Fall 2015), available at <https://www.americanambassadors.org/publications/ambassadors-review/fall-2015/on-us-and-haiti-relations-the-ties-that-bind>.
13. *Kerry Haiti stop indicates serious election problems*, Haiti Sentinel, (Oct. 8, 2015), available at <http://sentinel.ht/2015/10/08/kerry-haiti-stop-indicates-serious-election-problems/>; see also, *Obama Won't Meet with Netanyahu, Israeli Leader's Re-Election Race*, NBC News, (Jan. 22, 2015), available at <http://www.nbcnews.com/politics/white-house/obama-wont-meet-netanyahu-citing-israeli-leaders-re-election-race-n291411>, ("As a matter of long-standing practice and principle, we do not see heads of state or candidates in close proximity to their elections, so as to avoid the appearance of influencing a democratic election in a foreign country," said Bernadette Meehan a spokesperson for the National Security Council.")
14. Jacqueline Charles, *Secretary Kerry: Haiti's Oct. 25 vote must happen*, MIAMI HERALD, (Oct. 6, 2015) available at <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article37984302.html>; Center for Economic and Policy Research,

Haiti Elections, by the numbers, (Oct. 24, 2015), available at <http://www.cepr.net/blogs/haiti-relief-and-reconstruction-watch/haiti-elections-by-the-numbers>.

15. See, e.g., Ginette Cherubin, *Le crime parfait du 25 octobre*, LE NOUVELLISTE, (Nov. 4, 2015), available at <http://lenouvelliste.com/lenouvelliste/article/151963/Le-crime-parfait-du-25-octobre>.

16. *Haitian observation team calls Aug. 9 election “an affront to democratic standards,”* HAITI ELECTIONS BLOG, (Aug. 14, 2015), available at <http://haitielection2015.blogspot.ca/2015/08/haitian-observation-team-calls-aug-9.html>.

17. CONSEIL NATIONAL D’OBSERVATION ELECTORALE, CONSEIL NATIONAL DES ACTEURS NON-ETATIQUES, RESEAU NATIONAL DE DEFENSE DES DROITS HUMAINS, *Rapport sur le premier tour des élections législatives partielles*, (Aug. 25, 2015), p. 7-8. (hereinafter “RNDDH Report”)

18. EUROPEAN UNION HAITI ELECTORAL OBSERVER MISSION, *Preliminary Declaration*, (Oct. 27, 2015), at 4, available at <http://www.eucom.eu/files/pressreleases/english/DclarationpreliminairepremiertourpresidentielleMOEUEHaiti2015.pdf>. (hereinafter “EU October 25 Report”)

19. Jake Johnston, *Fraud, Violence, and Protests Cloud Results of Haitian Election*, VICE NEWS, (Sept. 6, 2015), available at <https://news.vice.com/article/fraud-violence-and-protests-cloud-results-of-haitian-election>.

20. See, e.g., RNDDH Report, *supra* note 17, at 52. (Observers from the National Network for the Defense of Human Rights (Réseau national de défense des droits humains (RNDDH)), the National Observation Council (Conseil national d’Observation (CNO)) and the Haitian Council of Non-State Actors (Conseil haïtien des Acteurs Non Etatiques (CONHANE)), who were present at 48 percent of voting centers, reported violence, intimidation and interruptions in the voting process at 67.8 percent of voting centers); see also EUROPEAN UNION HAITI ELECTORAL OBSERVER MISSION, *Déclaration préliminaire*, (Aug. 11, 2015), at 8 (EU observers reported cases of unrest or intimidation outside voting locations at 40% of polling stations observed, and inside at 32% of polling stations). (hereinafter “EU August 9 Report”)

21. RNDDH Report, *supra* note 17; EU August 9 Report, *supra* note 20; Justice and Peace Commission, *Twayzèm pozisyon Komisyon Jistis ak Lapè sou jounen vòt 9 dawou 2015 lan*, (Aug. 12, 2015); Plateforme des Organisations Haïtiennes des Droits Humains, *Rapò préliminè sou dewoulman eleksyon 9 dawout 2015 nan peyi a*, (Aug. 13, 2015).

22. RNDDH Report, *supra* note 17, at 30; (CEP member Pierre Manigat acknowledged that the police had displayed a general passivity, which was documented by the electoral council in a report submitted to the PNH in the days after August 9); see Noclès Débréus, *Le CEP rassuré*, LE NATIONAL, (Oct. 15, 2015), available at <http://lenational.ht/le-cep-rassure/>

23. Center for Economic and Policy Research, *Haiti Elections, by the numbers*, (Oct. 24, 2015), available at <http://www.cepr.net/blogs/haiti-relief-and-reconstruction-watch/haiti-elections-by-the-numbers>.

24. RNDDH Report, *supra* note 17, at 55.

25. This is based on an assumption that the excluded tally sheets would have had the same average number of votes as the included tally sheets (98 votes).

26. CEP member Pierre Manigat has publicly claimed that UNOPS was in part responsible for the exceptionally high number of missing tally sheets in the first round. An anonymous CEP member has confirmed that the disorganization of UNOPS was a “not insignificant” source of lost tally sheets. In the Sud-Est, for example, UNOPS was unable to rent enough trucks for the day of elections, and was forced to hire many private vehicles on short notice to move sensitive electoral materials. This left the door open to irregularities, according to this source, such as drivers with partisan affiliations tampering with or throwing out tally sheets. See Noclès Débréus, *Le CEP rassuré*, LE NATIONAL, (Oct. 15, 2015), available at <http://lenational.ht/le-cep-rassure/>.

27. Décret Electoral, Spécial n° 1 du 2 Mars 2015, Art. 119. (“En cas de flagrance et de récidive, le Conseil électoral provisoire prend toutes les mesures, conformément au présent Décret, aux fins de : a) Se prononcer de façon cèlebre sur tous les cas de violence constatés ; b) Radier de la liste des candidats agréés tous ceux reconnus coupables, sous réserve de toute action judiciaire à intenter par la partie lésée ; c) Suspendre de toutes compétitions électorales, pour une période allant jusqu’à cinq (5) ans, les partis ou groupements politiques reconnus coupables”). (hereinafter “Electoral Decree”)

28. Jacqueline Charles, *Election day security top concern in Haiti vote*, MIAMI HERALD, (Oct. 23, 2015), available at <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article41253165.html>.

29. Ronel Odatte, *Haïti-Élections : Des appels à l’annulation des législatives dans plusieurs zones du Plateau central*, ALTERPRESSE, (Aug. 12, 2015), available at <http://www.alterpresse.org/spip.php?article18674#VjzxILerTIW>.

30. *Setting the Bar Too Low: An initial assessment of the CEP’s “70%” rule*, HAITI ELECTIONS BLOG, (Aug. 21, 2015), available at <http://haitielection2015.blogspot.ca/2015/08/setting-bar-too-low-preliminary.html>.

31. *Id.*

32. Louis-Joseph Olivier, *L’Union européenne fait des propositions pour améliorer le processus électoral*, LE NOUVELLISTE, (Aug. 25, 2015), available at <http://lenouvelliste.com/lenouvelliste/article/149015/LUnion-europeenne-fait-des-propositions-pour-ameliorer-le-processus-electoral>.

33. See, e.g., *Local Observers Document Massive Fraud, Intimidation and Violence in Haiti Election*, HAITI ELECTIONS BLOG, (Aug. 28, 2015), available at <http://haitielection2015.blogspot.ca/2015/08/local-observers-document-massive-fraud.html>; see also *supra* note 28.

34. See *supra* note 28.

35. Electoral Decree, *supra* note 27.
36. Conversation with CEP member Yolette Mangual (Oct. 9, 2015) (hereinafter Mangual). The report has not been made public; see also Noclès Débréus, *Le CEP rassuré*, LE NATIONAL, (Oct. 15, 2015), available at <http://lenational.ht/le-cep-rassure/>.
37. At the time of writing, the filing of only five criminal charges had been reported.
38. Mangual, *supra* note 36.
39. CEP, *Communiqué de Presse #51*, (Aug. 24, 2015), available at <http://www.cephaiti.ht/Information-electorale/74-COMMUNIQUE-DE-PRESSE-51.html>.
40. Roberson Alphonse, *Dans les eaux troubles du CEP*, LE NOUVELLISTE, (Sept. 28, 2015), available at <http://lenouvelliste.com/lenouvelliste/article/150389/Dans-les-eaux-troubles-du-CEP>; EU October 25 Report, *supra* note 18, at 7. In the case of Mirebalais, the CEP's decision to exclude three candidates because of their post-election protests against incidents of fraud and intimidation arguably aggravated the injustice of August 9. In the days after the election, three rival deputy candidates organized a series of marches to protest the acts of fraud committed in favour of Abel Descollines, the PHTK candidate. After one march ended with a forcible occupation of the local prosecutor's office, the CEP responded by excluding the three candidates for engaging in election-related violence, thereby excluding the second- and third-place candidates behind Descollines in the preliminary results. A member of the CEP anonymously confided to us that the council was aware that Descollines had engaged in acts of fraud and violence, but claimed that the electoral body was hamstrung by the passivity of the police and the judiciary.
41. PHTK was reprimanded for perturbing the vote in 6 different departments on August 9. Bouclier – a party widely perceived to be an ally of PHTK – caused disorder in 4 departments, while KID and Vérité were each cited for such acts in 3 departments. *CEP issues reprimand to parties - but is it enough?*, HAITI ELECTIONS BLOG, (Aug. 26, 2015), available at <http://haitielection2015.blogspot.ca/2015/08/cep-issues-reprimand-to-parties-but-is.html>.
42. RNDDH Report, *supra* note 17, at 55.
43. Examples are as follows from RNDDH report: (1) In Limbé (Nord), Vérité's Frandy Louis was one of two deputy candidates participating in the second-round runoff. On August 9, armed partisans connected with Louis entered several voting centers, stuffed ballot boxes, and intimidated voters and forced them to cast votes for their candidate, in some cases with the complicity of the police and the town's mayor. These individuals also fired shots near voting centers, killing a young boy outside the Eglise Baptiste de Simalo voting center. Louis lost the runoff according to preliminary results released on November 5, sparking violent confrontations in Limbé between his partisans and the victor. Louis was briefly arrested and then released after these altercations. (2) In Mirebalais (Centre), PHTK's Abel Descollines was one of two deputy candidates participating in the second-round runoff. On August 9, armed PHTK partisans stuffed ballot boxes and voted multiple times at several voting centers. PHTK sympathizers posing as observers also blocked the entrance of one voting center, only allowing in those who intended to vote for Descollines. Descollines will be Mirebalais' deputy, having won 63.76 percent of the vote to win the second run contest. (3) In Petit-Goâve and Léogane (Ouest), all four deputy candidates participating in the second round were from parties (PHTK, RPH, Vérité) that national observer groups identified as having been involved in election day violence and fraud on August 9. (4) In the Artibonite, Ayiti Ann Aksyon (AAA) senate candidate Youri Latortue was named a first-round winner while AAA's Jean Willy Jean Baptiste participated in a second-round race on October 25. At the deputy level, two AAA candidates scored first-round victories, while AAA candidates participated in 5 of the 7 second-round run-offs on October 25. The Artibonite was perhaps the hardest hit by election violence on August 9, with nearly 40 percent of tally sheets lost or destroyed and voting re-run in five constituencies. Armed partisans of AAA candidates attacked numerous voting centers and stuffed ballot boxes. In l'Estère, four voters were wounded when AAA-affiliated gunmen fired on them outside a voting center. AAA was also criticized by the CEP for ransacking voting centers in the Artibonite on August 9. Although Jean Baptiste lost the race for the second Senate seat, Latortue's AAA party otherwise did quite well on October 25, winning 4 deputy seats for the Artibonite and sending 2 more candidates to the second round for the five rerun constituencies. RNDDH Report, *supra* note 17, at 21, 23, 25, 32, 38, 40, 47-49; see also *supra* note 21.
44. See Roberson Alphonse, Roberson Geffrard, and Louis-Joseph Olivier, *Le CEP et ses appuis*, LE NOUVELLISTE, (Sept. 29, 2015), available at <http://lenouvelliste.com/lenouvelliste/article/150481/L-e-CEP-et-ses-appuis>.
45. *Jean Renel Sénatus et Youri Latortue élus*, LE NATIONAL, (Sept. 27, 2015), available at <http://lenational.ht/jean-renel-senatus-et-youri-latortue-elus>.
46. EU October 25 Report, *supra* note 18, at 6, footnote 9.
47. *Jean Renel Sénatus, Youri Latortue Senators In The First Round*, HAITI OBSERVER, available at <http://www.haitiobserver.com/blog/jean-renel-senatus-youri-latortue-senators-in-the-first-round.html>.
48. EU October 25 Report, *supra* note 18, at 6.
49. *Opon t explique et s'enfoncé dans les contradictions*, RADIO TÉLÉVISION CARAÏBES, (Oct. 1, 2015), available at http://www.radiotelevisioncaraibes.com/nouvelles/elections-2015/opont_explique_et_s_enfonce_dans_les_contradictions.html.
50. *Congresswoman Waters urges Secretary Kerry to support free, fair and democratic elections in Haiti*, (Oct. 5, 2015), available at <https://waters.house.gov/media-center/press-releases/congresswoman-waters-urges-secretary-kerry-support-free-fair-and>; *Haiti-élections: "Il n'y aura pas d'élections le 25 octobre", croit le Front national des candidats*, HAITI PRESS NETWORK, (Sept. 16, 2015), available at http://www.hpnhaiti.com/site/index.php?option=com_content&view=article&id=16818:haiti-elections-il-ny-aura-pas-delections-le-25-octobre-croit-le-front-national-des-candidats&catid=18:elections-2010&Itemid=61.

51. Samuel Maxime, *Manigat says prepared to lead transitional government*, HAITI SENTINEL, (Oct. 9, 2015), available at <http://sentinel.ht/2015/10/09/manigat-says-prepared-to-lead-transitional-government/>. Accusations of politicization came from within the CEP itself. After the final results for the first round were released, an anonymous CEP official told LE NOUVELLISTE that “with council members clearly serving those in power and other interests, it is hard to guarantee credible elections and credible results.” Roberson Alphonse, *Dans les eaux troubles du CEP*, LE NOUVELLISTE, (Sept. 28, 2015), available at <http://lenouvelliste.com/lenouvelliste/article/150389/Dans-les-eaux-troubles-du-CEP>. On October 2, CEP member Nehemy Joseph resigned, citing a lack of confidence in the decisions of the CEP. In his letter to the CEP, Joseph wrote: “It is natural to make mistakes, but to persevere in error even while recognizing it as such can prove to be pathological.” Joseph worried that his credibility would “end up melting away like an ice block,” if he did not leave, and stated that he was “increasingly convinced that completing my mandate would involve me in illegality.” See *Election Council Member’s Resignation a Blow to Haiti’s Electoral Process*, HAITI ELECTIONS BLOG, (Oct. 5, 2015), available at <http://haitielection2015.blogspot.ca/2015/10/election-council-members-resignation.html>.
52. RNDDH, *Positionnement de la SOFA sur le déroulement du processus électoral*, (Sept. 14, 2015), available at <http://rnddh.org/content/uploads/2015/09/SOFA-Positionnement-de-la-SOFA-sur-le-processus-%C3%A9lectoral-Sept-15.pdf>.
53. out of 4486 respondents reported incidents of violence, and 134 were serious incidents.
54. Kim Ives and Yves Pierre Louis, *Paltry Turnout Due to Fear, Fraud, and Voter Disenfranchisement*, HAITI LIBERTE, (Oct. 28, 2015), available at <http://www.haiti-liberte.com/archives/volume9-16/Paltrypercent20Turnoutpercent20Duepercent20topercent20Fear.asp#>.
55. INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE (INTERNATIONAL IDEA), *Voter turnout data for Haiti*, available at <http://www.idea.int/vt/countryview.cfm?id=99>.
56. See, e.g., Associated Press, *Haiti elects a president – but nobody knows for sure who voters chose*, THE GUARDIAN, (Oct. 26, 2015), available at <http://www.theguardian.com/world/2015/oct/26/haiti-elections-2015-voters-face-long-wait>.
57. These incidents were most often committed by party sympathizers or candidates’ security agents, and resulted in knife wounds or gunshot injuries 28.6 percent of the time. Judicial authorities were found to be actively investigating only 14.3 percent of cases. OBSERVATOIRE CITOYEN POUR L’INSTITUTIONNALISATION DE LA DEMOCRATIE, *Communiqué de Presse #11*, (Oct. 20, 2015), available at <http://ocidhaiti.org/index.php/2015/10/25/communique-de-presse-no-11-2/> (hereinafter “OCID Pre-Election Report”).
58. EU October 25 Report, *supra* note 18, at 3.
59. Id.; Jake Johnston, *Recent Murders in Port-au-Prince Are a Bad Omen for Haiti’s Election*, VICE NEWS (Oct. 20, 2015), available at <https://news.vice.com/article/recent-murders-in-port-au-prince-are-a-bad-omen-for-haitis-election>.
60. See, e.g., SOLIDARITE FANM AYISIEN, CONSEIL NATIONAL D’OBSERVATION ELECTORALE, CONSEIL NATIONAL DES ACTEURS NON-ETATIQUES, RESEAU NATIONAL DE DEFENSE DES DROITS HUMAINS, *Press release: Preliminary observations concerning October 25th elections*, (Oct. 27, 2015), at 3, available at <http://omegaworldnews.com/wp-content/uploads/2015/10/7-Elections-RNDDH-CNO-CONHANE-SOFA-27-octobre-2015-ANG-1.pdf> (hereinafter “Coalition Report”) (noting that polling stations were dark at 6am, preventing entry, and that most observed stations opened between 2 and 4 hours late); see also, *Haiti Flash: Les élections débutent en retard, sécurité renforcée...*, HAITI LIBRE, (Oct. 26, 2015), available at <http://www.haitilibre.com/article-15563-haiti-flash-les-elections-debutent-en-retard-securite-renforcee-haitielections.html> (noting that many centers typically opened with a delay of 15-30 minutes, but that BelAir, Panama, Anse-a-Galets, Canape Vert, and Lycee Mirebalais were delayed by 40 minutes to more than 1 hour).
61. see, e.g., Jake Johnston (@JakobJohnston), Twitter, (Oct. 25, 2015, 12:51 UTC), available at <https://twitter.com/JakobJohnston/status/658264605014282240> (“Dumersais Estime in Belair. 8:50. Not even *mandataires* inside yet. Few voters outside, mostly party reps”); See also, Melinda Miles (@melindayiti), Twitter, (Oct. 25, 2015, 13:50 UTC), available at <https://twitter.com/melindayiti/status/658279510488543232> (“Video: Voters in Bel Air are upset they can’t vote at nearly 10am #Haiti #elections #Haitielections”).
62. *Haiti-Elections : Electoral Observation Report of the OCID on the opening of vote...*, HAITI LIBRE, (Oct. 26, 2015), available at <http://www.haitilibre.com/en/news-15582-haiti-elections-electoral-observation-report-of-the-ocid-on-the-opening-of-vote.html>.
63. out of 4486 respondents.
64. OBSERVATOIRE CITOYEN POUR L’INSTITUTIONNALISATION DE LA DEMOCRATIE, *Communiqué de Presse*, (Oct. 27, 2015), available at <http://ocidhaiti.org/index.php/2015/10/27/communique-de-presse-fin-de-la-journee-electorale>.
65. EU October 25 Report, *supra* note 18, at 4.
66. See Jethro J Serame (@Jethrohaiti), Twitter, (Oct. 25, 2015) available at <https://twitter.com/Jethrohaiti/status/658273558615842816>; see also Radio Kiskeya (@radiokiskeya), Twitter, (Oct. 25, 2015) available at <https://twitter.com/radiokiskeya/status/658279966073712641> (noting that Lycee Guy Malary polling center had insufficient ink, and it could be rubbed off).
67. CARICOM ELECTION OBSERVATION MISSION (CEOM), *Immediate Post-Election Statement on the Just Concluded Elections in the Republic of Haiti*, CARICOM (The Caribbean Community), at 3, available at <http://today.caricom.org/wp-content/uploads/IMMEDIATE-POST-ELECTION-STATEMENT-HAITI-2015.doc>. (hereinafter “CEOM Report”).
68. OCID Pre-Election Report, *supra* note 57.
69. Radio Ibo Election Day Radio Broadcast, (Oct. 25, 2015).

70. *Haiti Election a Good Start by CEP*, HAITI EXPRESS NEWS, (Oct. 25, 2015), available at <http://haitiexpressnews.com/2015/10/25/haiti-election-a-good-start-by-cep>.
71. Radio Ibo Election Day Radio Broadcast, (Oct. 25, 2015) (stating that lists of voter names were destroyed at Ecole Nationale de Frères, in Frères).
72. See e.g., OCID Pre-Election Report, *supra* note 57, and *supra* note 56 (“99.29 percent of the country’s polling stations were already installed”); See also Coalition Report, *supra* note 60, at 3 (estimating that at least 95 percent of polling centers had been installed).
73. OCID Pre-Election Report, *supra* note 57.
74. Coalition Report, *supra* note 60, at 3 (“Certain voters were obliged to fulfill their civic duty in the blistering sun since some polling stations had been installed in courtyards and gardens”); See also, CEOM Report, *supra* note 67, at 3 (“there were Polling Stations conducting business in the open air...sauna-like conditions [not lastly in the tents]”).
75. Amelie Baron (@amelie_baron), Instagram, (Oct. 25, 2015) available at <https://instagram.com/p/9QhFdgOn2W/> (showing booths set up with overturned chairs, rusting desks and paper dividers in an outdoor courtyard).
76. CEOM Report, *supra* note 67, at 4.
77. OCID Pre-Election Report, *supra* note 57.
78. CEOM Report, *supra* note 67, at 3 (“persons inside and outside of the Polling Stations could see for whom the voter was casting his/her ballot”); see also Coalition Report, *supra* note 60, at 3 (criticizing the lack of intervention by CEP officials in cases of compromised secrecy) (“those responsible for the voting centers and the members of the polling stations did not seem to be concerned about the secrecy and privacy of voters”); See also MINUSTAH (@MINUSTAH), Twitter, (Oct. 25, 2015, 21:57 UTC), available at <https://twitter.com/MINUSTAH/status/658401930524364800> (official photo shows the extent of privacy violations as crowds look on a voter and his ballot).
79. Electoral Decree, *supra* note 27.
80. Coalition Report, *supra* note 60, at 3.
81. Out of 292 violent incidents and 68 out of 150 cases where armed individuals were seen inside a polling station.
82. According to Articles 168 and 168.1 of the Electoral Decree at *supra* note 27, *mandataires* are supposed to sign off on the tally sheets to indicate their approval of the results once the counting process in the polling station is complete. If they do not approve, *mandataires* can refuse to sign and have the reasons for their refusal recorded in the polling station’s procès verbal.
83. EU August 9 Report, *supra* note 20, at 3, 8; RNDDH Report, *supra* note 17, at 19–22. The CEP did not distribute accreditations for *mandataires* to many political parties in time for the first round of elections, partly because over 60,000 passes went missing shortly before election day. Consequently, many accused the CEP of giving accreditations preferentially to parties that were close to the government. As the polls opened on August 9, disputes erupted between election workers and accreditation-less *mandataires* over access to polling stations.
84. CEP, *Règlements relatifs à l’accreditation des mandataires*, (Oct, 15, 2015), available at https://principal.cephaiti.ht/files/Liens_utiles/CEP_Reglements_mandataires.pdf.
85. *mandataires* per polling station x 13,725 polling stations = 549,000 maximum places.
86. Jake Johnston, *Presidential Elections in Haiti: The Most Votes Money Can Buy*, COMMON DREAMS, (Nov. 5, 2015) available at <http://www.commondreams.org/views/2015/11/05/presidential-elections-haiti-most-votes-money-can-buy>; Jacqueline Charles, *Haiti election results delayed until Thursday*, MIAMI HERALD, (Nov. 2, 2015) available at <http://www.miamiherald.com/news/nation-world/world/americas/article42379425.html>.
87. *Haiti-Elections: Pari tenu pour le CEP*, HAITI PRESS NETWORK, (Oct. 25, 2015), available at <http://www.hpnhaiti.com/site/index.php/politique/17165-haiti-elections-pari-tenu-pour-le-cep>.
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99. Robinson Geffrard, *Le groupe des 7 candidats à la présidence campe sur ses positions*, LE NOUVELLISTE, (Nov. 9, 2015), available at <http://lenouvelliste.com/lenouvelliste/article/152213/Le-groupe-des-7-candidats-a-la-presidence-campe-sur-ses-positions>.

100. International observers have suggested off-record that up to 50 percent of votes for the Ouest department were cast using *mandataire* accreditations.

101. The impact of multiple voting by *mandataires* can be assessed in a general way by taking the total number of votes at each polling station and subtracting the number of cast by registered voters. This number can then be compared to the number of voters recorded on the “liste d’émargement d’exception,” which records the names and ID numbers of *mandataires* (as well as observers, election officials and police officers) who cast votes without being on the polling station’s voter list. If the number of off-list votes is higher than the number of voters recorded on list of exceptional voters, this would constitute evidence of irregularly cast ballots. Controlling for multiple voting at different polling stations by *mandataires* is more complex. Because the names and IDs were written down on a blank sheet of paper, technicians would need to manually enter all of these, likely hundreds of thousands. These would then need to be cross-checked to ensure that *mandataires* and observers were not using the same ID to vote at multiple locations. Although time consuming, verification of the scale of *mandataire* voting could be undertaken on a randomized sample basis. See Ginette Cherubin, *Le crime parfait du 25 octobre*, LE NOUVELLISTE, (Nov. 4, 2015), available at <http://lenouvelliste.com/lenouvelliste/article/151963/Le-crime-parfait-du-25-octobre> (explaining the several methodologies possible to verify the number of fraudulent votes cast).