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There's an Epidemic on Trial in New York — But It's Not Ebola

By [Lauren Carasik](#)

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Last week, an epidemic that has ravaged one of the poorest countries in the world — killing thousands of people and sickening many more — surfaced, in a way, in New York City.

But it wasn't [Ebola](#). It was cholera, which has been plaguing Haiti for four years, sickening 700,000 people and claiming almost 9,000 lives. Last Thursday — the same day a doctor recently returned from West Africa was diagnosed with Ebola in New York — a US District Court in downtown Manhattan heard arguments from lawyers for victims of the cholera epidemic hoping to hold the United Nations accountable, and from the US government, which is defending the UN's immunity from suit.

The facts, however, are all but undisputed. In January 2010, Haiti was struck by an earthquake that killed more than 250,000 people and left another million homeless. Nine months later, the most impoverished country in the Western hemisphere was facing a new tragedy — but this one was easily avoidable.

[Ebola in New York: No health workers opted out of treating the first patient. Read more here.](#)

Days earlier, a contingent of troops with the United Nations Stabilization Mission in Haiti arrived from Nepal, where Kathmandu was experiencing an outbreak of cholera. Despite the well-known fact that Haiti's lack of clean water, sanitation, and health infrastructure rendered it vulnerable to the spread of disease, the Nepalese forces were neither tested nor prophylactically treated for cholera. Nor were precautions taken at their base to ensure compliance with proper sanitation procedures, where untreated sewage leaked into a major river.

Cholera spread rapidly; the UN's own experts concluded the organization was responsible for the outbreak.

The disease kills through dehydration and responds to relatively simple treatment: oral rehydration salts and, for severe cases, IV fluids and antibiotics. It is rarely deadly in countries with adequate health and sanitation. Earthquake-ravaged Haiti, however, was in no position to provide even the most basic medical services or clean water. But the UN was slow to respond, and the disease continued to wreak havoc.

In November 2011, advocates for the cholera victims filed a claim with the UN, seeking money to improve the water and sanitation infrastructure and to compensate victims and their families. They also wanted the UN to accept responsibility and issue an apology. In a curt letter sent 15 months later, the UN replied that the claim was "not receivable" because it required a review of "political and policy matters." Further efforts to seek redress within the UN system were futile, so lawyers filed suit in US federal court in October 2013.

'Haitian people are all too familiar with the court expressing sympathy to their plight but closing doors to them.'

The UN has declined to appear in court on its own behalf. Instead, Assistant US Attorney Ellen Blain argued that as both the host nation to the UN and a party to treaties governing UN affairs, the US is obligated to respond on the UN's behalf. Blain urged the judge to dismiss the case on the grounds of absolute immunity, claiming that allowing the case to go forward would open the floodgates for suits against the UN that would impair its ability to advance its mission.

Beatrice Lindstrom, a lawyer with the Institute for Justice and Democracy in Haiti argued that the immunity conferred by the Convention on the Privileges and Immunities of the United Nations depends on the provision of an appropriate settlement mechanism for private law claims, which the UN has not done. Moreover, the UN committed to set up a Standing Claims Commission in its Status of Forces Agreement with Haiti. It has not. Victims' lawyers point out that they are asking for a narrow ruling of liability, based on the egregious facts of this case alone: the catastrophe unleashed

by the UN and its refusal to provide any forum for victims to seek a remedy. Impunity, advocates argued, does not advance the UN's role in fostering peace and upholding the rule of law.

Judge J. Paul Oetken engaged with both sides, evincing a nuanced understanding of the issues and the stakes involved. But he cautioned that the plaintiffs had "a steep hill to climb," citing previous decisions by the court in upholding the UN's immunity. As Yale Law School's Muneer Ahmad lamented, "Haitian people are all too familiar with the court expressing sympathy to their plight but closing doors to them." A ruling could take months.

* * *

On the same day that lawyers for Haitian victims argued their case, New York City reported its first case of Ebola, after a physician who recently returned from working with Médecins Sans Frontières/Doctors Without Borders (MSF) in Guinea tested positive for the disease. The doctor was placed in isolation and is guaranteed the finest care available, a luxury not available to the 4,500 West Africans who have already died, the 8,000 who have been sickened, and the tens of thousands who will likely fall ill before the epidemic is contained.

The lethality of disease, including Ebola and cholera, is dictated not only by the virulence of the infection, but also by the susceptibility of the hosts. That's integrally linked to poverty, geography,, and other biosocial factors. A nation's ability to respond to a global health crisis requires what Paul Farmer of Partners in Health calls "staff, stuff, and systems" something in woefully inadequate supply in Haiti, West Africa, and most other impoverished nations.

Cholera and Ebola share symptoms, that are rendered more deadly by the common vectors of poverty and dysfunctional health systems, though there are important differences. Cholera spreads quickly through contaminated water or food, but is easily treatable and could be eradicated with investments in proper water and sanitation infrastructure. Ebola is more lethal and highly infectious, but less contagious, requiring the transmission of bodily fluids or secretions. Prevention and treatment have

been hampered by the lack of incentives for pharmaceutical companies to invest in bringing a vaccine to market, including one developed but abandoned 10 years ago.

The challenges in containing West Africa's Ebola outbreak are immense, and it is up to the international community to come together, providing not only staff, stuff and systems, but also confronting the other factors that imperil public health: poverty, inadequate education, social and economic exclusion, and inequality. That may be a tall order, but it's one that is increasingly linked to self-preservation for the entire world.

['Correspondent Confidential': Uncovering a mysterious cholera outbreak in Haiti. Watch it here.](#)

In contrast, cholera in Haiti has an identified originator and is prone to relatively easy eradication. The UN is morally and legally responsible for causing the epidemic that continues to cause untold suffering. Acknowledging its culpability, investing in the water and sanitation infrastructure to stanch cholera, and making its victims whole would enhance, not undermine, the UN's leadership and mission on the world stage.

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