



Institute for Justice & Democracy in Haiti
Fighting for the human rights of Haiti's poor



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Aristide's Return to Haiti: Prominent Lawyers and Law Professors Urge U.S. to Respect Human Rights

Prominent lawyers and law professors today wrote to Cheryl Mills, U.S. Department of State Chief of Staff, criticizing United States Government interference with former Haitian President Jean-Bertrand Aristide's constitutional and human right to return from forced exile to Haiti. President Aristide is expected to leave South Africa for Haiti on Thursday, March 17. On Monday, Department of State spokesperson Mark Toner urged the South African government to prevent the plane's departure before Haiti's upcoming elections.

The letter to Chief of Staff Mills explains that U.S. Government's interference in President Aristide's return violates his rights guaranteed by Haiti's Constitution and international law.

Bill Quigley, Legal Director of the Center for Constitutional Rights and Professor at Loyola New Orleans Law School stated that "the United States trying to control when any Haitian citizen—especially a former President—can enter Haiti is outrageous. It violates a stack of binding international human rights treaties. I felt compelled to speak out to defend both President Aristide's human rights and the American tradition of rule of law that I teach in my classroom."

The letter notes that Mr. Toner's expressed justification for restricting President Aristide's right to return home—a fear that he might "impact" elections scheduled for Sunday, March 20, is an additional violation of President Aristide's rights to free expression and freedom to take part in the conduct of public affairs. The letter finds such statements "especially disturbing" coming from a State Department that has noted human rights experts on its staff.

Brian Concannon Jr., Director of the Institute for Justice & Democracy in Haiti, added that "while Secretary Clinton has been promoting democracy and the rule of law in the Middle East,

the State Department has been undermining it in Haiti. It is time for the U.S. Government to practice in Haiti what it preaches elsewhere.”

Over 100 lawyers, professors, students and other individuals have signed the letter, including law professors from Harvard University, New York University, University of San Francisco and Loyola University Law Schools, and lawyers from prominent human rights and civil rights organizations throughout the United States, Canada and Europe.

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To read the letter online, visit: <http://ijdh.org/archives/17766>.



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March 16, 2011

Cheryl Mills, Esq.
Counselor and Chief of Staff
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Re: United States Government Opposition to the Right of Haiti's Jean-Bertrand Aristide to Return

Dear Chief of Staff Mills:

The undersigned lawyers and law professors are writing to express our deep concern that the United States Department of State (DOS) is actively interfering with the human and constitutional right of former Haitian President Jean-Bertrand Aristide to return to his country. As you know, President Aristide was removed from Haiti on February 29, 2004, on board a U.S. Government plane.¹ He has not returned to the country since then.

According to numerous press reports, on Monday March 14, DOS spokesperson Mark Toner stated that “[w]e encourage the South African Government as a committed partner to Haiti’s stability to urge former President Aristide to delay his return until after the elections,” and that “[w]e would urge former President Aristide to delay his return until after the electoral process has concluded....” These statements, read in light of previous United States Government efforts to diminish President Aristide’s presence and influence in Haiti,² demonstrate a deliberate effort to restrict President Aristide’s ability to travel to Haiti.

Haiti’s Constitution³ guarantees the right of any Haitian national to return to the country. The International Covenant on Civil and Political Rights (ICCPR), which is binding on both the

¹ President Aristide and many others assert that the departure was involuntary.

² Including a June 2005 [DOS Cable](#) explaining that the U.S. Ambassador to Brazil and the Embassy Political Counselor “stressed continued USG insistence that all efforts must be made to keep Aristide from returning to Haiti or influencing the political process,” and the U.S. Government role in removing President Aristide from Haiti in February 2004.

³ Constitution of the Republic of Haiti, Art. 41 and 41-1.

United States and Haiti, declares that “[n]o one shall be arbitrarily deprived of the right to enter his own country.”⁴

The DOS justification for restricting President Aristide’s constitutional and human rights- that his “*return this week could only be seen as a conscious choice to impact Haiti’s elections*” is itself a violation of his political rights, including his right to free expression,⁵ freedom of association,⁶ and freedom to take part in the conduct of public affairs.⁷

It is especially disturbing to see such disrespect for internationally-accepted human rights from a Department that has made human rights an important part of its foreign policy, and that includes such noted human rights experts as Legal Advisor Koh and Assistant Secretary Posner.

We would urge you to reconsider the DOS policy of discouraging President Aristide’s exercise of his right to return to Haiti in light of the applicable legal standards, and to announce unequivocally that the United States government supports President Aristide’s right to return, and discourages other countries from interfering with that right.

Very truly yours,

Law Professors, Lawyers & Law Students*

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⁴ ICCPR Art. 12(4)

⁵ ICCPR Art. 19.

⁶ ICCPR Art. 22.

⁷ ICCPR Art. 25

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