



ICCPR VIOLATIONS IN THE CONTEXT OF THE CHOLERA EPIDEMIC IN HAITI

The ongoing cholera epidemic in Haiti has killed more than 8,500 Haitians and infected more than 705,000 since the United Nations (UN) introduced the disease to Haiti in 2010. The organization's gross negligence caused the epidemic, and has resulted in grave violations of the right to life under Article 6 of the International Covenant on Civil and Political Rights (ICCPR). As described in our report submitted to the Human Rights Committee on September 12, 2014 entitled *ICCPR Violations in the Context of the Cholera Epidemic*,¹ the failure of the Haitian Government to diligently pursue access to legal remedies for the cholera victims violates its obligations to ensure an effective remedy under Article 2, and has resulted in further violations of the right to life under Article 6.

The UN's Introduction of Cholera to Haiti and Denial of Responsibility: Cholera appeared in Haiti for the first time in the nation's recorded history in October 2010, and has since developed into "one of the largest cholera epidemics in modern history," according to the Pan American Health Organization. Extensive scientific evidence, including a report from a panel of independent experts commissioned by the UN, has established that the UN introduced the disease through reckless management of the sanitation systems on a peacekeeping base, where the UN discharged raw sewage into Haiti's principal river system, upon which tens of thousands of Haitians rely as their primary source of water. Despite the UN's legal and moral responsibility to remedy the situation, the organization has consistently denied responsibility and refused compensation to victims.

Several individuals within and affiliated with the UN have recognized the right of cholera victims to a legal remedy. In his recent report, UN Independent Expert on the Situation of Human Rights in Haiti Gustavo Gallón, emphasized the need to "assure the Haitian people that the epidemic will be halted as soon as possible and that full reparation for damages will be provided." He further stated that "if necessary, those responsible for the tragedy should be punished, in accordance with the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law." Former UN High Commissioner for Human Rights, Navanethem Pillay, announced that she "stand[s] by the call that...those who suffered as a result of that cholera be provided with compensation."

Violation of the Right to an Effective Remedy (Articles 2, 6): The Haitian Government's failure to use all available means to ensure access to justice for the cholera victims contravenes its obligations under Article 2. The cholera epidemic, caused by the UN's gross negligence, constitutes a public health crisis and continues to result in violations of the right to life under Article 6, for which Haitians have a right to a legal remedy. Additionally, the Status of Forces Agreement (SOFA) between the UN and the Government of Haiti accords immunity to the UN in Haitian courts, but in exchange for that immunity, requires the UN and the Haitian Government to establish a standing claims commission to resolve claims against the organization. The Haitian Government is thus obligated to ensure that victims have access to a remedy, either through the establishment of the standing claims commission or by negotiating a remedy from the UN.

To date, there is no evidence that the Haitian Government has taken any steps to establish the standing claims commission required by the SOFA or otherwise ensure that cholera victims have access to a legal remedy. The UN has also refused to provide access to an effective remedy to the cholera victims. When more than 5,000 victims filed claims with the UN seeking access to the standing claims commission, as well as remedies in the form of water and sanitation infrastructure, just compensation and a public

acceptance of responsibility, the UN summarily dismissed the claims and subsequently refused to discuss out-of-court resolution of the claims, in violation of victims' right to a remedy.

By renewing the SOFA, which lacks any real accountability for civil or criminal human rights violations by MINUSTAH members, and by failing to take steps to establish a standing claims commission, the Haitian government is violating its obligations to ensure access to a legal remedy and equal protection under the law. The government had discretion in negotiating terms of SOFA with the UN and is responsible for any unlawful terms or any terms that may violate the human rights of Haitians every year that it renews MINUSTAH's mandate.

The Haitian Ministry of Health and Sanitation has also blocked cholera victims' attempt to pursue legal remedies by refusing to provide them with medical records from public hospitals, which are critical evidence for victims' claims for legal remedy.

RECOMMENDATIONS:

The Government of Haiti should:

1. Take all necessary measures to ensure that the UN establish a standing claims commission, or some equivalent body, that will ensure access to fair, impartial, and transparent adjudication of cholera victims' claims;
2. Call on the UN to provide just compensation to victims of cholera, and ensure transparency and participation of victims at all stages of the compensation process;
3. Renegotiate the SOFA with the UN to allow for accountability of MINUSTAH members to Haitian people for human rights violations;
4. Raise objections before the UN to the renewal of MINUSTAH's mandate until a standing claims commission or some equivalent body is established to provide access to justice for all Haitian citizens, including cholera victims;
5. Ensure that public hospitals provide medical certificates to cholera victims certifying that they were treated for cholera;
6. Strengthen the water and sanitation sectors through the allocation of increased technical and financial resources;
7. Take appropriate measures to ensure coordination of international organizations providing health care, access to water, and other services; and
8. Enable the full participation of Haitian stakeholders in project design and policy development to respond to cholera and ensure that all projects are implemented using a human rights-based approach.

QUESTIONS:

1. What is the Government of Haiti doing to ensure that the UN provides its citizens access to an effective remedy for harm suffered due to the cholera epidemic?
2. The Secretary-General stated in a recent report to the Security Council that the Government of Haiti and the UN have established a Joint High-Level Committee for the Elimination of Cholera that is focusing on "providing socioeconomic assistance to people affected by cholera." What steps is the Government of Haiti taking to ensure that the support to victims provided through this Committee will comply with the right to an effective remedy guaranteed in Article 2?
3. What is the Haitian Ministry of Health and Sanitation doing to ensure that cholera victims are provided with medical certificates upon request for all public hospitals in Haiti?

¹ *ICCPR Violations in the Context of the Cholera Epidemic*, Institute for Justice and Democracy in Haiti *et al.*, Submission for the 112th Session of the United Nations Human Rights Committee, October 8 & 9, 2014 (Sept. 12, 2014) available at http://www.ijdh.org/wp-content/uploads/2014/09/HRC_Cholera_Sept-12.pdf.