

November 28, 2012

His Excellency Secretary-General Ban Ki-Moon  
Office of the Secretary-General  
United Nations Secretariat  
New York, NY 10017

**Re: Request for UN response to claims for reparations for victims of cholera in Haiti**

Your Excellency:

We are writing to urge the United Nations (UN) to demonstrate its leadership in human rights by responding to claims by victims of Haiti's ongoing cholera epidemic. Despite extensive evidence that UN troops brought cholera to Haiti, the UN has not responded to the claims of victims seeking reparations beyond acknowledging receipt, nor articulated a process for reviewing these claims. As a global leader in the promotion of human rights for all, it is imperative that the UN lives up to its obligations under international law to respond to the outbreak and provide victims with access to justice and reparations.

Cholera presents a major barrier to Haitians' enjoyment of fundamental human rights, including the rights to life, health, clean water and sanitation. The epidemic has killed over 7,600 Haitians and sickened more than 600,000 since cholera broke out in October 2010. As Your Excellency has stressed, the situation is "particularly worrying since non-governmental organizations that responded at the beginning of the epidemic are phasing out due to lack of funding."<sup>1</sup>

It is well documented that cholera was introduced to Haiti as a result of reckless sanitation management on a UN peacekeeping base, where untreated human waste from soldiers deployed from a cholera-endemic country leaked into Haiti's central river system. Genetic testing of the strain in Haiti has determined it to be a "perfect match" to the strain active in the troop-contributing country from which the peacekeepers were deployed without being tested or treated for cholera.<sup>2</sup> In March 2012, the UN Special Envoy to Haiti, former U.S. president Bill Clinton, confirmed that UN peacekeepers were the "proximate cause" of the cholera outbreak.<sup>3</sup> Dr. Danielle Lantagne, one of the UN's own independent experts appointed to investigate the source, has publicly concluded that the UN base was the "most likely source."<sup>4</sup> Despite this, the UN has not acted in accordance with its commitment to human rights by accepting responsibility and providing the victims with reparations.

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<sup>1</sup> U.N. Secretary-General, *Report of the Secretary-General on the UN Stabilization Mission in Haiti*, U.N. Doc. S/2012/678, ¶45 (Oct. 31, 2012), available at [www.un.org/Docs/journal/asp/ws.asp?m=S/2012/678](http://www.un.org/Docs/journal/asp/ws.asp?m=S/2012/678).

<sup>2</sup> FINAL REPORT OF THE PANEL OF INDEPENDENT EXPERTS ON THE SOURCE OF CHOLERA IN HAITI (2011).

<sup>3</sup> Associated Press, *Clinton: UN Soldier Brought Cholera to Haiti*, USA TODAY, Mar. 7, 2011, available at <http://www.usatoday.com/news/world/story/2012-03-07/haiti-cholera/53402748/1>.

<sup>4</sup> Mark Doyle, Haiti Cholera Epidemic 'Most Likely' Started at UN Camp – Top Scientist, BBC NEWS, Oct. 22, 2012, available at <http://www.bbc.co.uk/news/world-latin-america-20024400>.

As Your Excellency is aware, in November 2011, 5,000 victims of cholera filed claims with the UN seeking justice in the form of a) compensation for their injuries, b) provision of water and sanitation infrastructure adequate to eliminate cholera, and c) a public apology. These demands comport with the components of full reparations under international human rights law, which includes compensation, restitution and satisfaction. We are troubled that one year has passed since the submission of these claims, with no response from the UN other than an acknowledgement of receipt dated December 21, 2011. Further, the UN has not communicated any steps to provide the petitioners with a fair hearing on their claims.

The UN has long accepted that it has legal responsibility for harms that arise during the course of UN peacekeeping.<sup>5</sup> Through a number of resolutions and treaties, the UN has accepted legal liability for third-party personal injury and death attributable to the organization, and has promised to resolve third-party claims.<sup>6</sup> These commitments correspond with the UN's mission of promoting and encouraging respect for human rights for all.<sup>7</sup> They also comport with the body of international law developed at the UN that protects communities and individuals around the world from human rights violations and guarantees the right to an effective remedy.<sup>8</sup> The UN's responsibility to provide reparations for international harms was affirmed in the International Law Commission's recent Draft Articles on International Responsibility.<sup>9</sup>

As organizations that work toward the realization of human rights and access to justice around the world, we appreciate the singular role of the UN in spearheading progress in the development and implementation of human rights law. We call upon the UN to seize this opportunity to put its principles into practice, and to respect the right of Haiti's cholera victims to an effective remedy. That remedy must include access to a fair, independent, and transparent hearing on their claims and full reparations for injuries attributable to the UN. Continued UN silence and denial would be a grave setback to the progress of recent decades and would irrevocably damage the UN's moral force as a steward of justice and human rights.

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<sup>5</sup> Report of the Secretary-General, Administrative and Budgetary Aspects of the Financing of United Nations Peacekeeping Operations, ¶7, U.N. Doc. A/51/389 (Sep. 30, 1996) ("In recognition of its international responsibility for the activity of its forces, the United Nations has, since the inception of peacekeeping operations, assumed its liability for damage caused by members of its forces in the performance of their duties.")

<sup>6</sup> See e.g., *Id.*; G.A. Res. 52/247, U.N. Doc. A/RES/247 (July 17, 1998) (adopting financial and temporal limitations on third-party liability, thereby reaffirming core principle that UN will be liable for third-party injuries and deaths attributable to the organization); see also Convention on Privileges & Immunities of the United Nations §29, Feb. 13, 1946, 1 U.N.T.S. 15 (committing to resolve private law disputes through appropriate modes of settlement); Agreement between the United Nations and the Government of Haiti Concerning the Status of the United Nations Operations in Haiti ¶¶54-55, U.N.-Haiti, July 9, 2004 (providing that all third-party claims for loss or damage and for personal injury, illness or death arising from or directly attributed to MINUSTAH shall be settled by the UN.

<sup>7</sup> U.N. Charter art. 1, para. 3.

<sup>8</sup> See e.g., Universal Declaration on Human Rights art. 8, ("Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."); International Covenant on Civil and Political Rights art. 2; International Convention on the Elimination of all Forms of Racism art. 6; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 14; and Convention on the Rights of the Child art. 39.

<sup>9</sup> International Law Commission, Draft Articles on the Responsibility of International Organizations, U.N. Doc. A/66/10, arts. 31, 34-40 (Aug. 12, 2011) (reaffirming that international organizations have a responsibility to provide full reparations for injuries caused by internationally wrongful acts).

As Your Excellency stated at the recent UN High-Level Meeting on the Rule of Law on September 24, “rule of law does not occur spontaneously. It must be nourished through the continuous and concerted efforts of leaders.” We urge Your Excellency to reaffirm that the rule of law applies universally and to lead the UN to respond to the claims of the cholera victims in Haiti.

Sincerely,

ActionAid  
Alternative Chance  
Asociacion Americana de Juristas  
Canada Haiti Action Network  
Center for Constitutional Rights  
Center for Gender and Refugee Studies, University of California Hastings  
Center for Justice & Accountability  
Center for Law and Global Justice, University of San Francisco School of Law  
Centre for Research in Modern European Philosophy  
Dianne Post, Attorney for 155 Roma victims of UNMIK in Kosovo  
Duke University School of Law Haiti Legal Advocacy Project  
EarthRights International  
Environmental Justice Initiative for Haiti  
Gender Action  
Global Justice Clinic, New York University School of Law<sup>10</sup>  
Government Accountability Project  
Grassroots International  
Haiti Justice Alliance  
Haiti Support Group  
Haitian Sustainable Development Foundation  
Hastings to Haiti Partnership, University of California Hastings  
Health and Human Rights Clinic, Indiana University McKinney School of Law  
Human Rights Advocates  
Human Rights Litigation and International Advocacy Clinic, University of Minnesota Law School  
International Women’s Human Rights Clinic, CUNY School of Law  
Jewish Labor Committee Western Region  
Let Haiti Live  
Li, Li, Li! Read  
MADRE  
Marin Interfaith Task Force on the Americas  
Mennonite Central Committee Haiti  
National Economic and Social Rights Initiative  
National Lawyers Guild  
New England Human Rights Organization  
New Media Advocacy Project

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<sup>10</sup> ‘New York University School of Law’ is provided for identification purposes only.

Nicaragua Center for Community Action (NICCA)  
Other Worlds  
Paloma Institute  
Quixote Center  
Sacramento Action for Latin America  
School of the Americas Watch  
Society of American Law Teachers  
The Haiti Fund at The Boston Foundation  
TransAfrica  
University of California Davis Immigration Law Clinic  
University of Virginia School of Law Human Rights Program & International Human Rights  
Clinic  
Western New England School of Law International Human Rights Clinic  
Women's International League for Peace & Freedom, Washington D.C.

CC:

Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs & UN Legal Counsel  
Mr. Kim Won-Soo, Special Adviser to the Secretary-General on Change Implementation  
Ms. Navanethem Pillay, High Commissioner for Human Rights  
Mr. Michel Forst, Independent Expert on the Situation of Human Rights in Haiti