

REPORT TO THE PERMANENT COUNCIL¹
Electoral Observation Mission – Haiti
General Elections
Presented by: Juan Raúl Ferreira

Ambassador José Luiz Machado e Costa, Chair of the Permanent Council
Ambassador Leon Charles, Interim Representative of Haiti to the OAS
Mr. Luis Almagro, Secretary General
Mr. Nestor Mendez, Assistant Secretary General
Representatives of OAS member states and permanent observers

Background

On March 24, 2015, the Government of the Republic of Haiti extended an invitation to the Organization of American States (OAS) to observe the legislative, presidential, municipal, and local elections. To lead the Electoral Observation Mission (EOM), the OAS Secretary General appointed the former Minister of Foreign Affairs of Costa Rica, Enrique del Castillo (for the legislative elections held on August 9, 2015), the former Minister of Foreign Affairs and Minister of Defense of Brazil, Celso Amorim (for the presidential election and runoff legislative elections held on October 25, 2015), and Ambassador Juan Raúl Ferreira of Uruguay (for the presidential, legislative, municipal, and local elections held on November 20, 2016 and January 29, 2017).

This report contains the observations and recommendations that came out of the five Electoral Observation Mission deployments and the visits made by the chiefs of mission and members of the Secretariat for Strengthening Democracy over an 18-month period.

Based on how long legislative terms are supposed to last, Haiti should have held elections in 2012 and 2014 for seats in both chambers. Despite this, no elections were held until August 2015. Elections for municipal and local offices were also overdue. Since elections were never held, as of January 12, 2015, the Senate was left with a mere 10 out of 30 senators, while the Chamber of Deputies did not have even one of its 119 members. The Parliament thus ceased to function. In the case of the municipalities, once the terms had elapsed, the positions were taken over by interim agents appointed by the President of Haiti.

1. Presented by Ambassador Juan Raúl Ferreira, Chief of Mission for the presidential, legislative, municipal, and local elections of November 20, 2016 and January 29, 2017.

On January 11, 2015, after several months of negotiations, the President and the opposition parties agreed to form a consensus government, create a new *Conseil Electoral Provisoire* [Provisional Electoral Council] (CEP)² comprised of representatives of different sectors of civil society, and pass a new election law with a view toward holding elections in 2015.³

On March 2, 2015, President Joseph Martelly published the electoral decree that established the legal framework for the upcoming elections. Ten days later, on March 12, the CEP published the electoral calendar. According to the calendar,⁴ which was subsequently amended, the elections were to unfold as follows:

- **August 9, 2015:** First round of legislative elections (20 senators and 119 members of the **Chamber of Deputies**);
- **October 25, 2015:** First round of the presidential elections, second round of legislative elections, and single round of municipal and local elections (5,527 offices); and
- **December 27, 2015:** Runoff election for president if necessary.

Legislative elections (August 9, 2015)

The EOM was comprised of 28 observers from 12 countries—28 percent of whom were women. It enjoyed the support of experts in gender and in election-related technology and organization, and was present nationwide via a mobile group that was able to observe the election campaign.

Pre-election phase

The CEP began to implement the electoral calendar in March with the technical and logistical support of the United Nations Development Programme (UNDP), the United Nations Stabilization Mission in Haiti (MINUSTAH), the United Nations Office for Project Services (UNOPS), and other international agencies.

There were 5,871,450 citizens registered when the voter roll was closed on May 11, 2015. The CEP activated 1,508 voting centers and 13,724 polling stations across the country, and appointed 41,172 polling station workers and 5,256 election security agents.⁵

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2. Composition of the CEP: Ricardo Augustin – Episcopal Conference; Vionet Demero – Reformed churches; Yolette Mengual – Women; Jaccéus Joseph – Human rights; Lucie Marie Carmelle Paul Austin – Universities; Pierre Manigat, Jr. – Press; Lourdes Edith Joseph – Labor unions; Néhémie Joseph – Agricultural sector/voodoo; and, Pierre-Louis Opont – Business sector.
 3. The so-called *Accord de Kinam* [Kinam Accord] was signed on January 11, 2015.
 4. The calendar was subsequently modified.
 5. Information obtained by the EOM during meetings with CEP officials.

One hundred and twenty-five political groups took part in this election—half of the candidates came from the 10 main parties. The CEP registered 1,625 candidates who were vying for the 119 seats in the Chamber of Deputies, and 225 candidates for the 20 Senate seats.

The campaign for the first round of the legislative elections took place between July 8 and August 7. Due to a lack of resources, only some of the parties engaged in canvassing activities in the initial days of the campaign. Just one week out from the elections, the CEP provided direct public financing to all of the registered parties.

The violence and fear that it would spread on election day, as well as the improper use of public funds in favor of one party, marked this stage in the process. The Mission took note of these complaints and concerns in the meetings it held with different political actors and members of civil society during the visits made by its leadership.

The Mission observed that credentials for members of political parties who would be providing oversight on election day were not delivered by the deadlines set in the electoral calendar. In order to get past this problem, the CEP gave authorization, as an exception, to have the accreditations printed directly in the different Departmental Election Offices (BEDs) and turned over on the spot to the political actors. This last minute solution made it possible to dodge a crisis, but opened the door to numerous accusations of politicization and lack of capacity of the CEP.

Election day

On election day, the EOM/OAS deployed 28 observers and was present in Haiti's 10 departments when the voting centers opened—scheduled for 6:00 a.m.; a total of 171 voting centers were visited. The EOM/OAS observed that a large number of voting centers opened late, but acknowledged the efforts of the CEP to ensure that most of the voters affected could vote anyway.

Throughout the day, the EOM noted that the voter rolls were posted publicly in the voting centers, which is a practice that helps to ensure greater transparency. This notwithstanding, an advance posting of the rolls in the public areas might have enabled citizens to more easily locate their polling place.

The EOM was also able to observe that the spaces selected for voters and poll workers were not appropriate when it came to preserving voting secrecy. It also noted certain confusion with respect to voting procedures, especially in the case of the Senate elections.

According to information furnished by MINUSTAH, which provided security during the elections alongside the national police, voting on August 9 was disrupted by acts of violence or other problems in 202 (13.4 percent) of the 1,508 voting centers nationwide. In 176 of the 202 centers, the disruption was of such magnitude that the CEP considered that voting had not taken place.

The Mission lamented the death of six individuals and took note of 117 arrests on election day. It further observed that the acts were not widespread and therefore did not affect voting as a whole since most voting centers were able to carry out their operations. The CEP subsequently reported its decision to exclude 16 candidates from 10 parties for having resorted to violence or attempted to derail the process and distributed a list of 17 political parties it believed had committed acts of violence.

It is worth noting that the CEP did not announce any results on election night since it lacks a speedy transmission mechanism for results and thus the EOM maintained a continuous presence in the Vote Tabulation Center (CTV) until the tallying of votes concluded on August 19, 2015.

The post-election period

The preliminary results were not released until August 21, 12 days after the election and 3 days later than what had been stipulated in the electoral calendar. After the preliminary results were announced, several opposition parties demonstrated in the streets and accused the CEP of working in collusion with the parties allied with the government. An unprecedented number of challenges filed with the Departmental Office for Electoral Disputes (BCED)⁶ and the National Office for Electoral Disputes (BCEN),⁷ as well as logistical issues with delivering the final results, further exacerbated the criticisms of the CEP.

The final results were made public online overnight on September 27-28 (18 days after the date stipulated on the electoral calendar). Two candidates for the Senate were declared winners in the first round, while six candidates for deputy were declared winners. Because some districts did not manage to retrieve 70 percent of the ballots and because of ballots voided by the BCEN, the CEP determined that it would be necessary to redo the election for deputies in 25 districts in eight departments, and for senators in three departments.⁸ Based on information provided by the CEP, voter turnout was 18 percent nationwide.

In light of the above results, legislative elections were held on October 25, 2015, along with the presidential and municipal elections.

After the preliminary results were announced, the entities for disputing and challenging them were activated. The Mission remained in the country to observe the structure and composition of the electoral dispute settlement system as well as procedures for ensuring due

6. A total of 204 challenges were filed with the BCED.

7. One hundred and twenty challenges were filed with the higher dispute-settlement body, the BCEN.

8. The following are the 25 districts: Department of Artibonite: Saint Marc, Verrettes, Petite Rivière de l'Artibonite, Grande Saline, and Desdunes; Department of Centre: Boucan Carré, Savanette/Quartier Baptiste; Department of Grand Anse: Jérémie, Roseaux, and Pestel; Department of Nord: l'Acu du Nord, Grande Rivière du Nord/Bahon, Saint Raphael, Dondon, Port Margot, and Plaisance; Department of Nord-Est: Môle Saint-Nicolas; Department of Ouest: Port-au-Prince 1ère, Cité-Soleil, Gressier, Cornillon, Archaie, and Cabarert; Department of Sud: Port-à-Piment; and Department of Sud-Est: Marigot.

process. It bears clarifying that OAS Electoral Observation Missions do not review decisions made by jurisdictional bodies in the host countries.

Despite the foregoing, the Mission cannot fail to mention that a case filed with the dispute-settlement bodies led to a change in the method for calculating the assignment of a specific seat. That is to say that all of Haiti's legislators, save one, were elected in the first round only if they exceeded 25 percent of the total number of votes obtained by the second place finisher. In the case of the Department of Ouest, however, Senator Jean Renel Sénatus secured his seat in the first round after receiving 27.9 percent of the vote, while the runner up obtained 15.7 percent. In this particular instance, because of the jurisdictional body's interpretation of the case filed by Senator Sénatus, only the votes cast for the two candidates who received the most votes were counted and thereafter the 25 percent difference between the two was calculated. This decision was upheld by the BCEN.

In Artibonite, one of the candidates for senator, Youri Latortue, filed a complaint against the annulment of the election decided by the CEP based on the fact that 70 percent of the ballots from the department had not been received. In his filing, Senator Latortue turned over to the BCEN 87 ballots that had not been received or counted by the CEP due to alleged errors in the collection thereof. The BCED decided to only count votes cast for the complainant in the ballots submitted and not the votes corresponding to other candidates. The BCED thus determined that the Senate elections in the Department of Artibonite were valid and that Youri Latortue had won that election in the first round. This decision was upheld by the BCEN.

The CEP ordered the Senate elections to be repeated in three of Haiti's departments (Nord, Grand'Anse, and Centre). In the Department of Ouest, however, where the elections had been voided in six districts, including the most populous in the country (Cité Soleil and Port-au-Prince 1), elections were not scheduled to be repeated at the department level.

During this stage, the political parties harshly criticized the CEP's administrative decisions, like the criteria used to void elections in some departments. They also questioned the BCEN's decision to set up four chambers instead of the three stipulated by the electoral decree. The Mission received complaints from political actors about the level of discretion the election authorities have when it comes to making decisions.

The CEP announced a series of measures designed to improve conditions for the October 25 elections. Given the limited space in the voting centers and the number of elections in question, the CEP postponed the local elections (Communal Section Boards (CASEC), Communal Section Assemblies (ASEC), and municipal delegates) until December 27. In an effort to avoid the tensions created by the late delivery of credentials to the parties, the CEP announced that accreditations would begin to be distributed 15 days before the elections at the latest. In addition, and as a result of a recommendation made by the EOM/OAS, the CEP decided to appoint an advisor or guide to each center in order to steer voters in the right direction and hasten the voting process.

Presidential and legislative elections (October 25, 2015)

The Mission was comprised of 125 observers—38 percent of whom were women—from 27 countries and enjoyed the support of experts in election-related technology and organization as well as statistics.

Pre-election period

On October 25, 2015, the CEP had to run four elections (president, senators, deputies, and mayors and delegates⁹). Added to the difficulties surrounding the organization of several elections at the same time was the fact that the number of contests varied from one district to another. In this context, the CEP was working with 264 different ballots.

The violent incidents that had affected the August elections impacted this stage of the election process. During a preliminary visit to Haiti by the EOM/OAS chief, Ambassador Celso Amorim, the Mission took note of the concern on the part of the political parties, civil society, and the international community with respect to the presidential elections.

The EOM/OAS also received complaints about the use of public funds for the campaign. Opposition parties questioned the roll of then President Joseph Martelly, who, in an unprecedented act for Haiti, campaigned with his preferred candidate.

In the last weeks before the elections, several parties took to the streets to demand that the August 9 elections be annulled because of the acts of violence that had caused, among other harm, ballots to be lost. One of the members of the CEP, Néhémie Joseph, submitted her resignation because of differences with her colleagues, revealing tensions within this electoral body. In addition, a number of political figures were attempting to promote the idea of a transition government while they continued to campaign.

Moreover, the CEP was harshly criticized for having issued more than 7,000 accreditations to a little-known national observation organization (UNADA). Although these accreditations were later rescinded by the CEP the day before the elections due to fraud and the sale of the accreditation cards, they were never returned to the CEP.

Haitian election law provides that in order to run for elected office, citizens who have held public office in the past are required to submit a *décharge* [disclosure] attesting to the fact that they properly managed government funds. This document, which is drawn up based on data generated by the Superior Court of Accounts and Contentious Administrative Proceedings (CSCCA), is issued by the Parliament in the case of former ministers, and by the Office of the Comptroller itself for all remaining public servants.

For these presidential elections, the EOM observed that the CEP decided that former ministers could only register with a *décharge* issued by the Parliament even though the Parliament

9. One president, 18 senators, 111 deputies, and 140 municipal delegations.

was not functioning at the time. In practical terms, citizens who had been ministers in previous administrations could not run for office. Nine candidates for president were rejected because they lacked a *décharge*; those candidates never submitted their *décharges* to the CEP because the *décharges* were never issued.

The case of a pre-candidate for president from the Verité party, Jacky Lumarque, also bears mentioning. After being authorized by the CEP to participate in the election, his candidacy was challenged before the BCED. Nevertheless, the challenge was dismissed and his candidacy, upheld.

Despite this legal ruling, the CEP removed Jacky Lumarque from the presidential contest. In order to be sure he did not need one, Lumarque asked the CSCCA to issue an opinion about whether or not it was necessary for a *décharge* to be issued to him for the time he had been Chairman of the National Committee for the Slave Route. The Superior Court of Audit notified the candidate that he did not need a *décharge* as he had not been responsible for public funds, but it was subsequently decided to issue him one anyway.

Once informed of this new development, the CEP decided to reject Lumarque's candidacy, despite the fact that the BCED had already ruled on thereon. The CEP based its decision on the understanding that the CSCCA had issued a *décharge* to Lumarque because as a candidate he needed one¹⁰ and that he had failed to submit it when he originally registered as a candidate. The CEP invoked Article 95 of the electoral decree, which empowers it to annul any candidacy at any time if it deems that a candidate may have made a false statement. This situation demonstrates that the legal and institutional design of Haiti's electoral system fails to offer legal certainty to those who wish to run for elected office.

Election day

On election day, the EOM/OAS visited 487 voting centers. The observers confirmed that the polling stations visited opened on average at 6:56 a.m. and that in all cases election materials were available. However, the indelible ink did not always fulfill the purpose for which it was designed.

It is worth noting that a large number of political party representatives, known as *mandataires*, were present in the voting centers. The Mission observed a wide variety of political parties in the voting centers and received information from the CEP that it had accredited more than 900,000 *mandataires* to oversee the day. The accreditation method—blank cards given to each party by polling station—was widely questioned and even denounced¹¹ because there was no guarantee that the accredited individuals were who they said they were. Each party with a candidate for president was given the equivalent of one credential per polling station, that is, 13,725, without regard for the size of the political group. The EOM also noted that several

10. Interview with Pierre Louis Opont, President of the CEP, conducted by the EOM.

11. Similarly, presidential candidate Steven Benoît publicly denounced the trafficking and sale of accreditation cards to representatives, even accusing the leader of his own party (Konviksyon) of having been involved in this illegal business.

representatives were unaware of which party they were representing or, when asked, gave the name of a party different from the one that appeared on their accreditation.

The distribution of polling stations within the centers bore no relation to any logical order, particularly in the larger ones, and voters had difficulties in locating their stations. Guides in the voting centers, which was a recommendation made by the EOM/OAS after the August elections, helped to steer citizens in the right direction. In addition, the EOM observed that the polling stations were overcrowded with people and that this, on top of the design of the partitions (unstable and made of cardboard) and their location in the stations, made it difficult to ensure voting secrecy.

Moreover, there were indications of votes being bought and voters being replaced by others, and an excessive presence was observed of political party representatives authorized to vote in voting centers different from those where they were registered. This particular irregularity made it difficult to control the number of times party representatives cast their vote. The EOM could not determine how many of the 900,000 *mandataires* showed up to vote, how many effectively voted, or where. The CEP had the means to verify this information.

Among the electoral organization shortcomings observed, the Mission also identified a lack of training among polling station workers on how to follow the procedures set forth in the election law. Specifically, the Mission observed confusion on the part of poll workers when it came to completing the counting protocols.

It is worth noting that the October 25 elections unfolded in a climate of general calm and that thanks to a stepped up police presence, acts of violence were isolated.¹² On this occasion, the police made 278 arrests over the course of the day and only six voting centers were unable to open because of disturbances. The Mission took note of the considerable improvement in security, especially when compared with the August 9 elections.

As had happened in the previous election, the CEP did not issue preliminary results on election night, meaning that the public had no clarity as to who might be their next president.

The post-election period

As part of the EOM's tasks, members of the OAS observer team organized into continuous eight-hour shifts for 10 days, covering 24 hours a day, to observe the activities of the Vote Tabulation and Verification Center (CTV). This nonstop observation offered the EOM a comprehensive view of the quality of the records and identified specific areas that might require special attention.

Over this period, the EOM met with political parties, candidates, and members of civil society who had requested meetings with it. This phase enabled the EOM to put together substantial information in order to develop a series of recommendations for the CEP aimed at improving processes leading up to the runoff presidential election.

12. Particularly in Borgne in Nord, Côte de Fer in Sud, and Belladère in Centre.

The CEP announced the preliminary results of the presidential election on November 5, 2015. Hours before the results were announced, the EOM had forwarded the results of the statistical sample it had taken the day of the election to the Haitian government, the CEP, and those involved in the electoral process. It bears noting that the results of statistical sample of the EOM were consistent with those published by the CEP. The Mission subsequently made three additional statistical comparisons, taking into account the official reports as well as its observers' incident reports, also eliminating discrepancies between its data and the official results. In the four statistical comparisons made by the Mission, the first four places remained the same.

The results of the presidential election were not accepted by Jude Celestin, nor by seven other presidential candidates who joined forces in a coalition called G8 and then once again asked for an independent election evaluation commission to be created. After several weeks, on December 16, President Martelly decided to create a commission, which was installed on December 22. One day earlier, the CEP had announced the postponement of the elections without providing an alternative date.

The Mission received repeated invitations to become an active part of this independent commission. Under the principle that national actors should not be substituted, and for purposes of keeping the EOM impartial and neutral, a decision was made to simply observe the commission's work. Despite the fact that this independent commission had very little time to do its work and that its members lacked technical election-related expertise, it did uncover irregularities in the process and recommend the immediate implementation of a series of measures for the runoff election.

The President announced that the elections would be held on January 17. Three days later, however, the CEP reported that it would be technically impossible to organize the elections by that date. With this in mind, the President published a decree on January 6 inviting the public to take part in the elections to be held on January 24. The President also announced that the presidential elections would be held separately from local elections, which is a recommendation the EOM had made.

Despite the concessions obtained with the creation of an independent commission, change of date, and separation of the elections, as well as a number of measures taken by the CEP to improve the process, Jude Celestin once again made his participation in the runoff conditional. He called for the resignation of the members of the CEP, 30 additional days for campaigning, and lastly for the election to not be held while President Martelly remained in office. While Celestin made public statements indicating that he would not take part in the runoff, he never formally withdrew his candidacy.

On January 11, senators and deputies from both the ruling party and the opposition took office; all of them had been elected in the August 9 and October 25 elections, respectively.

The new Senate voted on a non-binding resolution in which it asked the CEP to postpone the elections and investigate the irregularities detected by the independent commission. Civil society organizations, the Catholic Church, the Protestant Church, national election observation groups, and human rights organizations also took this position. Meanwhile, the CEP continued to move forward

with preparations despite the resignation of two of its members and the fact that two others refused to work on organizing the elections, though without having officially submitted their resignations.

The CEP, originally comprised of nine members, ended up with five active members.¹³ This situation, in addition to accusations of corruption, bias, and incompetence, affected its credibility as election arbiter.

On January 18, Jude Celestin confirmed, via a televised message, that he would not take part in the runoff election. In this context, the EOM encouraged the political actors to engage in a dialogue as a way to find a solution to the political impasse. It also emphasized the importance of having better conditions for conducting a competitive process, taking into account the fact that Article 3 of the Inter-American Democratic Charter stipulates that access to and the exercise of power must be in accordance with the rule of law and that periodic, free, and fair elections based on secret balloting and universal suffrage should be held.

As a result of the escalating violence, on January 22 the CEP announced that it could not guarantee the elections would be held and asked the President to postpone them. Regrettably, the OAS Mission was also victim of the violence. Over the course of two days, six of our observers were attacked; these attacks jeopardized their physical safety and security and caused significant material damage to the vehicles they were riding in. The EOM extended special thanks to MINUSTAH for its quick response to the events and for the security it provided.

On January 27, 2016, a special session of the OAS Permanent Council was convened at the request of the then President of Haiti, Michel Martelly, who asked Secretary General Luis Almagro to send a special Mission to his country. The Mission was requested under the auspices and framework of article 17 of the Inter-American Democratic Charter and its deployment was authorized by the Permanent Council. The Mission's mandate was "to assess the situation in Haiti by establishing a dialogue with all the relevant parties" in order to report back to the Permanent Council. The Mission, which was headed by Ambassador Ronald Sanders, Permanent Representative of Antigua and Barbuda to the OAS,¹⁴ helped Haiti emerge from the crisis.

On February 5, President Martelly signed an agreement with the presidents of the Senate and the Chamber of Deputies, Jocelerme Privert, and Chozler Chancy, respectively, to initiate a transition period. The OAS Special Mission had the honor of being invited to witness the final negotiations and official signing of the agreement at the Presidential Palace on February 5. On

13. The active members of the CEP were: Pierre Louis Opont, Yolette Mengual, Lourdes Edith Joiseph, Marie Carmel Paul Austin, and Carline Viergelin.

14. The Mission was headed by Ambassador Ronald Sanders, Permanent Representative of Antigua and Barbuda to the OAS. It was also comprised of Gabriel Bidegain, Political Advisor to the Secretary General; Ambassador Sonia Johnny, former Permanent Representative of Saint Lucia to the OAS; Steven Griner, Acting Director of the Department of Sustainable Democracy and Special Missions; Frederic Bolduc, Special Representative of the Secretary General in Haiti; and Paul Spencer, Special Advisor in the Secretariat for Democratic Strengthening.

February 14, 2016, Jocelerme Privert was sworn in as interim President of the Republic of Haiti for a period of 120 days to conclude on June 13.

After numerous difficulties in connection with appointing a Prime Minister—the first candidate, Fritz Alphonse, did not receive the necessary votes in Parliament—Enex Jean Charles was selected on March 24 by the National Assembly to assume the functions of Prime Minister of Haiti, with his cabinet. At the same time, the interim President, with the support of civil society representatives, worked to create a new CEP, the new members of which were sworn in on March 30, 2016.¹⁵

Given the general political instability generated by the postponement of the runoff presidential election and the creation of an interim presidency, a decision was made to create a new independent commission tasked with examining and verifying the results of the October 25, 2015 elections.

Independent Electoral Evaluation and Verification Commission (CIEVE)

On April 28, 2016, the Independent Electoral Evaluation and Verification Commission (CIEVE) was created by means of presidential decree.¹⁶ The CIEVE was given the task of evaluating, verifying, and refining the technical procedures used during the first round of presidential elections on October 25, 2015. The decree specified the Commission's terms of reference and its functioning, as well as its mandate (one month starting on the date its activities commenced). The CIEVE was comprised of five members appointed by the President.¹⁷

The CIEVE assumed its mandate with the four following objectives:

1. Evaluate the voting process by examining voter rolls, lists of registered voters at each polling station, vote tally sheets, election ballot records, registration of political party representatives and observers, and documents related to incidents and complaints filed;
2. Evaluate all of the decisions of the CEP's dispute-settlement bodies that were regularly targeted by documented protests and complaints and determine whether such decisions should be reviewed;
3. Verify whether the elections and the vote recount were consistent with the provisions of the March 2015 electoral decree; and
4. Recommend corrective measures to the Executive Branch and the CEP aimed at restoring trust in the electoral process and ensuring the reliability of the results.

15. The composition of the CEP was as follows: Leopold Berlangier – President; Carlos Hercule – Vice-President; Marie Frantz Joachim – Secretary General; Frinel Joseph – Treasurer; Kenson Polynice – Member; Marie Herolle Michel – Member; Josette Jean Dorcelly – Member; Lucien Jean Bernard – Member.

16. The presidential decree was published in *Le Moniteur* No. 77.

17. President – François Benoît; Spokesperson – Gédéon Jean; Statistician – Erick Gaillard; and members, Marc Donald Jean and Pierre Wilfried Sanon.

An OAS team comprised of four experts in electoral processes from the Department of Electoral Cooperation and Observation (DECO/OAS) observed the work of the Commission. The CIEVE worked with a statistical sample of 3,235 voting records, which represented 25 percent of the total number of ballots cast during the October 25 presidential elections. Members of the CIEVE randomly selected the sample in the presence of representatives of political parties and international observers.

On May 30, 2016, once the technical and legal analysis focused on verifying the aforementioned statistical sample had been completed, the CIEVE presented its final report wherein it recommended the continuation of the presidential election with a new first round and a potential runoff. At the same time, it suggested that measures be taken to ensure Haitians' right to vote and improve the electoral process. Though not explicitly stated, the Mission understood this decision to mean the formal annulment of the October 25, 2015 presidential election rather than a continuation of the process. The EOM pointed out that the results of the other elections held that same day were not voided despite the fact that they had suffered from the same shortcomings.

Presidential and legislative elections (November 20, 2016)

Once the CIEVE had concluded its work, the CEP published a new electoral calendar, which set October 9, 2016 as the date for the presidential and legislative elections. Because of the damage caused by Hurricane Matthew, which crossed the western point of Haiti the first week of October, the elections were postponed until November 20, 2016. The Mission was already present in Haiti with 25 regional coordinators and experts when the elections were postponed. The Mission's team deployed to the different areas affected to witness the damage; their findings were shared with the CEP.

In early November, the OAS began to deploy 130 experts and observers—38 percent of whom were women—from 24 countries. For these elections, the Mission had experts who conducted a detailed analysis of topics like election-related technology and organization, voter registration, gender, and statistics.

Pre-election period

On November 20, 2016, citizens could vote for:

- A president
- One-third of the members of the Senate
- In the Departments of Nord, Centre, and Grand'Anse, runoff Senate elections
- In 25 communes, one representative for the Chamber of Deputies
- In the communities of Ouest 1 and Cabaret, runoff elections for deputies
- In Côte-de-Fer, three municipal offices

The list above reveals the complexity of these elections. In some regions, for example, voters had to vote for president, three senators, and one deputy, while in others, voters only had to vote for president and one senator. This led to confusion among the public when it came time to vote because of the lack of information geared specifically toward each region.

As a result of the voter roll update done in 2016, the number of voters increased from 5,871,450 in 2015 to 6,189,253 in 2016. The CEP's decision to reopen the voter rolls for this election cycle translated into an increase of approximately 318,000 voters, which posed a challenge to the limited capacities of the National Identification Office (ONI) with regard to providing ID cards to the new voters in time. This challenge was aggravated by the aftereffects of Hurricane Matthew.

Nationwide, the number of polling stations went from 13,724 (2015) to 11,993 (2016). This reduction was accompanied by an increase in the number of voters registered at each of the stations (from 450 to 550) and an increase in the number of voting centers. These measures sought to reduce the number of people in the voting centers as well as to bring voting to the people. In addition, the CEP decided to not allow individuals who did not appear on the voter rolls to vote as had been done in the 2015 elections.

Another of the developments in this election was the regulation of the registration of political party representatives. On this occasion, the CEP adopted a regulation that reduced the number of representatives per polling station (from 10 to 5) and implemented an online registration system for political party representatives and observers. The Mission observed that these developments, added to the lower number of candidates at the national level, helped make registration more organized and controlled.

In addition, the EOM observed that the CEP took measures to prevent members of its temporary staff (i.e., polling station workers, guides, security agents) from registering as representatives of political parties.

Election day

On election day, the EOM/OAS deployed a team of 130 experts and observers of 24 nationalities to observe the elections in Haiti's 10 departments from the time the polls opened until the votes were tallied, visiting 474 voting centers.

The EOM/OAS observed that, on average, all the polling stations where it was present opened at 6:50 a.m. and they all had the necessary election materials. The Mission also observed that, when the voting centers opened, voters were able to find their polling station with ease. The assistance of the temporary staff and the use of posters with indications about how to vote helped to better guide the public.

The EOM observed certain improvements in connection with the use of a new voting booth design, which enhanced voting secrecy considerably. The EOM also viewed the decision made by the authorities to use a new kind of indelible ink as a positive aspect of the process. Besides being more visible, the ink was longer-lasting than the ink in the applicator used in 2015. The EOM did note, however, that whether or not voters had ink on their fingers was not always verified before they were allowed to vote, nor was the ink applied systematically.

The Mission also observed that the efforts made to regulate accreditation translated into more orderly and seamless voting. The EOM/OAS observed fewer national observers in the polling stations compared to October 2015. The Mission firmly believes in the contributions national observers make to electoral processes.

The EOM/OAS acknowledges the efforts undertaken by some of those involved in organizing the elections to make voting easier by using supplementary lists. Implementation of this initiative, however, came up against obstacles, including the late delivery, consolidation, and printing of such lists. The Mission also observed cases of discrepancies between the partial voter rolls posted outside the voting rooms and the voter rolls being used by polling station workers.

Once the polls had closed, the Mission took note of the lack of coordination for delivering the materials. The ballots did not make it to the Vote Tabulation Center—where hundreds of operators were waiting—on election night; the first documents were turned in at 8:15 a.m. the next morning. This situation, which raised alarm, was the result of a decision made by the institutions involved to only transport election-related materials during the daytime.

It is worth pointing out that election day transpired with less tension and fewer violent incidents than in October 2015, as well as with fewer disruptions to the voting process in general. The Mission applauds the efforts of the Haitian National Police (PNH) and MINUSTAH to ensure a generally ordered and safe voting environment.

The post-election period

The EOM/OAS maintained a continuous presence while the votes for the 2016 presidential elections were being tallied. The preliminary results were announced on November 28 and the final results were presented on January 3, 2017. Jovenel Moïse (PHTK) secured 55.6 percent of the vote, followed by Jude Célestin (LAPEH), who got 19.57 percent of the vote,¹⁸ and thus the presidential election was decided in the first round. It is worth noting that the results coincided with the statistical sample taken by the EOM. Voter turnout, calculated based on the number of valid votes, was 21.06 percent—lower than that of October 25, 2015 (28.63 percent). Regrettably, this continues to be a very low turnout rate and the Mission is concerned about Haiti having the lowest voter turnout in the Hemisphere when it comes to presidential elections.

The challenges to the electoral results bear mentioning. The day after the presidential elections, three of the candidates (Jean-Charles Moïse of Pitit Dessalines,¹⁹ Jude Célestin of LAPEH,²⁰

18. They were followed by Jean-Charles Moïse (Pitit Dessalines) and Maryse Narcisse (Lavalas) with 11.04 percent and 9.01 percent of the vote, respectively. The BCEN would confirm the candidates' positions after they had settled their cases with the bodies responsible for handling disputes.

19. In support of his petition, Jean-Charles Moïse stated that the CEP had registered representatives of his party in different districts without informing them ahead of time. At the same time he maintained that pursuant to calculations based on the records posted on the CEP's site, Jovenel Moïse had secured just 33.56 percent of the vote, while he himself had received 24.43 percent; he thus requested a full recount, a re-tallying of the ballots, and in general, verification of the enforcement of

and Maryse Narcisse of Fanmi Lavalas²¹) filed requests with the BCED of Ouest to have the presidential election annulled, alleging irregularities and widespread fraud.

The BCED ruled that these requests were inadmissible because they required a verification of the records, specifically the ballots sent to the CTV, and only the BCEN has the authority to decide on such requests for verification. The three petitions were thus forwarded to the BCEN.

Pursuant to the applicable provisions, a lottery was used to choose the members of the BCEN—five judges in total (but without any announcement of either the number or names of the candidates for these positions).²² Once the lottery was done, the Vice-President of the CEP announced the creation of the BCEN in a single chamber, which prompted a reaction by the complainants who argued that this was not consistent with the provisions of the electoral decree.²³

Although the parties challenged the idea of having members of the CEP comprise the BCEN, such challenge was rejected.²⁴ Subsequently, the complainants requested a thorough verification (78 percent) of the voting records. In addressing the request, the BCEN decided to order the verification of 12 percent of the voting records from the presidential elections (that is, a total of 1,560), which were to be chosen at random.

Lastly, on January 3, 2017, the BCEN issued its decision and stated that, “it did not find widespread fraud, but rather irregularities that cannot affect the election.”²⁵ The dispute-settlement procedures in connection with the presidential elections thus concluded.

Runoff legislative elections and local elections (January 29, 2017)

On January 29, 2017, elections were held to select senators in eight departments. In the rest of the country, there were local elections and voters, depending on their place of residence, cast their

the provisions of the electoral decree having to do with voting methods and the validation of voting records.

20. In support of his petition, Jude Célestin cited a series of irregularities as well as widespread fraud, and thus requested a thorough verification of the vote tally sheets and of the voter rolls corresponding to the ballots counted at the Vote Tabulation Center.
21. In support of her petition, Maryse Narcisse argued that there had been irregularities in the ballots vis-à-vis the provisions of Article 158(1) of the electoral decree (registration of voter numbers, signature or fingerprint on the voter roll) and, according to her calculations, 22 percent of the ballots showed flagrant signs of fraud, for which reason she asked to have the fraudulent ballots ruled out unless they could be matched up to the voter roll and vote tally sheet.
22. This happened again in the hearing held on Tuesday, February 16, 2017, which had been convened to give the BCEN the opportunity to announce its decisions in the following cases: C. Clérie v. R. Toussaint; T. Saintilius v. R. Fethière; F.C. Lebon v. P.F. Sildor; and A. Descollines v. R. Célestin.
23. Article 18 of the electoral decree stipulates that: “The BCEN is headquartered in the Provisional Electoral Council (CEP). It is comprised of three (3) chambers.”
24. <http://www.haitilibre.com/article-19554-haiti-flash-officiel-le-cep-rejette-les-demandes-de-recusation-de-tous-les-plaignants.html>
25. <http://www.haitilibre.com/article-19690-haiti-flash-le-bcen-rend-sa-decision-finale.html>

votes for either municipal delegates (urban areas) or members of the ASECs or CASECs (rural areas). In Roseaux and in Grand'Anse, there was an additional race for deputy because it had been impossible to send election materials in time for the November 20, 2016 elections due to inclement weather.

With this, all elected positions were finally filled by means of direct election. This day marked the end of the election cycle Haiti had begun in August 2015 and on this last occasion the Mission deployed 77 observers from 21 countries who visited the voting centers, departmental and communal polling stations, and the different locations of the CEP.

The pre-election period

The EOM observed little clarity as well as inequities when it came to the demarcation of voting districts for local elections. Since no population census exists, the CEP lacks the tools to clearly determine the demographic weight of each electoral district. Likewise, in some areas, the Mission took note of the fact that the elections had been organized based on outdated administrative maps that did not reflect the territorial divisions in place when the elections were held in the country, above all in the urban areas of the Department of Ouest.

According to CEP data, 50 candidates were rejected when the electoral lists for the CASECs were registered. These candidates were rejected because of their young age on the one hand, and for failing to meet the gender quota on the other. A similar number of candidates were rejected when they went to register for the ASECs. Twenty-one candidacies for municipal delegate could not be formalized.

Regarding the training of polling station workers, most of whom had already held such positions, the CEP provided very basic instruction the week before the elections. The EOM observed that this training was not informative. The handbook for poll workers, which should have been an important work tool, was not used in the schools visited by the EOM on the training days. This notwithstanding, at their own initiative, the supervisors of several communities convened their staff for a day of review the day before the elections.

The CEP's election-related communications campaign was limited. The public had very little information about the different positions up for election or the functions those elected would discharge once they took office. At the same time, the political parties conducted very limited campaigns. Voters lacked sufficient information for making informed decisions on election day.

Election day

The EOM/OAS deployed 77 observers and experts (48 percent were women) of 21 nationalities, who visited 285 voting centers in Haiti's 10 departments. All of the polling stations observed opened on time and had received the necessary materials. The observers noted the presence of police and election security agents (ASE) as well as of voting center supervisors and advisors, all clearly identified.

Over the course of the day, the Mission observed a consolidation of the achievements made during the November 20 elections, in addition to further improvements. The EOM/OAS nevertheless believed that the authorities have to remain vigilant since it once again observed cases of vote buying, canvassing, and election-related violence, as well as discrepancies between the voter rolls posted outside the polling stations and the rolls being used by the poll workers.

This already complex electoral process—with more than 31,000 candidates and 1,200 types of ballots— became even more so because of districting problems that became apparent on election day. On election day, the Mission observed great confusion among both those running the polling stations and citizens because as the hours passed the possibility to vote for ASEC and CASEC posts was added; these are posts for which only individuals in rural areas have the right to cast votes. Subsequently, the CEP did not count the votes cast in urban areas for ASEC and CASEC positions. This situation was made worse by insufficient election-related education and information.

For the January 29, 2017 elections, political parties had the opportunity to register 150,028 representatives but registered only 75,725, that is, less than half. Of the groups and parties registered for the elections themselves, just 69 registered representatives. There weren't just fewer representatives; it also appears their presence was less diligent: 13 percent of the polling stations began operations without the presence of political party representatives.

The post-election period

The EOM observed, with a team of seven people, that measures were taken to hasten the delivery of the ballots to the CTV for processing. In this regard, an additional ballot receipt center was set up in the Department of Ouest and a more effective transportation logistics system was adopted with better vigilance of the materials.

A few hours after the polls closed, the first ballots began to arrive at the CTV. The data was processed faster thanks to an increase in the number of workers at the CTV and to the introduction of new security elements.

On February 3, 2017, the preliminary results of the Senate elections were published. Candidates then had 72 hours to go to the tribunals (Departmental Office for Electoral Disputes (BCED) and the National Office for Electoral Disputes (BCEN)) to challenge the results. A total of four challenges were filed: Three in connection with the Senate elections (Departments of Nord, Centre, and Sud) and one in connection with the additional elections in Roseaux. The BCEN rejected the challenges and upheld the preliminary results. The BCEN in the Department of Centre was the target of disqualification and therefore had to be reconstituted with new members.

The CEP announced both the preliminary and final results before the dates it had set in the electoral calendar, revealing improvements in the way the CTV operated. The Mission observed that considerable and continuous efforts had been undertaken for the January 29 elections to enhance the training of poll workers and improve the way in which voting records were transported to the CTV.

On this occasion, voter turnout—which reached 27.44 percent—also improved. Local elections do not normally see higher turnout rates than presidential elections. Bearing in mind the foregoing, the EOM believes it is important to build up these representative bodies and thus strengthen democracy from the local level to the national level.

Observations and recommendations

Over the course of the last two years, and based on the data compiled by the 504 experts and observers deployed on the ground, the EOM observed that several key components of electoral organization have gradually improved; this can be attributed to the institutional strengthening of the CEP. The Mission further recognizes Haitians' commitment to holding better elections and their progressive appropriation of each of the elections conducted. The Mission invites Haitian actors to continue along this path and to undertake substantial reforms, among them, a purging of the voter roll and a review of the legislative framework related to elections.

With the constructive spirit that characterizes Electoral Observation Missions, a series of observations and recommendations based on the data compiled over two years of work in Haiti is presented below.

Institutional structure

Since 1987, Haitian legislation has considered the Provisional Electoral Council (CEP) to be a temporary jurisdictional and administrative body. This means that its mandate has to be defined, its members appointed, and its operations planned for each electoral process, bearing in mind budget limitations. In addition, operation of the BCEN and the appointment of its members fall to the authorities of the CEP. This means the CEP has two responsibilities: Organizing elections and settling disputes.

The Mission recommends the creation of two standing electoral bodies in which there is a clear separation between election organization functions and election jurisdictional functions. This would make it possible to begin consolidating processes like voter registration, political candidate and organization registration, election logistics, voting, vote counting and the announcement of election results, election-related education, campaign finance monitoring, and election-related disputes.

This would likewise make it possible to professionalize the jurisdictional area and as a result, minimize the number of challenges to decisions and judgments. The EOM recommends that a professional training program specializing in election-related issues for the attorneys that comprise this new body be conducted to enable them to provide a legal basis for their decisions with greater precision and thus minimize the number of challenges against them.

The EOM also recommends consideration be given to the creation of an ongoing mechanism for dialogue between political parties and election authorities in order to promote understanding among the different sides and enhance trust in the electoral process as a whole.

Voter rolls

The Mission observed that the voter roll has not been properly updated since 2005 because, among other reasons, citizen deaths are not effectively recorded as no systematic process to do so exists. The roll is drawn up based on a list of citizens prepared by the National Identification Office (ONI), which is also responsible for providing citizens with the document required for voting—the national ID card (CIN).

Bearing in mind the need to have an accurate voter roll and that the ID cards are set to expire in 2017, the EOM recommends that the ID cards be replaced with new ones; this would translate directly into an update of the civil registry and, consequently, of the voter roll. This would also ensure that the information contained in the General Electoral Roll (LEG) or on the CEP's voter roll is updated for future elections, leading to increased voter participation and thus lending greater legitimacy to future elections.

Electoral organization

Given the issues observed on the different election days, the EOM recommends improved training for those who work at polling stations, including teaching materials with graphs and pictograms related to specific procedures. The handbooks developed should also be distributed widely to the representatives of the political parties. As far as main themes are concerned, it is important for the training to include topics related to accessibility and assisted voting.

During the vote count, officials at the Vote Tabulation and Results Verification Center (CTV) separate ballots containing inconsistencies or administrative errors from the count. The Mission observed a lack of clarity in the criteria used for making those decisions. In addition, unless the representative of a political party files a challenge during the dispute period, such ballots are not counted in the final tally. The Mission recommends that clear procedures be developed for the review of ballots both at the CTV and during the jurisdictional stage.

The EOM further observed that it took weeks to announce the results of all of the elections. This situation prompted doubts about the process and uncertainty in the post-election phases. The EOM recommends that a reliable and transparent preliminary results mechanism be developed by means of which the CEP can notify the public of the results in a reasonable timeframe.

Electoral districts

During the January 29, 2017 elections, the EOM observed little clarity when it came to the demarcation of voting districts for local elections, which led individuals living in urban areas to vote for positions that corresponded to rural areas, although in the end these votes were not counted by the CEP. For this reason, the Mission recommends that the competent authorities redraw voting district boundaries, taking into account objective criteria as well as how urbanization levels in different areas of the country have evolved.

Registration of candidates

Candidates for elected office in Haiti must submit a *décharge* [disclosure], which is a document attesting to—as the case may be—the proper management of public funds in the performance of previous functions. Two institutions issue this document: The Parliament (for individuals who have been Ministers) and the Superior Court of Accounts and Contentious Administrative Proceedings (CSCCA) (for public servants). It is important to note that the regulation contains no time limit for processing the *décharges* and thus registration deadlines often elapse without candidates having obtained the documentation. There is also no clarity in the enforcement of the electoral decree with regard to this matter.

With the foregoing in mind, the Mission is recommending a review of the requirements, a streamlining of processes, and the establishment of temporary frameworks to prevent the *décharges* from being used as a political tool to dispense with political opponents, and thereby ensure the political rights of candidates so they may participate fully in political contests.

The CEP's communications strategy

The Mission would like to highlight the efforts made by the CEP to provide the public with basic information about the elections. The information provided was, however, very limited and distributed just a few days before the election. The Mission recommends that the CEP continue working to design and develop comprehensive communications strategies that specify the type of election, voting methods, and the functions those elected will have to discharge.

Participation of women

The effective presence of women in the three branches of Haiti's national government remains very low following the elections. While women represent more than half of registered voters (50.24 percent), just one woman was elected to the Senate, and three to the Chamber of Deputies. This reveals that the 30 percent quota²⁶ is not being respected and that the incentive of a 40 percent discount in registration costs is not effective. It bears mentioning that when it came to the presidential elections, just 11.1 percent of candidates were women. Likewise, in the case of the legislative elections, women accounted for 8.6 percent of the candidates for the Senate and 7.9 percent for the Chamber of Deputies.

For the local elections on January 29, 2017, the percentage of women at the polling stations nationwide was as follows: Chairs of polling stations, 31.9 percent; vice-chairs, 43.6 percent; and secretaries, 42.5 percent. No substantive differences were found in these figures compared to elections in years prior.

The Mission draws attention to the registration platform established by the CEP for candidates in municipal and local elections. This system made it possible to considerably reduce registration-related delays and prevent the duplicate registrations that had been seen in previous elections. It also helped to meet the 30 percent quota since one of the conditions for validation of a

26. Article 17(1) of Haiti's Constitution.

pre-registration form online was the requirement of having at least one woman on the list of candidates.

It is important to note that women accounted for more than 40 percent of candidates for local offices. Figures indicate that, following the elections, women make up 34 percent of municipal governments in Haiti. In addition, women occupy 40.89 percent of the posts in municipal delegations, 34.1 percent in communal section boards (CASEC), and 41.3 percent in communal section assemblies (ASEC).

The EOM/OAS recommends a penalty system be established in the regulations to ensure that only lists meeting the 30 percent quota are registered. To accomplish this, the Mission suggests that the Haitian authorities use the online registration system that was effectively deployed in the local elections for future legislative elections.

Conclusions and acknowledgements

The Mission reiterates the need for a comprehensive reform of the laws that regulate Haiti's electoral system. The formation of a new legislature in the Haitian Parliament represents an opportunity to pass a new election law that would replace the current decree, which would lend greater legal certainty to future elections.

Lastly, the EOM would like to thank the Haitian election officials and authorities, as well as the Haitian people, for their collaboration, which made it possible for the Mission to effectively discharge its functions. The Mission further wishes to thank Argentina, Brazil, Canada, Chile, China, France, Italy, Kazakhstan, Korea, Mexico, Peru, the Philippines, Spain, Switzerland, and the United States for their contributions, as well as the UNDP and MINUSTAH, for all of their support.