

**Submission to the United Nations Human Rights Council**

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**Haiti**

**ON THE VIOLATION OF VOTING RIGHTS IN HAITI:  
ELECTIONS THAT DO NOT REFLECT THE WILL OF THE PEOPLE**

**Submitted by:**

Bureau des Avocats Internationaux  
Canada Haiti Action Network  
TransAfrica Forum  
Louisiana Justice Institute

**Endorsed by:**

Bri Kouri Nouvel Gaye  
Center for Constitutional Rights  
Institute for Justice & Democracy in Haiti  
Klèdev  
LAMP for Haiti Foundation  
Let Haiti Live  
Link Haiti, Inc.  
Paloma Institute  
UC Davis Immigration Law Clinic  
Unity Ayiti

The *Bureau des Avocats Internationaux* (BAI) is a not-for-profit public interest firm of Haitian lawyers that assists and represents victims of serious human rights violations. Since 1995, as part of its educational mission, the BAI has supervised young lawyers and advocated on justice issues and human rights in Haiti.

The consistent failure of the Haitian government to respect the laws on constitutional election procedures has been one of the BAI's major concerns in the establishment of the rule of law in Haiti. Among these concerns are the exclusion of political parties in the legislative elections of 2009 and the presidential and legislative elections of 2010 and 2011, as well as violations of the right to vote of persons displaced since the January 12, 2010 earthquake.

As a result of serious violations of the people's human rights, the BAI, TransAfrica Forum and the Louisiana Justice Institute submit this report concerning political rights to the UN Human Rights Council for its Universal Periodic Review of Haiti.

## **Summary**

As stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*,<sup>1</sup> this report provides the following information:

**Part I** - Haiti's international commitments to fair elections that express the will of the Haitian people.

**Part II** - The systematic exclusion of political parties by the Provisional Electoral Council violates Haiti's international commitments to fair elections that reflect the will of the voters, the right of candidacy and freedom of association.

**Part III** - The voter registration process as well as the development of the voter registry for the November 28, 2010 election did not follow Haitian law and led to the disenfranchisement of a large number of registered voters among the more than one million internally displaced persons. The registration and recording process violated Haiti's obligations to hold fair elections based on universal and equal suffrage.

**Part IV** - The Haitian Government and MINUSTAH failed to prevent voting irregularities and violence on election day on November 28, 2010, thus violating Haiti's international commitments to equal suffrage and Haitians' right to personal security in the exercise of their political rights.

**Part V** - The Government of Haiti allowed fraud during the counting of ballots and accepted the results of a fraudulent tabulation process in violation of Haitians' rights to universal and equal suffrage. Furthermore, the Haitian government's surrender of its electoral obligations to an internationally dictated election result violates Haiti's international commitments to free elections.

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<sup>1</sup> Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

## **Introduction**

1. In every election since April 2009 — those of April and June 2009, those proposed for February 2010, and those of November 2010 and March 2011 — Haiti has not met its international commitments to hold fair elections expressing the will of the Haitian people. The unlawfully constituted Provisional Electoral Council (CEP) systematically excluded several political parties in 2009 and 2010; and, in so doing, violated Haiti’s international obligations.

On November 28, 2010, in the midst of a cholera epidemic and eleven months after an earthquake that displaced 1.5 million Haitians, Haiti held elections to select a president, one third of the seats in the Senate, and the entire Chamber of Deputies. In the course of these elections, the Haitian people were the victims of political discrimination in the form of exclusion of political parties, massive voter disenfranchisement owing to an inadequate voter registry, and fraud during the counting of the votes. In the end, the Haitian government pressed for a change in the previously announced election result because of demands by the international community and organized a second round of elections for March 20, 2011, based on results yet to be published.

These “selections” of 2009, 2010 and 2011, funded and partially organized by the international community, were not conducted in accordance with Haitian law or Haiti’s international human rights obligations. Fair and legitimate elections that reflect the will of the Haitian people and a stable, credible Haitian government are fundamental to ensuring Haitians’ human rights and Haiti’s reconstruction.

### **Part I The Haitian government’s international commitments to fair elections that express the will of the Haitian people.**

2. Under the *Universal Declaration of Human Rights*, Haitians have the right to fair elections with universal and equal suffrage, resulting in a government that reflects the will of the people.<sup>2</sup> Haiti has also undertaken to enforce the right to equal participation in government.<sup>3</sup> Haiti guaranteed these rights when it ratified the *International Covenant on Civil and Political Rights* (ICCPR).<sup>4</sup>

### **Part II The systematic exclusion of political parties by the unlawfully constituted Provisional Electoral Council violates Haiti’s international commitments to fair elections that reflect the will of the voters and the right of candidacy and freedom of association.**

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<sup>2</sup>UDHR Art. 21

<sup>3</sup>*Id.*

<sup>4</sup>International Covenant on Civil and Political Rights, G.A. Res. 2200 A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316, art. 25 (Dec. 16, 1966).

### **The Constitution requires a Permanent Electoral Council.**

3. The 1987 Constitution requires that elections in Haiti be administered by a Permanent Electoral Council in any election thereafter. The permanent council is to operate as an institution independent of the government and is charged with “independently organizing and supervising all election procedures.”<sup>5</sup> The permanent council is to have nine members who are irrevocable during a nine-year term.<sup>6</sup> The Executive, Supreme Court (Cour de cassation), and National Assembly are each entitled to select three members of the Council<sup>7</sup> on the recommendation of departmental (provincial) and communal (local) assemblies. These authorities are to do their utmost to ensure that each department receives equal representation.

### **A Permanent Electoral Council was never established and Haitian elections are administered by a Provisional Electoral Council (“CEP”) that is not lawfully constituted.**

4. A permanent and irrevocable electoral council has never been established, nor were any of the electoral council’s members selected through the system of territorial collectivities as prescribed by the current Constitution of 1987. According to this system the constituent parts of the Permanent Electoral Council are intended to decentralize governance in Haiti in order to ensure equal suffrage and equal participation in election administration.<sup>8</sup> Since 1987, Provisional Electoral Councils (“CEPs”) have been appointed for indefinite terms.<sup>9</sup> The system of territorial collectivities has never been established, so the members of the current CEP, like all prior CEP members, were not selected through the system provided in the 1987 Constitution. The failure to appoint members in accordance with the 1987 Constitution violates Haitians’ right to equal participation in public affairs.<sup>10</sup> In October 2009, President René Préal disbanded the CEP that had organized the election of February 2006 and hand-picked a new one, denying the right of other protagonists to select two thirds of the Council.<sup>11</sup> The CEP is neither constitutionally constituted nor is it an independent government body that can guarantee Haitians’ human rights.

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<sup>5</sup>1987 Constitution of Haiti, Articles 191-199.

<sup>6</sup>*Id.* at art. 194.

<sup>7</sup>*Id.* at art. 192.

<sup>8</sup> Brian Concannon, Jr. *What’s at Stake in Haiti’s December 3, 2006 Elections: the ASEC system*, INSTITUTE FOR JUSTICE & DEMOCRACY IN HAITI, Nov. 1, 2006 available at <http://ijdh.org/archives/12980>.

<sup>9</sup>CEP, *Historique*, [http://ceph.aiti2010.org/index.php?option=com\\_content&view=article&id=110&Itemid=90](http://ceph.aiti2010.org/index.php?option=com_content&view=article&id=110&Itemid=90) (last visited Feb.17, 2011).

<sup>10</sup>*The Right to Vote*, Lamp for Haiti, [http://ijdh.org/wordpress/wp-content/uploads/2010/11/LAMP\\_HR\\_Program\\_Right\\_to\\_Vote\\_Rep\\_2010\\_2011.pdf](http://ijdh.org/wordpress/wp-content/uploads/2010/11/LAMP_HR_Program_Right_to_Vote_Rep_2010_2011.pdf), at 9.

<sup>11</sup>1987 Constitution of Haiti art. 31-1 states in part that: “Political parties and groups shall compete with each in the exercise of suffrage. They may be established and may carry out their activities freely.” See *The International Community Should Pressure the Haitian Government for Prompt and Fair Elections*, INSTITUTE FOR JUSTICE & DEMOCRACY IN HAITI, June 30, 2010, available at <http://ijdh.org/archives/13138>, at 2 [hereinafter IJDH June 2010 Report].

**The CEP's systematic exclusion of political parties has violated the right of political parties, candidates and the Haitian people to freedom of association and to participate as candidates in fair elections.**

5. The CEP excluded without justification or legal authority several Haitian political parties, including the largest party in Haiti, *Fanmi Lavalas* (FL).<sup>12</sup> This systematic exclusion is a violation of Haiti's international commitments to organize fair elections, in full respect for the right to nominate candidates and freedom of association. During the Senatorial election of April 2009, the CEP excluded *Fanmi Lavalas* from the electoral process, refusing its registration.<sup>13</sup> Hypocritically, the UN, Organization of American States (OAS), and the United States denounced FL's exclusion as undemocratic.<sup>14</sup> Unresponsive, the CEP disregarded the international denunciations of the exclusion and FL was barred from those elections and the others that followed.<sup>15</sup> The exclusion was presumably for political reasons, as FL is the party of former Haitian President, Jean Bertrand Aristide. The CEP's extralegal exclusion has left FL and its candidates without legal remedy for these serious violations of their civil and political rights.<sup>16</sup>

6. The CEP has continued to exclude FL from all subsequent elections. On November 26, 2009, the CEP, without explanation or justification, banned FL and 13 other political parties from participating in the legislative elections scheduled for February 2010 (these elections were postponed because of the January 12 earthquake).<sup>17</sup> Reports indicate that FL's registration submission to the CEP was compliant with all legal requirements, yet FL was unlawfully denied the right to participate in the elections.<sup>18</sup> All the steps taken to get the OAS and CARICOM (Caribbean Community) to demand an explanation by the CEP of its exclusion of these parties have gone unanswered.<sup>19</sup> This second exclusion was once again decided in violation of the election law of 2008, Haitian law and the CEP's legal jurisdiction.<sup>20</sup>

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<sup>12</sup>*Id.*

<sup>13</sup>During the April 2009 elections, the CEP claimed that they excluded FL because two factions of FL submitted candidate lists. But when a joint submission for the FL party was made, the CEP rejected the list due to a "new" requirement by the CEP requiring the original signature of the party leader. Though FL provided the signature of former President Jean Bertrand Aristide in form of facsimile, the CEP rejected this signature as not an original. See IJDH June 2010 Report, *supra* note 11, at 2.

<sup>14</sup>*Id.* at 3.

<sup>15</sup>*Id.* See also, Kim Ives, *Haiti Liberte: Clinton and Ban visit: Court orders CEP to allow Lavalas*, March 15, 2009, available at <http://www.haitianalysis.com/2009/3/15/haiti-liberte-clinton-and-ban-visit-court-orders-cep-to-allow-lavalas>.

<sup>16</sup>IJDH June 2010 Report, *supra* note 11, at 3.

<sup>17</sup>*Id.*, See Nicole Phillips, *Members of Congress are Right to Urge Changes of Haiti's Flawed Electoral Process*, THE HILL, Oct. 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>.

<sup>18</sup>*The Right to Vote*, Lamp for Haiti, *supra* note 10, at 11; see also IJDH, June 2010 Report, *supra* note 11, at 3.

<sup>19</sup>*Reconstructing Democracy, Joint Report of Independent Electoral Monitors of Haiti's November 28, 2010 Election*, TRANSAFRICA FORUM ET AL., available at <http://transafrica.org/wp-content/uploads/2011/Haiti%20Joint%20Observer%20Report%20FINAL.pdf>, at 9.

<sup>20</sup> IJDH June 2010 Report, *supra* note 11, at 3.

7. The CEP's unlawful exclusion of political parties violated the parties' right to freedom of association under the Haitian Constitution<sup>21</sup> as well as Articles 22, 25, and 26 of the ICCPR. The ICCPR grants the Haitian people the right to free association without political discrimination, as well as the right to vote in fair elections. Under the ICCPR, the right to freedom of association must be strictly observed. In this case, the Haitian government flouted the rights of these parties in clear violation of their right to free association. Although the parties could have appealed to the civil courts, past decisions in their favor have been disregarded, making their political exclusion an insurmountable obstacle to fair elections.<sup>22</sup>

8. The exclusion of political parties violated the rights of the Haitian people to the fair and impartial administration of elections that reflect the will of the people. In all of the elections that were held in Haiti in 2009-2011, the CEP unjustifiably and unlawfully excluded the party that had won every national election in which it participated, notwithstanding national and international objections. This exclusion resulted in a minimal voter turnout during these elections. Elections held in spite of an unjustifiable exclusion of the majority party, with minimal voter turnout, are not fair elections reflecting the will of the people. Such elections should be deemed illegitimate and should not be recognized by the Haitian government or the international community.

**Part III The voter registration process as well as the preparation of a voter registry for the November 28, 2010 election did not follow Haitian law and resulted in the disenfranchisement of a large number of registered voters among the more than one million internally displaced persons. The registration process and final registry violated Haiti's obligations to hold fair elections based on universal and equal suffrage.**

### **Voter registration under the Electoral Law of 2008**

9. In order to be able to vote in Haiti, Haitian citizens must register with the National Office of Identification (ONI), which manages the electoral register.<sup>23</sup> The ONI provides national identity cards which are required to vote.<sup>24</sup> The ONI must also update the electoral register by removing the names of all deceased persons and persons who have lost the legal right to vote.<sup>25</sup> The CEP creates electoral lists for each polling station using the ONI's electoral registry.<sup>26</sup>

### **Failings in voter registration for the election of November 28, 2010**

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<sup>21</sup>1987 Constitution of Haiti art. 33-1 (providing political parties the right to "compete with each other in the exercise of suffrage" subject to conditions set forth by law).

<sup>22</sup>Ives, *supra* note 15.

<sup>23</sup>Electoral Law of 2008, *Le Moniteur*, July 25, 2008, art. 27.

<sup>24</sup>*Id.*

<sup>25</sup>*Id.* at art. 29.

<sup>26</sup>*Id.* at art. 31.

10. After the earthquake on January 12, 2010, the Haitian government established Centers of Operation and Verification (OVCs) to register voters in the camps for internally displaced persons.<sup>27</sup> The OVCs worked outside the Electoral Law and registered voters on foreigners' voter lists. With no legal or formal mechanism for reconciling the foreigners' lists with the official electoral register, the OVCs created great confusion in voter registration.<sup>28</sup> As a result, the ONI did not recognize many of the voters registered by the OVCs. In addition to this system of deliberate duplication of registration, there were significant discrepancies between the ONI's electoral register and the voter lists produced by the CEP for the polling stations.<sup>29</sup> The ONI also proved to be incapable of distributing more than 100,000 national identity cards to voters who were duly registered on the day of the election.<sup>30</sup>

11. On Election Day, the problems surrounding the electoral registry became evident. Registered voters reported that their names were excluded from the electoral registry at their customary polling stations.<sup>31</sup> Other voters who had registered at the OVC reported as well that their names had been transferred from their assigned polling station to another.<sup>32</sup> Finally, the ONI never removed the names of voters who had died in the earthquake from the registry. Thus, many voters reported finding the names of their dead neighbors on the electoral lists, but did not find their own name.<sup>33</sup> Voter registration lists were unreliable and thousands of voters were prevented from voting because they could not find their names on the list. By failing to establish an accessible voter registration process that would enable universal participation of voters and to maintain a current and accurate voter registry, the Haitian government violated the rights of Haitian citizens to universal and equal suffrage.

12. The widespread disenfranchisement and, in particular, the exclusion of Haiti's largest political party contributed to the very low turnout figure of 22.9% in the November 2010 election. This low turnout, the lowest in the Americas in the last 60 years,<sup>34</sup> is due to systematic and generalized violations and to the exclusion of political parties. On February 1, 2011, the ONI announced that it would begin the process of reconciling the different voters' registers but did not explain how it would proceed. The ONI stated that voters whose names were not on an electoral list for the first round of voting would be

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<sup>27</sup> Interview with CEP, October 14, 2010.

<sup>28</sup> IJDH June 2010 Report, *supra* note 11, at 6-7.

<sup>29</sup> The CEP recorded 35,000 more registered voters than the ONI. *Rapport du RNDDH sur les elections presidentielles et legislatives du 28 Novembre 2010*, RESEAU NATIONAL DE DÉFENSE DES DROITS HUMAINS, Dec. 3, 2010, at 4 (hereinafter RNDDH Report).

<sup>30</sup> *Id.* at 4.

<sup>31</sup> *Id.* at 6.

<sup>32</sup> *Id.* at 6., *see also* Brian Concannon and Jeena Shah, *U.S. Will Pay for Haitian Vote Fraud*, BOSTON GLOBE, Dec. 15, 2010 available at [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/).

<sup>33</sup> Mark Weisbrot and Jake Johnson, *Analysis of the OAS Mission's Draft Final Report on Haiti's Elections*, CENTER FOR ECONOMIC AND POLICY RESEARCH, Jan. 2011, available at <http://www.cepr.net/documents/publications/haiti-oas-analysis-2011-01.pdf>, at 4.

<sup>34</sup> RNDDH Report, *supra* note 29, at 3.

automatically excluded from the second round.<sup>35</sup> According to the electoral law, only those voters registered in a first round may participate in a second round.<sup>36</sup> However, voters who were wrongfully denied their right to vote during the first round of voting continued to be deprived of their rights on the second round on March 20, 2011. Ongoing voter disillusionment as well as the exclusion of political parties in the first and second rounds violates Haitians' rights to fair elections.

**Part IV The Haitian Government, in conjunction with the international community, failed to prevent voting irregularities and violence on the day of the election, thus violating Haiti's international commitments to equal suffrage and the rights of Haitians to security of the person in the exercise of political rights.**

**Election-day procedures according to the electoral law of 2008**

13. The Electoral Law of 2008 sets forth the conditions for free and fair elections and guarantees citizens "the right of universal suffrage ...through conditions favoring their participation in the electoral process."<sup>37</sup> Within the Haitian government, the CEP is responsible for administering elections in accordance with Haitian law and Haiti's international human rights commitments.<sup>38</sup> Haitian law prohibits voter intimidation, ballot stuffing, multiple voting, violence in and around polling stations, and destruction of ballots and voting materials.<sup>39</sup>

**Haiti was not in compliance with electoral procedures on November 28, 2010.**

14. The planning and administration of the November 28, 2010, elections were a joint effort of the Haitian government and the international community. Despite a US\$29 million investment to organize and administer the elections, the Haitian government and the international community failed to prevent voting irregularities and violence on Election Day.<sup>40</sup> International observers reported ballot stuffing, voter intimidation, violence and vandalism in polling stations.<sup>41</sup> More specifically, observers reported that the Haitian National Police (PNH) and MINUSTAH<sup>42</sup> were unresponsive to security

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<sup>35</sup>*Corrections des Listes Electorales*, HAITI LIBRE, Feb. 2, 2011, available at <http://www.haitilibre.com/article-2289-haiti-elections-corrections-des-listes-electorales.html>.

<sup>36</sup>Electoral Law of 2008, *Le Moniteur*, July 25, 2008, Art. 176.1.

<sup>37</sup>*Id.* at Preamble.

<sup>38</sup>*Id.* at Preamble, art. 1, 5.1.

<sup>39</sup>*Id.* at art. 155, 202, 205.

<sup>40</sup>MINUSTAH has a Chapter VII mandate to "to assist the government in its efforts to facilitate free and fair elections... through the provision of technical, logistical, and administrative assistance as well as providing continued security" and "coordinate international electoral assistance to Haiti in cooperation with other international stakeholders including the OAS and CARICOM." Presidential Elections, MINUSTAH, available at <http://www.un.org/en/peacekeeping/missions/minustah/elections.shtml>.

<sup>41</sup>*Organization of the American States Expert Verification Presidential Elections-First Round 2010-Final Report*, OAS-CARICOM, available at <http://www.cepr.net/documents/publications/OAS-Haiti-2011-1.pdf>, at 1; RNDDH Report, *supra* note 29, at 21.

<sup>42</sup>The PNH and MINUSTAH work together under a cooperative agreement. However, if MINUSTAH is unwilling to protect security at polling stations, the Government of Haiti must do so.

issues at polling stations and failed to protect voters as they exercised their political rights.<sup>43</sup> In one instance in the Centre Department, a gunman entered a polling station and fired into the air, dispersing voters and election workers. MINUSTAH forces fled the scene along with polling station security personnel and election observers, after which all election materials were destroyed.<sup>44</sup> Due to well-documented and extensive irregularities, twelve of the nineteen presidential candidates called for the annulment of the November 28 vote and for new, credible and honest elections to be held.

15. The failure of the Haitian government and international community to prevent voting irregularities and violence on election day constitutes a serious violation of Haitian citizens' right to equal and universal suffrage. Among other matters, the fact that the PNH and MINUSTAH were not able to maintain safety and security at polling stations is a serious violation of Haitians' rights to security of the person. These violations along with the exclusion of political parties and disenfranchisement of Haitian voters violate the right to genuine elections.

**Part V The Government of Haiti allowed fraud during the counting of the vote and accepted the results of a fraudulent tabulation process in violation of the right of Haitians to universal and equal suffrage. By yielding to an international *dictate* to falsify the election results of November 28, 2010, the members of the Electoral Commission violated Haiti's international commitments to the holding of fair elections.**

#### **Tabulation of votes under the Electoral Law of 2008.**

16. The Electoral Law of 2008 sets forth the procedures to be followed in counting the ballots. The counting must begin as soon as polling stations close.<sup>45</sup> At that point, polling station administrators record the ballots cast on a single tally sheet that includes the number of ballots received at the polling station; the number used, cast, blank and voided; the number of challenges and other incidents deemed relevant; when the polling station opened and closed; and the list of participating voters.<sup>46</sup> The tally sheets are submitted to the central tabulation center where the results are added together and then declared.<sup>47</sup> The winner of a presidential election is determined by either an absolute majority of the votes in the first round election or the highest number of votes cast in a run-off election.<sup>48</sup>

#### **Fraudulent counting of the votes and an internationally dictated election result.**

17. The vote counting procedures were not observed and were directed by an international community that imposed the result, disregarding widespread irregularities and fraud. Despite clear evidence of fraud and irregularities, the CEP announced on

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<sup>43</sup>RNDDH Report, *supra* note 29, at 7.

<sup>44</sup>*Id.* at 14.

<sup>45</sup>Electoral Law of 2008, *Le Moniteur*, July 25, 2008, arts. 1, 165, 170, 172.

<sup>46</sup>*Id.* at arts. 165, 170.

<sup>47</sup>*Id.* at arts. 170, 172, 173.2.

<sup>48</sup>*Id.* at arts. 40, 41.

November 29, 2010, that the election was a success, excluding the results of only 56 of the 1,500 polling stations because of irregularities.<sup>49</sup> The OAS-CARICOM Joint Electoral Observation Mission announced similar irregularities and validated the announced results of the election.<sup>50</sup> During the following week, allegations of fraud and irregularities surfaced in every department throughout Haiti.<sup>51</sup> On December 3, 2010, UN Secretary General Ban Ki-moon acknowledged that the election irregularities were worse than initially predicted.<sup>52</sup>

18. On December 7, 2010, the CEP announced preliminary results. Mirlande Manigat had obtained 31.4% of the vote, followed by the candidate backed by the Préval/Bellerive government, Jude Celestin, with 22.5%.<sup>53</sup>

19. After five days of protests by supporters of Joseph Michel Martelly, verification experts with the OAS convened to reevaluate the count.<sup>54</sup> This verification mission sampled only 919 tally sheets, representing 16.9% of votes cast.<sup>55</sup> On the basis of this sample, the mission concluded that Michel Martelly rather than Jude Celestin qualified for a second round of the election.<sup>56</sup> The Center for Economic Policy Research (CEPR) surveyed all 11,181 tally sheets, representing 100% of the votes, and found irregularities in 25% of ballots cast.<sup>57</sup> The CEPR did not reach the same findings as the OAS report, and concluded that given the wide margin of error and small number of votes separating Martelly and Celestin, a reliable outcome was not possible. The decision to modify the declared results on the basis of a report that considered only 16.9% of votes cast is unprecedented and violates Haiti's commitments to universal and equal suffrage.<sup>58</sup>

20. Changing electoral results without a full vote recount is internationally unprecedented and contrary to Haitian law. The international community, including the United Nations, exerted extensive pressure on Haiti to alter the declared results and align them with the OAS report. The international community threatened to withdraw the aid relied on for access to basic necessities by hundreds of thousands of Haitians living in

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<sup>49</sup>*Le CEP Se Félicite du Succès des Elections*, HAITI LIBRE, Nov. 29, 2010, available at <http://www.haitilibre.com/article-1786-haiti-elections-le-cep-se-felicite-du-succes-des-elections.html>.

<sup>50</sup>OAS-CARICOM stated that it did not believe that “irregularities, serious as they are, necessarily invalidated the election.” *Elections: L’OEA/CARICOM Jugent Les Election Valides*, HAITI LIBRE, Nov. 29, 2010 available at <http://www.haitilibre.com/article-1788-haiti-elections-l-oea-caricom-jugent-les-elections-valides.html>; see also Deborah Sontag, *Election Violence Flares in Haiti*, NEW YORK TIMES, Dec. 08, 2010 available at [http://www.nytimes.com/2010/12/09/world/americas/09haiti.html?\\_r=1](http://www.nytimes.com/2010/12/09/world/americas/09haiti.html?_r=1).

<sup>51</sup>RNDHH Report, *supra* note 29, at 8-18.

<sup>52</sup>*Election: Ban Ki-moon declare que les frauds sont pires que prévu*, HAITI LIBRE, Dec. 3, 2010 available at <http://www.haitilibre.com/article-1821-haiti-elections-ban-ki-moon-declare-que-les-fraudes-sont-pires-que-prevu.html>.

<sup>53</sup>Sontag, *supra* note 50.

<sup>54</sup>*Id.*

<sup>55</sup>*Final Report Expert Verification Mission of the Vote Tabulation of the November 28, 2010 Presidential Election in the Republic of Haiti*, OAS, Jan. 13, 2011 available at <http://scm.oas.org/pdfs/2011/CP25512E.pdf>.

<sup>56</sup>Ronal C. Archibold, *Haiti Weighs More After Observers Reject Vote Result*, NEW YORK TIMES, Jan. 14, 2011, available at <http://www.nytimes.com/2011/01/15/world/americas/15haiti.html>.

<sup>57</sup>Weisbrot and Johnson, *supra* note 33, at 6.

<sup>58</sup>*Id.* at 7.

camps for the internally displaced.<sup>59</sup> On February 2, 2011, the National Office of Electoral Disputes (BCEN), Haiti's highest and final electoral authority, requested that the CEP reverse the election results on the basis of the OAS report, without justifying its decision by reference to Haitian legislation.<sup>60</sup> On February 3, 2011, four of eight members of the CEP complied with this order and declared the so-called results definitive for the first round. Without written agreement from the majority of CEP members (5 out of 8), the declaration was invalid under article 8 of the rules governing the CEP.<sup>61</sup> The Haitian government violated the rights of the Haitian people due to the international pressure placed upon Haiti to change the electoral result of November 28, 2010. Thus, the international community shares responsibility for violating the human rights and right to self-determination of the Haitian people.

## **Part VI        Recommendations**

1. The Haitian government should encourage free and full participation of all eligible political parties in order to comply with Haiti's domestic and international obligations.
2. The Haitian government should hold an electoral process that respects the law and the rights of voters as well as an inclusive registration of political parties in order to guarantee universal suffrage.
3. The Haitian government should disband the unlawfully constituted Provisional Electoral Council and undertake a process leading to a Permanent Electoral Council in accordance with the 1987 Constitution, in order to protect Haitians' right to fair elections in the future.
4. The Haitian government and international community should not recognize any election that does not adhere to the recommendations made above. The international community should refrain from dictating the results of elections.

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<sup>59</sup>Randal C. Archibold, *With Subtraction and Addition, Haiti Set its Presidential Runoff*, NEW YORK TIMES, Feb. 3, 2011, available at

<http://www.nytimes.com/2011/02/04/world/americas/04haiti.html?partner=rss&emc=rss>; Dan Beeton, "Sad Day for Haitian Democracy" as U.S. Threatens to Cut Off Aid to Haiti in Order to Reverse its Election Results, *CEPR Co-Director Says*, CENTER FOR ECONOMIC AND POLICY RESEARCH, Jan. 25, 2011, available at <http://www.cepr.net/index.php/press-releases/press-releases/sad-day-for-haitian-democracy>.

<sup>60</sup>Electoral Law of 2008, *Le Moniteur*, art. 191.

<sup>61</sup>Joseph Guylor Delva, *Haiti, Pressured, Sets Revised Presidency Runoff*, REUTERS, Feb. 3, 2011 available at <http://www.reuters.com/article/2011/02/03/us-haiti-elections-idUSTRE7117JZ20110203>.