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Open letter concerning the letter from thirteen (13) UN experts addressed to Mr. Jovenel Moïse on the means to secure an effective and appropriate remedy for victims of cholera

Mr. Jovenel Moïse
So-called President of the Republic of Haiti
National Palace
In his offices.-

Mr. Jovenel Moïse,

Bureau des Avocats Internationaux (BAI), in its primary mission of defending the rights of the most downtrodden, the inalienable and imprescriptible rights inherent in the human person, especially those of victims of State Terrorism, of the Cholera brought to the country by UN Mission for the Stabilization of Haiti (MINUSTAH), and of Women and Girls victimized by rape and sexual assault and other rights abuses, notes with indignation your administration's scandalous contempt for victims of the cholera epidemic and the commitments of national and international actors in the fight to obtain reparations for the victims, especially the work of UN experts who have often shown how the Haitian State can pressure the UN to respond for its actions.

In effect, Mr. Jovenel Moïse, on April 28, 2020, thirteen (13) UN experts addressed to you a letter (AL HTI 1/2020) in which they laid bare the lack of will on your administration's part to call for effective and appropriate remedies such that the UN is compelled to compensate victims of cholera, while also advising you, once again, to ask for **“an advisory opinion of the International Court of Justice through the UN General Assembly to contest the interpretation and application by the UN of section 29 of the 1946 Convention on the Privileges and Immunities of the UN under these circumstances.”**

The lack of response from your administration to this letter is yet more proof that, following the same course as your predecessors as head of state since October 2010, the problem of compensation for victims of cholera has never been a source of concern within your administration. For it has systematically refused to fulfill its role as guarantor of the right to remedy of the Haitian people in general and of victims of cholera specifically, carrying out the constitutional duties and responsibilities that fall upon you as head of state.

As such, your administration is as complicit as the United Nations (UN), which, for six (6) years, cynically denied its responsibility for introducing the cholera epidemic to Haiti, despite irrefutable proof showing its culpability. Even worse, when MINUSTAH's mandate expired on October 15, 2017, under your administration, you deliberately chose to let pass the yearlong

period that the Haitian state had under article 55 of the Status of Forces Agreement between the UN and Haiti to put in place a permanent commission to decide on compensation for the various harms suffered by the victims of cholera by MINUSTAH that were not imputable to its operational needs.

This flew in the face of six (6) years of continuous mobilization by cholera victims and their supporters that forced the UN to for the first time recognize its responsibility for the introduction of the cholera epidemic on August 19, 2016, that is, roughly seven (7) months after your ascent to the country's highest office. This was followed by the announcement on December 1, 2016, by the Secretary-General, of a "new approach" to consult with and compensate victims.

The promises of the UN have not been upheld, more than three (3) years later. Moreover, your administration contributed to this failure, choosing to boycott, on March 1, 2018, one of the few significant meetings about cholera that took place at the UN, which was presided over by the UN Secretary-General and included key actors, only in order to provide cover for those who squandered the Petro-Caribe funds.

Mr. Jovenel Moïse, after ten (10) years of disdain by the Haitian State towards the suffering endured by the victims of cholera, your administration can yet do something right by pushing the UN to respond for its actions, which will at least give you something to add to your track record during your term, which will end on February 7, 2021, in accordance with the amended Constitution of 1987.

To this end, BAI hopes that your administration will accept this time the advice of the UN's own experts, who outlined for you in their letter how the Haitian State can solicit an advisory opinion from the International Court of Justice, via the General Assembly, in order to challenge the UN's interpretation and application of section 29 of the Convention on the Privileges and Immunities of the UN of 1946.

By doing so, the Haitian State can contest the immunity that the UN confuses with impunity. Consequently, victims will be able to exercise their right to an effective remedy to demand to be made whole in a just and equitable manner, calling on the UN respect its own principles under Human Rights law.

Mario Joseph, Esq.

Bureau des Avocats Internationaux