

January 22, 2016

Dear Mr. Gallon,

We are writing today to illuminate the current human rights situation concerning the electoral process in Haiti. In a statement issued after your visit to Haiti on February 9, 2015, you mentioned the upcoming elections as one of the five issues that merited urgent action. Your statement stressed the need for credible and transparent elections which guaranteed the rights of Haitians to vote and to be elected. In your September 17, 2015 press release following the August 9 legislative elections, you voiced concern about grave election-day irregularities, such as politically-motivated violence and electoral fraud.

Unfortunately, few concrete actions have been taken since your visit in September to redress the deep flaws in the legislative elections. To the contrary, the violation of democratic principles has persisted throughout the electoral process, thereby delegitimizing it and propelling Haiti into political crisis with potentially dire consequences for the country. On January 10, 2016, 92 deputies and 14 senators from these illegitimate elections were sworn in, in spite of overwhelming evidence of massive fraud, violence and irregularities. In addition, only two female deputies and no female senators among the 106 parliamentarians were sworn-in, making Haiti's 50th legislature hardly representative of a country where over 50% of the population is female.

We request your immediate attention to this increasingly alarming situation, as the government of Haiti and the electoral council move towards the second round of Presidential and partial legislative elections, set by Presidential decree for January 24.

The National Human Rights Defense Network (RNDDH) has been observing the entire electoral process as part of a coalition that deployed over 1,500 observers across the country for the both the August 9 first-round legislative elections, and October 25 municipal, partial legislative and first-round presidential elections. The Coalition reports issued following the elections can be found at:

- For August 9, 2015 - http://rnddh.org/content/uploads/2015/08/2-Elections-9-août-2015-RNDDH.CNO_CONHANE.pdf
- For October 25, 2015 - <http://rnddh.org/content/uploads/2015/11/Rapport-Elections-25-octobre-2015.pdf>

It can confidently state that the electoral process has had clear and egregious incidences of fraud which we would define as interference in the electoral process intended to bring about a particular election result whether by increasing the vote of one candidate or decreasing the vote of another.

The Coalition's reports are supported by other international observation groups, including a report by the National Lawyers Guild and International Association of Democratic Lawyers indicating various levels of fraud in the October 25 elections. Their report can be found at:

- http://www.ijdh.org/wp-content/uploads/2015/11/HaitiElection2015_NLG-IADL.pdf

Improvements were made in preparation for the October 25 elections, but few actions were taken to remove or otherwise sanction candidates that had participated in acts of violence, intimidation or fraud. Relative to August 9, the October elections were not as riddled with violent disruptions, but massive fraud

was still present. The climate of chaos that was created in both elections enabled the ensuing, planned fraud. These are some of our findings, which are clear indicators of fraud or indicators of the necessity to further investigate additional cases of fraud.

August 9: Throughout all ten of Haiti's departments, political party monitors ("*mandataires*"), false electoral observers, party sympathizers and candidates themselves caused much trouble during the election. In many cases, they threw rocks and broken bottles, fired gunshots and tear gas to disperse voters and allow ballot-box stuffing. Due to the violence and disruptions, as well as a lack of preparation by the CEP, many voters could not cast their ballots. Turnout was a mere 18% nationally, falling to 10% in the Ouest department (which includes Port-au-Prince).

The Coalition's observers recorded incidents of fraud or attempted fraud, serious irregularities, intimidation and violent or aggressive acts at 67.8% of polling stations. The Coalition also documented at least 104 voting centers where massive fraud and violence was so severe that voting had to be stopped, at least temporarily. Political parties close to the ruling power were identified as being the most aggressive in the perpetration of fraud and the use of electoral violence as a means to success.

Violence, intimidation, fraud, vandalism and destruction of polling centers were often committed in plain sight of Haitian police officers. The general passivity of the police on August 9 was widely remarked, suggesting orders had been given to refrain from intervening. The judiciary and the CEP also largely failed to hold accountable candidates and parties that engaged in violence, voter intimidation and fraud on August 9, sending a message to perpetrators and voters alike that "crime pays." The climate of impunity fostered by the CEP eroded confidence in the CEP itself and in the electoral process more generally. Even more troubling, the integrity of the electoral results of the first-round legislative races was undermined by the fraud, calling into question the legitimacy of the second-round race.

October 25: There were some improvements in the preparations for the election by the CEP, as the Coalition report acknowledged, but turnout for the presidential, legislative and municipal elections was still exceptionally low, only 25% nationwide. Although there was far less violence on election day compared to August 9, a number of decisions by the CEP contributed to a climate of chaos which enabled fraud to occur, for example:

- The issuing of over one million observer and political party monitor accreditations, which resulted in massive overcrowding of polling stations. Prior to the vote, a black market for these passes developed, effectively allowing votes to be bought. Many blank passes were seen on election day being completed at voting centers.
- The banning of t-shirts identifying observers or political party representatives the day before elections, which made these actors indistinguishable from ordinary voters
- The usage of indelible ink which washes off easily
- A lack of privacy in the voting booths
- The use of transparent ballot boxes
- Inadequate training of election workers
- A failure to enforce the rotation of *mandataires* in the polling stations, which allowed them to linger through the day

The Coalition observed several kinds of fraud and vote manipulation at voting centers on election day:

- *Mandataires* voting multiple times
- Stuffing of ballots
- Coercion and intimidation by political party affiliates of voters at polling centers

November 19, 2015: An independent survey conducted by Brazil-based Igarape Institute found a major discrepancy between the CEP's official results and the political preferences expressed by voters. Based on interviews conducted with over 1,800 voters from 135 voting centers after they had cast their ballots, the poll found that only 6.3% of voters said they had voted for the ruling party's candidate (Jovinel Moise), whereas the announced results claimed him as the leading candidate with 32.8% of the votes. The survey also found that Haitians were deeply disillusioned with the October 25 vote, with nearly 90% believing it was an unfair or fraudulent election.

The Igarape Institute report can be found at: https://igarape.org.br/wp-content/uploads/2015/11/NE-20_Impact-of-Perceived-Electoral-Fraud-on-Haitian-Voter's-Beliefs-about-Democracy.pdf

November 21-22, 2015: The National Bureau of Electoral Disputes (BCEN) allowed the political party *Fanmi Lavalas* to visit the Tabulation Center to verify votes. 78 tally sheets were selected from more than 13,000 tally sheets, all of which were found to contain fraud or gross irregularities. Despite 52 tally sheets showing evidence of fraud by electoral officials and 26 with irregularities, the BCEN did not expand the scope of the inquiry. The only action taken by the BCEN and the CEP was to send back the 78 tally sheets to the tabulation center and have them removed from the official count. No analysis of fraud for the other 13,000 tally sheets was undertaken.

December 17, 2015: RNDDH wrote a letter to the Government Commissioner detailing complaints filed by candidates which stated that they had been bribed for money by BCEN and Department Electoral Contestation Bureau (BCED) judges in order to guarantee wins in the upcoming elections. The letter can be found at: <http://rnddh.org/content/uploads/2015/12/Denonciation-RNDDH-Dec151.pdf>

January 2, 2016: A report was issued by an Independent Electoral Evaluation Commission (CEEI) (appointed by President Martelly), whose findings were even more alarming than the initial November assessments in the tabulation center. The report confirmed that political parties had used accreditation passes to cast multiple fraudulent votes, and analyzed 1770 randomly-selected tally sheets to check for fraud and irregularities. Of the sample tally sheets examined by the Commission:

- 92% had at least one "serious irregularity"
- 54.1% had three or more serious irregularities
- 57.1% had votes without the corresponding signature or fingerprint of the voter recorded on the voter list
- 34.2% were not signed off by at least three *mandataires*
- 46.8% had votes that were cast using an invalid CIN (National ID card) number
- 30.6% had votes that were cast without a CIN number
- 29.9% did not correspond with the official count

The Commission's findings corresponded to and supported initial election-day observations indicating large-scale fraud and pointed to the need for further investigation. The report noted the lack of credibility of the CEP and recommended a political dialogue between stakeholders, the formation of a CEP with greater credibility and a close examination of the irregularities detected in the analysis of 1770 randomly selected tally sheets.

January 6, 2016: Disregarding the recommendations of the CEEI, President Martelly issued an electoral decree setting the date for the second round of Presidential and partial legislative elections for January 24, 2016.

If this process is to continue on its current path, it would put in place a president, parliament, and other government posts without legitimacy and very little credibility further creating a climate of distrust between the Haitian people and the State.

Although the Core Group (U.S., Canada, France, EU, Spain, Brazil), the OAS and European Union Observation Missions have urged the process to move forward and for the run-off elections proceed on January 24, we do not think that these international actors should have the last word on Haiti's future, simply by virtue of their funding of the electoral process. Their endorsement of elections in spite of evidence of blatant fraud and their claims that irregularities were solely due to incompetence has led many Haitians to doubt their political impartiality. We strongly believe that Haiti's electoral crisis cannot be resolved through an internationally-imposed solution, but must be determined by the will of the Haitian people.

We, the undersigned, respectfully request your review of the points and indicators detailed above and a statement that would urge the slowing down of the electoral process in order to create an electoral climate of inclusion rendering the process as transparent, credible, and legitimate; encouraging the further strengthening of Haitian civil society and institutions that would promote democratic principles and Rule of Law. Without a legitimate government, Haiti is facing another period of instability and political stalemate, which will make it difficult to implement significant improvements to the other four areas of your focus warranting urgent action.

Sincerely,

AJWS - American Jewish World Service

GARR - Le Groupe d'Appui aux Rapatriés et Réfugiés

IJDH - Institute for Justice & Democracy in Haiti

LiLiLi! Read

MCC US - Mennonite Central Committee U.S.

PAPDA - Haitian Advocacy Platform for an Alternative Development

PAJ - Alternative Justice Program

RNDDH - National Human Rights Defense Network

Mark Schuller - Northern Illinois University & Université d'État d'Haïti

Joris Willems - Observer for JILAP - Justice & Peace Commission