

# Haiti's Cholera Epidemic: Should the United Nations Continue to Enjoy Absolute Immunity?

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Since 2010, several microbiological studies have conclusively traced the source of Haiti's first cholera epidemic in over a hundred years. These studies concluded the source was the United Nations' (UN) Nepalese peacekeeping troops who were stationed in Haiti after the 7.0-magnitude earthquake. Failure to sanitize the waste at the United Nations' base infected a tributary that feeds into one of the largest rivers in Haiti.<sup>1</sup> Despite these findings, the United Nations has failed to accept any responsibility for the outbreak and therefore has breached the basic principles of humanitarian aid. Since the 1940s, the United Nations has been granted absolute immunity under several international treaties, protecting them from any legal recourse in the matter of the Haitian cholera epidemic. Should the United Nations be allowed to enjoy absolute legal immunity

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<sup>1</sup> R. R. Frerichs, P. S. Keim, R. Barraï, and R. Piarroux, "Nepalese Origin of Cholera Epidemic in Haiti," *Clinical Microbiology and Infection* 18, no. 6 (2012): 158–63.

while being a major contributor to the deaths of thousands of civilians in Haiti, the Dominican Republic, and Cuba? This article will explicate why the UN was granted legal immunity in 1947 and dissect the arguments that were made against and on behalf of the UN in *Delama Georges, et al. v. United Nations* to understand what these events mean for Haiti's cholera victims. Understanding these arguments requires an explication of the political history of Haiti before the historic earthquake, the aftermath of the cholera epidemic, and an investigation of how this event did not follow the common established causes for epidemic occurrence after natural disasters. Finally, this article will examine the arguments made in *Delama Georges, et al. v. United Nations* to determine how legal immunity has hindered humanitarian aid in Haiti. This article's importance and relevance is paramount because it predicts both how the court case ruling will affect Haiti's continuing struggle to recover and how the United Nations will handle other humanitarian aid crises, such as the very recent Nepal earthquake of 2015.

To better understand Haiti's continuing struggle with cholera, it is crucial to appreciate Haiti's pre-earthquake politics and history. In the early nineteenth century, Haiti became the first independent Caribbean state when it obtained its sovereignty from France. Haiti also became the first republic led by black leaders. This historical start was not met with much luck or prosperity in the years to follow. Decades of poverty, environmental degradation (deforestation), climate change, violence, political instability, and dictatorship stripped Haiti of its potential for a tourism-based economy and has left the country one of the poorest nations in the world and particularly vulnerable to natural disasters.<sup>2</sup> For instance, prior to the 7.0-magnitude earthquake that destroyed the capital city of Port-au-

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<sup>2</sup> European Commission: Humanitarian Aid and Civil Protection, *Echo Factsheet: Haiti*, published July 2015, [http://ec.europa.eu/echo/files/aid/countries/factsheets/haiti\\_en.pdf](http://ec.europa.eu/echo/files/aid/countries/factsheets/haiti_en.pdf).

Prince and its surrounding areas, the city was already in a state of disaster. In the 1950s, the capital city had a population of over 150,000. By 1982, the population had reached 732,000 and then 3 million by 2008.<sup>3</sup> The major contributing factor to Haiti's desolation was that the city's infrastructure did not expand with the growing population and was not able to accommodate the city or the people's needs any longer.

Government corruption meant that the government effectively abandoned the city and left the remaining population to fend for itself.<sup>4</sup> The government provided no schools, health care, electricity, potable (drinking) water, sanitation, building codes, zoning laws, etc. This meant that prior to 2010, there was no national building code nor were there guidelines for building structures in this earthquake- and natural disaster-prone region of the world.<sup>5</sup> All that remained were some loosely enforced regulations that only served the needs of the wealthy. In 2009, the World Health Organization (WHO) estimated that only 28 percent of Haitians had access to any kind of health care, 54 percent to potable water, and 30 percent to sanitation.<sup>6</sup> An estimated 3 million Haitians were already food-insecure prior to the earthquake—with 22 percent of the population suffering from malnutrition.<sup>7</sup> In essence, the government and its officials abdicated all of its responsibilities to the Haitian citizens. Prior to January 2010, Haiti was known as the “Republic of NGOs” because more nongovernmental organizations (NGOs) operate

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<sup>3</sup> Alex Dupuy, “Commentary beyond the Earthquake: A Wake Up Call for Haiti,” *Latin American Perspectives* 37, no. 3 (2010): 195–204.

<sup>4</sup> European Commission: Humanitarian Aid, *Haiti before the Earthquake*, published 2010, [http://ec.europa.eu/echo/files/aid/countries/Haiti\\_paper\\_01102010.pdf](http://ec.europa.eu/echo/files/aid/countries/Haiti_paper_01102010.pdf).

<sup>5</sup> Dupuy, “Commentary beyond the Earthquake.”

<sup>6</sup> Ibid.

<sup>7</sup> European Commission: Humanitarian Aid and Civil Protection, *Echo Factsheet: Haiti*.

per capita in Haiti than in any other country in the world. NGOs provide 70 percent of the health care in rural areas and 80 percent of public services, such as schools and wells for potable water.<sup>8</sup> The lack of government regulations coupled with NGO involvement led to the near privatization of all basic services in Haiti prior to the 2010 earthquake.

In the last two decades, natural disasters have disrupted the lives of billions of people with effects ranging anywhere from property damage to illness and even death.<sup>9</sup> Earthquakes occur when the earth's plates lock together and are unable to release the accumulated energy trapped between them.<sup>10</sup> Once the energy grows strong enough, the plates break free and cause vibrations, also known as seismic waves, which travel outwards in all directions. Two major faults along Hispaniola, an island adjacent to Haiti and the Dominican Republic, make Haiti vulnerable to earthquakes. The historic 2010 earthquake resulted from a slip on the southern fault, the Enriquillo-Plantain Garden fault system.<sup>11</sup>

Despite being no stranger to earthquakes, the fragile nation of Haiti was devastated when it experienced the worst earthquake in one hundred years on January 12, 2010. This 7.0-magnitude earthquake was so powerful that Haiti's neighboring

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<sup>8</sup> "Aid in Haiti," *Haiti Net*, Northeastern University, accessed April 15, 2015, <http://www.northeastern.edu/haitinet/aid-in-haiti/>.

<sup>9</sup> "Environmental Health in Emergencies: Natural Events," World Health Organization, accessed April 17, 2015, [http://www.who.int/environmental\\_health\\_emergencies/natural\\_events/en/](http://www.who.int/environmental_health_emergencies/natural_events/en/).

<sup>10</sup> "Earthquakes," Ready, last modified August 12, 2015, <http://www.ready.gov/earthquakes>.

<sup>11</sup> "Earthquake Resources," Berkeley Seismological Laboratory Outreach Program, University of California Berkeley, accessed April 15, 2015, <http://seismo.berkeley.edu/seismo.eqinfo.html>.

country, Cuba, felt it over four hundred miles away.<sup>12</sup> By January 24, at least fifty aftershocks measuring a magnitude of 4.5 or higher had been detected. The official record released by the Haitian government reported at least 316,000 people killed, 300,000 injured, 1.3 million displaced, and 97,294 houses destroyed.<sup>13</sup> However, several nations, including the United States, have contested the official death toll. The United States government suspects that the Haitian government deliberately inflated the death toll to increase international aid. The United States estimates a death toll for this disaster closer to 85,000.<sup>14</sup>

Many communicable diseases are highly prevalent in the aftermath of a natural disaster. Most of these can be divided into categories associated with overcrowding, waterborne diseases, vector-borne diseases, and other diseases.<sup>15</sup> Dead bodies are often the most commonly associated vectors for disease. According to the *American Journal of Clinical Medicine*, the widely held fear of disease communication associated with dead bodies is vastly exaggerated.<sup>16</sup> Following a natural disaster, hundreds if not thousands of people are evacuated to camps for shelter, safety, medical aid, food, and water. These camps combine the problem of poor sanitation and high population density while creating the perfect conditions for fecal-oral and airborne transmission of disease.<sup>17</sup> Camp crowding following natural

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<sup>12</sup> “Earthquake Information for 2010,” Earthquakes Hazards Program, United States Geological Survey, last modified October 30, 2012, <http://earthquake.usgs.gov/earthquakes/eqarchives/year/2010/>.

<sup>13</sup> European Commission: Humanitarian Aid, *Haiti before the Earthquake*.

<sup>14</sup> “Earthquake Information for 2010.”

<sup>15</sup> Vector-borne diseases are illnesses caused by pathogens and parasites in human populations.

<sup>16</sup> David M. Lemonick, “Epidemics after Natural Disasters,” *American Journal of Clinical Medicine* 8, no. 3 (2011): 144–52.

<sup>17</sup> Daniele Lantagne, “Understanding Haiti’s Cholera Outbreak” (PowerPoint presentation, Tufts University, Medford, MA, May 20,

disasters has contributed to epidemics of acute respiratory illnesses, pneumonia, measles, and meningitis. In the case of Haiti, it contributed to a cholera epidemic.

Cholera is a severe, acute, dehydrating diarrhea caused by an infection of the pathogenic strain of the bacterium *Vibrio cholerae*. This disease can inundate or kill a person in less than twelve hours once the symptoms begin.<sup>18</sup> Depending on the severity of the infection, cholera needs to be treated with oral rehydration salt solutions, intravenous fluids, or antibiotics. The control of this disease requires a combination of a clean water supply, sanitation improvements, and oral cholera vaccines.<sup>19</sup> According to the Centers for Disease Control and Prevention, the ongoing cholera epidemic following the 2010 Haitian earthquake was likely the worst in recent history. As of August 2013, the epidemic had killed over 8,000 Haitians and inflicted 600,000 more in Haiti, the Dominican Republic, and Cuba combined.<sup>20</sup>

Despite a clear need to take sanitary precautions in a vulnerable country, especially post-earthquake, the United Nations failed to do so. In early October 2010, Nepalese peacekeeping troops were exposed to a cholera epidemic in Nepal either during a three-month training period or a ten-day visit home before leaving for Haiti. Once they arrived for duty in Haiti, they were not subjected to any medical examinations or stool testing. Prior to the outbreak, reports from the Centers of Disease Control and Prevention warned that the United Nations Stabilization Mission in Haiti (MINUSTAH) camps housing these

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2014), <http://sites.tufts.edu/teli2014/wp-content/blogs.dir/2025/files/2014/05/Lantagne-WHD.pdf>.

<sup>18</sup> Lemonick, "Epidemics after Natural Disasters."

<sup>19</sup> "Cholera in Haiti," Centers for Disease Control and Prevention, last modified November 7, 2014, <http://www.cdc.gov/cholera/haiti/index.html>.

<sup>20</sup> Ibid.

troops were unhygienic and that these camps would not be able to sufficiently prevent fecal contamination of the neighboring tributary. Although the United Nations stationed scientists in the MINUSTAH camps to investigate these claims of compromised sanitation standards, the scientists did not report any severe cases of diarrhea and dehydration, nor did they mention the existing mild and moderate cases. The septic waste from these UN bases was being deposited into an open pit near the tributary where the troops had been retrieving their drinking and cooking water.<sup>21</sup> This tributary flowed directly into the Artibonite River, the largest river in Haiti and the country's main source of fresh water.<sup>22</sup>

The Haitian Ministry of Health (MSPP) formally identified the first cases of cholera in the Mirebalais community hospital in central Haiti. The MSPP reported that the epidemic began on October 14, 2010, just five days after the arrival of the first group of Nepalese troops.<sup>23</sup> Within the first month that Haitian health officials identified the cholera outbreak, nearly two thousand people died. By November 2010, there were over seven thousand cases of the infection. By July 2011, a new case of cholera was diagnosed every minute. The number of Haitians infected with cholera grew to be greater than the total number of afflicted people in the rest of the world.<sup>24</sup>

A study conducted by the Technical University of Denmark analyzed twenty-four specimens of *V. cholerae* from five different districts in Nepal provided by the Nepalese National Public

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<sup>21</sup> Frerichs et al., "Nepalese Origin of Cholera Epidemic."

<sup>22</sup> Rosalyn Chan, Tassity Johnson, Charanya Krishnaswami, Samuel Oliker-Friedland, and Celso Perez Carballo, *Peacekeeping without Accountability: The United Nations' Responsibility for the Haitian Cholera Epidemic*, published 2013, [http://www.law.yale.edu/documents/pdf/Clinics/Haiti\\_TDC\\_Final\\_Report.pdf](http://www.law.yale.edu/documents/pdf/Clinics/Haiti_TDC_Final_Report.pdf).

<sup>23</sup> Frerichs et al., "Nepalese Origin of Cholera Epidemic."

<sup>24</sup> Chan et al., *Peacekeeping without Accountability*.

Health Laboratory. These samples were collected from cases that occurred between July and November 2010. The investigators used whole genome sequencing typing (WGST) to compare the twenty-four genomes of the Nepal specimens with the genomes of specimens collected from the 2010 Haitian outbreak.<sup>25</sup> The WGST provided a nearly whole picture of genetic polymorphisms, or a simultaneous occurrence in the same locality of two or more discontinuous forms. In other words, the tests revealed a genetic variation that was so rare that it could not be maintained by mutation alone and helped scientists conclude that the cholera strains must be related to one another. This study showed that the samples collected from Nepal and Haiti belonged to a single monophyletic, or shared common ancestor.<sup>26</sup> In addition to this study, several other microbiological studies conducted by the US Centers for Disease Control and Prevention, Yale University, the Haitian National Public Health Laboratory, and even a study commissioned by the UN have conclusively confirmed that the strain of *V. cholera* that caused the 2010 cholera epidemic could be traced to the UN Nepalese peacekeeping troops.<sup>27</sup>

Formed in October 1945 in the wake of the devastation caused by World War II, the United Nations was assembled to promote international cooperation and prevent another major

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<sup>25</sup> Rene S. Hendriksen, Lance B. Price, James M. Schupp, John D. Gillece, Rolf S. Kaas, David M. Engelthaler, Valeria Bortolaia, Talima Pearson, Andrew E. Waters, Bishnu Prasad Upadhyay, Sirjana Devi Shrestha, Shailaja Adhikari, Geeta Shakya, Paul S. Keim, and Frank M. Aarestrup, "Population Genetics of *Vibrio cholerae* from Nepal in 2010: Evidence on the Origin of the Haitian Outbreak," *mBio* 2, no. 4 (2011): 1–6, <http://mbio.asm.org/content/2/4/e00157-11.full.pdf+html>. Whole genome sequencing is a method of DNA sequencing that uses multiple-locus variable-number tandem-repeat analysis.

<sup>26</sup> Frerichs et al., "Nepalese Origin of Cholera Epidemic."

<sup>27</sup> Chan et al. *Peacekeeping without Accountability*.

global conflict. In 1947, the UN and its agencies were granted absolute immunity to protect their neutrality no matter where in the world they operated. Peacekeepers granted the body this immunity in the hopes that it would allow the United Nations to swiftly carry out all of its duties of protecting, promoting, and respecting human rights.<sup>28</sup> The absolute immunity granted to the United Nations can only be circumvented if the UN chooses to waive it. The United Nations, however, has used this privilege beyond its intended functionality to avoid taking responsibility for its actions and mistakes in various countries and to circumvent numerous complaints of breaching international treaties.<sup>29</sup>

Unable to achieve justice through international courts, victims and their families turned to domestic courts. *Delama Georges, et al. v. United Nations* was a class action lawsuit filed by Haitian and United States citizens against the United Nations, MINUSTAH, United Nations Secretary-General Ban Ki-moon, and former MINUSTAH Under-Secretary-General Edmond Mulet in October 2014. Plaintiffs Delama Georges, Alius Joseph, Lisette Paul, Felicia Paule, and Jean Rony claimed that the cholera epidemic in Haiti caused by the United Nations made them or their relatives ill or killed them.<sup>30</sup> Prior to this

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<sup>28</sup> August Reinisch, “Introductory Note [on the Convention on the Privileges and Immunities of the United Nations and Convention on the Privileges and Immunities of the Specialized Agencies],” Audiovisual Library of International Law, United Nations, accessed April 15, 2015, <http://legal.un.org/avl/ha/cpiun-cpisa/cpiun-cpisa.html>.

<sup>29</sup> Chan et al., *Peacekeeping without Accountability*.

<sup>30</sup> Beatrice Lindstrom, Shannon Jonsson, and Gillian Stoddard Leatherberry, “Access to Justice for Victims of Cholera in Haiti: Accountability for U.N. Torts in U.S. Court,” Boston University *International Law Journal* (blog), November 3, 2014, <http://www.bu.edu/ilj/2014/11/03/access-to-justice-for-victims-of-cholera-in-haiti-accountability-for-u-n-torts-in-u-s-court/>.

case, the *Bureau des Avocats Internationaux*, the primary public interest firm in Haiti, and the Institute for Justice and Democracy in Haiti, a US based non-profit organization, petitioned the United Nations on behalf of five thousand cholera victims in November 2011.<sup>31</sup> This petition was filed directly with the United Nations and MINUSTAH for a public acknowledgement and apology regarding the cholera outbreak, compensation to those affected by the epidemic, and funding for sanitation infrastructure like clean drinking water. In February 2013, the United Nations' legal counsel stated that the UN would not receive these claims nor accept further requests for explanation.<sup>32</sup> Despite the United States Attorney's office March 2014 petition that *Delama Georges, et al. v. United Nations* be dismissed because the United Nations had absolute immunity, the case went to oral arguments in October.<sup>33</sup> In January 2015, Judge J. Paul Oetken of the US District Court in Manhattan dismissed *Delama Georges, et al. v. United Nations* on the basis that the United Nations had immunity that only it could waive.<sup>34</sup> *Delama Georges, et al. v. United Nations* is important because the verdict not only affected the uncompensated cholera victims but also promoted discussions on the gaps between the United Nations' mission to promote human rights and its refusal to

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<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Preet Bharara (US attorney) to J. Paul Oetken (US district judge), 7 March 2014, <http://www.ijdh.org/wp-content/uploads/2011/11/Georges-v.-UN-13-Civ.-7146-SDNY-Statement-of-Interest.pdf>.

<sup>34</sup> David Ingram, "U.S. Judge Rules Haitians Cannot Sue U.N. for Cholera Epidemic," *Reuters*, January 10, 2015, <http://www.reuters.com/article/2015/01/10/us-un-haiti-lawsuit-idUSKBN0KJ0PX20150110>.

abide by the basic principles associated with human rights and humanitarian aid.<sup>35</sup>

The plaintiffs used three major points in this lawsuit to ensure that the UN did not use its legal immunity to abdicate its responsibilities to the victims of the cholera epidemic. The first of the three major points in *Delama Georges, et al. v. United Nations* posed the question “Is the United Nations above the law despite the damning evidence that the cholera epidemic could be traced to their soldiers’ camp?”<sup>36</sup> Several microbiological studies, including one commissioned by the United Nations, confirmed that the Nepalese peacekeeping troops were the source of the outbreak.<sup>37</sup> This point begged the question of whether or not the UN should be held accountable despite their legal immunity considering that the United Nations caused Haiti’s worst cholera outbreak in recent history.

Despite this tragedy, victims of the cholera outbreak—those who have lost family members or have fallen ill themselves—have had to leap through multiple hurdles to secure justice for themselves and their families. In part, these families struggle for justice because, as of 2015, two separate treaties, the Convention on the Privileges and Immunities of the United Nations (CPIUN) and a status of forces agreement (SOFA) protect the United Nations from all legal proceedings and, therefore, grant the UN immunity.<sup>38</sup> Haiti granted the United Nations these privileges on the premise that some legal

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<sup>35</sup> Beatrice Lindstrom, Brian Concannon, Ira Kurzban, and Jeffrey Brand, “Memorandum of Law in Opposition to the Government’s Statement of Interest,” 14 May 2014, <http://opiniojuris.org/wp-content/uploads/Dkt34-Georges-v.-UN-Ps-Opposition-Brief.pdf>.

<sup>36</sup> Lindstrom et al., “Access to Justice for Victims.”

<sup>37</sup> Frerichs et al., “Nepalese Origin of Cholera Epidemic.”

<sup>38</sup> Preet Bharara (US attorney) to J. Paul Oetken (US district judge), 7 March 2014, <http://www.ijdh.org/wp-content/uploads/2011/11/Georges-v.-UN-13-Civ.-7146-SDNY-Statement-of-Interest.pdf>.

exemption was necessary to fulfill their purpose as a humanitarian aid provider. Despite this immunity, section 29 of the CPIUN explicitly states, “The United Nations shall make provisions for appropriate modes of settlement of: disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party; disputes involving any official of the United Nations who by reason of his official position enjoys immunity.”<sup>39</sup> In essence, this treaty states that the United Nations will provide appropriate measures of accountability for disputes. These settlement resolutions are imperative for organizations that enjoy immunity because often times these means may be the only way for victims to seek justice and relief.<sup>40</sup>

The United Nations and the Haitian government signed a status of forces agreement to grant MINUSTAH immunity. However, the SOFA included a clause in which the United Nations agreed to establish a standing claims commission for settlements. This commission would handle third-party claims for personal injury, illness, or death arising from or directly attributed to MINUSTAH.<sup>41</sup> To date, the United Nations has failed to create any commissions in any country despite the fact that it has signed over thirty similar treaties that mandate this process.<sup>42</sup> International law experts agree that the United Nations’ response to the citizens’ petition and its refusal to accept more claims were inadequate and violated the United Nations’ responsibilities under international law. Fran Quigley, a law professor at the Health and Human Rights Clinic of McKinney School of Law, stated in his *amicus curiae*, “In agreeing to the [SOFA] process, the UN evidenced a clear intent to avoid establishing or claiming full immunity for itself for claims based

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<sup>39</sup> Chan et al., *Peacekeeping without Accountability*.

<sup>40</sup> Lindstrom et al., “Memorandum of Law in Opposition.”

<sup>41</sup> Lindstrom et al., “Access to Justice for Victims.”

<sup>42</sup> Chan et al., *Peacekeeping without Accountability*.

on personal injury, illness, or death arising out of negligence.”<sup>43</sup> The United Nations should be held accountable for their grievous negligence in Haiti that caused cholera epidemic. Not only is there clear microbiological evidence of their mistakes, but there are also treaties stating that the UN would accept responsibility for damage and injury related to their camps and organization. In other words, the United Nations used their absolute immunity to avoid sections of these treaties that no longer benefited them.

Immunity is not impunity. This statement has been the single most uttered description of the situation brewing between Haiti and the United Nations and is also the second argument made in *Delama Georges, et al. v. United Nations*.<sup>44</sup> After being denied claims at the international level, victims sought justice and compensation through the domestic court system. When they filed the lawsuit within the Southern District of New York court system, the defendants made no appearance. The United Nations implored the US government to dismiss the case on behalf of the United Nations because this lawsuit sought to strip it of immunity based on its violations of international treaties. The plaintiffs argued that by failing to provide a settlement mechanism by which the victims would receive compensation and failing to establish a claims commission under SOFA, the UN violated section 29 of CPIUN and should no longer be allowed to enjoy immunity under international law.<sup>45</sup> While the defendants argued that the United Nations’ improper waste management in the MINUSTAH camps was in no way related to the mission of the UN in Haiti as a whole, the plaintiffs asserted

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<sup>43</sup> Fran Quigley, “Delama Georges, et al. v. United Nations, et al.: Memorandum of Law of Amici Curiae International Law Scholars and Practitioners in Support of Plaintiffs’ Opposition to the Government’s Statement of Interest,” *Praxis: Alumni for Human Rights Law Peer Review Journal* 1, no. 1 (2014): 10–29, 21.

<sup>44</sup> Lindstrom et al., “Memorandum of Law in Opposition.”

<sup>45</sup> Chan et al., *Peacekeeping without Accountability*.

that upholding the UN's immunity would only allow the UN to further evade the law and avoid responsibility for its mistakes in Haiti and other parts of the world where it provides aid.<sup>46</sup> The United Nations' immunity should be limited to its ability to carry out its core functions and not extend to extreme immunity in cases where the UN is clearly at fault.

The third and perhaps most widely agreed-upon portion of this lawsuit is how accountability ultimately endows strength and a sense of trustworthiness to the United Nations. As the number of victims affected by the UN's mistakes in Haiti grows every day, the international community has begun to recognize that immunity should not be an absolute organizational doctrine by which organizations live and die.<sup>47</sup> For instance, a former UN special envoy stated that there were instances where immunity should be lifted, and Haiti should be one of those instances. The former special envoy expressed that admitting fault would not compromise the United Nations as a human rights promoter, but it would, in fact, bolster the UN's image to take responsibility after this devastating epidemic.<sup>48</sup> Several human rights experts affiliated with the United Nations, such as the UN High Commissioner for Human Rights, UN Special Rapporteur on the Right to Water, and the UN independent expert on human rights in Haiti have urged the United Nations to publicly accept responsibility for the cholera outbreak in Haiti.<sup>49</sup> Prior to

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<sup>46</sup> Lindstrom et al., "Access to Justice for Victims."

<sup>47</sup> Quigley, "Delama Georges, et al."

<sup>48</sup> Stephen Lewis, "Curtail the U.N.'s Legal Immunity," October 11, 2013, radio broadcast, CBC/Radio Canada, <http://www.cbc.ca/radio/day6/episode-151-tales-of-corporate-espionage-special-rights-for-police-dogs-suing-the-un-and-more-1.2906226/stephen-lewis-curtail-the-u-n-s-legal-immunity-1.2906235>.

<sup>49</sup> "Conyers, 103 Members of Congress Encourage United Nations to Address Haitian Cholera Crisis," Press Release, 17 July 2012, John Conyers, Jr., United States Congressman,

the blocking of *Delama Georges, et al. v. United Nations*, 104 members of the US House of Representatives implored the American ambassador to the United Nations, Susan E. Rice, to take a leading role in responding to the cholera epidemic in Haiti. The House of Representatives stated that since the UN brought cholera to Haiti, the UN needed to act quickly to control the epidemic.<sup>50</sup> Despite these urgings from various international and internal sources, the United Nations has maintained its immunity from all charges related to Haiti.

Ultimately, in January 2015, Judge J. Paul Oetken dismissed the case of *Delama Georges, et al. v. United Nations*.<sup>51</sup> The first argument made in favor of the plaintiffs was the matter of whether or not the US district court could pass a ruling on this case in light of the UN's immunity. The court determined that the UN's immunity deprived the court of the jurisdiction necessary to make a ruling.<sup>52</sup> Judge Oetken ruled that the burden of additional proof fell on the plaintiffs. The subsequent cause for dismissal applied to the United Nations and MINUSTAH. The courts deemed that CPIUN provided immunity to the United Nations, its property, and its assets regardless of where the UN was or who held its property and assets. Examining CPIUN, the judge determined that section 2, outlining the UN's immunity, is not contingent on the UN's compliance with section 29, outlining the appropriate modes of settlement.<sup>53</sup> The court deemed that the immunity would stand

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<http://conyers.house.gov/index.cfm/press-releases?ID=11E98FFF-5056-BE00-4743-1C189EC648D7>.

<sup>50</sup> Deborah Sontag, "U.S. Lawmakers Press for Action on Cholera in Haiti," *The New York Times*, July 21, 2012, <http://www.nytimes.com/2012/07/21/world/us-lawmakers-press-for-action-on-cholera-in-haiti.html?partner=rss&emc=rss>.

<sup>51</sup> Ingram, "U.S. Judge Rules Haitians."

<sup>52</sup> Lindstrom et al., "Memorandum of Law in Opposition."

<sup>53</sup> *Ibid.*

and protect the United Nations from all legal processes unless the United Nations explicitly waived it. Since MINUSTAH is a secondary body of the United Nations, it is also immune from the lawsuit. Finally, the court stated that CPIUN further provided diplomatic envoys immunity and, therefore, Ban Ki-moon and Edmond Mulet—both of whom currently hold diplomatic positions—were immune from this lawsuit as well.<sup>54</sup>

The United Nations has argued that their preservation of immunity enables the organization to carry out its most important and basic functions as a human rights promoter and humanitarian aid provider. United Nations Secretary-General Ban Ki-moon dictated in his letter to the US Congress that the UN is doing all that it can to help Haiti. The UN, however, has barely managed to raise 18 percent of the ambitious \$2.2 billion it promised to aid Haiti irradiate the cholera epidemic.<sup>55</sup> MINUSTAH's careless actions that led to the introduction of cholera in Haiti and the UN's continuing denial of any responsibility to the victims, however, has exasperated the inadequate response to the ongoing crisis. Despite the UN's absolute immunity, it has an ethical obligation under international laws to respect, promote, and protect human rights.<sup>56</sup> The United Nations has undermined its own moral commitment to protect human rights to water, health, and life by failing to rectify the mistakes made in Haiti.<sup>57</sup> These failures have seriously condemned the UN's credibility as a human rights promoter in Haiti and everywhere else in the world. As more time passes, the historic earthquake of 2010 fades in the

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<sup>54</sup> Lindstrom et al., "Memorandum of Law in Opposition."

<sup>55</sup> Richard Knox, "Activists Sue U.N. over Cholera that Killed Thousands in Haiti," *NPR*, October 9, 2013, <http://www.npr.org/sections/health-shots/2013/10/09/230704205/activists-sue-u-n-over-cholera-that-killed-thousands-in-haiti>.

<sup>56</sup> Chan et al., *Peacekeeping without Accountability*.

<sup>57</sup> Quigley, "Delama Georges, et al."

memories of people unaffected by the tragedy. Aid to the country has dramatically decreased, and people have turned their attention to new disasters. If the international courts cannot dismiss the UN's legal immunity on the basis that it is necessary to carry out humanitarian aid, then the United Nations should waive its own immunity in the case of Haiti. Waiving its own immunity will allow the United Nations to reestablish its credibility as a human rights promoter and set a precedent in the international community for how organizations should respond when humanitarian efforts harm civilians. Such action promises to create a stronger institution, reinforce its credibility, and refine the standards for upholding international human rights laws.<sup>58</sup> In addition to rectifying its mistakes in Haiti, the United Nations should cautiously proceed in its efforts to provide humanitarian aid in other parts of the world. The prevention of cholera in Haiti could have spared thousands of lives. As the United Nations is called upon to provide humanitarian aid to Nepal after its earthquake in April 2015, mistakes made in Haiti must resonate in the new efforts.

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<sup>58</sup> Chan et al., *Peacekeeping without Accountability*.