

United Nations Human Rights Committee
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais des Nations
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**Contribution to the General Discussion on the preparation for General Comment No.36 Article 6 of the ICCPR: Right to life**

**Introduction:** The ongoing cholera epidemic in Haiti has killed more than 8,900 Haitians and infected more than 720,000 since it began in October 2010,[[1]](#endnote-1) and is still killing at alarming rate. This epidemic represents a grave and continuing threat to the right to life in Haiti, and continues to be inadequately addressed by the United Nations (UN), the entity responsible for causing the outbreak. This large-scale infringement of the right to life highlights the indivisibility of the right to life with the infringement of economic, social and cultural (ESC) rights.

The Haitian cholera outbreak also highlights the demand for accountability structures in place which better protect victims whose right to life is violated by international organizations. The General Comment should therefore recognise that international organizations are capable, through their acts, of violating the right to life – and provide recognition that such violation requires access to justice and reparation in accordance with international human rights law.

**UN Responsibility for Introduction of Cholera to Haiti:** Cholera appeared in Haiti for the first time in the nation’s recorded history in October 2010, and has since developed into what one of the largest cholera epidemics in modern history. Extensive scientific evidence, including a report from a panel of independent experts commissioned by the UN,[[2]](#endnote-2) demonstrates that the UN introduced the disease through reckless management of the sanitation systems on a peacekeeping base, discharging raw sewage into Haiti’s principal river system, upon which tens of thousands of Haitians rely as their primary source of water.[[3]](#endnote-3)

**Violation of the Right to Life and its Link to Economic Social and Cultural Rights:** In the case of those who have died from cholera, the human right to health and clean water was inextricably bound to their right to life. The UN has a responsibility to respect the right to life, and its negligent acts and omissions in causing the cholera epidemic, which has claimed the lives of thousands, comprise a violation of the right to life and the related ESC rights. The reckless introduction of cholera into Haiti’s waterways, while first constituting a violation of the right to water, has ultimately lead to thousands of violations of the right to life in the case of those killed by the virulent disease. Like other violations of ESC rights, cholera disproportionately impacts the most vulnerable segments of society, including Haiti’s poor majority, women, children, rural communities that lack access to water infrastructure, and communities displaced following the earthquake. The UN’s subsequent failure to invest adequately in clean water and sanitation infrastructure has allowed the epidemic to persist and continue to kill, and therefore constitutes a further violation of the right to life. The death of loved ones has left families without means to meet their basic needs,[[4]](#endnote-4) which in turn creates the potential for further rights violations.

It is well-settled that the right to life is a norm of customary international law,[[5]](#endnote-5) to which the UN is bound.[[6]](#endnote-6) The UN therefore has a duty not to arbitrarily deprive individuals of that right, and to provide remedies for any violations of the right to life occasioned by the organization’s own conduct. As the cholera outbreak in Haiti illustrates, this duty to respect the right to life cannot be separated from the UN’s obligation to respect ESC rights – such as the right to water – where the violations of ESC rights are so grave that they lead to the death of individuals. Thus, while the primary duty to realize the right to water and sanitation rests with the Haitian state, the UN must respect the right to water and sanitation in furtherance of its strict legal obligation to respect the right to life.

**Lack of Remedies for the Violation of the Right to Life:** Despite the widespread violations of the right to life occasioned by the UN’s conduct, the organization has refused to provide access to remedy to the cholera victims. In November 2011, more than 5,000 victims filed claims at the UN, seeking access to the standing claims commission guaranteed by the mission’s Status of Forces Agreement with Haiti, as well as remedies in the form of water and sanitation infrastructure, just compensation and a public acceptance of responsibility. In contravention of its legal obligations, the UN responded by stating that the claims were “not receivable” because “consideration of these claims would necessarily include a review of political and policy matters,” and has subsequently refused to discuss out-of-court resolution of the claims. The UN has chosen to assert immunity rather than having the claims heard in an open and impartial national court.In respect of these human rights violations, the cholera victims now have nowhere to turn to seek reparations for their harm and loss of family members. It is particularly troubling that the UN is not itself subject to any human rights enforcement mechanism. IJDH therefore urges that the Committee consider the accountability deficit currently facing the victims of cholera in Haiti – whose rights to life, health and water continue to be violated with impunity.

1. Ministère de la Santé Publique et de la Population (MSPP), Rapport de Cas (2015), available at http://mspp.gouv.ht/site/downloads/Rapport%20Web%2005.04\_Avec\_Courbes\_departementales.pdf; see also Charles Cholera in Haiti: One Year Later, CTRS. FOR DISEASE CONTROL & PREVENTION (Oct. 25, 2011), http://www.cdc.gov/haiticholera/haiti\_cholera.htm (“this marks the worst cholera outbreak in recent history...”); World Health Org., Cholera 2013, 89 WEEKLY EPIDEMIOLOGICAL RECORD 345, 345-356 (Aug. 1, 2014), available at http://www.who.int/wer/2014/wer8931.pdf?ua=1. [↑](#endnote-ref-1)
2. Alejandro Cravioto et al., Final Report of the Independent Panel of Experts on the Cholera Outbreak in Haiti (2011). [↑](#endnote-ref-2)
3. Daniele Lantagne, G. Balakrish Nair, Claudio F. Lanata & Alejandro Cravioto, *The Cholera Epidemic in Haiti: Where and How Did It Begin?* Current Topics in Microbiology and Immunology (2013). [↑](#endnote-ref-3)
4. This concern was recently echoed by a number of UN Special Rapporteurs in an allegation letter to the Secretary-General concerning cholera in Haiti. *See* Allegation letter to the UN Secretary-General concerning the cholera outbreak in Haiti, co-signed by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Independent Expert on the situation of human rights in Haiti; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the human right to safe-drinking water and sanitation, 25 September 2014. [↑](#endnote-ref-4)
5. Bertrand G Ramcharan, ‘The Concept and Dimensions of the Right to Life’ in Bertrand G Ramcharan (ed), *The Right to Life in International Law* (Martinus Nijhoff Publishers, 1985) [↑](#endnote-ref-5)
6. Interpretation of the Agreement of 25 March 1951 between WHO and Egypt, Advisory Opinion, 1951 I.C.J. 73, 88-89 (Dec. 20); I.J.C. Reparations Case, 179 (“[i]nternational organizations are subjects of international law, and as such are bound by any obligations incumbent upon them under general rules of international law, under their constitutions or under international agreements to which they are parties.”) [↑](#endnote-ref-6)