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INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS
ASOCIACION INTERNACIONAL DE JURISTAS DEMOCRATAS
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國際民主法律家協會

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December 11, 2009

Ban Ki-moon
Secretary-General
United Nations
First Avenue at 46th Street
New York, NY 10017

Dear Secretary General Ban Ki-moon:

We are writing to urge the United Nations, including the UN Stabilization Mission in Haiti (MINUSTAH) and the UN Development Programme (UNDP) to fully comply with the Universal Declaration of Human Rights and the MINUSTAH mandate by withdrawing all support for the upcoming Parliamentary elections in Haiti scheduled for February and March 2010 until the Haitian government demonstrates that the elections will be fair and inclusive.

Haiti's Provisional Electoral Council (*Conseil Electoral Provisoire* or CEP) disqualified 14 of the 69 parties that registered for the elections, including Haiti's most popular party, Fanmi Lavalas (FL). This decision threatens not only Haiti's democracy and stability, but billions invested in the peacekeeping mission financed by the international community. The United Nations (UN) should act swiftly and resolutely to end this charade.

The CEP lacks a sound legal basis for the disqualification of FL and other parties from voters' ballots. The CEP claims that the excluded parties failed to submit the proper registration documents. For Fanmi Lavalas (FL), the Council claims that a mandate sent by the party's exiled leader, former President Jean-Bertrand Aristide, from South Africa, is not authentic. FL presented an original mandate, authenticated by a Haitian notary. Dr. Aristide sent a fax of the mandate directly to the CEP, and confirmed its authenticity in an interview with a Haitian radio station. This mandate more than complies with the flexible mandate requirements of Haitian law,

set forth in article 1749 of Haiti's Civil Code. The CEP has not cited any law that justifies its exclusion of FL.

Political parties across the spectrum have condemned the political parties' exclusion as illegal, as have Haitian human rights groups and lawyers' organizations. Virtually no organization in Haiti, other than the ruling party, its allies, and members of the international community, support the CEP's exclusion.

The CEP not only lacks a good reason for its decision, it also lacks legitimacy to do so. The Council is a *Provisional* Council chosen by Haiti's President, René Préval, from nominees presented by civil society organizations also chosen by President Préval, not the independent *Permanent* Council required by Haiti's 1987 Constitution.

Unjustified exclusion of FL and other parties violates Haitians' right to vote in free and fair elections as guaranteed by Haiti's Constitution and international law including Article 21 of the UN's Universal Declaration of Human Rights. Without expressing principled objection to the Council's decision, the UN will be complicit in a violation of Haitian citizens' right to vote and in direct contravention of MINUSTAH's mandate to "support the political process under way in Haiti, . . . promote an all-inclusive political dialogue" and assist the Haitian government in holding "elections consistent with Haiti's constitutional and legal requirements."¹

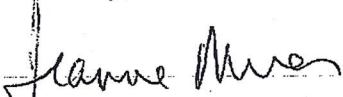
We are also concerned with the ability of MINUSTAH to respond effectively and legally to the demonstrations that are almost certain to occur if these illegal elections proceed. We note the many credible allegations of excessive and even lethal force by MINUSTAH soldiers in crowd control situations, including the shooting of a bystander outside the memorial service for Rev. Gérard Jean-Juste on June 18, 2009, and the shooting in Grande Goave on November 10, 2009. MINUSTAH's ability to respond to demonstrations will be increasingly compromised if Haitian voters perceive that the UN is complicit in the flawed elections through its financing of them and other support.

Democracy and development in Haiti can only proceed through fair, inclusive elections. The United Nations should set an example worthy of its Universal Declaration of Human Rights by refusing to support, in any way, the current elections unless the CEP includes all properly-registered political parties and runs fair, credible elections.

The International Association of Democratic Lawyers, and its affiliates in ninety countries, will continue to monitor the organization of elections in Haiti, and the response of UN entities to the elections and to related demonstrations. We would be happy to answer any questions you might have about this letter, and look forward to hearing from you about UN efforts to ensure that Haiti's upcoming elections are worthy of UN support.

¹ S.C. Res. 1892, U.N. Doc. S/RES/1892 (Oct. 13, 2009).

Sincerely,



Jeanne Mirer, Esq.
President

cc: Hédi Annabi, Special Representative of the Secretary-General and Head of Mission,
MINUSTAH

Luiz Carlos da Costa, Principal Deputy Special Representative of the Secretary General,
MINUSTAH

Kim Bolduc, Deputy Special Representative of the Secretary-General and Humanitarian
Coordinator, MINUSTAH and Resident Representative in Haiti, UNDP