

# Reconstructing Democracy

## Joint Report of Independent Electoral Monitors of Haiti's November 28, 2010 Election



Let Haiti Live



Institute for Justice & Democracy in Haiti  
*Fighting for the human rights of Haiti's poor*



# Kledèv



Organizations listed indicate participants in November 28<sup>th</sup> observer delegation

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## Executive Summary

The first round of Haiti's presidential and legislative election was held on November 28, 2010 in particularly inauspicious conditions. Over one million people who lost their homes in the earthquake were still living in appalling conditions, in makeshift camps, in and around Port-au-Prince. A cholera epidemic that had already claimed over two thousand lives was raging throughout the country. Finally, the election was being organized by a provisional electoral authority council that was hand-picked by President Préval and widely distrusted. The council had excluded several political parties from the election, including Haiti's most popular party, so regardless of what happened on Election Day, the vote was already highly contested. Despite these difficult circumstances, the Haitian authorities were under a great deal of pressure--in particular from foreign entities in the international community--to hold the election at the end of November.

In order to witness first-hand the November 28, 2010 election, and provide an independent account of the voting process, several organizations from both the United States and Haiti collaborated to provide independent monitoring of the election. The monitoring teams observed activities in the Port-au-Prince metropolitan area, the village of Gros Morne in the northern Artibonite, and on the southern coast in the Jacmel region. In all these locations, the observer teams encountered widespread problems on Election Day that challenged the credibility and fairness of an election that was already considered to be non-inclusive.

The election was not free or fair and did not provide a vehicle for the much-needed expression of the will of the Haitian people. This is particularly necessary as the country begins the process of reconstruction. Hundreds of thousands of qualified voters were disenfranchised when they were unable to cast their ballots on November 28, 2010 due to a poorly managed registration process and sheer chaos on Election Day. Names of registered voters appeared incorrectly or did not appear on voter lists and polling stations opened late, closed early or were never constructed at all. Allegations of fraud including ballot box stuffing and erroneous ballots, were reported from a large number of locations throughout the country and were recorded and documented by international and domestic journalists. Haitian civil society organizations from across the political spectrum have concluded that the results from the November 28 election cannot be considered legitimate.

Before all of the polling stations had closed on Election Day, twelve of the nineteen presidential candidates held a press conference calling for annulment of the vote and for a new election to be held. Although the candidates' concerns centered on alleged fraud being perpetrated on behalf of the ruling party *Inite*, and its candidates, the candidates joined many organizations and groups that were already demanding a new election replace what many were calling "a selection, not an election."

The election proved to be an expensive and even deadly distraction from a complex and escalating humanitarian crisis and, as anticipated, the results have been disastrous. Voter turnout, at less than 25%, was historically low, the voting process was fraught with irregularities and nearly 25% of votes cast, were lost, quarantined or tainted by irregularities. Finally, the

preliminary results of the election have been heavily contested by many candidates, their parties and non-partisan election observers. An “Expert Verification Mission” of the Organization of American States only generated further controversy by producing a Final Report based on a flawed methodological analysis and by recommending that the results of the first round of the election undergo substantial modification. Meanwhile, many groups in Haiti, as well as twelve presidential candidates, continue to call for the election to be annulled and redone.

As many Haitian civil society groups pointed out, this expensive and wasteful election has created a grave political crisis that will only render the complex task of reconstruction more challenging. Rooted in their concerns, and our first-hand observations of the November 28 election, we uphold calls for annulment of the election as the only opportunity for Haitians to express themselves through a true democratic process.

## **I. Introduction**

On November 28, 2010, Haiti held a primary election for a President to serve for the next five years, for the entire House of Deputies to serve for the next four years, and for one-third of the Senate to serve for the next six years. While democratic elections are a critical component of ensuring transparent, inclusive, and sustainable reconstruction in a country devastated by multiple disasters, the November 28 election was considered by many Haitian civil society organizations to be illegitimately organized since its announcement. As such, a coalition of Haitian grassroots groups and U.S. human rights organizations informally monitored the vote to ensure attention was paid to citizens unable to vote on Election Day.<sup>1</sup>

To put together the observer teams, an invitation was extended to NGO networks in the U.S through the Haiti Advocacy Working Group (HAWG) and in Haiti through the Haiti Response Coalition (HRC). These groups provided delegates with varied experience and expertise in the areas of election monitoring, human rights law, foreign policy analysis, long-term reconstruction work, agricultural development, and alternative media and journalism. The ultimate delegation was comprised of the following groups:

Asanble Vwazen Solino, The Neighborhood Association of Solino  
Bri Kouri Nouvel Gaye  
Center for Economic and Policy Research  
Global Community Development  
International Action Ties  
Institute for Justice & Democracy in Haiti  
Kledev  
Louisiana Justice Institute  
TransAfrica Forum

The coalition's primary goals in monitoring the November 28 election were to:

1. Engage with U.S. and Haitian civil society organizations (CSOs) and U.S. Congress based on first-hand observations as well as the observations and analyses of partners on the ground to ensure informed policy-making.
2. Participate in the domestic and international media coverage of the election to ensure accurate reporting of events. (Delegation members were featured as guests on various radio and television shows including BBC, Le Monde, the Jesse Jackson Show, Al Jazeera English, and the Canadian Broadcasting Corporation.)
3. Provide U.S.-based NGOs with a general understanding of the electoral environment and the electoral issues at stake in the election in Haiti.

On Election Day, six teams visited more than forty voting centers in urban neighborhoods throughout the Port-au-Prince metropolitan area, major displacement camps, rural polling stations in the village of Gros Morne in the northern Artibonite, and a mix of urban and rural polling stations in the Jacmel region. Three mobile routes within the capital sought to cover geographically and socio-economically diverse areas of the city, but also paid particular attention

to communities listed as areas of concern for possible low voter turnout, including densely populated *quartiers populaires* (poorer neighborhoods) and camps of internally displaced persons (or IDPs). All observers informally assessed the environment for voters, the existence and placement of voting bureaus, access to the vote, issues with the voting process, and material support. See Annex for full list of questions asked by observers at voting bureaus.

Considering the importance of the election on November 28, and the challenges of holding it in the midst of the current crises, the independent monitors provided an alternative voice and perspective on the events of the day. Their observations were based on a strong understanding of the ongoing humanitarian crisis on the ground. The teams were specifically looking for the following key indicators about the success of both the process and voting day itself:

- Were voters able to participate? Could they find their name on voter registration lists where they had planned to vote?
- Were adequate efforts made to ensure that the large IDP population could change their registered voting location to where they are currently living adequately?
- Considering the number of former voting locations destroyed by the earthquake, were new substitute voting locations adequately promoted?
- What levels of voter turn out were typical in several distinct locations on November 28?
- Were polling station workers following the letter of the electoral law?
- Was the voting carried out in accordance with the electoral law?

The observer teams gathered information, testimony, and images of Election Day as it unfolded: from early morning, when many polling stations were late to open and security personnel outnumbered voters; to mid-day, when there were escalating tensions because so many voters were turned away from the polls; to the protests that filled the streets of Petionville, Delmas, downtown Port-au-Prince, and the city of Jacmel before the day was over.

In addition to observing on the day of the vote, some members of the monitoring teams participated in a series of meetings prior to the election to better understand the context of the election. In mid-October several monitors met with the Provisional Electoral Council's (CEP) Treasurer, Jacques Belzin. The meeting also included a brief interview with CEP President Gaillot Dorsinville and spokesperson Richardson Dumel. Other meetings were held with Jacmel Mayor Edwin Zenny (now senator-elect for the Southeast Department); Justin Jean-Toussaint, Director of the Office for National Identification (ONI) for the Southeast Region; Camille Chalmers from the Platform to Advocate for an Alternative Development (PAPDA); Attorney Mario Joseph of the *Bureau des Avocats Internationaux*; Political Scientist Patrick Elie; representatives of the national peasant network Tet Kole Ti Peyizan; Julie Sell, spokesperson of the American Red Cross; Leonard Doyle, spokesperson for the International Organization for Migration (IOM); and Cantave Jean-Baptiste from the Partnership for Local Development. Some monitors also attended the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) cluster meetings including Protection and Camp Coordination and Camp Management (CCCM) at the United Nations (UN) logistical base.

As a result of their efforts, the independent monitors were able to provide an informed alternative voice and perspective on the November 28, 2010 election based on first-hand observations and a strong understanding of the ongoing humanitarian crises on the ground.

## **II. Credibility and Timing of the November 28, 2010 Election**

In the months leading up to the election, serious concerns were raised by a variety of grassroots groups and international actors about the organization and timing of the election. The most compelling obstacles to free and fair election on November 28 were:

- A Provisional Electoral Council (CEP) that lacked credibility in the eyes of the Haitian people, political parties, and the international community and that improperly excluded political parties from participating in the election.
- Inadequate time to prepare for a truly participatory election, particularly in light of the large numbers of internally displaced people and voting locations destroyed by the earthquake.
- Multiple and compounding crises, namely the advance of the cholera epidemic on an already vulnerable internally displaced homeless population.

### *The CEP and Exclusions Without Justification*

#### The CEP Lacked Credibility Since Its Inception

The Provisional Electoral Council (CEP), which is responsible for the preparation and execution of the election, has been considered illegitimate by a significant number of Haitian grassroots organizations and political parties since its inception. It has also faced accusations of corruption.

Both the 1987 Constitution and the Electoral Law of 2008 provide for a Provisional Electoral Council (CEP) to be “responsible for organizing and controlling with complete independence all electoral procedures.”<sup>2</sup> In particular, the Council is charged with voter registration, the administration of election, and adjudication of electoral disputes.<sup>3</sup> The Constitution requires that the Executive branch, the Supreme Court, and the National Assembly each choose three names from lists proposed by each of the Departmental Assemblies to make up the nine Council members.<sup>4</sup>

Despite the permanent council requirement of the Haitian Constitution, every CEP that has run elections since 1987 has been provisional,<sup>5</sup> and instead composed of nine representatives from different sectors of society. President Préval has exercised particular control over the current CEP, not only by choosing which nine groups participate in the nominations, but also by requiring each group to submit the names of two people, from which the President selected one. President Préval’s system ensured that he retained control over those chosen as the nine members of the Council.<sup>6</sup> The close relationship between the CEP and President Rene Préval has raised doubts about its ability to be politically neutral.<sup>7</sup>

#### The CEP Improperly Excluded Political Parties

The CEP excluded 15 political parties, including *Fanmi Lavalas* (FL), from the November 28, 2010 legislative election. The CEP has never issued a comprehensive explanation for the

disqualification of any of the political parties, but President Préval stated that the candidate list agreed upon in November 2009 for the proposed February 2010 election would be carried over to this election.<sup>8</sup> The candidate list agreed upon in November 2009 excluded FL even though the party complied with election requirements under Haitian law.<sup>9</sup> The exclusion of FL is significant due to the fact that it is the most popular political party in the nation. It has won every election it has entered, and due to its widespread support if it had been allowed to participate in the recent election, it would have rivaled current President René Préval's party, *Inite*.

The CEP similarly excluded candidates from the presidential election without any legal basis. The CEP announced in July that the head of each political party submitting a candidate for president must register presidential candidates in person. This requirement, which is new and has no basis in Haitian law, immediately disqualified FL.<sup>10</sup> The head of FL, President Jean-Bertrand Aristide, has been in exile since 2004 and the Haitian government has refused to issue him a passport. The CEP knew that he could not enter Haiti to personally deliver the candidate list. Due to this *ad hoc* requirement, FL was not represented in the Presidential election.

Following the release of the CEP's approved list of presidential candidates, concern was raised whether the other 19 candidates who did not make the list were excluded based on constitutional grounds, or if their rejection was politically motivated.<sup>11</sup> While an electoral observation mission led by the Organization of American States (OAS) and CARICOM (Caribbean Community) requested that the CEP disclose its reasons for rejecting the candidates, a definitive response was never given.<sup>12</sup> As former Haitian Ambassador to the U.S. Raymond Joseph, who was also rejected as a presidential candidate, stated, "The OAS and other donors have raised few if any concerns that election laws were applied arbitrarily for the purpose of narrowing a political field to preferred candidates. 'This is Haiti,' one Western official told me. 'We take what we can get.'"<sup>13</sup>

Under Haitian law, the CEP does not have the legal authority to exclude any legally recognized political party,<sup>14</sup> but it has continued to ignore both internal and international pressure to reverse its decision.<sup>15</sup> When the CEP first announced the disqualification of FL and other parties from the Senate election held in April and June 2009, the U.S., the UN and the OAS denounced the exclusions as undemocratic. The U.S. Embassy warned that the exclusion would "inevitably" raise questions about the election's credibility. The International Foundation for Electoral Systems (IFES), which receives funding from the U.S. government as well as several others, including Canada, also acknowledged the CEP's doubtful credibility in 2010. But the CEP called the international community's bluff and kept the excluded parties out of the November 28, 2010 election. The international community blinked by not only accepting the flawed election, but by paying for it, too: international donors supplied \$22 million, 76% of the election's cost.<sup>16</sup>

Announcing a boycott of the election, the designated head of *Fanmi Lavalas* (FL), Dr. Maryse Narcisse, stated, "For us, this isn't just the exclusion of *Fanmi Lavalas*... What they wanted to exclude is the majority - the people - from the electoral process... For us, the elections that are coming are not fair or honest. They are not democratic." Narcisse went on to say that, "We are not participating... for us this is a selection, not an election."<sup>17</sup> FL is not alone. Four other



political parties (*Alternativ*, UCAAD, *Rasamble*, and *Liberation*) dropped out of the race due to concerns regarding the credibility of the CEP to run fair election.<sup>18</sup>

Months in advance of the election, many Haitian grassroots groups declared they would not be participating, and would not encourage their members to vote due to the lack of inclusiveness. The national peasant movement *Tet Kole Ti Peyizan* explained that while they would like to participate in democratic election, “As a democratic organization we don’t see this as a democratic electoral process, so we can’t support it, we can’t back it.”<sup>19</sup>

### The CEP Lacked Capacity to Monitor Campaign Financing

The CEP was in charge of monitoring all campaign donations of more than \$2,500, but there was widespread concern regarding the CEP’s capacity to monitor such financing. Any efforts to monitor illegal fundraising and spending were hampered by the expiration of many representatives’ terms in May 2010,<sup>20</sup> resulting in the lack of a functioning Parliament. Suspicions were raised about President Préval’s recent withdrawal of \$107 million from the Petro Caribe fund for road construction<sup>21</sup>, as opponents said this money went to fund his candidates, namely Jude Celestin, the former head of the state-run road building department<sup>22</sup> and President Préval’s son in law.<sup>23</sup> The preponderance and high quality of campaign posters from Préval’s party, *Inite*, also raised suspicions about how much funding *Inite* received and from what sources.

### *Inadequate Time to Prepare Election*

The timeline for holding a credible election was very short. It was clear to all that 2010 presented the most challenging possible environment for holding election. Earlier in the year, the International Foundation for Election Systems had carried out a study to determine the feasibility of holding an election in 2010 in light of the crisis in the aftermath of the earthquake. While IFES’s findings identified significant challenges and indicated a tight calendar of deadlines and benchmarks required to guarantee the election could be held and meet standards of fairness, it concluded that an election was possible.<sup>24</sup>

Although President Rene Préval had never held an election on time during his two terms as president, the November 28, 2010 election was being held to the calendar despite pressure from both inside and outside of Haiti. Donors and international authorities were determined to see a new government elected to oversee the reconstruction of the country. As analyst Patrick Elie explained, “However it comes out, Haiti will lose more sovereignty with an interim government with no legitimacy or authority or without a strong legislative branch. If you control the money, then you will control the reconstruction period. The true master of the game will be the international community.”<sup>25</sup>

Haitian Attorney Mario Joseph of the *Bureau des Avocats Internationaux* articulated the irony of the decision to hold an election while more than a million were still living under tarps: “When President Préval has never held an election on time before, why try to do it now?”<sup>26</sup> It would be different if Haiti had a tradition of holding elections according to the constitutional calendar, but

Haiti's electoral cycle has been disrupted many times already by a series of natural disasters including hurricanes and interruptions of Haiti's democratic government by the forcible ouster of President Jean-Bertrand Aristide in 1991 and in 2004.

#### Insufficient Measures Were Taken to Re-register Displaced Voters

One of the primary obstacles to holding a legitimate election in such a short time frame included the inherent difficulty in re-registering the millions of internally displaced voters. Given the displacement of a significant percentage of the population after the earthquake, it became necessary for potential voters to register in their new locations in order to be able to vote. Rather than provide additional support to the institutions legally established to register voters who change their residence, like the ONI and the Office of Electoral Registry,<sup>27</sup> the CEP extra-legally created Centers of Operation and Verification (COVs) to register displaced voters in their new locations.<sup>28</sup> The COVs were criticized for duplicating the role of ONI, creating a parallel process for voter registration without a clear legal grounding.<sup>29</sup> Additionally, the lack of a formal mechanism for reconciling the ONI's list of voters with the lists compiled by the COVs left open the possibility for double-voting and other forms of fraud.<sup>30</sup>

Other significant obstacles included purging the names of deceased individuals, including hundreds of thousands who died in the earthquake, from the voter lists;<sup>31</sup> identifying and making known to voters the location of new polling stations to replace the 40 percent of stations that were destroyed by the earthquake; and providing new identity cards, the only document required to vote,<sup>32</sup> to new voters and those who lost them during the earthquake.<sup>33</sup> Due to overwhelming demand and scarce resources, the ONI, responsible for issuing identity cards, reported that it was "not up to the task assigned, namely, providing the national identification card for citizens who file the request."<sup>34</sup>

There was another less known but significant obstacle to holding a legitimate election in such a short amount of time. As Chief of Party for IFES in Haiti, Sophie Lagueny explained in an interview on the IFES website dated only five days before the election: "A lot of people didn't vote in 2009, so they don't know their names might not be in the polling stations they voted in during the 2005 and 2006 elections. In between the 2005 and 2006 elections and the 2009 election, a new election law was passed. This law provides for a minimum of two polling stations per communal section, which was not the case before. Before, many communal sections had only one polling center. So, a certain number of voters have been moved to new polling stations." In other words, "The problem is that a lot of people still do not know that they have been moved to a different station. The turnout in the 2009 election was only 10-11%. This means that the large majority of the population that did not vote in that election is not aware that their voting station may have changed."<sup>35</sup>

In what appeared to be an attempt to address this concern, the OAS/CARICOM Joint Election Observation Mission (JEOM) report stated that "citizens have the responsibility to make an effort in advance of Election Day to identify their polling stations."<sup>36</sup> In reality, the law does not place such a burden on voters. Rather the Electoral Law of 2008 mandates that the CEP is responsible for enabling voters to find their polling stations before and on Election Day, as it is required to take all necessary measures to inform citizens of electoral operations;<sup>37</sup> publish the

partial electoral list of voters along with the list of their respective voting centers in BED and BEC at least 30 days before the election;<sup>38</sup> list voter numbers legibly on electoral lists posted on Election Day so that voters may find their voting bureaus with ease;<sup>39</sup> and to ensure the presence of two administrative agents at each voting center who are charged with helping voters find their voting bureau based on their voting card number.<sup>40</sup>

While the CEP offered a service on its website through which voters could plug in their CIN number and find their voting center and voting bureau,<sup>41</sup> the link did not become available until November 15, 2010 and was not widely publicized.<sup>42</sup> Many voters who took the extraordinary step of determining their polling locations through the online service were turned away at the identified location and directed elsewhere. The CEP also offered a hotline for voters to call to determine their voting location. But many voters who had tried to use the number on Election Day either could not get through to it or no one answered.

By holding a hurried election on such a tight calendar that did not allow for adequate preparation, the international community and Haitian authorities guaranteed failure.

### *Election in the Midst of Crises*

Alex Main from the Center for Economic and Policy Research, a member of the monitoring team, explained: “It wasn’t the population that chose the moment or that demanded that an election be held now. In fact, in the tent communities we visited prior to the election, many individuals expressed outrage at the fact that an election was being held in the midst of an extreme crisis that is far from resolved.”

Many members of Haitian civil society voiced that November 28, 2010 was simply the wrong time to hold an election. Citing the number of Haitians living in vulnerable spontaneous settlements ten months after the earthquake and a cholera epidemic swiftly spreading throughout the country, those who called for postponement of the election prioritized a response to the humanitarian crisis over an election that was unlikely to lead to a truly democratically-elected government. Many Haitians felt that the select group of candidates running in the election lacked substantive platforms or programs to address the multiple crises, running their races instead on the catchiness of their slogans or the quality of their photos on posters throughout the country. Political advisor and analyst Patrick Elie explained, “There has been no time to think and plan ahead so what are we voting about except personal ambition?”<sup>43</sup>

Over the months leading up to November 28, several peaceful demonstrations were held in Port-au-Prince to call for relief efforts to have a more concrete impact on people’s living conditions. Demonstrators declared that people would not vote while living under tents and tarps. They called for the election to be postponed until a time when people felt more included in the process. Thus far, reconstruction efforts have been weak and deeply non-inclusive. *Tet Kole Ti Peyizan* remarked, “As money enters they call it reconstruction but people continue to live in tents in the dirt.”<sup>44</sup> Economist and Director of PAPDA, Camille Chalmers had a similar analysis, noting that to date “there is no reconstruction. It is only on paper. Nothing has been rebuilt.”<sup>45</sup>

For months, grassroots groups and Haitian community leaders have decried the Haitian government's failure to lead the response to cholera and to be proactive on relief and reconstruction efforts. As Chalmers explained, there is "another paradox to address: denouncing the absence of the Haitian state. At this electoral juncture we see an omnipresence of the state involved in funding elections and supporting candidates. Why is the state not playing an essential role in meeting people's daily needs?"<sup>46</sup>

One distinct and significant harmful impact of holding an election during the cholera epidemic was discussed during the OCHA Protection Cluster meeting preceding the election. A huge challenge to saving lives from cholera is the short time period during which a patient can be properly rehydrated in order to survive. The organization with the greatest logistical capacity in the country, the United Nations peacekeeping mission, known by its French acronym, MINUSTAH, was seen as a potentially vital tool for preventing cholera-related deaths by transporting cholera patients to treatment centers and distributing medical supplies. However, all MINUSTAH vehicles were occupied the week of the election with the logistics of delivering ballots and other election materials. As Agronomist Cantave Jean-Baptiste, founder of the Partnership for Local Development explained, "Because of these elections, more people will die."<sup>47</sup>

These actions, compounded by the failure of candidates to address the priorities of the people while spending significant funds on their campaign publicity, left many feeling that both politicians and the international authorities were prioritizing a hollow electoral process over saving lives during a critical time. As a result, many grassroots and community-based groups decided to boycott the election. They sat out what they called "'an election without substance'" and "'a selection, not an election.'"

"People are clearly saying we want homes before election,"<sup>48</sup> explained economist and director of the Platform to Advocate for an Alternative Development (PAPDA), Camille Chalmers. *Tet Kole Ti Peyizan* representatives agreed: "Today we see we still have bodies under the debris. We have come through hurricanes, and yet people are still living in the streets. The epidemic is truly turning into a pandemic. It came to kill the Haitian people, and it is on their bones and their bodies that the election is being organized."<sup>49</sup>

### *The Role of MINUSTAH*

Why was so much time and money invested in a process that was doomed to fail, in the midst of a weak and underwhelming response to the most grave humanitarian crisis in the hemisphere? Elie did not feel this was a mistake. He explained, "There was a lot of pressure for elections and it couldn't have been a naïve approach. None of the candidates have popular support; none have populist leanings or pose a threat to the structure."<sup>50</sup> The existing structure in Haiti includes the presence of nearly 12,000 soldiers and police of MINUSTAH. With annual budgets in the hundreds of millions, the mission (of varying sizes) has been a significant and controversial fixture in Haiti's political, social, and economic landscape since 2004.

The demonstrations, described above, against the November 28 election that took place in October and November preceding the election also called for the withdrawal of MINUSTAH. Although Haitians have repeatedly called for the withdrawal in the past, MINUSTAH has increasingly gained a reputation for brutal repression, and masses of Haitians consider it to be an occupying foreign military on sovereign Haitian territory. Widespread allegations that MINUSTAH troops from Nepal were responsible for bringing cholera to Haiti, which was first discovered in October 2010,<sup>51</sup> added further distrust. Despite these concerns, MINUSTAH was given a key role to play in the election of November 28, 2010: to deliver the ballots, guarantee security, and coordinate the logistics.

Chalmers raised the question that many Haitians have posed throughout the six years of the MINUSTAH's occupying mission. Chalmers stated: "The presence of MINUSTAH is very clear. People are indignant in the face of human rights violations and there also is a huge contrast when you look at the money going to MINUSTAH. Politically it is unacceptable. In the disappearance of Haiti's national sovereignty, how can we have election?"<sup>52</sup>

### **III. Observations of the Independent Monitors**

Of the small percentage of people who were determined to vote on November 28, 2010 despite the multiple crises facing the country and the party exclusion, a significant number of them were unable to cast their ballots on Election Day.

The delegation observed the electoral day processes including the opening of voting bureaus, voting throughout the day, national press activities, and in some cases, the closing of voting bureaus. While the atmosphere on Election Day was relatively calm, irregularities and lack of access to voting across the board resulted in growing frustration among disenfranchised voters as the day progressed. The delegation observed:

1. Late openings of voting bureaus, sometimes by three or four hours; early closings of voting bureaus, in some cases as early as 9:30am-10:30am (polls are legally mandated to close at 4pm) due to allegations of irregularities; and voting bureaus that never opened at all.
2. Insufficient and incorrect ballots provided to voting bureaus, and the failure of MINUSTAH personnel in charge of logistics to deliver ballots to many polling stations on time.
3. Inaccurate voting lists, that resulted in long-term residents of the same voting bureau and people who had registered their change of address with the COVs being unable to find their names on their identified voting bureaus' electoral lists.
4. Ballot-box stuffing.
5. Exclusion of party observers not affiliated with the *Inite* party from certain voting bureaus.
6. Significant presence of MINUSTAH and Haitian National Police (PNH) forces who, in some cases, had a hostile attitude towards voters, drew their guns and used excessive force.

Gross disenfranchisement of voters in two of the largest and most isolated camps of IDPs reflected a structural failure on the part of the authorities to ensure the ability of IDPs to participate in the election. On-site efforts to re-register voters so they could participate were inadequate and the timeline for people to change their voting location was too short. When the voting station at Camp Corail opened, only thirty-nine voters appeared on the list despite the fact that thousands of registered voters reside in the camp. At Camp Canaan, an unofficial settlement of tens of thousands, political party observers paced an empty field where a polling station was supposed to be set up, but never materialized.

However, it was not only displaced earthquake survivors who were unable to cast ballots on November 28. In the rural village of Gros Morne, in the northern Artibonite, many elderly voters who could not find their names on voting lists were told to walk long distances to try other polling stations. In the southern city of Jacmel, where there was significant earthquake damage, the Louisiana Justice Institute reported “[R]eactions [of voters] ranged from disappointment to rage. Many searched multiple locations unsuccessfully, seeking their name on any voter list but instead finding many of their deceased neighbors and family members listed.”

As the day unfolded, the monitoring teams witnessed growing frustration and anger among voters who were unable to vote or believed that fraud had taken place in their voting center. Throughout Port-au-Prince, the monitoring team spoke to voters who had visited one polling station after the next and were unable to find their names on any voting lists. Early in the day, a crowd gathered at the *Lycée Cite Soleil* and waited for hours for a polling station to open. Observers who visited polling stations in the Port-au-Prince suburb of Carrefour encountered growing rage as crowds of disenfranchised voters gathered outside of polling stations. Nicole Lazarre, an observer based in Port-au-Prince, experienced angry crowds who wanted to share their frustrations once she identified herself as an independent observer. She noted, “Young men expressed profound disappointment over being turned away and about their frustration over the country’s repeated failures to get things right for itself.”

Measures were not taken to render the process transparent and to effectively prevent the occurrence of fraud on a wide scale. There were numerous reports of the stuffing of ballot boxes. Members of the delegation visited one voting center where the police had arrested individuals accused of inserting unauthorized ballots in ballot boxes, but in other centers, no action appeared to be taken by authorities following reports of fraudulent activity.

Observation teams also traveled mid-day to the Karibe Convention Center to watch twelve of the nineteen presidential candidates call for annulment of the election due to the recorded fraud. However, most polling locations remained open; and voters were not informed of the call for pause. Nevertheless, the press conference managed to divert nearly all of the international media in the metropolitan area away from the concrete problems unfolding on the ground. While demonstrators took to the streets of Port-au-Prince late in the day with a festive attitude, Melinda Miles, director of the Let Haiti Live project at TransAfrica Forum observed, “When the protest was over, people went back to the tarps they call home to sleep with empty stomachs.” She added, “The election was hardly the vehicle to bring a true democratic change to the country, but the widespread fraud and disenfranchisement of Haitian voters is no cause for celebration. Nor

can the future government of Haiti be decided by a rally in the streets of the capital; it should reflect the will of the majority of Haitians.”

By the evening, the CEP declared in a press conference that the election was mostly free and fair, flying in the face of the reality the monitoring teams witnessed first hand. As Nora Rasman of TransAfrica Forum observed, “this election was characterized by more broken promises by the international community. Every stopgap measure expressed through meetings and the media, a series of strategies that stressed the importance of getting people out to vote, failed.

#### **IV. Responses from Haiti and the International Community Immediately After the November 28 Election**

##### *Official Haitian Observers*

##### The National Council of Election Observers

In a statement titled, “Civil Society Denounces Fraud,” several Haitian institutions including the National Council of Election Observers, or *Conseil National d’Observation des Eléctions* (CNO), which deployed 5,500 observers on Election Day, along with the *Initiative de la Société Civile* (ISC), *Conseil Haïtien des Acteurs Non Étatiques* (CONHANE), *Réseau National de Défense des Droits Humains* (RNDDH), *Centre d’Éducation, de Recherche et d’Action en Sciences Sociales et Pénales* (CERESS), and *Mouvman Fann Aktif Kafou* (MOFKA), summarized their findings as follows:

- Many citizens lost their lives or were seriously injured.
- Fake ballots were smuggled in, true ballots were washed away or torn, and polling stations were ransacked or burned.
- Many polling stations were closed early in violation of the law.
- Local authorities showed political partisanship during the election.
- There was arbitrary and unlawful change of supervisors and poll workers in some polling stations.
- Party representatives and observers faced problems in performing their official duties in some polling stations.

It is notable that the U.S. government supported the election specifically by preparing domestic observers who acted as members of the CNO. U.S. State Department Spokesperson P.J. Crowley confirmed at a press briefing on November 22, 2010, “the United States, along with the international community, has been providing significant support to the Provisional Electoral Council. We’ve helped to train 5,500 domestic observers in preparation for the upcoming election.”<sup>53</sup>

However, according to the CNO, the “disastrous” nature of the election was “predictable” given that the executive branch and the CEP ignored the recommendations made by political parties, civil society, and election monitoring organizations to establish a credible electoral council and

respect the electoral law. Additionally, it was clear that the massive displacement of voters was going to deprive “a large number of voters of the opportunity to exercise their civic rights.”<sup>54</sup>

### *The International Community*

While various actors in the international community and foreign donor governments expressed concern with the November 28 election, in the weeks following the election, the majority concluded that the inability of countless thousands of voters to cast ballots was insufficient to invalidate the election. The authors of this report believe the acceptance of these flawed results entirely misses the point of the democratic process.

### The Organization of American States and The Caribbean Community

On November 29<sup>th</sup>, the Organization of American States (OAS) and the Caribbean Community (CARICOM) Joint Electoral Observation Mission released a statement documenting a lengthy list of irregularities ranging from poor organization, voter manipulation, the inability of voters to find their name on voting lists, the lack of transparency by the CEP, and a lack of trained poll workers, amongst many others. While recognizing these irregularities, the OAS/CARICOM report endorsed the process stating, “Based on its observations in the eleven electoral departments, the Joint Mission does not believe that these irregularities, serious as they were, necessarily invalidated the process.”<sup>55</sup>

OAS Secretary General Albert Ramdin called for the vote to be considered legitimate, while at the same time stating, “irregularities need to be taken very seriously, need to be investigated.” According to Ramdin, “In approximately 4% to 5% of the polling stations, there were disturbances that should not have happened, [but] ...,compared to 11,000 poll stations, that can’t be considered widespread... I did not witness any irregularity. It was peaceful, the people voted. But of course we have all reported problems and they have to be considered.”<sup>56</sup> Rather than investigate the widespread reports of fraud and irregularities from voters, political parties, journalists, and unofficial observers, the OAS/CARICOM Joint Mission report criticized the allegations of fraud as creating a “toxic atmosphere...subversive of the process.”<sup>57</sup>

Following continued concern about the legitimacy and results of the November 28 election, the OAS issued a report on the first round of the election entitled “Organization of American States Expert Verification Mission, President Election-First Round 2010-Final Report.” The OAS Mission set out to verify the tally sheets from the November 28 presidential election according to four criteria defined by the OAS. Its investigation found 234 tally sheets to be invalid. Once these 234 tally sheets were eliminated and the remaining tally sheets recounted, the *Inite* candidate Jude Celestin came in third place while the candidate Michel Martelly moved into second place. Therefore, Celestin, who is the Préval government’s candidate, will not advance to the run-off if the Haitian electoral authorities adopt the OAS Mission’s recommendations.<sup>58</sup> Though President Préval expressed concerns over the Mission’s recommendation,<sup>59</sup> the report recommendations were accepted by the CEP on February 3, 2011.<sup>60</sup>

Not only did the OAS Electoral Observation Mission contradict itself by initially validating the election and later questioning its results, it also made recommendations that had no



methodological foundation.<sup>61</sup> According to an analysis by the Center for Economic and Policy Research, the OAS reviewed only 919 tally sheets out of a total of 11,181. The OAS Mission did not clearly explain how it constructed this sample, and its analysis of the election results is not based on a statistical inference drawn from the sample. Had the OAS Mission subjected all of the tally sheets to the four legal criteria that formed the basis for the elimination of 234 tally sheets, its findings could very well have been different. What's more, CEPR's investigation revealed that 11.9% of the total tally sheets - representing 156,000 votes - were in fact quarantined or not received by the CEP. These lost votes were from areas that are significantly more pro-Celestin and, had they been incorporated in the vote count, would probably have pushed Celestin into second place.

CEPR's investigation shows that the OAS Mission's report did not meet minimal standards of statistical inquiry and thus did not establish a sound basis for changing the election results. Nonetheless, the CEPR report emphasizes that even if the OAS Mission's findings had been statistically sound, the election results would still be untrustworthy and lacking in legitimacy.

### The United Nations

During the election on November 28, Edmund Mulet the head of MINUSTAH commented that the election was "going well" and that "the decision of the people will be respected."<sup>62</sup> Describing the reported irregularities as "some small administrative problems," Mulet concluded that there was "no big problem that is going to reduce participation."<sup>63</sup> In the days following the election, Mulet offered, "If the people's decision is respected and recognized by Haiti's Provisional Electoral Council, there will be no problems and the international community will be engaged in helping the new government face huge challenges."<sup>64</sup> However, Mulet's optimism was accompanied with a stern threat that "the international community will pull out of Haiti and the country will not benefit from international support and resources if the people's decision is not respected."<sup>65</sup>

Following the election, there were reports indicating UN involvement in the repudiation by two of the leading candidates of their own call for cancellation of election. While Mirlande Manigat and Michel Martelly had stood with ten other candidates on Election Day calling for election to be cancelled, according to Reuters, "after 24 hours of intense pressure from UN officials and other foreign diplomats, [Manigat and Martelly] backed down and said they wanted the vote to be counted, saying they expected to be the presidential election race leaders."<sup>66</sup> In fact, both candidates were told by the UN that they were leading the race on the Monday morning following the election.<sup>67</sup> Soon thereafter, Mulet signaled that the election has "stabilized," telling Reuters, "I'm more confident right now than I was two days ago...[T]he concerns and problems we were facing last Sunday are behind us and we'll see what will happen in the next days."<sup>68</sup>

However, on December 3<sup>rd</sup>, 2010 United Nations Secretary General Ban Ki Moon challenged the statements made by MINUSTAH and Mulet saying, "While some violence and disruptions on Election Day are not exceptional in Haiti, the irregularities now seem more serious than initially thought. Whatever the complaints or reservations about the process, I urge all political actors to

refrain from violence and to start discussions immediately to find a Haitian solution to these problems – before a serious crisis develops.”<sup>69</sup>

### The United States

The response by the United States government’s response to the November 28 election took various tones in the weeks following the first round. Immediately after the election U.S. Embassy Spokesperson Jon Piechowski told the Associated Press, “We are in the process of taking a look (and) consulting with our partners in the international community to get a better sense of it.” At the same time, U.S. State Department Spokesperson P.J. Crowley called the vote “a significant step for Haiti,” while recognizing, “This is an election that will determine the government that will lead the reconstruction of Haiti. It’s vitally important that this process produce a government that the Haitian people can support.”<sup>70</sup>

House Majority Whip Representative James Clyburn of South Carolina, head of a delegation of members of the U.S. Congress who visited Port-au-Prince on Election Day, stated that he had “serious concerns” about the electoral process on November 28. The legislators urged “the U.S. government, the OAS and the UN to give full consideration to the charges of fraud and abuse and to await the result of any investigation before passing judgment on the conduct of Haiti’s election.”<sup>71</sup> The same delegation also asked for the U.S. government to withhold any endorsement of the election until the widespread claims of fraud could be fully investigated.

United States Senator Richard Lugar, ranking Republican on the Senate Foreign Relations Committee, and author of a July 22<sup>nd</sup>, 2010 report highlighting the serious flaws in the organization of the Haitian election,<sup>72</sup> criticized President Préval as the source of the election problems. Senator Lugar alleged that President Préval ignored the proposals of reform put forward in his report, and said that, “As a result, the elections have been fraught with numerous reports of irregularities and fraud.”<sup>73</sup> Senator Lugar’s conclusions fall in line with the information revealed in the release of sensitive memos by the United States Ambassador to Haiti from June 2009. According to the memos, President Préval’s “overriding goal is to orchestrate the 2011 presidential transition in such a way as to ensure that whoever is elected will allow him to go home unimpeded. Based on our conversations, this is indeed a matter that looms large for Preval.”<sup>74</sup> The portrayal of President Préval in the memos also reveals his importance to the goals of the United States, as he is described as “Haiti’s indispensable man.” The memos explain that managing President Préval is challenging but essential to the United States’ success.<sup>75</sup>

Despite Representative Clyburn’s and Senator Lugar’s reservations, Ambassador Susan Rice, U.S. Permanent Representative to the United Nations, called for expedient action to resolve the political crisis in Haiti that followed the November 28, 2010 election and she endorsed the OAS Mission report. Though Ambassador Rice voiced the importance of “free and fair election that reflect the will of the Haitian people,” the U.S. Mission to the UN believed these goals could be met by “announcing first-round results and conducting second-round election in a manner consistent with the recommendations and findings of the OAS technical review.”<sup>76</sup>

## Canada

The Canadian government was similarly vague in its statements on Haiti's election in the weeks immediately following November 28. Lawrence Cannon, the Canadian Minister of Foreign Affairs, issued a statement on November 29<sup>th</sup>, 2010 calling for calm and the maintenance of political dialogue in the nation. Minister Cannon stated, "It is essential that Haitian political actors fulfill their responsibilities and demonstrate a firm commitment to democratic principles, including respect for the integrity of the electoral process. This is particularly important given the severity of the many challenges the people of Haiti currently face... It is critical that reports of election irregularities be addressed in a calm, timely and transparent manner."<sup>77</sup> The Canadian government continued to call for transparent and democratic elections with a commitment to expedient movement forward.

## **V. Conclusion**

Reconstruction efforts have been stalled because funds that have promised have not arrived. It is certainly true that Haiti's government must play a central role in the country's reconstruction, but this only furthers the case for taking the time necessary to make sure that the government in place is truly democratically elected and can represent the voices and needs of the Haitian people.

Due to the widespread disenfranchisement of the small number of voters who attempted to cast their ballots on November 28, 2010, the exclusion of political parties and the reports of fraud, the election was not the much-needed opportunity for the Haitian people to make their will known. It was not free, fair, and inclusive. This significant failure of the November 28 election is connected to a more fundamental problem: the systematic marginalization of the Haitian people. None of the primary actors in this electoral process--from the international community, to the Haitian government, to the candidates themselves--have demonstrated they are clear on what the Haitian people really want and need. It is due time to phase out top-down methods of addressing Haiti's problems and begin to consult with, and take leadership from Haiti's populace majority.

In sum, as many Haitian civil society groups pointed out, this expensive and wasteful election has created a grave political crisis that will only render the complex task of reconstruction more challenging. Rooted in their concerns and our first-hand observations of the November 28 election, we uphold calls for annulment of the election as the only opportunity for all Haitians to express themselves through a true democratic process.

## Acronyms and Organizations Named in this Report

<i>Alternativ</i>	Alternative for progress and democracy- <i>Alternative pour le progress et la democratie</i> Haitian political party led by Evans Paul
<i>Asanble Vwazen Solino</i>	The Neighborhood Assembly of Solino
<b>BEC</b>	Government of Haiti Local Voting Office <i>Bureau Electoral Communal</i>
<b>BED</b>	Government of Haiti Regional Voting Office <i>Bureau Electoral Departmental</i>
<i>Bri Kouri Nouvel Gaye</i>	“Noise Travels, News Spreads”, Haitian independent alternative media project
<i>Bureau des Avocats Internationaux</i>	Haitian human rights law firm and center
<b>CARICOM</b>	Caribbean Community and Common Market
<b>CCCM</b>	OCHA Cluster for Camp Coordination And Camp Management, led by International Office for Migration
<b>CEP</b>	Provisional Electoral Council
<b>CEPR</b>	Think-tank Center for Economic and Policy Research focused on U.S. domestic and foreign policy
<b>CERESS</b>	Center for Education of Research and Action in Social Sciences and Penal Issues-- <i>Centre d'Education, de Recherche et d'Action en Sciences Sociales et Pénales</i>
<b>CIN</b>	National Identification Number
<b>CNO</b>	National Council of Election Observers <i>Conseil National d'Observation des Eléctions</i>
<b>CONHANE</b>	Haitian Council of Non-State Actors <i>Conseil Haïtien des Acteurs Non Etatiques</i>
<b>COV</b>	Centers for Operation and Verification created extra-legally by the Haitian Government
<b>CSO</b>	civil society organization
<i>Fanmi Lavalas</i> or FL	Haitian political party led by President Jean-Bertrand Aristide
<b>Global Community Development</b>	NGO focused on anti-poverty work through sustainable development
<b>HAWG</b>	Haiti Advocacy Working Group
<b>HRC</b>	Haiti Response Coalition
<b>IDP</b>	internally displaced person
<b>IFES</b>	International Foundation for Electoral Systems

<b>IJDH</b>	Institute for Justice and Democracy in Haiti- legal, advocacy and human rights NGO
<b>Inite</b>	Haitian political party led by President René Préval
<b>International Action Ties</b>	Solidarity organization focused on marginalized communities' inclusion in development
<b>IOM</b>	International Organization for Migration—Intergovernmental organization responsible for camp management
<b>JEOM</b>	Joint Election Observation Mission of the OAS and CARICOM
<b>Kledev</b>	NGO that works to empower economic development in Haiti
<b>Let Haiti Live</b>	Multidimensional media and advocacy project sponsored by TransAfrica Forum
<b>Liberation</b>	<i>Plateforme Liberation</i> Haitian political party
<b>LJI</b>	Louisiana Justice Institute founded by Jacques Morial (Jacques Morial, Dr. Austin Allen, Cynthia Carroll, Kemah Dennis-Morial and Nicole Lazarre were observers in this group)
<b>MINUSTAH</b>	United Nations Peacekeeping Mission in Haiti
<b>Mouvman Fann Aktif Kafou or MOFKA</b>	Haitian female-led community support organization
<b>NGO</b>	non-governmental organization
<b>OAS</b>	Organization of American States
<b>OCHA</b>	MINUSTAH Office for the Coordination of Humanitarian Affairs
<b>ONI</b>	Government of Haiti Office for National Identification
<b>PAPDA</b>	<i>Platfòm Ayisyen pou Pledwaye pou Yon Devlopman Altènatif</i> , Platform to Advocate for an Alternative Development
<b>Partnership for Local Development</b>	Haitian NGO working for Sustainable Development mainly in the Artibonite Valley
<b>PNH</b>	Haitian National Police
<b>Rasamble</b>	Haitian political party
<b>RNDDH</b>	(Haitian) National Human Rights Defense Network <i>Réseau National de Défense des Droits Humains</i>
<b>Tet Kole Ti Peyizan</b>	Small Peasants Heads Together, National peasant network
<b>TransAfrica Forum</b>	African-American US foreign policy and advocacy NGO focused on Africa and the African Diaspora
<b>UCAAD</b>	Haitian political party
<b>UN</b>	United Nations

## Endnotes

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- 1 While some members of the delegation considered being accredited as official electoral observers in accordance with the CEP, after consultation with domestic partner organizations noting significant reservations about the process and a lack of responsiveness from the CEP, the delegation opted to observe the election informally. The limitations to the delegation because of the decision to operate as informal observers were minimal and the teams were able to do poll observation throughout the country.
- 2 1987 Constitution, art. 191.
- 3 Electoral Law of 2008, *Le Moniteur*, July 25, 2008, Chap. IV, Chap. XII, Chap. XIII.
- 4 1987 Constitution, art. 192.
- 5 The International Community Should Pressure the Haitian Government for Prompt and Fair Election, Institute for Justice & Democracy in Haiti, June 30, 2010, p. 5, available at [http://ijdh.org/wordpress/wp-content/uploads/2010/07/Election-Process-6-30-10\\_final-1.pdf](http://ijdh.org/wordpress/wp-content/uploads/2010/07/Election-Process-6-30-10_final-1.pdf).
- 6 *Haiti's November 28 Election: Trying to Legitimize the Illegitimate*, Institute for Justice & Democracy in Haiti, Nov. 22, 2010, p. 3, available at <http://ijdh.org/wordpress/wp-content/uploads/2010/11/Election-Report-11-23-2010.pdf> citing Stephen Lendman, *Haiti's Electoral Charade*, Pacific Free Press, Apr. 17, 2009, available at <http://www.pacificfreepress.com/news/1/4034-haitis-electoral-charade.html>.
- 7 *Haiti's November 28 Election: Trying to Legitimize the Illegitimate*, Institute for Justice & Democracy in Haiti, Nov. 22, 2010, p. 3, available at <http://ijdh.org/wordpress/wp-content/uploads/2010/11/Election-Report-11-23-2010.pdf> citing Alice Speri, *Haiti Election Commission Under Scrutiny for Ties to President Rene Preval*, The Christian Science Monitor, Sept. 16, 2010, available at <http://www.csmonitor.com/World/Americas/2010/0916/Haiti-election-commission-under-scrutiny-for-ties-to-President-Rene-Preval>.
- 8 Nicole Phillips, *Members of Congress are Right to Urge Changes of Haiti's Flawed Electoral Process*, The Hill, October 11, 2010 available at <http://thehill.com/blogs/congress-blog/foreign-policy/123601-members-of-congress-are-right-to-urge-changes-to-haitis-flawed-electoral-process>.
- 9 1987 Constitution of Haiti, Article 92; Civil Code of Haiti, Article 1749. See also The International Community Should Pressure the Haitian Government for Prompt and Fair Election, Institute for Justice & Democracy in Haiti, June 30, 2010, pp. 2-4, available at [http://ijdh.org/wordpress/wp-content/uploads/2010/07/Election-Process-6-30-10\\_final-1.pdf](http://ijdh.org/wordpress/wp-content/uploads/2010/07/Election-Process-6-30-10_final-1.pdf).
- 10 See *supra* note 1
- 11 2010 Haiti Presidential Candidates List, Belpolik.com, <http://www.belpolitik.com/haitianpolitics.php/25>.
- 12 Haiti- OAS-CARICOM Mission Appeals for More Transparency, Caribbean Daily News, August 21, 2010, available at <http://www.caribbeandailynews.com/haiti-oas-caricom-mission-appeals-for-more-transparency/>
- 13 Raymond Joseph, *Haiti Presidential Election: Justice on the Line*, Christian Science Monitor, September 9, 2010 available at <http://www.csmonitor.com/Commentary/Opinion/2010/0909/Haiti-presidential-election-justice-on-the-line>
- 14 The Haitian Constitution dictates that political parties “may be established and may carry out their activities freely” and “the conditions for their recognition and operation, and the advantages and privileges reserved to them” must be determined by law. See, 1987 CONSTITUTION, art. 31-1. The Electoral Law of 2008, which is the governing law for electoral procedure, only requires candidates to provide an affidavit establishing his/her political party and that he/she was designated as a candidate by that party. See, Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 94(1). Declarations of candidacy are accepted if the candidate’s party first registered with the CEP. Electoral Law of 2008, *Le Moniteur*, July 25, 2008, Arts. 98 and 105.1. Article 106 of the Electoral Law only requires that lays out the requirements political parties must follow to register with a Permanent Electoral Council. Political parties need only show the party’s act of recognition, which has not been defined in the Electoral Law. Electoral Law 2008, *Le Moniteur*, July 25, 2008, art. 106. Dr. Maryse Narcisse, spokesperson for Fanmi Lavalas, stated recently in an interview that FL registered as a political party in 1996 and again in 2008 as requested by the government, and has a certificate of official recognition by the Ministry of Justice.
- 15 Judith Scherr, *Why Aristide's Party Won't Vote*, Interview with Dr. Maryse Narcisse of Fanmi Lavalas, November 17, 2010, available at <http://www.counterpunch.org/scherr11172010.html>.
- 16 Canada pledged \$5.8 million for the support activities of the CEP and Election Canada, which provided technical support. *Canada Pledges \$5.8 Million to Haiti Election*. CBC News. October 5, 2010 (<http://www.cbc.ca/politics/story/2010/10/05/haiti-election-aid.html>). Brazil donated \$500,000. International

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- Funding of Electoral Process Begins. Haiti Libre, September 19, 2010 (<http://www.haitilibre.com/en/news-1222-haiti-election-the-international-began-to-fund-the-electoral-process.html>). The United States government pledged \$5 million, plus \$10 million spent by the International Foundation for Electoral Systems (an NGO supported by USAID and US Department of State) and USAID. CEPR Criticizes US Funding “Election” in Haiti, Center for Economic and Policy Research, October 14, 2010, available at <http://www.cepr.net/index.php/press-releases/press-releases/cepr-criticizes-us-funding-for-election-in-haiti>. The rest of the electoral funding was covered by the European Union.
- 17 Judith Scherr, Empty Promises, Empty Votes, IPS, September 29, 2010, available at <http://ipsnews.net/news.asp?idnews=53000><http://ipsnews.net/news.asp?idnews=53000>.
  - 18 Katherine Schulten, Haiti News: Opposition Parties Call For Election Boycott, Ayitinou.com, September 21, 2010, available at <http://www.ayitinou.com/article-posts/29-haitian-articles/2542-haiti-news-opposition-parties-call-for-election-boycott.html>.
  - 19 Personal Interview, October 25, 2010.
  - 20 Levi J. Jordan, *Six Months Later: Roadblocks to Haiti’s Reconstruction*, American Society Website, July 12, 2010 available at [http://www.ascoa.org/articles/2508/Six\\_Months\\_Later:\\_Roadblocks\\_to\\_Haitis\\_Reconstruction/](http://www.ascoa.org/articles/2508/Six_Months_Later:_Roadblocks_to_Haitis_Reconstruction/).
  - 21 Jacqueline Charles, In Haiti, Where Money is Scarce, Campaigns a Costly Endeavor, Miami Herald, September 3, 2010, available at <http://www.miamiherald.com/2010/09/02/v-print/1805922/in-haiti-where-money-is-scarce.html>.
  - 22 UN Pledges Support For Haiti as Campaign Begins Ahead of November 28 Election, Caricom News Network, available at [http://csmenetwork.com/2/index.php?option=com\\_content&view=article&id=9587:haiti-un-pledges-support-for-haiti-as-campaign-begins-ahead-of-november-28-election&catid=1:latest-news&Itemid=50](http://csmenetwork.com/2/index.php?option=com_content&view=article&id=9587:haiti-un-pledges-support-for-haiti-as-campaign-begins-ahead-of-november-28-election&catid=1:latest-news&Itemid=50).
  - 23 Kenneth Kidd. Haitian Election a Mix of Anger, Money and Corruption, Toronto Star, November 18 2010, available at <http://www.thestar.com/haiti/governance/article/875966--haitian-election-a-mix-of-anger-money-and-corruption>
  - 24 *Post-Disaster Assessment on the Feasibility of Organizing Free and Fair Election in Haiti*, Sophie Laguény, Chief of Party and Rudolph Dérose, Consultant, March-April 2010, IFES. In Executive Summary states: “IFES believes the operational branch of the CEP is technically capable of organizing any of the three scenarios mentioned above; assuming their preparations are not delayed any longer, and the following problems and issues are addressed and solved...” Full text available at: [http://www.ifes.org/Content/Publications/Reports/2010/~media/Files/Publications/Reports/2010/Final\\_IFES\\_Haiti\\_Assessment\\_Report\\_with\\_Appendices.pdf](http://www.ifes.org/Content/Publications/Reports/2010/~media/Files/Publications/Reports/2010/Final_IFES_Haiti_Assessment_Report_with_Appendices.pdf)
  - 25 Personal interview, November 29, 2010.
  - 26 Briefing for staff and members of US Congress at six month mark, July 12, 2010.
  - 27 Décret relatif à la Carte d’Identification Nationale (CIN) 2005, available at [www.cephaiti2010.org](http://www.cephaiti2010.org) and follow link to “Statistiques/Inscriptions (ONI)”, then link to “Informations Légales”.
  - 28 The COVs were not created under any existing or pending legislation. Interview with CEP, October 14 2010.
  - 29 According the Electoral Law of 2008, the list of registered voters should come from the ONI (see Art. 25) and should be updated in a permanent manner (as opposed to the ad hoc manner in which the COVs were created) so that modifications to the list conform to the Constitution and the Electoral Law (see Art. 28).
  - 30 According to a member of the CEP, individuals in each COV is were trained to understand the system, and this individual is responsible for giving the list to the ONI to update and amend the original list to reflect the new voting locations of displaced persons. Voters are were also given a document when they change their location through a COV that they can show to gain access to the voting bureau in their new location. However, the lack of a centralized process for updating the ONI electoral list is was a serious concern. If a COV representative fails failed to have a name stricken from the original ONI list, this could technically result in one voter having authorization to vote twice -- once in their pre-earthquake location, and once in their new location. Another concern was that the COVs’ activities were not coordinated with the ONI, which materialized on Election Day when the COV documents given to voters did not match with the electoral lists at voting centers, and thus, voters were left confused as to where to cast their ballots. Meeting with CEP, Oct. 14, 2010.
  - 31 The Office of National Identification (ONI) is responsible for updating the electoral register by redacting all deceased persons and persons without the legal right to vote from the electoral register. Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 29.
  - 32 Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 35.
  - 33 Jason Beaubien, Weary, And Wary, Haitians Prepare For Election, NPR, October 7, 2010 available at

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- <http://www.npr.org/templates/story/story.php?storyId=130402973>.
- 34 Haiti-Election: National Office of Identification Fingered, *Haiti Libre*, September 28, 2010 available at <http://www.haitilibre.com/en/news-1293-haiti-election-national-office-of-identification-fingered.html>.
- 35 IFES.org, "Haiti's Upcoming Election", Sophie Lagueny, Chief of Party Haiti, November 23, 2010.
- 36 Organization of American States, November 29, 2010, *Statement by the OAS-CARICOM Joint Electoral Observation Mission on the Presidential and Legislative Election of 28 November 2010* available here <http://www.reliefweb.int/rw/rwb.nsf/db900SID/FGAI-8BPR3E?OpenDocument>
- 37 Electoral Law of 2008, *Le Moniteur*, Art. 5.
- 38 *Id.* at Art. 33, 138.1
- 39 *Id.* at Art. 152.
- 40 *Id.* at Art. 141.
- 41 See [http://cephaiti2010.org/index.php?option=com\\_wrapper&view=wrapper&Itemid=218](http://cephaiti2010.org/index.php?option=com_wrapper&view=wrapper&Itemid=218).
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## APPENDICES

### A. Additional Analysis of the Electoral Law

#### BEDs and BECs

As required by the Electoral Law, the CEP is organized into a series of offices at the communal, departmental and national level. For the administration of elections and publication of voter lists, the CEP is represented in each department by a *Bureau Électorale Départemental* (BED), consisting of a president, vice-president and secretary,<sup>i</sup> and in each commune by a *Bureau Électorale Communal* (BEC),<sup>ii</sup> which also consists of a president, vice-president and secretary.<sup>iii</sup>

On the basis of the electoral register, the CEP creates and is constitutionally mandated to keep up-to-date a general electoral list (LEG) and partial electoral lists (LEP).<sup>iv</sup> The LEG is a list containing all the first and last names of all voters throughout the country. The LEG must be finalized 60 days prior to the election and additional voters may not be added to the list.<sup>v</sup> The CEP may, however, modify the LEG to exclude voters in any manner foreseen by law, including death, at any time.<sup>vi</sup> The LEPs, on the other hand, are limited lists of voters specific to each voting center and voting bureau (*see, infra*, “Administration of Elections”).<sup>vii</sup> In order to enable voters to find their voting bureau, the CEP must publish the LEPs and post them at their respective BEDs and BECs no later than 30 days prior to the election.<sup>viii</sup>

#### Administration of Elections

The Electoral Law mandates that elections be administered at voting centers in the presence of several different political parties. Each voting center is comprised of a number of voting bureaus, depending on the size of the center.<sup>ix</sup> Each voting bureau is administered by a team of three voting bureau members, including a president, vice president and secretary.<sup>x</sup> Every member must belong to a different political party and must abstain from expressing any political partisanship.<sup>xi</sup> The voting bureau members are tasked with admitting voters to the polling station and counting the vote.<sup>xii</sup> Each voting center must also contain two administrative security agents charged with assisting voters and maintaining order.<sup>xiii</sup>

The ballots are delivered to the voting bureaus by the care of the CEP.<sup>xiv</sup> On Election Day, the voting bureau president must commence the voting process at his/her bureau at 6 am after determining that all voting bureau members are present and all electoral materials are available.<sup>xv</sup> The voting bureau president must ensure that no voting bureau members, observers, political party *mandataires* or candidate representatives have any political materials within the voting bureau and that the ballot boxes are empty.<sup>xvi</sup>

Upon entering the voting center, the voter must consult the posted LEP to determine the voting bureau at which to cast his/her ballot. At the voting bureau, the bureau president must verify the voter’s CIN, that the voter is registered on the bureau’s LEP, and that the voter has not already voted.<sup>xvii</sup> Upon the president’s verification, the bureau secretary records the voter’s CIN number on a voter registration list before the voter proceeds to a polling station.<sup>xviii</sup> In the polling station, the voter will find a ballot containing the first and last name of the candidates, and their respective offices sought, representative emblems, and pictures if the candidate is running for the positions of Deputy, Senator or President.<sup>xix</sup> The voter may mark an “X” for the candidate of

his/her choice or render a blank ballot.<sup>xx</sup> After voters have voted, they will have their right-hand thumbs stamped in ink and their CIN cards are returned to them.<sup>xxi</sup>

Polls are to close at 4 pm, and all voters still in line at that time must be admitted to vote. An oral announcement must be made indicating the closing of the polls.<sup>xxii</sup>

## **The Tallying of Votes**

Immediately after the polls close, members of the voting bureau begin counting the ballots cast.<sup>xxiii</sup> Vote counting must proceed without interruption in front of party *mandataries*, political groups, and observers (*see, infra*, “Electoral Safeguards”).<sup>xxiv</sup> The voting bureau president counts the votes aloud announcing whether the ballot was cast in favor of a candidate or was left blank or whether he deems the ballot nullified.<sup>xxv</sup> Only votes clearly marked with an “X” in favor of a candidate as determined by the voting bureau president are valid.<sup>xxvi</sup> After having counted the ballots, the voting bureau members sort the ballots into categories of ballots cast, blank ballots and nullified ballots.<sup>xxvii</sup>

Once the ballots are sorted, the voting bureau president announces the results through an oral announcement known as a *procès-verbal*.<sup>xxviii</sup> The *procès-verbal* includes information on the opening and closing voting hours at the voting bureau, the final results for all votes, and the number of ballots used, unused, casted blank, and contested.<sup>xxix</sup> The *procès-verbal* is reduced to writing and signed by the members of the voting bureau and political party *mandataires*.<sup>xxx</sup> If a party *mandataire* refuses to sign the announcement, such objection is duly noted.<sup>xxxi</sup> If the majority of party *mandataires* refuse to sign, the electoral supervisor will intervene to resolve issue.<sup>xxxii</sup> If the issue remains unresolved, then objections of opposing parties are noted in the *procès-verbal*.<sup>xxxiii</sup> The *procès-verbal* must be executed in six original copies, retained by various CEP branches, the voting bureau, and the tabulation center.<sup>xxxiv</sup> The *procès-verbal* is then forwarded electronically to the tabulation center, and the results are verified by the tabulation center and the respective BEC.<sup>xxxv</sup>

Once the General Director of the CEP receives the election results from the all of the local directors of electoral operations, the election results are transmitted to the press and posted at the BECs and BEDs.<sup>xxxvi</sup> In case of a run-off election, the CEP will normally issue a new electoral calendar.<sup>xxxvii</sup> However, for the present elections, the CEP had already determined the date of run-off elections prior to the first round.<sup>xxxviii</sup>

Only the voters registered for the initial election are entitled to participate in the run-off election.<sup>xxxix</sup> Once results of both rounds are proclaimed by the CEP, the official results are forwarded to the Executive Branch for official publication in the journal of the Republic.<sup>xl</sup>

## **Elections Monitoring**

In addition to the members of each voting bureau, the voting process is also monitored by CEP electoral supervisors, accredited national and international observers, and registered political party representatives to the BEDs, known as *mandataires*.<sup>xli</sup> The national and international

observers are authorized to obtain information from the CEP on the proper conduct of elections and report irregularities.<sup>xlii</sup>

### **Handling Electoral Disputes**

First, the CEP electoral supervisors are responsible for receiving complaints of irregularities at each bureau and for rendering a report to the BEC on the administration of the elections within 24 hours of the vote.<sup>xliii</sup>

Second, the Electoral Law enables a candidate or his/her *mandataire* to contest the election of another candidate within 72 hours from the issuance of results.<sup>xliv</sup> Election results can be contested on claims of either nonconformity of vote, vote counting or the recordation of the *procès-verbal* under electoral law or a claim of electoral fraud.<sup>xlv</sup> The electoral claim can be brought forth before a *Bureau du Contentieux Électoral*, whose members are composed of officials from their local CEP branches (i.e., the BEDs and BECs, *see, supra*, “Organization and Structure of Governing Electoral Bodies”).<sup>xlvi</sup> As the adjudicative branch of the CEP, the *Bureaux du Contentieux Électoral* are charged with making a legal determination of allegations of fraud based on the law and the facts.<sup>xlvii</sup> For a claim to succeed, the complainant bears the burden of proving that the act committed was grave enough to vitiate the elections results.<sup>xlviii</sup> Upon a finding of fraud, the *Bureau du Contentieux Électoral* declares void all votes cast in favor of the fraudulent candidate or the fraudulent party at the specific voting bureau(s) where the votes were contested.<sup>xlix</sup>

Finally, all other electoral claims regarding the operation of elections brought by a candidate or his/her *mandataire* are either heard by a *Bureau du Contentieux Électoral* at the communal or departmental level, depending on the nature of the dispute (e.g., related to voter registration) or the type of elections (i.e., local and municipal elections, legislative elections, or presidential elections), all of which can be appealed before the *Bureau du Contentieux Électoral National*.<sup>1</sup>

Haitian courts have jurisdiction over certain enumerated contraventions of the Electoral Law, including, *inter alia*, registering on more than one electoral list, voting more than once in an Electoral Assembly, pressuring someone to abstain from voting or to vote for a particular candidate by threatening to release them from their employment or expose them to some harm, falsifying ballots, or in the case of electoral officials, negligent acts resulting in the loss of electoral materials or erasing of voters’ names from the electoral list in a manner not foreseen by the law.<sup>li</sup>

The CEP itself is not immune to prosecution. According to the 1987 Constitution, “In the event of a serious offense committed in the discharge of their duties, the members of the Permanent Electoral Council are liable for prosecution before the High Court of Justice.”<sup>lii</sup>

While the Electoral Law does not specifically define a basis for canceling a set of elections altogether, electoral cancellation is listed as a legal penalty for a number of offenses or crimes if committed by *a candidate or a coalition member*.<sup>liii</sup> The enumerated offenses resulting in electoral cancellation include, *inter alia*,

- entering a voting bureau without permission armed with a fire arm or any other instrument that may harm the life of the members of the voting bureau or the electoral materials;<sup>liv</sup>
- impeding or attempting to impede the functioning of a voting bureau, obtaining or attempting to obtain the abstention of a voter through fear of loss of employment or physical or pecuniary harm and by such, prohibiting the voter from voting for his desired candidate; or disturbing the course of transportation through physical impediment or violence or by any means causing the disruption of the electoral process;<sup>lv</sup>
- diverting a voter's vote through theft, threats, trickery, abuse of power and other reprehensible means;<sup>lvi</sup>
- inducing voter error, or encouraging voter abstention through false news, slanderous expressions or other fraudulent means;<sup>lvii</sup>
- violently interrupting voting in a voting bureau with the intent of impeding the course of voting;<sup>lviii</sup>
- using electoral materials for partisan ends;<sup>lix</sup>
- creating, ordering, or using a fake identity that does not contain his name or identity;<sup>lx</sup>
- bringing a weapon to a voting bureau and interrupting voting;<sup>lxi</sup>
- violently stealing a ballot containing votes.<sup>lxii</sup>

## B. Detailed Observations of the IJDH/BAI Team

The IJDH/BAI Elections team consisted of Nicole Phillips (IJDH Staff Attorney), Jeena Shah (IJDH LERN Fellow Attorney), Annie Gell (IJDH LERN Fellow Attorney), Beatrice Lindstrom (IJDH LERN Legal Fellow), Kevin Edmonds (Freelance Journalist), Nicolas Pascal (UC Haiti Initiative), Laura Lepicovska (LERN Volunteer Attorney), and Mirta Desir (LERN Volunteer Attorney). Nicole, Jeena, Kevin, and Nicolas, along with Isaih (Bri Kouri), visited 6 polling stations near Champs-de-Mars, in downtown Port-au-Prince beginning at 6:30 am and ending near 2:30 pm. Isaih and Mirta visited one additional polling station at around 3:00 pm.

The following is a summary of team's observations at each polling station visited:

### 1. ONA (L'office national d'assurance)

The team first arrived at ONA at around 6:30 am. It contained 9 voting bureaus, with around 4,000 voters on their electoral lists.

- At around 6:30 am, when the team first arrived at the center, voting for the general public had not yet begun. The *mandataires* were still casting their ballots.
- Each voting bureau appeared to have 5 *mandataires*, each from a different party, but there were additional *mandataires* outside of the center complaining to be permitted into the center.
- One voter told the team that he had tried to call the CEP's voter hotline to determine where to vote, but he could not get through.

- There was at least one national observer present. She appeared to be thorough in her observations. At one point, she showed a poll worker that the marker they were using to mark voters' thumbs could be easily rubbed off. However, the poll worker explained that it was the only marker / only type of marker they were given.

The team returned to ONA at around 11:35 am:

- The poll workers at one voting bureau explained that many people had come to vote at their bureau with a ticket from the COV directing them to vote there, but none of their names were on the bureau's list.
- By the time the team returned here, each voting had only had between 25-35 voters (out of 457 registered at each bureau) actually vote.

#### Lycée Toussaint Louverture

The team arrived at Lycée Toussaint Louverture at [TIME]. It was a large voting center with [XX] voting bureaus. Voters had come from many geographic areas in and around Port-au-Prince, including Carrefour.

- According to one of the *mandataires* present, voting had begun at this center at 6 am.
- Out of approximately 16 voters leaving the center, half were unable to vote here because they could not find their names on any of the voting lists; the remaining half stated they voted without issues.
- When one male voter was asked why he voted, he explained "It is my duty to vote, to change the situation in this country." While he was able to vote, members of his family did not come out to vote because they did not have identification cards.

#### Lycée Fritz Pierre Louis

The team arrived at Lycée Fritz Pierre Louis at around 8:45 am. It had 23 voting bureaus. Twelve were for the *3ème Conscription* and eleven were for the *2ème Conscription*.

- One voter had left his home at 5 am. By the time the team arrived at this center, he had already visited 5 centers and could not find his name. He had called the CEP's hotline to determine where to vote, but no one had answered. He wants to vote to "give a red card to this government," so he was going to continue looking for a center where he could find his name in order to vote. The place where he normally voted prior to the earthquake had been destroyed in the earthquake.
- Another voter had no idea where to vote. He visited the place he used to vote, but it was destroyed in the earthquake, as well as several others, but he could not find his name anywhere.
- The ballots for Deputy elections for the *3ème Conscription* still had not arrived while the team was at this center, so those twelve voting bureaus had not yet opened and the approximately 5,500 voters registered to vote were not able to vote by mid-morning. [NOTE: Pooja Bhatia visited later in the day and reported that these ballots never arrived.]

- Some voters who were unable to vote because of the missing ballots or because their names were not on the voting lists stated that if they could not vote by 4pm, they would protest in the streets. They wanted the CEP to announce that voters could cast their ballots anywhere.
- Some frustrated voters expressed that they would continue looking for a place to vote because “we are still living in tents.”
- Most of the voters we spoke to showed us that they had CIN cards.
- One woman told us she had visited 3 places to vote since 8 am, but could not find her name anywhere, but she would keep trying in order to be able to vote. Another woman, 43 years old, had also visited 3 places by the time the team spoke to her, but could not find her name anywhere. She stated she would continue looking because she “must vote.”
- There was a group of about 10 people protesting the way elections were being run; stating that the CEP was anti-people; and that if the ballots did not arrive by 4 pm, they would take to the streets. At least some people in these groups (if not all) were living in displacement camps.
- One group of people, consisting of around 5-6 people, who had just left the center, explained they were not able to vote because they could not find their names on any of the voting lists, but they saw the names of people they knew had died in the earthquake. They were angry with Préval, *Inite*, and MINUSTAH.

#### École Nationale Esther Beaubrun Honorat

The team arrived at École Nationale Esther Beaubrun Honorat at around 10 am. The center contained 19 voting bureaus. According to one poll official, voting had begun at 6:30 am.

- By the time the team arrived, there had hardly been any votes cast.
- One man had come from Delmas 33 by foot. He had determined where to vote by checking on the internet, but this was now the third place he had tried but still could not find his name on any list. He explained that there were many others in his position and that he believed that money was wasted on these elections. He saw on voting lists the names of those he knew had died in the earthquake.
- Another couple explained that this was the third place they tried and still could not find their names on any voting list. They had lost their home in the earthquake.
- Several young explained that they had visited several (between 3 and 5) polling stations but could not find their names to vote. Some stated they wanted to vote in order to change the government. Others stated that they were discouraged and would return home. They all had CIN cards.
- An older man explained that he checked the internet to determine where to vote, but when he went there, he was told to go somewhere else. He was now at the fourth center he visited and still was unable to vote. He showed us his CIN card.

#### Stade Sylvio Cator

The team arrived at Stade Sylvio Cator at around [TIME]. It contained 16 voting bureaus, and according to a poll worker supervisor, the center had opened at 6 am.

- When the team arrived at the Stadium, a large group of men (around 20-25) were protesting because they were not able to find their names on any voting lists at this center or others. At least some had been to 5-7 centers so far and could not find their names anywhere. Some had try calling the CEP hotline to determine where to vote, but no one answered their calls. They also did not find the internet website helpful. One man showed us a ticket he received from the CEP directing him to vote at the Stade, but he was unable to find his name on any voting lists there. They all wanted to vote against the *Inite* government; they also expressed their complaints against MINUSTAH and the HNP, generally. They stated that if they were not able to vote by the time the polls closed at 4pm, they would mobilize and take to the streets. One man added “There is a conspiracy between *Inite* and the CEP,” while another stated, “\$25 million were spent on these elections but there is nothing to show for it here.”
- There appeared to be no security officials in uniform at this voting center.
- The ballot boxes did not appear very full by the time the team visited this center; there were only about 20-25 ballots in each box. One *mandataire*, who was also a KOFAVIV agent, explained that there had not been very many voters since the morning.
- Five young women walking out of the Stadium explained that they had visited 5 polling stations, but could not find their names on any list, even though they had CIN cards.

#### Lycée Fimem

The team arrived at Lycée Fimem by 1:20 pm. There were 20 voting bureaux at this center, and one *mandataire* told us that the center had opened up for voting at 6 am.

- By the time the team arrived, in four of the bureaux (selected randomly) only between 20-40 people (out of 450 names listed on each bureau’s voting list) had voted at each bureau.
- At some bureaux (if not all), the poll workers were not wearing special shirts identifying them as poll officials, as had been the case in other locations.
- Persons who had visited the center to vote complained that while they had found their names on the master list hanging outside of the center, their names were not to be found on any of the voting lists the voting bureaux had.
- While the team spoke to a couple of young women who were able to vote without a problem and had had their thumbs inked in a way that was not easily removed, they explained that they had some family members who had not come out to vote because they did not have CIN cards.
- One middle-aged female voter explained that she had visited 5 polling stations all over the city, but still could not find her name anywhere in order to vote.
- One middle-aged man said he had walked to 4 polling stations since the morning but had not found a place to vote, so he was going to give up and return home.

#### Lycée Marie Jean

The team arrived at Lycée Marie Jean at around 2 pm. There were 22 voting bureaux at this center, and a poll worker explained that the center had opened for the *mandataires* to vote at 6 am, followed by general voting.



- By the time the team arrived at this center, between 30-40 people (out of around 400) had voted at each of 2 bureaux. At one, another 200 persons had voted, but these voters consisted only of *mandataires*, official observers and police officers.
- One man described the voting process as a “catastrophe.”
- Another man had visited 4-5 places and still could not find his name on any list, so he was planning to conduct a *procès-verbal* if he could not vote.
- A third man explained that this was the third voting center he had visited, but he still could not find his name. He had heard about many people who were experiencing the same problem. He was going to keep trying because he believed it was his duty to vote.
- A fourth man had already looked for his name at 4 voting centers and decided he would only try one more center before he gave up and went home because he had been walking around looking for a place to vote since the morning.
- A young woman, who had already visited 5 voting centers, decided she would have to return home without voting. She explained, “It is a coup by the CEP. The people will have to take to the streets.”
- A group of men (approximately 5-6 men) said, if they could not vote before the polls closed, “We will take to the streets.” One expressed his belief that “there are people who do not want us to vote. [Because] we want a change. We want employment and schools.”
- [The team was told by one voter here that at a voting center found in a Ministry building near Champs de Mars, the center had already closed with many people standing outside.]

#### Lycée Jeunes Filles

Two members of the team visited this center around 3:15 pm. People were still voting when the team arrived, but the team spoke to many voters who experienced the same problems as at other locations (e.g. could not find their names on voting lists, had visited many voting centers, etc.). On their way back from Lycée Jeunes Filles, they witnessed burning tires near the National Palace and saw the UN Police on a white armored vehicle with their guns drawn.

#### Miscellaneous

The teams saw a truck of Alexis supporters driving on the street. As the truck passed by MINUSTAH soldiers, the soldiers began to raise their weapons, but no incident occurred (to the team’s knowledge).

Wadner Pierre had been observing at Cité Soleil and informed the team that by mid-day there, no votes had been cast at the polling station he visited. Wadner also heard/saw *mandataires* telling people to vote for Celestin, but the voters were refusing.

### **C. SUMMARY OF ELECTION DAY 11/28/10 LOUISIANA JUSTICE INSTITUTE OBSERVER GROUP JACMEL, HAITI**

Despite the calm, peaceful and relatively orderly atmosphere earlier in the day a growing number of voters were confused about where to vote by mid-morning. Registered voters who had been assigned a polling location at the time they received their identity card, could not vote at their

assigned location.

Reactions ranged from disappointment to rage. Many searched multiple locations unsuccessfully, seeking their name on any voter list but instead finding many of their deceased neighbors and family members listed. In one case, a voter found his name on the voter list posted outside of the polling station, but that voter's name did not appear on the official roll of voters inside the voting station managed by the voting officials. Initially he was denied the right to vote until a non-partisan observer intervened on his behalf. A polling official marked his ballot as provisional.

By early afternoon, conditions began to deteriorate, as voters exchanged stories about their personal experiences and frustrations, trying to cast a ballot. Eleven months after the earthquake, and in the midst of a deadly cholera epidemic, many voters expressed a strong desire for change and their determination to claim their right as a citizen of Haiti to cast their ballot.

A consensus began to emerge by mid-afternoon that the credibility of the election was seriously challenged. As news about the developments in Port au Prince reached Jacmel, the situation became unstable. Spontaneous manifestations broke out, beginning in the suburbs of Jacmel and spreading to the city with marches, tires burning in the streets, and an attack on the police headquarters with four burning tires and throwing rocks in the street. People gathered in small, anxious groups at storefronts, on the steps of houses, porches and in the streets.

#### **D. Observations from Nicole Lazarre in Port-au-Prince, The Louisiana Justice Institute**

Visited four places, did not get to return to all of them because things got more difficult as afternoon wore on. Two CVs were relatively calm: Delmas 29 and Ecoles Freres de L'instruction Chretienne. At the latter, some efforts to accommodate displaced voters by writing names although I was not permitted to take a photo.

At Delmas 29 first visit ordinary. Lines were short and voters I interviewed reported no problems. 2 CNO observers, two international were leaving. I returned about 1/2 later to make sure I had correct CV info and beginnings of shouting and arguing in frustration with the CV supervisors over being unable to vote. Initially private security had managed the process but MINUSTAH showed up as rejected voters began to congregate. Young men making snide comments about INITE voters only being allowed, combined with screaming and shouting matches with supervisors. That polling place supposedly has 2000 voters on the list. 25 bureaus. Had list of resident voters, did not have list of provisional voters.

Lycee Petionvilles, 30 bureaus 450 per bureaus, no provisional lists, lots of angry crowds. CEP official arrived was immediately mobbed by people demanding to be allowed to vote. Will try to send video. Having trouble uploading. Got back too late to set up generator again so trying to conserve energy on my BBRY by avoiding high bandwidth tasks (sigh)! I spoke to many voters who were being turned away. One man was asked to check the lists on all 30 bureaus to find his name. An error on the CV list only had his last name (DeJean) but no first name so they would not accept him. Another man said he'd lived in PV 15 years but was not on the list, despite

having voted prior election. Voters complaining left and right. Observers from CNO said more voters than not were being turned away, and this seems accurate as the lines and assemblies of voters far exceeded numbers of people officially told to me by CEP supervisor. Also anecdotally seems right. People were also stating that the only votes one could expect at PV would be for INITE.

Building 2004 in Delmas - total chaos. Its in the middle of a huge Bidonville on route pistes with a large earthquake camp across the street and next to the building. Tons of people gathering and angry. Outside, groups of young men would confront our vehicle and yell and threaten as we drove up until they saw my CNO T shirt then would relay anger at being left off the list, ballots being already stuffed and being unable to vote. They were starting to block the main road carrying Sweet Mickey posters, running and chanting as people yelled that PNH were trying to close the polling place.

Inside groups of voters at each BV expressing anger and shouting. Some of the BVs had completely empty ballot boxes. Shots were fired and people began to run. I left at the building at that point. Outside, riots and shooting broke out as young men began to throw rocks. UN vehicles were being pelted with rocks. Did not stay for further exit interviews.

Interviews very interesting. People definitely want Preval out and very frustrated at being unable to reflect their choice and being disenfranchised. While Petionville interviewees were equally disappointed, those that were older and middle class seemed more resigned than young bidonville voters, so just walking away with very brief discussion. At 2004, young men expressed profound disappointment over being turned away and about their frustration over the country's repeated failures to get things right for itself.

#### **E. Observations from Alexander Main, Center for Economic and Policy Research**

**UPDATE 10:45 AM:** Numerous reports of people not being able to vote because they were not on voting lists. In Corail, voting was stopped. Many people wanted to vote, but only 39 people were registered.

**UPDATE 10:50 AM:** Just left Ecole George Washington. There was a big fight going on in front. Some said it was INITE vs. Cean supporters; others said it was INITE vs. everyone else. Eventually the cops showed up and cocked their shotguns; people started running, cops arrested a guy and took him away. The fighting continues and many folks outside say they're not on the voter lists. I Managed to get inside eventually, but there were hardly any voters. Mandataires [party witnesses] tell us that there's been major fraud and that bureaux [polling location] should be closed. We are told that militants from INITE have been showing up with fake mandataire cards in order to take place of mandataires from other parties and that the police have arrested four false mandataires here.

**UPDATE 11:07 AM:** Greeted by group of potential voters as we enter Alta Kindergarten but it turns out they are not on the lists. INITE controls the polling center and witnesses from other parties complain that they have been unable to vote and accuse INITE witnesses of voting several times. Big argument breaks out in front of a polling station where an apparently illiterate

voter is "helped" in filling out ballot by a member of the bureau. The police intervene.

**UPDATE 11:30 AM:** Partners relaying reports of early morning violence in Desdunes in Artibonite Valley. Shots fired in the air to disperse lines of voters; some were injured including the mayor after confrontations between parties.

**UPDATE 11:45 AM:** Just visited Licee Henri Christophe in Dikuini 63: again big groups of disgruntled voters that aren't on the lists and waiting, it seems, for CEP to announce measure allowing them to vote. Also, another phenomenon: big group of mandataires that say they're not on lists in this center but should be allowed to vote in bureau where they are observing. Most seem to be from Ansamn Nou Fo and a "leader" has provided many of them with meals (spaghetti) and beverages. They are also just waiting outside (rather than observing bureaux). In most bureaux there is no voter activity and people who couldn't find names on lists just waiting in front.

**UPDATE 12:12 PM:** Ecole nationale de Thor in Kafou: fairly quiet. 50 or so ballots in boxes except one that appears to be stuffed. Some folks who aren't on lists.

**UPDATE 12:58 PM:** Agence France Presse [reports](#) on MINUSTAH head Edmund Mulet's rosy view of the elections so far: "In general everything is going well, everything is peaceful," Mulet, the head of the UN peacekeeping mission MINUSTAH which is helping to police the elections, told AFP.

"I see a great passion of citizens and from citizens for democracy in this country. MINUSTAH is here. There is no reason to be frightened. It's an electoral celebration," Mulet said. "The decision of the people will be respected. There are some small administrative problems, but no big problem that is going to reduce participation." AFP [reports](#), however, that Mulet said there had been some "minor incidents" in the northern city of Desdunes.

The mayor there, Wesner Archelus, a member of an opposition party, described a hostage-taking incident which left several people injured and caused him to take refuge in a police station.

"There was shooting all night. Clashes erupted in a voting station where an election monitor from the ruling party was briefly taken hostage," he told AFP. And the Miami Herald's Jacqueline Charles just [Tweeted](#): "At least one person killed, maybe 3 so far in #haiti #election day violence." News articles report widespread voter ID card problems, late openings of polling stations, and other challenges similar to what we've already posted today. The *New York Times*' Randal C. Archibold [writes](#): People waited in long lines on Saturday to pick up new or replacement identification cards, and many people said they had already endured a confusing odyssey to apply for them. As one office in the Pétionville neighborhood closed at the designated hour, people still in line screamed in anger and disbelief. Workers tossed away several receipts that had been turned in to pick up the cards and carted away boxes of cards they had failed to give out.

The *Times* also [noted](#) that the U.S. Ambassador admitted some serious problems with the

electoral process yesterday: “You have people who are registered to vote in their old neighborhoods but living somewhere else,” the ambassador, Kenneth H. Merten, said in an interview on Saturday. “I’m not sure that all of them know where they have to go. We will see tomorrow.”

“They have been doing what they can, but I am not sure that it is enough,” Mr. Merten said of the government. Reuters [reported](#) this morning: At the Alexandre Petion high school in Port-au-Prince, electoral workers were still arranging the desks and urns half an hour after polls were officially due to open at 6 a.m. . The voters list and ballot papers had not yet arrived, the workers said.

At another station without electricity guarded by Brazilian U.N. peacekeepers beside the Champs de Mars earthquake survivors’ camp in the city center, poll officials had used their mobile phone lights as they rushed to prepare the center in the early morning darkness.

Long past the official opening time, a small group of young voters waited patiently outside, far outnumbered by electoral officials, party observers and U.N. troops. And the *Miami Herald’s* Charles [described](#) incidents yesterday including: In the Port-au-Prince suburb of Petionville, government workers walked out at 4:30 p.m. Saturday, leaving dozens of disgruntled voters at the window with no cards.

Earlier in the day, frustrated voters took to the streets in Cap-Haitien, marching from the local Office of National Identification to the mayor's office after they were unable to get their cards.

**UPDATE 12:59 PM:** Jacqueline Charles, of the *Miami Herald*, just **Tweeted** that presidential candidate Mirlande Manigat is calling for the elections to be annulled.

**UPDATE 1:11 PM:** In Carrefour, close to epicenter of earthquake, at voting center located at Ecole Nationale de Merger. Everything is calm here though we are told that participation is fairly low. No big complaints from any of the political party election witnesses. Talk to group that's sitting in the shade and they say that they've voted. But they know many people who came to vote but didn't find their names on the official list and headed back home. I ask a young man why he's decided to vote and, like many other voters I talk to, he says: so that things change. Back in car we hear that some of the presidential candidates are about to hold a press conf and announce that, because of massive fraud, elections need to be annulled.

**UPDATE 1:28 PM:** CBC is **reporting** more details on the presidential candidates' press conference this afternoon "to denounce 'massive fraud happening all over the country,' according to the Martelly camp." Along with Michel Joseph Martelly, Mirlande Manigat, Charles-Henri Baker and Jean Henry Ceant are expected to take part. **CBC reports:** Most polls opened an hour or more after their 6 a.m. start time. Confusion reigned at many: Observers from dozens of parties crowded voting areas and furious voters were turned away from stations where poll workers could not find their names on lists.

**UPDATE 1:54 PM:** [Alex had reported to us just before 2:00pm] Waney 93, Carrefour: cops

swinging pistols around in front of center as we arrive. Very tense atmosphere. People out in front tell us that a group of unidentified thugs entered the center and kicked and crushed ballot boxes and wreaked general havoc. They appear to have left but the police think there may still be some thugs inside and prevent us from entering.

**More available at:** <http://www.cepr.net/index.php/blogs/relief-and-reconstruction-watch/election-live-blog>

**F. Observations from Clay Kilgore, Kledev**, an San Francisco, California organization that exists to empower community and economic development in Haiti.

The physical structures of the polling places seemed to be regular and in place in all the bureaus we visited, although I noticed that the un-marked ballots were loose and un-numbered, and there was no clear way to verify if there were sufficient/extra ballots.

The ballot boxes were designed so they were see-through, which aided in our ability to see approximately how many people had voted. In most cases throughout the day, there were less than 50 actual ballots in each box. In a few bureaus, there were *many* more, which had those bureaus stand out as perhaps having some irregular activity.

At the precinct that our friend and driver was to vote in Martisant, there was a report from a Haitian-American standing by that the precinct had been taken over early in the morning by members of the INITE party, and that non-INITE staff of the precinct were barred from staffing their bureaus. People were being asked who they were voting for before being allowed to enter the polling place, and if they did not give the correct answer, were being turned away or barred from entering to vote. This was not taking place while we and other International observers were present, and our driver was allowed to enter without declaring his party affiliation. At 9:00 a.m., people said they had been waiting in line to vote for three hours.

We visited a precinct in Carrefour where there had just been an incident of ballot box stuffing – people reported it to the police and the police shut the bureau down, disqualifying all the ballots in that bureau.

At that same precinct in Carrefour, there was a heated dispute between voters and bureau staff regarding how the ballots were being handled... I did not see this happen, but it was said that one of the staff members put an X on a ballot that had already been submitted as complete. I spoke to a staff member of a polling place in Gressier who said there had been no problems in his bureau. The time was approximately 12:30 and there were approximately 50 ballots in each box.

People we interviewed after they had voted said finding their voting place was not a problem for them personally, but everyone had friends and family members who could not find their names on the list or were barred from voting because the name on the list did not exactly match what was on the card, or in one case, the name on the list matched, but there was no picture next to the name, so that person was barred from voting.

It was noted that of the people in and around the voting precincts, only about 10% were women. In speaking with a few women who did not attempt to vote, I learned that there is resignation and fear keeping them from participating in the process.

In many of the precincts in Carrefour, there were many people frustrated or forlorn that they could not find their names on the expected lists. There were many people, mostly men, who were angry about the process and in one of the precincts, it was being said that “only dead people are on these lists.”

In many cases, there were escalations that drew the attention of National Police or UN MINUSTAH intervention. There were several instances where guns were raised. In one precinct in Carrefour, there was an altercation seemingly stemming from the frustration of voters not being able to find their names on the lists, and when the National Police stepped in, all guns were raised and most of the voters fled the scene. We stood by, at a slight distance, to get people’s conversation as they exited. People we fed up with the disorganization and the corruption. When things calmed down, we entered the precinct and found much what we were finding elsewhere – that many people were barred from voting because they could not find their names on the list. In the same place, I spoke to one man who did vote and was very satisfied with the process, yet he did have friends and family who could not find their polling place.

In the early afternoon at large precinct in Carrefour, we arrived several minutes after two (or more) unidentified armed men allegedly entered the precinct and vandalized the operations, kicking over tables and dumping ballots onto the ground. We did not enter the precinct, as there were National Police and UN MINUSTAH on the scene with guns raised. A news crew with camera entered the precinct and was allowed to take video of the vandalism, which surely became one of the most memorable images from the election. We chose to leave the scene and as we were leaving, one of those huge white UN tanks was barreling up the road toward us with guns raised.

My overall sense of this election is that, at least in the area of Port-au-Prince where we were observing, participation was low and/or the people were largely barred from expressing their political will due to administrative errors. The polling places were physically available, but there were also sufficient instances of irregularities, such as ballot box stuffing and interferences with the ballots as well as the instance of intimidation and take-over of a precinct by a political party. I have also observed evidence released since the election suggesting that the tabulation from certain bureaus that did not match the ballots, and that the candidate from a particular political party had votes added to the official tally that were 100 votes more than there were actual ballots. There seems to be a spirit of “authority” coming from the CEP and the international community that people need to “accept” whatever they say the results are and do so on a timeline, regardless of any perceived infractions.

All said, it is observable that the results of this election cannot be trusted to reflect the political will of the citizens who showed up to vote, and so any government stemming from this election would likely yield more corruption and mistrust. Considering the humanitarian crisis that Haiti is

dealing with, from earthquake aftermath to Cholera outbreak, one could say Haiti did pretty well at keeping the election on the constitutional timeline, however, it was not energy well-spent. Haiti doesn't otherwise have a very good track record of the government running the country from standing inside the words of their constitution.

This election did not resemble what I would call a democratic process.

If it were up to me, I would recommend scrapping the election results, deal with the cholera situation as if human life were as important as forming government, and request that the international community start relating to Haiti as a place where people just like them are living in conditions they would never accept.

### **G. Voices of Haiti: In Pursuit of the Undemocratic**

December 10, 2010 by *Mark Snyder, Special to the Reporter*

*“Have you chosen me a good government, Blan?”*

-sarcastic question posed by a Haitian voter to a foreign election monitor at a polling station in Port-Au-Prince.

While \$26 million was spent on Haiti's November 28 elections, a great deal more is at stake for international business. Over \$9 billion in reconstruction contracts will be up for grabs, and the government selected could possibly have influence on the foreign dominated Haiti Interim Reconstruction Committee (HIRC), which is tasked with determining the path of Haiti's development.

Even more important than the money, the election at one time held the possibility of resulting in a government that respects the needs and desires of the Haitian population, the majority that has largely been excluded from participation in the planning and implementation of the development of their country. The plan described by various civil society groups and vibrant peasant networks is a far cry from elite and international business interests, and is often intentionally disrupted.

This election is a perfect example, and as such, the failure of the elections should not come as a surprise. The results are consistent with the history of the Provisional Electoral Council (CEP), which throughout the electoral process has enjoyed the support of the United Nations and foreign governments. Haiti has been on the course of undemocratic elections since the CEP, itself illegitimately formed and not in line with Haitian law, excluded 15 political parties from the elections, effectively silencing the majority in the realm of public opinion.

In the weeks leading up to the election, civil society organized public demonstrations in opposition to the election. Citizens took to the streets, often facing violence from police and the UN's soldiers. Despite a deadly cholera epidemic, over 1.5 million people displaced from the January 12 earthquake living in unacceptable conditions, failed voter registration, poor logistical support, and Haitian and international civil society groups calling for a postponement of the elections, the powers that pull the strings determined that it must proceed.



As Alexander Main from the Center for Economic and Policy Research explained: “It wasn’t the population that chose the moment or that demanded that elections be held now. In fact, in the tent communities we visited prior to the elections many individuals expressed outrage at the fact elections were being held in the midst of an extreme crisis that is far from resolved.” □ The official election monitoring teams from the Organization of American States (OAS) and CARICOM were quick to give the rubber stamp of approval to the massively flawed November 28 elections to be satisfactory. However in the eyes of independent observers and Haitians interviewed during the week following the election, the official monitors are either terribly mistaken or outright lying.

One important connection between the OAS/CARICOM monitors’ report and the CEP, is that the 56 voting stations they highlighted were the 4% that were reported to be completely destroyed on the day of elections. However, beyond these disastrous cases, the irregularities that OAS/CARICOM did not see as “problems” were very much present and serious enough to prevent much of the Haitian population from participating in the elections. This ensured that most Haitians remain marginalized and systematically removed from participation in the development of their own country.

As a member of one of the six multi-organizational teams of independent monitors organized by TransAfrica Forum and the Institute for Justice and Democracy in Haiti, I witnessed first hand the irregularities, often severe, at nearly every polling station visited. Not a single one of places I visited was one of the 56 “problem” stations mentioned by the official observers.

When the United Nations failed to uphold its logistical responsibilities and deliver the ballots, voting stations opened late or not at all. In one of the most desolate displacement camps for earthquake survivors, Camp Kanaran, political party observers paced an empty field where a polling station was supposed to be set up but never materialized. Other voting stations were reported to have closed before noon.

At nearly every station visited by our teams, voters were unable to vote because their names were missing from the registration list. Team members from the Louisiana Justice Institute reported that many searched multiple locations unsuccessfully, seeking their name on any voter list but instead finding many of their deceased neighbors and family members listed.

Throughout election day, discouraged people shared similar stories of how they were unable to vote despite following the official process to register. As the day progressed, the frustrations felt by people wishing to cast their ballots grew. Yet this problem was not mentioned or validated by the official monitors. The CEP marginalized many voters twice; first, the CEP prevented the most popular political party from participating in the election, and second, flaws in voter lists disenfranchised thousands of would be voters.

Tensions rose and voting centers were subsequently closed due to violent clashes between UN soldiers and disgruntled Haitian voters. There were numerous reports of police and UN suppression of crowds that had gathered to express their irritation with the inability to cast their vote.

By early afternoon, the majority of the candidates called for an annulment of the elections, including most of the projected frontrunners (two of which subsequently retracted their statement). Protests developed in numerous cities during the afternoon and continued to manifest during the following week.

Public demonstrations remain the lone forum for the mass population to have their voices heard. Other forms of recourse have been systematically removed in the same manner that Haitians have lost their right to elect democratic representatives during this election. Unfortunately, demonstrations often result in physical suppression at the hands of the United Nations soldiers and the National Police that they have trained.

In light of statements from the head of the UN mission in Haiti, Edmund Mulet in which he threatened to remove international life lines to the country if Haitians do not remain subordinate to the political will of the UN mission and international powers it represents, the Haitian authorities are certain to fall in line. As long as the UN holds the strings of the Haitian government, democracy remains a distant and unreachable dream.

*Mark Snyder is a Human Rights Advocate with International Action Ties. Copyright 2010, Boston Neighborhood News, Inc.*

#### **H. US will pay for Haitian vote fraud**

By Brian Concannon Jr. and Jeena Shah in The Boston Globe, December 15, 2010

[http://www.boston.com/bostonglobe/editorial\\_opinion/oped/articles/2010/12/15/us\\_will\\_pay\\_for\\_haitian\\_vote\\_fraud/](http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2010/12/15/us_will_pay_for_haitian_vote_fraud/)

THE DECISION last Thursday to recount the votes in Haiti's disputed elections is like rearranging the chairs on the Titanic. As this week's continued protests demonstrate, it will not avoid the catastrophe. Resolving Haiti's election woes requires the financial backers of the flawed election process — especially the United States — to reverse course and insist on new, inclusive elections run by a new, inclusive electoral council.

Haitian voters see the fraud and disorganization of the Nov. 28 election as part of a long campaign to reduce competition to President René Préval's INITE party in both presidential and legislative elections. The Provisional Electoral Council, which ran the election, was hand-picked by Préval, and excluded 15 political parties from the legislative elections, including Haiti's most popular, Fanmi Lavalas, whose leader, former president Jean-Bertrand Aristide, remains in forced exile. The electoral council also excluded 15 candidates from the presidential race without issuing a comprehensive explanation. During the months preceding the elections, Haitians complained about the voter registration program. In the end, over 100,000 voters who had registered did not receive their voting cards. More than 75 percent of voters with cards stayed home on election day. □ □

The current crisis was widely predicted. In October, 45 members of the US House of Representatives warned Secretary of State Hillary Clinton that US support for flawed elections "will come back to haunt the international community" by generating unrest and threatening the

implementation of earthquake reconstruction projects. According to a cable released by WikiLeaks, even the US ambassador to Haiti described Préval as "orchestrating" the election to choose his successor. The Obama administration, along with the United Nations and other allies, dismissed these warnings and the mounting evidence of unfairness, and invested their prestige, influence, and \$30 million in the elections. As the WikiLeaks cable explained, US officials held their noses and supported Préval because they believed he was "indispensable" to Haiti and a good ally to the United States.

If the results from the election stand, the protests may be just the beginning. No matter who emerges victorious from the counting and negotiating, Haiti will be saddled with a president and Parliament chosen by a restricted group of voters from a restricted list of candidates.

The Haitian people will not accept such a government any more than the American people would. They will keep taking to the streets and confronting the government's police and UN peacekeepers. Protests and suppression of protests may engender more violence, and render Haiti ungovernable for the five-year presidential term.

US support for Haiti's flawed elections was also a bad decision for US taxpayers. Our government has sent hundreds of millions to Haiti to respond to the earthquake and has promised billions more. But this money may be wasted without a legitimate, respected government in place.

The "realists" say that the first round of Haiti's elections, no matter how flawed, are done and that there is no money for a do-over. The \$30 million election pricetag is a lot of money in poor Haiti, but a small price to pay to avoid wasting the \$11 billion promised for earthquake reconstruction.

The Obama administration can avoid an expensive, five-year-long disaster in Haiti, but only if it takes forceful action that addresses the roots of the current crisis. The administration should first announce that it will not provide any further financial support to the current Electoral Council or to any government resulting from this council's elections. It should then offer to support new elections under a new, credible electoral council, as long as all qualified parties are allowed to participate and all political exiles are allowed to return to Haiti. Haitian voters have suffered enough the past year and deserve nothing less.

Brian Concannon Jr. directs the South Boston-based Institute for Justice & Democracy in Haiti. Jeena Shah monitored the election as a Lawyers Earthquake Response Network Law fellow in Port-au-Prince. © Copyright 2010 Globe Newspaper Company.

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<sup>i</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 7.

<sup>ii</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 6.2.

<sup>iii</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 8.

<sup>iv</sup> 1987 CONSTITUTION, art. 191-2.

<sup>v</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 32.

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- vi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 33.
- vii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 31.
- viii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 33.
- ix Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 138.2.
- x Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 139.
- xi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 140, 140.1.
- xii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 139.1, 150, 168.
- xiii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 141.
- xiv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 146.1, 147.2.
- xv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 149.
- xvi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 150-151.
- xvii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 161.
- xviii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 161.1.
- xix Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 146.
- xx Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 162.1.
- xxi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 163.
- xxii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 164-164.1.
- xxiii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 165, 169.
- xxiv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 165.1.
- xxv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 168.
- xxvi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 166.2.
- xxvii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 168.1-169.
- xxviii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 170.
- xxix Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 170.
- xxx Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 171.
- xxxi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 171.1.
- xxxii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 171.1.
- xxxiii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 171.1.
- xxxiv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 172.
- xxxv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 173.1.
- xxxvi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 174.2.
- xxxvii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 176.
- xxxviii Electoral Calendar, Provisional Electoral Council, available at [http://www.cephaiti2010.org/index.php?option=com\\_content&view=article&id=112&Itemid=15](http://www.cephaiti2010.org/index.php?option=com_content&view=article&id=112&Itemid=15) [first viewed in Oct. 2010].
- xxxix Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 176.1.
- xl Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 177.
- xli Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 11, 11.2, 107(b), 213-218.
- xlii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 215.
- xliii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 11.3.
- xliv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 178.
- xlv Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 178.
- xlvi Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 14-18, 181.
- xlvii Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 181.

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- <sup>xlviii</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 179.
- <sup>xlix</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art 182.
- <sup>1</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 183-185.
- <sup>li</sup> Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 193, 199, 205, 207, 207.1.
- <sup>lii</sup> 1987 CONSTITUTION, art. 195.
- <sup>liii</sup> *Id at Art.* Art 211.2-211.3.
- <sup>liv</sup> *Id at Art.* 198.
- <sup>lv</sup> *Id at Art.* 199.
- <sup>lvi</sup> *Id at Art.* 200.
- <sup>lvii</sup> *Id at Art.* 201.
- <sup>lviii</sup> *Id at Art.* 202.
- <sup>lix</sup> *Id at Art.* 204.
- <sup>lx</sup> *Id at Art.* 208.
- <sup>lxi</sup> *Id at Art.* 209.
- <sup>lxii</sup> *Id at Art.* 210.