

PRESS STATEMENT ON THE PRESIDENTIAL AND LEGISLATIVE ELECTIONS OF 28 NOVEMBER 2010

Introduction

Present in Haiti since August 2010, the OAS-CARICOM Joint Election Observation Mission was able to monitor the administrative, technical and logistical preparations for both the postponed legislative elections and the presidential elections. In view of the fact that the legislative elections should have been held on 28 February 2010, but were postponed following the devastating earthquake of 12 January, the JEOM was not present for the political dimension of the legislative elections, the registration of political parties and the submission and validation of candidates. The Mission however notes that an important facet of this phase which would have an impact on the political dimension of the remainder of the electoral process was the non-validation of a number of political parties.

In the course of its monitoring activities, the JEOM made a number of observations, comments and recommendations to the Provisional Electoral Council as well as the political parties, which it believed could have been of assistance in bringing about free and fair elections.

The Last Preparatory and Election Campaign Phases

Despite the doubts cast by some commentators on the electoral register and the manner on which it was prepared, the JEOM is of the view that its preparation was in keeping with the respective legal responsibilities of the ONI and CEP. The late submission of the last batch of names by the ONI was unhelpful, but was no doubt due to the late surge of persons wishing to register in September, a mere two weeks before the transmission of the ONI data base to the CEP.

The very late launching of the “Where to Vote” campaign and the saturation of the call centres put in place by the CEP and, later, the Private Sector Forum, did not fully offset the negative repercussions of the delayed campaign. This would have a grave effect on the ability of voters to find their polling stations on Election Day and

create an atmosphere of intense frustration and tension. The Mission believes that at the same time citizens have the responsibility to make an effort in advance of Election Day to identify their Polling Stations.

Despite the swift rise in election-related acts of violence and civil unrest in the last days of the campaign as pre-Election Day tensions rose and several earlier scuffles and grave incidents, the election campaign was to quite an extent well conducted and to the credit of the political parties and the citizenry. The public rallies, candidate posters, radio and television debates, the efforts of the media to inform the public on the candidates and their programmes, as well as the polling, helped to instill some excitement in the campaign despite the dampening impact of the ravages of the cholera epidemic.

The JEOM noted and commented publicly on the enormous disparity in resources enjoyed by the ruling party and its competitors. It also noted that a number of presidential candidates appeared to have stopped campaigning with one conceding publicly that he had withdrawn.

The last days of the election campaign were accompanied by rumours as well as allegations by leading presidential candidates of preparations for massive fraud. Senior officials of the CEP appeared to be swept up in this toxic atmosphere and unhelpfully added their voices to these unsubstantiated claims.

Election Day Safeguards

Drawing the lessons from previous election experiences, including the partial legislative elections of 2009, a number of safeguards were built into the voting and vote count procedures:

- photographs accompanied the names of the voters on the polling station registers. However, the identity card numbers were left off in order to prevent the known practice of poll workers signing for absent voters and stuffing ballots;
- the ballots and proces-verbaux contained security features to deter counterfeiting;
- the tally sheet procedures also included deterrent elements to prevent the changing of the results;

- the provision of tamper-proof transparent envelopes for the tally sheets and other sensitive voting material.

Election Day

Election Day was marred by a number of irregularities:

- late opening of Polling Stations
- inability of many voters to find the correct Voting Centre and/or Polling Station;
- inability of voters to find their names on the electoral registers posted up outside the Polling Stations;
- saturation of the call centres overwhelmed by callers seeking where to vote;
- instances of incorrect application of voting procedures (the signing of the ballots by BV Presidents before the arrival of the voter);
- instances of voter manipulation – repeat voting of some voters facilitated by complicit poll workers and unidentified party agents;
- the lack of control of already limited voting space by the poll workers , as well as the indiscipline of many mandataires, led to clogged polling stations where control of the process became tenuous and facilitated misconduct.

The observation reports transmitted by the JEOM observer teams indicate that the voting process unfolded far more smoothly in most of the provinces than in Port-of-Prince, though the above irregularities were also observed.

There were also deliberate acts of violence and intimidation to derail the electoral process both in Port-au-Prince and the provinces. More subversive of the process was the toxic atmosphere created by the allegations of “massive fraud”. The JEOM observed instances where even before the voting started, any inconvenience or small problem led to the immediate cry of fraud. Such conduct continued during the day.

The presence of 66 parties meant that there would be a large number of party agents (“mandataires”) deployed. Foreseeing the problems that this would cause, the CEP had indicated that no more than five

party agents would be allowed into the Polling Station at any one time. Rotation of party agents would therefore be necessary. However, all would be permitted to monitor the vote count. The JEOM observed the problems that this arrangement caused with many party agents claiming that their party agents were being denied entry. The JEOM teams followed up in several parts of the country the complaints made to it by party representatives on this problem and found that in general the complaints were not founded. This became another reason to cry fraud.

The electoral process continued until the very end in all the Departments despite the destruction of Polling Stations in a number of locations, discontinued polling in some polling stations because of rising but localized insecurity, and limited incidents of serious violence. According to information provided by MINUSTAH, the total number of Polling Stations destroyed did not exceed 4% in the entire country.

Recommendations to the CEP

Immediately struck by the deficit of credibility of the CEP and the lack of confidence it enjoyed on the part of the political parties, a perception which was repeatedly reinforced by both the political parties in their declarations and the media in their reporting, the JEOM suggested the following which it transmitted to the CEP as well as to the wider public through its press reports and releases:

- the CEP needed to be more open and communicative vis-à-vis the political parties and the wider public on its decisions and proposals in order to achieve greater transparency. To its credit, the CEP did take several steps in this direction. It held three meetings with the political parties, thereby providing a space for frank dialogue with the political parties and civil society, an essential ingredient in any electoral process. It also made its judicial services available to the non-validated presidential candidates. Despite the increase in suspicion towards the CEP following the controversial decision it took on the discharge for presidential candidates early in the presidential elections process, the CEP was successful in restoring some of its lost credibility. However,

these gains were dissipated in the last two weeks of the pre-election period by the controversies and disruption that surrounded the recruitment of the electoral supervisors, and the knock-on effect on the designation of the poll workers, the persons designated by the political parties;

- the CEP should be more communicative. Regrettably, its communication strategy never fully lived up to expectations and was further weakened by the late launching of its most important public-related initiatives such as the voter sensitization, the public information and the “Where to Vote” campaigns. The latter would have a critical negative impact on the ability of voters to find their polling stations on Election Day;
- the importance of the training of supervisors and poll workers. Aware of the weaknesses that marred the handling of the tally-sheets and the packaging of the sensitive voter material, the JEOM underlined the critical importance of these aspects of the training. Regrettably, the effectiveness of the training was marred by the disruption and protests caused by the controversies referred to above. This no doubt played a role in the weaknesses observed in their work on Election Day.

The mission believes that these recommendations remain valid.

Recommendations to the Political Parties

- the importance of the training of the party agents so they would become the effective protectors of the interests of the parties;
- the importance of their vigilance, combined with that of national and international observers, in preventing fraud on Election Day;
- the importance of insisting on the integrity and neutrality of the persons they would designate as mandataires and poll workers. The actions of a small number of these poll workers on Election Day were contrary to this recommendation.

Conclusions

The JEOM has considered whether the irregularities it observed were of the magnitude and consistency that would invalidate the legitimacy of the process. Based on its observations in the eleven electoral departments, the Joint Mission does not believe that these irregularities, serious as they were, necessarily invalidated the process.

Despite the disruptions of the polling and vote count process in several locations and the withdrawal decision made by twelve presidential candidates, the legislative and presidential elections continued until the end of the voting and vote count.

The decision of the twelve presidential candidates to call for the cancellation of the elections a few hours after the start of the process was precipitate and regrettable. Moreover, these candidates should have been minded of Article 226 of the Electoral Law which establishes that “the interruption of the vote for whatever the cause and wherever cannot be considered a reason to cancel the elections”. These candidates could also have had recourse to the legal remedies available to them by the Electoral Law. Their allegations of “massive fraud” would have been ascertained by the vote count as well as by their substantiation of their claims. The Mission requests that the parties make available this evidence to the CEP within the legally stipulated claims process which is established to ensure the transparency and fairness of the process. Article 178 of the Electoral Law gives a candidate or his or her representative the authority, within 72 hours of the posting of the results, to challenge the election of another candidate if the vote count or the tally sheet were improperly carried out and contrary to the law; and if electoral fraud had taken place.

The Mission will continue to observe the electoral process starting with the operations of the Tabulation Centre today. In concluding, the JEOM reiterates its call to all the political actors for peace and calm in the coming days and calls on them to display leadership by ensuring that their supporters do the same.