December 10, 2014

His Excellency Prince Zeid Ra’ad Zeid al-Hussein

UN High Commissioner for Human Rights

Office of the United Nations High Commissioner for Human Rights (OHCHR)

Palais Wilson

52 rue des Pâquis

CH-1201 Geneva, Switzerland

Dear High Commissioner:

We write to you as a diverse group of human rights organizations, academics, and experts concerned about the ongoing cholera epidemic in Haiti and the refusal of the United Nations (UN) to provide an effective remedy to the epidemic’s victims. On this Human Rights Day, we respectfully urge you as the High Commissioner for Human Rights to build on the work of your predecessor, Navanethem Pillay, and other UN human rights experts by calling on Secretary-General Ban Ki-moon to respect cholera victims’ human right to a remedy.

Cholera broke out in Haiti in October 2010 for the first time in the country’s recorded history. It has become the world’s largest single-country epidemic,[[1]](#footnote-1) affecting approximately 7% of the Haitian population. Extensive evidence shows that cholera was introduced to Haiti by peacekeepers stationed on the UN Stabilization Mission in Haiti (MINUSTAH). The peacekeepers were stationed at a MINUSTAH base that discharged raw sewage into Haiti’s principal river system.[[2]](#footnote-2) Despite the evidence, however, the UN has repeatedly refused to acknowledge its role in introducing cholera to Haiti, and it has refused to provide victims any form of redress.

As of October 2014, the official death toll from cholera has risen to 8,647 and the number of those infected has risen to 711,442.[[3]](#footnote-3) The epidemic is a serious threat to life and a fundamental barrier to the realization of human rights in Haiti, including the rights to life, health, clean water, sanitation, and a healthy environment. In July 2014, Secretary-General Ban Ki-moon took the important step of admitting that the UN has a “moral responsibility”[[4]](#footnote-4) to respond to the epidemic, yet his words have not been supported by adequate action. To this day, the majority of Haitians lack access to clean water, and there has been little improvement to the country’s sanitation infrastructure. Moreover, victims and victims’ families have been left without access to any form of remedy.

In November 2011, 5,000 victims filed claims with the UN in accordance with international treaties that require the UN to provide a dispute resolution mechanism to individuals alleging harm as a result of its operations. Victims petitioned for remedies in the form of clean water and sanitation infrastructure to control the epidemic, fair compensation for their losses, and a public acceptance of responsibility. Additionally, they requested that the UN establish a standing claims commission to hear the claims, as required by the Status of Forces Agreement (SOFA) that governs MINUSTAH’s operations in Haiti. In February 2013, the UN dismissed the claims as “not receivable” without providing further explanation. Following the UN’s refusal to consider victims’ claims or to establish a Standing Claims Commission, victims filed three lawsuits against the UN in United States federal courts.

The UN’s refusal to provide redress to victims has become a growing concern among several of your colleagues. Your predecessor, Navanethem Pillay, publicly supported “the call that victims … of cholera be provided with compensation.”[[5]](#footnote-5) Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation Catarina de Albuquerque has also emphasized the need “to ensure the alleged victims’ right to a remedy, including compensation” and called on the UN “to establish appropriate accountability mechanisms.”[[6]](#footnote-6) UN Independent Expert on the Situation of Human Rights in Haiti, Gustavo Gallón has similarly urged the UN to compensate cholera victims, stating that “[t]he United Nations should be the first to honour these [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law].”[[7]](#footnote-7) Recently, former UN Special Envoy for HIV/AIDS in Africa, Stephen Lewis, stated in a speech, “I would want to plead with the senior leadership of the UN to reverse their policy on cholera … to apologize, abandon the insistence on immunity, settle the claims.”[[8]](#footnote-8)

Your colleagues’ statements demonstrate a shared understanding among human rights experts that the UN has an obligation to provide the cholera victims a fair hearing, and that its refusal to do so violates that obligation as well as the victims’ human right to a remedy. The right to an effective remedy is a fundamental human right recognized in several human rights instruments.[[9]](#footnote-9) This right is crucial not only for cholera victims; it is also crucial to preserve the legitimacy of the UN, which has taken on specific obligations to ensure that this right is protected.[[10]](#footnote-10)

As more and more human rights experts speak out in support of a just response to cholera in Haiti, we understand that momentum is growing within the UN to urge the organization to honor its obligations to the cholera victims. As the UN’s human rights chief with a longtime commitment to principles of accountability, you are uniquely positioned to play a vital role in securing a just response to the cholera epidemic. In light of your long-standing record in support of accountability and establishing mechanisms to protect human rights, we urge you to call on Secretary-General Ban Ki-moon to respect cholera victims’ right to a remedy and to reaffirm the UN’s commitment to the promotion and protection of human rights for all.

Thank you for your attention to this very important matter.

Sincerely,

The John Marshall Law School International Human Rights Clinic

Haiti Justice Alliance

Health and Human Rights Clinic, Indiana University Robert H. McKinney School of Law

Speak Out for Haiti

Institute for Central American Studies

National Lawyers Guild

International Association of Democratic Lawyers

University of Chicago International Human Rights Clinic

University of Miami Human Rights Clinic

University of Miami Immigration Clinic

REDRESS

AIDS-Free World

Italian Association of Democratic Lawyers

American Jewish World Service

Asociación Americana de Juristas

Li, Li, Li! Read

Alternative Chance

International Human Rights Clinic Western New England University School of Law

National Union of Peoples' Lawyers

Global Justice Clinic, New York University School of Law[[11]](#footnote-11)

Physicians for Human Rights

New Media Advocacy Project

Arab Lawyers Union

Democratic Lawyers of Bangladesh

Droite Solidarite

National Economic & Social Rights Initiative

Center for Constitutional Rights

Robert F. Kennedy Center for Justice & Human Rights

Environmental Justice Initiative for Haiti

Marin Interfaith Task Force on the Americas

Mennonite Central Committee - U.N. Office

MADRE

International Women’s Human Rights Clinic at CUNY Law School

Law Students for Human Rights

Bend-Condega Friendship Project

Alliance for Global Justice

Just Foreign Policy

International Human Rights Clinic - Santa Clara University

Disability Rights Fund

Canada Haiti Action Network

Center for Gender and Refugee Studies

Haiti Action Center

Gillis Long Poverty Law Center, Loyola University New Orleans College of Law

Immigrant Rights Clinic, Washington and Lee University School of Law

Socio-Economic Rights Institute of South Africa

Palestinian Centre for Human Rights

Proyecto de Derechos Económicos, Sociales y Culturales, A.C.

Foundation for Fundamental Rights

Equal Education Law Centre

Human Rights Law Network

Haldane Society of Socialist Lawyers

Physicians for Haiti

Human Rights Advocates

People’s Law Office

Center for Social Justice, Seton Hall University School of Law[[12]](#footnote-12)

International Human Rights Clinic, Duke University School of Law

Goldin Institute

Collective of Solidarity With the Cholera Victims

1. Deborah Jenson, Victoria Szabo & the Duke FHI Haiti Humanities Laboratory Student Research Team, *Cholera in Haiti and Other Caribbean Regions, 19th Century*, 17 Emerging Infectious Disease 2030 (2011). [↑](#footnote-ref-1)
2. *Clinton: U.N. Soldier Brought Cholera to Haiti*, USA Today, Mar. 7, 2012, http://www.usatoday.com/news/world/story/2012-03-07/haiti-cholera/53402748/1; Mark Doyle, *Haiti Cholera Epidemic ‘Most Likely’ Started at UN Camp – Top Scientist*, BBC News, Oct. 22, 2012, http://www.bbc.co.uk/news/world-latin-america-20024400. [↑](#footnote-ref-2)
3. Ministère de la Santé Publique et de la Population (MSPP), Rapport de Cas (2014), *available at* http://mspp.gouv.ht/site/downloads/Rapport%20Web\_26.10\_Avec\_Courbes\_Departementales.pdf. [↑](#footnote-ref-3)
4. Ivan Watson & Joe Vaccarello, *U.N. Sued for “Bringing Cholera to Haiti,” Causing Outbreak that Killed Thousands*, CNN.com (Oct. 10, 2013, 11:36 AM), http://www.cnn.com/2013/10/09/world/americas/haiti-un-cholera-lawsuit/. [↑](#footnote-ref-4)
5. Rick Gladstone, *Rights Advocates Suing U.N. Over the Spread of Cholera in Haiti*, N.Y. Times, Oct. 8, 2013, http://www.nytimes.com/2013/10/09/world/americas/rights-advocates-suing-un-over-the-spread-of-cholera-in-haiti.html?\_r=0. [↑](#footnote-ref-5)
6. Special Rapporteur on the Right to Safe Drinking Water and Sanitation, *Common Violations of the Human Right to Water and Sanitation*, ¶ 34, U.N. Doc. A/HRC/27/55 (June 30, 2014). [↑](#footnote-ref-6)
7. Indep. Expert on the Situation of Human Rights in Haiti, *Rep. of the Indep. Expert on the Situation of Human Rights in Haiti*, ¶ 77, U.N. Doc. A/HRC/25/71, (Feb. 7, 2014). [↑](#footnote-ref-7)
8. Stephen Lewis, 2014 Raoul Wallenberg Lecture in Human Rights, Faculty of Law, McGill University, Nov. 12, 2014. [↑](#footnote-ref-8)
9. Universal Declaration of Human Rights, G.A. Res. 217(III)A, art. 8, U.N. Doc. A/RES/217(III) (Dec. 10, 1948) (“Everyone has the right to an effective remedy”); International Covenant on Civil and Political Rights art. 2(3)(a), Dec. 16, 1966, 999 U.N.T.S. 171 (“Each State Party … undertakes … [t]o ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy”); Convention Against Torture and Other Cruel, Inhuman, and Degrading Punishment art. 14(1), Dec. 10, 1984, 1465 U.N.T.S. 85 (“Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation”); Convention on the Elimination of All Forms of Discrimination against Women art. 2(c), Sept. 3, 1981, 1249 U.N.T.S. 13 (“State Parties … undertake … to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination”); International Convention on the Elimination of All Forms of Racial Discrimination art. 6, Mar. 7, 1966, 660 U.N.T.S. 195 (“State Parties shall assure … effective protection and remedies, through the competent national tribunals and other State institutions”); G.A. Res. 60/147, ¶ 12, U.N. Doc. A/RES/60/147 (Dec. 16, 2005) (“A victim of a gross violation of international human rights … shall have equal access to an effective judicial remedy as provided for under international law”). [↑](#footnote-ref-9)
10. The Convention on the Privileges and Immunities of the United Nations (CPIUN) and the UN-Haiti Status of Forces Agreement (SOFA) require the establishment of a mechanism to resolve disputes of private law nature. Convention on the Privileges and Immunities of the United Nations § 29(a), Feb. 13, 1946, 21 U.S.T. 1418, 1 U.N.T.S. 15 (“The United Nations shall make provisions for appropriate modes of settlement of … disputes of a private law character to which the United Nations is a party.”); Agreement between the United Nations and the Government of Haiti Concerning the Status of the United Nations Operations in Haiti, U.N.-Haiti, ¶¶ 54-55, July 9, 2004, 2271 U.N.T.S. 235 (“Third-party claims for … personal injury, illness or death arising from or directly attributed to MINUSTAH … which cannot be settled through the internal procedures of the United Nations shall be settled … by a standing claims commission to be established for that purpose.”). [↑](#footnote-ref-10)
11. This letter does not purport to represent the institutional views, if any, of NYU. [↑](#footnote-ref-11)
12. Organizational signature for identification purposes only. [↑](#footnote-ref-12)