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WÒCH NAN SOLEY: THE DENIAL OF THE RIGHT TO WATER IN HAITI

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Wòch nan dlo pa konnen doulè wòch nan soley.
The rocks in the water don't know the suffering of the rocks in the sun.
— Haitian proverb

ABSTRACT

This article combines health and water research results, evidence from confidential documents released under the Freedom of Information Act, legal analysis, and discussion of historical context to demonstrate that actions taken by the international community through the Inter-American Development Bank are directly related to a lack of access to clean water in Haiti. The article demonstrates that these actions constitute a clear violation of Haitians' right to water under both domestic and international law. The article exposes the United States government's role in blocking the disbursal of millions of dollars in international bank loans that would have had life-saving consequences for the Haitian people. The loans were derailed in 2001 by politically-motivated interventions on behalf of the US and other members of the international community in direct violation of the Inter-American Development Bank charter. To demonstrate the impact of these interventions, the article presents data gathered in a study that employed human rights and public health methodologies to assess the right to water in Haiti. The data reveal that Haitians experience obstacles concerning every aspect of the right to water: difficulties with water availability, limited physical and economic accessibility, and poor water quality. The article provides a framework of concrete duties and obligations that should be followed by all actors involved in Haiti in order to realize Haitians' human right to water. In response to the undeniable link between the international community's political interference and the intolerably poor state of potable water in Haiti, the article concludes with a recommendation that all actors in Haiti follow a rights-based approach to the development and implementation of water projects in Haiti. The full report of Wòch nan Soley: The Denial of the Right to Water in Haiti *is available online at http://www.pih.org/inforesources/Reports/Haiti_Report_FINAL.pdf.*

POLITICS OF POWER

Lack of clean water is among the most severe human rights challenges faced by the people of Haiti today. In 2002, Haiti ranked 101 of 127 countries in terms of the quantity and quality of fresh water; the existence of wastewater treatment facilities; and the presence of legal structures, such as pollutant regimes.[1] Problems with Haiti's water system did not develop in isolation. Weakened by political violence, interference from external parties, institutional limitations, and a long history of crushing debt, the Haitian government has long been unable to provide reliable water to its population. This failure continues to feed a vicious cycle of contaminated water, deficient public sanitation, poor health, and chronic poverty. This article, drawing from information gained through a Freedom of Information Act lawsuit and data collected in a study in Port-de-Paix, Haiti, demonstrates

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how the actions of countries, institutions, and nongovernmental actors stand in the way of Haitians' ability to exercise their right to water. Relying on a human rights-based framework, the authors argue that actors have corresponding obligations that they should observe.[2]

A nation in jeopardy: Historical burdens

The Republic of Haiti declared its independence from France on January 1, 1804, after 12 years of revolutionary war that claimed over 100,000 Haitian lives and destroyed the colonial infrastructure, such that clean water, adequate sanitation, health care, and stable food supplies were virtually eliminated.[3] A 19th-century commercial embargo by France and the United States, in retaliation for the revolution, further crippled economic development by effectively prohibiting the newly independent country from participating in the international market.[4] To counter this isolation, the Haitian government reluctantly struck a deal with the French government to pay France 150 million francs (the modern equivalent of US$21 billion) to compensate for property lost during the Haitian Revolution, in exchange for a formal recognition of Haitian independence.[5] However, because it was bankrupt, the Haitian government was forced to seek French loans for this payment, initiating Haiti's foreign debt. By the end of the 19th century, nearly 80% of Haiti's budget went to debt repayment, further crippling its ability to carry out basic infrastructure development.[6]

After the United States invaded and occupied Haiti in the early 20th century, the light-skinned mulatto minority consolidated political and economic control. This minority remained dominant in Haitian national politics until François "Papa Doc" Duvalier was elected in 1957; Jean-Claude "Baby Doc" Duvalier succeeded him in 1971.[7] The legacy of the 30-year dictatorship of the Duvaliers continues to haunt Haiti today. During their regime, the Duvaliers accrued US$900 million in multinational and bilateral loans, almost half of Haiti's current debt, most of it for their own personal spending.[8]

The situation worsened when Haiti's first democratically elected government, led by President Jean-Bertrand Aristide, was overthrown in September 1991. The subsequent military regimes plundered the treasury and inflicted widespread violence and injustice.[9] When democracy returned in 1994, Haiti borrowed further to rebuild the nation.[10] These and subsequent loans came with a strict set of conditions, including requirements to privatize state-owned enterprises, cut spending on social services, and liberalize trade policies.[11] During the turbulence of the subsequent presidencies of Réné Préval, followed by Aristide's re-election in 2001, political allegations spawned disputes that resulted in further violence.[12] Once again, Haiti was shunned in international politics, with a US embargo on aid to the Haitian government.[13] After President Aristide was removed from office again in February 2004, Réne Préval was re-elected in 2006.[14] By September 2008, Haiti's external public debt totaled US$1.85 billion and continues to increase.[15]

The legacy of debt: A snapshot of Haiti today

To address the debt crisis, recent calls for loan forgiveness have begun to gain international attention. In April 2008, the US House of Representatives unanimously passed the Hastings Amendment to the Jubilee Act for Responsible Lending and Expanded Debt Cancellation of 2008. The amendment authorizes the US Department of the Treasury to expedite the cancellation of Haiti's debts to the World Bank, the Inter-American Development Bank (IDB), and other multilateral financial institutions, and to urge immediate suspension of Haiti's debt service payments. Without immediate debt cancellation and suspension, the nation's debt repayments in 2009 amount to nearly US$1.5 million per month, in a country where much of the population continues to lack clean water and basic essential services.

The task to free Haiti of some of its debt has proven extremely daunting.[16] Despite the Hastings Amendment and the Jubilee Act, it is too early to be confident about major change soon. The continual debt payments leave the Haitian government incapable of supporting the social infrastructure necessary to meet basic needs, including health facilities, water and sanitation systems, and education, with serious consequences to the health and human rights of all Haitians. For all but the very top social classes, every aspect of Haitians' lives is affected by the government's limited ability to spend on the social infrastructure. Basic survival is a daily struggle for the 78% of the population living on less than US$2 a day and the 54% living on less than US$1 a day.[17]

The catastrophic effects of government debt on the health and well-being of the Haitian people are particularly evident in the prevalence of water-related disease. Infectious intestinal disease is a leading cause of death in Haiti; this has not improved over the past decade. WHO estimates that almost 90% of such cases result from a combination of unsafe drinking water, inadequate sanitation, and improper hygiene.[18] Contagious diseases like typhoid, which persist only in settings of poor hygiene and poor access to clean water, are also prevalent in Haiti and universally feared.[19]

These and other water-related problems are painfully visible in the coastal city of Port-de-Paix, the site of the investigative research described below, which examines the dramatic failure of Haiti's public water system. Port-de-Paix was chosen for the study because a rehabilitation of the water system had been scheduled to be completed with financing from IDB loans approved in 1998 as one of the first major initiatives to improve potable water in Haiti; ten years later, the project remains incomplete. Understanding how all actors involved in the project, particularly the IDB, failed to meet their obligations to the residents of Port-de-Paix is critical for effectively enabling the country as a whole to develop an adequate water system that will ensure the health and well-being of all Haitians.

SOCIAL SECTOR LOANS TO HAITI: WATER AND THE IDB

Established in 1959, the IDB (or the Bank) is the world's largest regional development bank and the primary source of multilateral financing for economic, social, and institutional development projects in Latin America and the Caribbean.[20] Its Board of Governors oversees the Bank's activities and administration, including the Board of Executive Directors, the body charged with the day-to-day operations.[21] The US Governor on the IDB's Board of Governors is the Secretary of the US Department of the Treasury (the Treasury Department).[22] The US Executive Director (USED) at the IDB is also an official of the Treasury Department and reports directly to it. The IDB and Treasury Department offices are inextricably linked, with staff regularly transferring between the two. The US controls 30% of voting power within the IDB.[23]

In 1998, the IDB approved four social sector loans for Haiti, including one to fund a project to address the failing water system.[24] This project included a US$54 million loan and a US$965,000 grant to improve potable water and sanitation services and to establish a regulatory framework for the development of a wastewater service. The project aimed to enhance and sustain the quality and coverage of potable water services in 10 urban centers and 5 rural and peri-urban communities.[25] The loan projects were designed to improve "the quality of life — particularly for women and children" and to "reduc[e] incidence of disease and child mortality."[26] Port-de-Paix was selected as one of the first project sites.

By early 2001, the Haitian government had met the contractual requirements necessary to begin loan

disbursement, but the US government suddenly expressed significant "concerns."[27] Internal communications obtained through a Freedom of Information Act (FOIA) suit in the United States later revealed that these concerns were political and not related to the loans or the capacity to implement them. Yet the Treasury Department — in concert with the USED's office at the IDB — used these "concerns" in deliberate and continuous efforts to block Haiti's access to loans, even though the IDB's Articles of Agreement explicitly prohibit taking political considerations into account.[28] In intense behind-the-scenes discussions, the US government demonstrated every intention of using its power within the IDB to tie the release of the loans to its definition of political progress.[29] Special Counsel to the USED warned Treasury Department officials that there were no legitimate technical obstacles to disbursing the loans; however, he did suggest a "slowing" tactic that, "while . . . not a 'bullet proof' way to stop IDB disbursements," would certainly "put a few more large rocks in the road."[30] In April 2001, IDB President Enrique Iglesias acquiesced to the US government's "slowing" tactics, stopping immediate disbursement, in direct violation of the IDB's charter. The disbursement delay caused Haiti to fall back into arrears long enough to trigger IDB policies that prevent the Bank from releasing loans when arrears have accumulated for too long. The IDB could now cite a formal justification for withholding the loans. By November 2001, Haiti's arrears totaled US$5.5 million. More than one-third of these were from commitment fees, fees that the Bank charged to hold the four undisbursed loans. The fees accumulated during, and *due to*, the IDB's refusal to disburse the loans.[31]

Public statements by US government officials soon explicitly linked non-disbursement with political concerns. In early 2002, concluding that the IDB did not intend to disburse the loans, the Haitian government suspended payments to the IDB.[32] Haiti's loan arrears placed its government on non-accrual status, thereby, according to internal bank policy, rendering it ineligible for loan disbursement. The US government's plan to slow disbursement succeeded in blocking the loans indefinitely.

In the fall of 2002, following further negotiations, Haiti was told that — among other things — it must first agree to a Staff Monitored Program (SMP) by the International Monetary Fund (IMF) before the IDB would release the loans. The SMP would require severe economic reforms in Haiti, including the end of Haitians' much-needed petrol subsidy.[33] When Haiti complied with an approved SMP, the US government attempted to raise new obstacles.[34] John Taylor, the Treasury Department's Under-Secretary for International Affairs, made allegations of human trafficking in Haiti, indicating that such a charge carried sanctions and would block assistance.[35]

Throughout this period — then two years after implementation should have begun — not a single IDB member state spoke out publicly about the US government's violation of the Bank's charter. In private meetings in 2003, certain member states acknowledged that the US government's actions were inappropriate but felt that the US government's power within the Bank prevented them from taking public action.[36]

Despite efforts by the US government to block these loans to Haiti, the IDB reactivated its loans program for Haiti and in late 2003 began the steps toward disbursing the social sector loans. In February 2004, however, President Aristide was ousted from Haiti, further stalling the process. It would take another four years, until 2008, 10 years after their first approval, before the loans were finally in the "implementation phase," with contracts issued for the Port-de-Paix project. Yet, as of September 2008, construction in Port-de-Paix had not begun.

HAITI'S BROKEN WATER SYSTEM

The politics of Haiti's governmental debt burden is only one facet of Haiti's broken water system. The Haitians themselves, whose daily lives are shaped by the consequences of this failed system, represent another critical facet. Only 55.2% of Haiti's people have access to an improved water source, and close to 70% have no direct access to potable water.[37] These figures likely overstate Haitians' access to improved water sources: public systems are rarely available year round, and in rural areas, water is often difficult to access during the dry season.[38] Lack of access is aggravated by lack of sanitation: only 27% of the country benefits from basic sewerage, and 70% of households have either rudimentary toilets (34.9%) or none at all (34.7%).[39] Fecal contamination of water is a leading cause of disease.[40] As one study noted recently, Haiti is "moving in [the] wrong direction" with respect to potable water; the percentage of the population *without* access to safe drinking water actually *increased* by 7% between 1990 and 2005.[41]

Haiti's national water system

The *Service National de l'Eau Potable* (SNEP), currently supervised by the Ministry of Public Works, Transport, and Communications (MTPTC), officially manages Haiti's water system outside Port-au-Prince.[42] SNEP's 2006 national water strategy for rural areas was developed with World Bank financing.[43] The World Bank has found that, although "there are competent and motivated managers and staff in the public Haitian water system," financial means and political support are often lacking, severely limiting the capacity of these agencies to fulfill even their basic functions.[44] Further, Haiti currently has no agency to direct efforts to improve sanitation.[45] As the Haitian NGO, FOKAL (*Fondation Connaissance et Liberté / Fondasyon Konesans Ak Libète*), summarizes the situation, "Organizations and institutions develop in the absence of clear direction, approaches, and different techniques and technologies — sometimes antagonistic — which result in a great diversity of situations on the ground."[46] Only between 2% and 8% of Haitian homes have household water connections.[47] In addition, there are virtually no sewage or wastewater treatment facilities in Haiti.[48] All water is consequently vulnerable to contamination, and it must be treated at the point of use in the household before consumption.[49] Nearly 70% of households are unable to provide treatment, however.[50] Boiling water, the most common treatment method, is difficult due to fuel costs.[51] As one government water expert told our investigative team, "it's necessary to place 'potable' and 'pure' in quotation marks. One must speak of access to water, but not of potable water. The sources are not protected; there is no practice of [water] treatment; the infrastructure is weak; and there is also a persistent problem of pollution."[52]

Many households must obtain their water from private water vendors, surface water, and wells.[53] The private water sector developed in the 1970s.[54] In many cities, tanker trucks are among the most important distributors of water.[55] Tankers fill from wells or other public sources, paying fees only to the owners of the pumping equipment, and then deliver water to owners of cisterns.[56] Institutions and affluent private homes with cisterns purchase water by the truckload; poor households depend on local cistern owners who sell it from their cisterns by the bucket or bottle.[57] Some cistern owners treat the water, or claim to. Others sell water as it is delivered. According to FOKAL, "the poorest populations pay the most for water, because of the diversity of tariff systems and the [variable] availability of water."[58] Without funding for government oversight, there is no system to regulate private water sellers.[59] This means that there are no checks on the private sector use of public water sources and no regulations ensuring the water quality, and there is nothing to ensure fair prices. Reports indicate that tanker companies make significant profits in this unregulated atmosphere.[60]

Other NGOs are also active in the water sector.[61] NGOs tend to focus their activities on providing water services.[62] A few have teamed up with pharmaceutical companies and engineers to provide effective and simple point-of-use chemical treatment systems. These efforts have been modest at best: in rural areas, more Haitians use lime juice than chemical packets to disinfect their water.[63] Few NGOs in Haiti conduct sanitation or hygiene programs.[64] On the national level, some are entirely autonomous, and others work directly with SNEP.[65] SNEP's 2006 Strategic Plan stressed the need for NGOs to partner with the government, yet SNEP's inability to compel coordination in practice is striking.[66] FOKAL has emphasized the problem of ownership over water projects set up by NGOs: when NGO-installed systems break down, they often remain unusable indefinitely, with water pipes "desperately empty" while the community searches for the system's "owner" to fix the problem.[67] Thus, sustainability and maintenance pose enormous problems for NGO-based projects in Haiti.

Donor states provide another source of water and sanitation projects in Haiti. Some donations have been designated to support SNEP, usually through loans from the World Bank or the IDB.[68] Donor states have also channeled aid through NGOs active in the water sector.[69] Several individuals told our investigators that international donors often fund NGOs or UN agencies that may act in the water sector without coordinating activities with SNEP. This has reportedly led to some projects being implemented without consideration for which areas have the most pressing need.

Water sector reform

Water and sanitation sector reform has been discussed among the government of Haiti, donor states, and international financial institutions for over a decade, with a draft water and sanitation sector law discussed since 1996.[70] Some funds from the IDB's Potable

Water and Sanitation Sector Reform and Investment Program Loans were earmarked for this reform. The draft framework law (*loi cadre*) would, *inter alia*: decentralize the water and sanitation system by creating regional water and sanitation companies; introduce public-private partnerships; create a Water and Sanitation Directorate within the Ministry of Public Works; give the public sector legal responsibility for sanitation; and allow for the transfer of authority for water and sanitation to the municipal level once relevant agencies demonstrate their capacity to govern effectively.[71]

In July 1996, the *Unité de Réforme du Secteur de l'Eau Potable* (URSEP) was created by the *Ministère des Travaux Publics, des Transports et des Communications* (Minister of Public Works, Transport, and Communication) to oversee the water sector reform using the anticipated IDB loans.[72] Under the *loi cadre*, the national water authorities were to be dissolved and new agencies created: the *Office National de l'Eau Potable et de l'Assainissement* (ONEPA) and the *Conseil de Régulation de l'Eau Potable et de l'Assainissement* (CREPA).[73] In the interim, URSEP is charged with finalizing the regulatory framework and promulgating policies for tariffs, rules concerning levels of service, arrangements for decentralization, and rules for private sector participation.[74] FOKAL analyzed the *loi cadre* and concluded that, while it is impossible to determine whether the new structure would be more effective than the existing one, the reformed sector promises greater participation by the local community.[75] Among the most striking elements of the *loi cadre* is a provision that, according to the World Bank, would allow municipalities to "delegate service provision to the private sector, municipal water companies, or water committees."[76] Without more information on the regulatory aspects of the *loi cadre*, it is difficult to assess how this kind of privatization would function. Reported plans include installing water meters aimed at "making users responsible and avoiding waste."[77] The General Director of SNEP told our team that households would be expected to pay for water by the volume consumed.

THE WATER SYSTEM IN PORT-DE-PAIX

Port-de-Paix is a port city in the northwestern region of Haiti and the capital of the *Département du Nord-Oeust*. The city's population has grown rapidly due to increasing urbanization, and its aging water system has suffered proportionately. It is possible to measure this effect thanks to an Environmental Impact Assessment (Assessment Report) that the IDB conducted in 1997, in anticipation of the loan program, providing a snapshot of the system one decade before our investigation and household study.

In 1997, Port-de-Paix had a population of 30,000.[78] Since 1955, its main source of drinking water was the source de Cacao; water was piped into the town via PVC piping installed in 1980 to replace cast iron piping from 1955.[79] From a storage reservoir 50 meters above sea level, water was piped to individual connections and public town fountains.[80] In 1997, the IDB concluded that, "the potable water system in Port-de-Paix is functionally incapable of meeting the basic water requirements of the population."[81] In fact, "the town centre receives water daily to the extent that water actually reaches the town and other areas receives water a few hours per week."[82] Water quality was dire: IDB analyses showed that "water at source de Cacao is bacteriologically contaminated above WHO drinking water guidelines as a result of human and agricultural activity"; the chlorination plants were not functioning at all.[83] Drainage was equally poor: "gutters and drainage channels are in a poor state of repair and are frequently blocked. Consequently, storm water and greywater form puddles that constitute a health hazard; flooding after rains is common."[84] As for sanitation, the IDB found that solid waste was "not adequately collected or managed" and that "wastes are dumped near the sea at a site without any environmental controls. Solid wastes are also used to construct dikes along the Port-de-Paix River to minimize flooding."[85]

Since then, the city's population has exploded, with one estimate of around 100,000 people, more than triple that of 1997.[86] Based on national estimates, it is likely that these include nearly 23,000 children under the age of five.[87] The greatest concerns about the public water system in Port-de-Paix remain those of its safety, sufficiency, and accessibility. During its 2007 study, the investigative team visited every public fountain in Port-de-Paix over the course of the six weeks during the rainy season and never once observed water in the public system. During times of rain scarcity, SNEP divides the city into three parts, each receiving water once a week. Even when available, public water is not potable. The local SNEP office lacks sufficient expertise, personnel, or materials for treatment and must rely on technicians from Port-au-Prince. Local officials can wait four to five months for

a technician. Local SNEP officials are willing to learn water treatment, but despite their requests, they have not received access to the necessary training. SNEP's engineers are civil engineers, who themselves often lack training in water management. The SNEP director in Port-de-Paix estimates that, without a functioning public water system, about 80% of the city relies on private water enterprises. The private water system is supplied from wells dug next to the Trois-Rivières and sold by the systems of tanker trucks, cisterns, and household retail outlined above. An international organization studying the quality of water from the city's private cisterns in 2006 found high levels of sediments and bacteria.[88] Water testing undertaken in the course of our household study found that, apart from one salinated well, pre-packaged, treated water was the only potable water available to the public in Port-de-Paix.

Households that cannot afford to buy water depend on rainwater collected in unprotected wells, and members of the household also often travel to the Trois-Rivières to collect water directly, digging shallow holes in a dry area of the riverbed and waiting for the holes to fill with water. Filtered of visible sediment by the soil, the water at first glance appears clean and safe. The clear water is scooped into buckets using a bowl or cup. Although community members refer to these holes as *sous dlo*, a Kreyòl term meaning groundwater spring, the water is in fact river water.[89] As our investigation team observed this collection method on the riverbanks, the excrement of animals such as burros and horses tethered nearby, waiting to take their owners home, was visible near the *sous dlo* holes. Indeed, water testing undertaken in the course of the household study confirmed that this water was contaminated with bacteria.[90] Although no private company fills its trucks directly from the river, private pumping stations draw from the same water table.

The riverside is not the only source of contaminating waste products. While the IDB's 1998 Environmental Impact Assessment Report estimated that 75% of the households in Port-de-Paix relied on latrines to dispose of sanitary waste, a shocking 15% of households had no facilities whatsoever for the disposal of sanitary waste.[91] Ten years later, the city still lacks a functioning sanitation system. Consequently, some households are forced to use a small area of the town's coastline for sanitary purposes. There, the ditches and canals dug through the city for drainage fill up with solid waste, while pigs and goats pick through the trash. The solid waste blocks the drainage of wastewater and rainwater, causing water to stand in fetid pools and creating a breeding ground for mosquitoes.

2007 STATUS OF THE IDB LOANS

By mid-2007, at the time of our study, the water project in Port-de-Paix funded by the IDB loans was reported to be moving toward the implementation phase, which was to address these water and sanitation crises with several crucial initiatives. These included advancing the utilization of extensive groundwater sources beneath the mountains to the south and the rehabilitation of the existing system; the construction of a new water intake structure and a transmission line; the installation of at least five points along the transmission line, where water would be taken to supply rural needs; the construction of a reservoir; and the rehabilitation of the distribution network in the town.[92] In addition, the projects were to include the rehabilitation of both the reservoir and a transmission pipe already in place, as well as the construction of an equalization reservoir.[93] Also, Port-de-Paix's storm water drainage system was to be rehabilitated, and 27 metered, public fountains were to be constructed in the town.[94] Other works that the IDB said it would finance in urban areas included the drilling and cleaning of wells and the supply and installation of pumping equipment and treatment facilities.[95]

The project was also to include the construction of 35 water kiosks in poor neighborhoods in Port-de-Paix. According to URSEP, projects implemented under the IDB loans would operate under a "tariff policy," which would "rest on the principles of economic efficiency, financial viability, and social equity."[96] Meters would be installed in each connection, whether via kiosk or household connections.[97] An official from URSEP explained that tariffs for those who had the means to pay more would likely include surcharges to allow Haiti to repay the IDB loans, whereas poor households would be required to pay only the tariffs that cover the functioning of the water system. Despite including a number of strong features, however, this pay-as-you-go plan should be modified by human rights principles, such as providing basic quantities of free water to the poor, using cross subsidies between high- and low-income users, and using subsidies for low-income users.[98] These plans remained (and continue at this time to remain) unrealized.

COMMUNITY FOCUS IN PORT-DE-PAIX: THE RIGHT TO WATER STUDY

Purpose

When the right to water study was initiated in the summer of 2007, only limited systematic data were available on Haitians' ability to access potable water in areas that would have benefited from the IDB social sector loans. Some country-level research had been conducted on access to clean water, but data from this research were not disaggregated by municipalities and did not focus on water as a human right.[99] To address this lack of empirical data, the study sought to systematically document violations of the human right to water in Port-de-Paix, Haiti, as defined by international legal standards, specifically, identifying whether water was accessible, affordable, and of acceptable quality and quantity. The study adhered to a rights-based approach in its investigative research, by collecting data on the implementation of the right to water, according to the legal content of the right, and by empowering the citizens of Port-de-Paix through robust informed consent practices and opportunities for participation. In conformity with a rights-based approach, the study also aimed to document unfair burdens or discrimination experienced by certain groups (for example, children and women) with respect to the right to water, and to describe health outcomes that are prevalent in settings with compromised water quality (for example, high levels of diarrheal disease and child mortality).

Methods

The study utilized both quantitative and qualitative methods. Quantitative data were obtained through random cluster sampling of households in Port-de-Paix in areas that would have benefited from water infrastructure improvements if the IDB loans had been released in 2001. Qualitative methods included participant observation, open-ended interviews, and focus group discussions with community members and key informants familiar with the city's water systems. Focus group discussions were conducted at two stages: before the implementation of the household survey and again at the conclusion of the study. Input from the initial focus groups allowed investigators to adapt the survey questionnaire to the local context. Household survey data were augmented by qualitative data from in-depth medical interviews with a second set of randomly chosen households.

The medical history interviews provided a more thorough context than the survey data alone for examining how the water situation had affected health in Port-de-Paix. Twenty households were interviewed, with a total of 160 persons in the sample. After a census had been conducted for each household, all members present at the interview were asked directly about their medical history by a physician fluent in Haitian Kreyòl using an open-ended questionnaire.

In addition, the quality of water, defined for the purposes of the study by the level of bacteria, was tested using the H_2O Watersafe Test Kit, a kit appropriate for the field and based on US Environmental Protection Agency (EPA) standards.[100] Assessing the presence or absence of coliform bacteria is a standard method for evaluating bacterial content of water and also reflects the level of fecal contamination. The EPA sets the standard for the maximum level of microbial contaminants in water at zero, since ingesting any amount of such contaminants can have adverse health effects.[101]

The study was therefore able to provide information about the water infrastructure in Port-de-Paix and its impact on the local population. The New York University Committee on Activities Involving Human Subjects (UCAIHS) reviewed and approved the study design and informed consent protocol.[102] A more detailed description of the study methods is provided in the full report released in June 2008.[103]

Results

The results of the study were based on empirical data analyzed from a final effective sample size of 45 households in Port-de-Paix.[104] Results addressed six issues: water quantity; water quality; access to improved water sources; water affordability; health implications; and health services and practices.

Eighty percent of respondents indicated that *water quantity* had either declined or stayed the same in the five years before the survey was conducted, with 55.6% reporting that it had declined. The median number of buckets of water used on a daily basis was only 3 per household, or about 15 gallons of water per day. The mean household size in the study population was 6.5, resulting in only 9.2 liters (2.43 gallons) per person per day, on average, far below the quantity

needed for basic survival.[105] WHO recommends a minimum requirement of 20 liters per person, per day.[106] Although affordability of water was problematic for a large majority of people, 77.8% reported that they were unable to obtain water from their main source even when they had sufficient resources to purchase water, indicating that availability was also a significant challenge.

According to the survey results, 88.9% of the population reported that *water quality* had declined or stayed the same in the previous five years, with 53.3% indicating that water quality had gotten worse. Only 15.4% mentioned that their water was often treated at the point of use, versus 33.3% reporting that their water was never treated at the point of use. Nearly 20% indicated that they had never had consistent access to water treatment materials. These data are consistent with the results of water testing performed by the investigative team: assessment of water quality at 19 different sites throughout Port-de-Paix indicated that 14 were contaminated with coliform bacteria (73.7%). Of the five sites that tested negative, three samples were collected from treated water purchased by the investigative team from different vendors, and one was collected from a covered well that was salinated, making the water suitable only for washing. Only a single water sample taken from household sites tested negative for coliform bacteria. A woman from this household told the investigative team that the owner of the private basin from which the water was purchased proudly tells customers that she treats the water regularly. Of interest is the fact that, although the majority of the population had observed the water conditions worsening, only 24.4% had been given the opportunity to participate in public decision-making through such activities as meetings, neighborhood groups, and community committees regarding the water system in Port-de-Paix.

The data indicated very limited *access to improved water sources*: 8.9% reported having access to a protected well; 6.7% indicated having access to a public connection at some point during the previous five years; 4.4% reported having access to a household connection; and 4.4% reported that they purchased bottled water as their primary source of water for daily use.[107] Overall, only 26.7% had access to at least one improved water source. The vast majority of households (82.2%) had purchased water from a private basin, which, in turn, received water distributed by trucks throughout the city. Based on testing for the presence or absence of coliform bacteria, water from three different truck distributors came back positive, indicating that the water was unsafe for drinking at the point it was delivered to the basins.

A large majority of the population obtains water from unimproved water sources. In addition, results showed that the population expends a significant amount of time and resources to collect water: households collected water 2 to 3 times (median) per day, and the median amount of time for each trip to collect water is 25 to 35 minutes; 44.2% of households spend 35 minutes or more. This suggests that the median amount of time spent collecting water on a daily basis in Port-de-Paix ranges from approximately one- to one-and-a-half hours. According to WHO, it is unlikely that collection of water will reach the minimum requirement of 20 liters per person, per day in a household that is farther than 100 meters from a water point or where collection requires more than 5 minutes. For 44.2% of the study population, the water collection time was 35 minutes or greater; thus, this segment of the population, according to WHO standards, has "no access" to water.[108]

Households also reported collecting water during the night or very early in the morning, with 55.6% collecting water between 4:00 and 7:00 a.m. and 4.4% reporting that they collected water between 1:00 and 4:00 a.m. Female adult members of households are those most likely to collect water (57.8%); they are typically assisted by female (44.4%) or male (42.2%) children. In fact, 19.2% of respondents indicated that the collection of water prevented or inhibited their children from attending school. Access to clean drinking water was also very limited in schools: 73.3% reported that water was not available at school, with 55.3% carrying water to school and 60.5% purchasing water while attending school.

Regarding *water affordability,* 60% mentioned that, during the previous five years, the price of water had increased, and 17.8% indicated that the price had stayed the same; 17.8% reported that it had decreased. The median cost of a bucket of water was five *gourdes* (approximately US$.13). A typical household using approximately 3 buckets per day would spend approximately 105 *gourdes* (approximately US$2.65) per week, which was more than 10% of

the median Haitian household expenditure for basic necessities, including food, water, medical expenses, and charcoal for cooking. In addition, 86.7% indicated that there were times when they could not afford to pay for water; this lack of affordability persisted even among those who spend more than 1000 *gourdes* (approximately US$25) per week to cover basic needs (91.3%). When water is too expensive, individuals go to the highly contaminated and garbage-filled Trois-Rivières or Rivière Port-de-Paix to meet their household water needs, including water for drinking (31.1%). In addition, some households go without bathing (22.2%) or cooking (26.7%) when water is not affordable.

Results identified several potential *health implications.* Given the lack of access to and the limited affordability of water, it is not surprising that symptoms of infectious disease were prevalent, with 84.4% of households reporting at least one symptom of an infectious illness, such as fever (69.1%) and diarrhea (19.1%). At least two deaths in the previous five years were documented among the study population; according to household members, those deaths were linked with lack of recovery from illness. One death was a three-year-old boy who was hospitalized for two days with fever and did not recover.

Finally, reporting *health services and practices,* participants indicated that their usual source of health services included a doctor or nurse (86.7%) or a religious leader or traditional medicine doctor (11.1%). A majority of respondents reported that, when they sought medical attention, they typically could not follow the prescribed treatment due to the expense (53.0%). Most households were found to practice basic hygiene: 100% indicated that they washed hands after using the toilet; 97.8% used water for laundry; and 97.8% used water for food preparation. Of the households surveyed, 93.3% of participants reported bathing one or more times per day; 100% reported washing hands, with 62.2% washing hands two or more times per day. Based on the report's finding that the median number of buckets of water used per day in households was three, it is likely that the reported frequency of hand washing and bathing reflects overestimates and may suggest a reporting bias. However, these estimates also indicate that the study population has a reasonable level of knowledge about basic hygiene.

In-depth medical history interview results

Data collected from the in-depth medical history interviews supported the data collected in the household survey. Out of 20 households, 5 had no water available in the household at the time of the interview. Further, 5 water samples were taken randomly from the 15 households participating in the in-depth medical interviews that did have water available. Two of the samples came from rainwater collection and three from water purchased from private basins supplied by water trucks; all five samples tested positive for bacteria. Three households reported a total of four illnesses that, after extensive questioning about clinical and treatment history, can be identified as cases of typhoid; therefore, 15% of the households interviewed self-reported probable cases of typhoid.[109] Two cases of death over the previous 5 years — both of young people and likely from infectious disease — were reported among the 160 persons whose medical history was obtained.

Of the 160 persons represented in the medical history interviews, less than half reported having visited the doctor in the previous 5 years. Therefore, while data from the household survey indicated that the usual health service provider of more than 85% of participants was a trained medical professional, the qualitative interviews revealed that many cannot regularly access medical services. It should also be noted that the water for drinking and bathing at Port-de-Paix's one large public hospital — *Hôpital Immaculée Conception* (where care is provided on a fee-for-service basis) — comes from the same infected private wells that supply the majority of the water to Port-de-Paix.[110]

DISCUSSION: WATER AS A LEGAL RIGHT IN THE HAITIAN CONSTITUTION AND INTERNATIONAL LAW

Measuring the right to water in Port-de-Paix

The right to water is both a right in and of itself as well as a necessary component of and "inextricably related" to the right to health, the right to life, the right to an adequate standard of living, the right to adequate housing, the right to education, and the right to food.[111] Whether the right to water is explicitly or implicitly protected by human rights instruments, states have specific obligations under human rights law to ensure that it is implemented. To determine whether the right to water has been respected, pro-

tected, and fulfilled, three factors are relevant: availability, quality, and accessibility.

Availability means that the water supply for each person must be sufficient and continuous for personal and domestic uses, such as drinking, sanitation, washing of clothes, food preparation, and personal and household hygiene.[112] In Port-de-Paix, 77.8% of respondents reported that, even when they had enough money to buy water, they were unable to obtain water from their main source.

Quality means that water must be safe, that is, free from hazards that constitute a threat to a person's health.[113] Fourteen out of 19 sites in Port-de-Paix were contaminated with coliform bacteria (73.7%).

Accessibility means that water, water facilities, and services must be accessible to everyone without discrimination. Accessibility has four overlapping dimensions: physical accessibility, economic accessibility, non-discrimination, and information accessibility.[114] In Port-de-Paix, 86.7% of respondents indicated that there were times when they could not afford to pay for water.

Despite the serious health and human rights concerns raised by these measured findings, the investigation found no evidence that the Haitian government has purposefully impeded access to water. Instead, there is evidence that the Haitian government has worked within its resources to bring clean water to communities throughout the country. The Haitian government is under a continuing obligation, however, to take all necessary measures to respect, protect, and fulfill the right to water in Haiti. This includes seeking international assistance and cooperation wherever possible and using available resources to diligently advance access to water for all. This and the following section outline the legal content of the right to water and the measures that must take place to ensure that Haitians can realize their right to water.

Water as a legal right in the Haitian Constitution

Economic, social, and cultural rights, such as the right to water, are inextricably linked to democracy, the rule of law, and development.[115] In Haiti, these rights are protected by domestic law, through the Haitian Constitution, and international law, through regional and international commitments by Haiti and the international community, as well as customary international law.

While the right to water is not explicitly guaranteed by the Haitian Constitution, it is implicitly protected because it is essential for achieving other rights that are specifically stated. The Haitian Constitution of 1987 protects economic, social, and cultural rights, explicitly guaranteeing the rights to health, decent housing, education, food, social security, and work.[116] The right to water is a necessary precursor to the fulfillment of these rights.

Water as a legal right in international law

In addition to protections in domestic law, the right to water is also recognized in international law. International and regional human rights bodies and national and international courts have interpreted the right to water as being an implicit part of other human rights, such as the right to life, the right to health, the right to an adequate standard of living, the right to food, the right to housing, and the right to education.[117] These rights have been enshrined in both UN and regional human rights instruments, several of which have been ratified by Haiti and the United States. Both Haiti and the United States have ratified the International Covenant on Civil and Political Rights (ICCPR), which protects, *inter alia*, the right to life. Both have signed the International Covenant on Economic, Social and Cultural Rights (ICESCR), which includes, *inter alia*, the right to housing, food, health, and an adequate standard of living.[118]

The right to water is also protected under other international instruments. These instruments are useful indicators of norms accepted by the international community and reflect evidence of political will to make access to water a priority. The provisions in some international instruments have obtained the status of customary international law and thus create legal obligations for states.

Customary international law is derived from a clear consensus among states as to a legal rule, which is evidenced by widespread conduct by states accompanied by a sense of legal obligation to adhere to such rule, known as *opinio juris*.[119] The UN Committee on Economic, Social and Cultural Rights (ESCR Committee) has found that the minimum core of the main economic, social, and cultural rights has become

customary international law and is thus binding on all states, regardless of whether they have signed or ratified treaties protecting those rights. Many scholars support this position.[120] The right to life is further protected by customary international law, and as a necessary component of the right to life, the right to water is thus implicitly protected by customary international law.[121]

International instruments that may reflect customary international law and that protect the right to water, either explicitly or implicitly, include the Universal Declaration of Human Rights, the Declaration on the Right to Development, and the Millennium Development Goals.[122]

STATES' TREATY-BASED OBLIGATIONS TO SECURE HAITIANS' RIGHT TO WATER

As the situation in Haiti makes clear, legal rights provide no real protection for individuals without corresponding responsibilities, and the responsibility for fulfilling rights is an integral part of all legal rights. Generally, the government of each state bears the primary responsibility to ensure the protection and achievement of human rights for those on its territory or otherwise under its jurisdiction. A state's human rights obligations also apply when it acts as part of a multilateral or international organization, such as the UN or the World Bank.[123] Thus, members of the international community bear a measure of legal responsibility.

The case of water in Haiti is directly relevant to the issue of international human rights law as codified in treaties and under customary international law. When a state *signs* a treaty, the state is required to refrain from any action that would contradict the object and purpose of the treaty, and when a state *ratifies* a treaty, the state thereby accepts the duties contained within the treaty and is required to immediately take positive steps to realize the rights contained in the treaty.[124] Even if a state has neither signed nor ratified a human rights treaty, it has certain obligations under customary international law, which protects fundamental human rights and in general applies to all states.

Types of duties

Human rights treaties generally specify three different kinds of duties relating to the rights set out in the treaty. The first is the obligation to *respect*, meaning that governments must refrain from interfering directly or indirectly with an individual's enjoyment of rights. The second is the obligation to *protect*, meaning that governments must prevent the violation of human rights by other actors. States' actions to protect include actions that prevent individuals, companies, or other entities from violating individuals' human rights, and also actions to investigate and punish such violations if they occur. And the third duty is the obligation to *fulfill,* meaning that governments must adopt whatever measures are necessary to achieve the full realization of human rights for all. Thus, governments are required to provide subsidies, services, or other direct assistance to the most vulnerable and needy members of a society when they cannot otherwise access their rights.

Obligations of the government of Haiti

In accordance with these treaty-based obligations and customary international law, the Haitian government is responsible for guaranteeing and fulfilling the human rights of everyone in Haiti.[125] Haiti is a party to the ICCPR, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child, the Organization of American States (OAS) Charter, and the American Convention on Human Rights; it is thus responsible for all the obligations found within each of these treaties. The Haitian government has signed, but not yet ratified, the ICESCR and the Protocol of San Salvador, both of which enumerate many of the rights at issue in this article; thus, these treaties do not strictly bind the government of Haiti. However, as a signatory, Haiti has an obligation to refrain from actions that will frustrate the object and purpose of these treaties.[126] Furthermore, given that the Haitian Constitution protects the rights to health and food, the Haitian government has an obligation to ensure the satisfaction of — at the very least — minimum essential levels of each of these rights, of which access to water is an integral component. All Haitians, as *rights-holders*, have a particular set of entitlements, and the Haitian state, as the primary *duty-bearer*, has a particular set of obligations. Haitians who cannot access even the most basic forms of these entitlements are being deprived of their constitutional economic and social rights and their rights under treaties guaranteeing basic civil and political rights, such as the right to life, personal liberty, and security.[127]

The Haitian Constitution requires the Haitian government to recognize and protect Haitians' rights to health, decent housing, education, and food.[128] Because the right to water is an important component of these rights, the Haitian government has a responsibility to ensure the full realization of the right to water through national legislation and policies. A national water strategy should elaborate how the right to water is to be realized and should include concrete goals, policies, and a time frame for implementation.[129]

Obligations of the international community

While the government of Haiti is the *primary* guarantor of Haitians' rights, the international community also has obligations.[130] Human rights treaty obligations apply not only within the territory of the ratifying state, but also apply to states' behavior outside of their borders, through the concept of jurisdiction, and to states' actions as members of the international community.[131] This means that states must protect the human rights of all individuals within their territory or under their jurisdiction and ensure that their actions at the international level are in compliance with their human rights obligations.[132] With respect to the right to water, this means that states must "refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries."[133] The following brief summary of international obligations relevant to Haiti illustrates the importance of this factor in discussing Haitians' right to water.

Two types of state action are most pertinent to the denial of the right to water in Haiti: 1) when states act individually on the international level, and 2) when they act as members of international organizations, particularly international financial institutions (IFIs). The Maastricht Guidelines, developed to clarify which state actions constitute violations of economic, social, and cultural rights, assert that states' duties to protect human rights extend to their "participation in international organizations, where they act collectively."[134]

When authorized by member states, IFIs can take actions that may help fulfill human rights, such as financing the construction of the infrastructure needed to deliver and treat water. Alternatively, actions by IFIs may hinder the enjoyment of human rights, through, for example, requiring governments to minimize social programs or privatize core services as a precondition to receipt of grants or loans. IFI actions in such cases may interfere with the target state's ability to fulfill human rights obligations.[135] To effectively ensure the realization of the right to water, member states must be held accountable for the actions that they take, through IFIs, that have a direct impact on the human rights of individuals located outside their territory.[136] At a minimum, member states must abide by their duty to *respect* human rights in their actions as members of IFIs.[137]

The ESCR Committee — responsible for interpreting and monitoring compliance with the ICESCR — has determined that states are bound by human rights obligations when acting as members of IFIs.[138] With regard to the right to water, the Committee notes that "States parties that are members of international financial institutions, notably the International Monetary Fund (IMF), the World Bank, and regional development banks, should take steps to ensure that the right to water is taken into account in their lending policies, credit agreements and other international measures."[139] This statement further stipulates that "water should never be used as an instrument of political and economic pressure."[140]

The majority of members of the World Bank Group and IMF (including the United States) are party to the ICCPR, which can be seen as providing protections of the right to water as an element of the right to life, a right central to the ICCPR.[141] Also, since the ICESCR has been ratified by the majority of major IFI state members and all European Union countries, these states are obligated to comply with its provisions. The United States has not ratified the ICESCR, but it has signed the treaty, and thus must refrain from acting in a manner that would frustrate the object and purpose of the treaty.[142] Many IDB member states are also members of the OAS, through which states may ratify regional treaties, including the American Convention and the Protocol of San Salvador, that protect economic and social rights. Moreover, the minimum core content of the key economic and social rights is regarded as customary international law, binding even non-ratifying states such as the United States.

Thus, the action taken by the United States in blocking IDB development loans earmarked for water projects in Haiti is a direct violation of the United States' human rights obligations.[143] In this case, the United States actively impeded the Haitian state's ability to fulfill Haitians' human right to water through its actions, breaching its duty to respect. Such blatant frustration of the object and purpose of the human rights treaties to which the United States is a signatory or a state party is a clear violation of international law.

RECOMMENDATION: ADOPT A RIGHTS-BASED APPROACH

This article has documented the disastrous consequences of the IDB's extended failure to disburse loans earmarked for water projects in Haiti. It has demonstrated how these actions directly impeded the Haitian government's ability to respect, protect, and fulfill its citizens' right to water. While the government of Haiti is primarily responsible for ensuring this right, other key actors, such as IFIs, foreign states, nongovernmental organizations, and private companies also have a role in solving Haiti's water crisis. To ensure a sustainable solution, we recommend that all of these actors, in addition to the Haitian government, adopt a rights-based approach to the development and implementation of water projects. Such an approach would enhance the Haitian government's ability to deliver these services and the Haitian population's right to access safe and sufficient water. This section provides a brief explanation of a rights-based approach to development and its implications for water security in Haiti.

A rights-based approach

A rights-based approach to development is a conceptual framework that is based on international human rights law and methodology.[144] It integrates the norms, standards, and principles of international human rights law into the plans, policies, and processes of development. A rights-based approach to development is based on five principles. First, a human rights-based approach shifts the language of development from charity to *empowerment*, viewing the beneficiary of development assistance as the owner of a right. The duty-bearer has a responsibility to develop access to the relevant rights to the rights-holder. Second, a rights-based approach considers the *indivisibility and interdependence* of interrelated rights (civil, cultural, economic, political, and social), recognizing that a policy affecting one right will necessarily have an impact on the others.[145] Third, a rights-based approach requires *non-discrimination and attention to vulnerable groups*; that is, groups historically excluded from the political process and prohibited access to basic services must receive particular attention. Fourth, a rights-based approach to development ceases to be about charity and instead is about duty-bearers' *accountability* to human rights obligations. In this case, accountability falls primarily on the government of Haiti, but also on the actions of donor states and private actors (for example, those providing public services) as they have obligations in particular situations. Transparency is crucial to increasing accountability.[146] Finally, a rights-based approach requires duty-bearers to ensure a high degree of *participation* from communities, civil society, minorities, indigenous peoples, women, and other marginalized groups. Such participation must be active, free, and meaningful and must occur at each level of the development process.[147] Measures to address and reduce structural participation inequalities or disadvantages may require appropriate preferential treatment to vulnerable and disadvantaged groups. Transparency is, again, essential.

A rights-based approach to water projects in Haiti

A rights-based approach to developing the water sector in Haiti requires all actors to incorporate each of these principles into their work. For example, effective participation requires that community members be involved in all efforts to improve the water situation. They should be consulted during the development of water projects, especially on issues such as water source, availability, sanitation precautions, time frames for implementation, water cost, and water quality. There must be regular consultations with the community during project development. Community members must have easy access to ongoing project information during implementation — for example, via posters, meetings, and radio programs. Such participation would help to ensure that water projects are empowering the Haitian people as rights-holders and that the projects are adequately and accurately meeting their needs.

A rights-based approach also requires transparency of all efforts and actors involved in developing and implementing water projects in Haiti. There are several means to achieving this transparency. For example, since the government does not yet have the capacity to effectively regulate the private sector, groups

responsible for water distribution or sale should also be responsible for regularly checking the safety of sources used for drinking water and publicizing test results. In addition, all water providers should report regularly on the status of projects, providing, at a minimum, information about available project funds, monies spent, specific timelines for implementation and completion, and any changes to original implementation plans. International entities might include mechanisms for transparency in their work in Haiti by providing readily-available public documentation of project status, including expenditures.

Finally, a rights-based approach requires that each implementing entity has a clear and accessible accountability mechanism (or mechanisms) through which communities can report project problems. In Haiti's case, this should include mechanisms for redress from all actors, including international organizations, states, IFIs, NGOs, and private entities. These mechanisms need to be locally focused and easily accessible, and they should have built-in transparency so that community members can follow the status of grievances or complaints and keep the public aware of their outcomes. Accountability also lies with the government, which should build internal accountability mechanisms into its national water strategy, with identifying benchmarks to measure the extent to which the right to water is being realized.

The right to water has been compromised in Haiti for too long. A rights-based approach is an essential strategy in the successful implementation and monitoring of sustainable development projects, including water projects. While the government of Haiti is obligated to implement a rights-based approach, all entities involved in the development and implementation of water projects can contribute to fulfilling Haitians' human rights by adopting this framework.

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20. With 46 members, the IDB is composed of member states of the Organization of American States and donor nations in Europe, North America, and Japan. Bank Information Center (BIC), *An Introduction to the Inter-American Development Bank: A Fact Sheet for Civil Society Groups*. Available at http://www.eartheconomics.org/resources/publication_documents/IDB_factsheet.pdf.

21. IDB, *About the IDB: Board of Governors*. Available at http://www.iadb.org/aboutus/IV/bog.cfm?language=English. On the Board of Executive Directors: see IDB, *About the IDB: Board of Executive Directors*. Available at http://www.iadb.org/aboutus/IV/boe.cfm?language=English; BIC Fact Sheet (see note 20).

22. IDB, *About the IDB: Inter-American Development Bank List of Governors* (see note 20); US Department of Treasury, *Duties & Functions: Secretaries of the Treasury*. Available at http://www.treas.gov/education/duties/treas/sec-treasury.shtml (lists among the "duties and functions" of the Treasury Secretary, the role of "US Governor of the

International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the European Bank for Reconstruction and Development").

23. IDB, *About the IDB: Capital Stock and Voting Power*. Available at http://www.iadb.org/aboutus/IV/go_voting.cfm?language=English.

24. The other loans included health, education, and rural roads projects. IDB, *Press Release: IDB, Haiti Signs $97 million for Programs in Health, Education and Water Supply: Long-term, Low-interest Loans for Social Investments and Development Projects* (October 5, 1998). Available at http://www.iadb.org/exr/PRENSA/1998/cp23298e.htm; IDB, *Projects: HA0014: Drinking Water and Sanitation Sector Reform*. Available at http://www.iadb.org/projects/Project.cfm?project=HA0014&Language=English.

25. IDB, *Potable Water and Sanitation Sector Reform and Investment Program, Loan Proposal, Project HA-0014*, Executive Summary, (July 21, 1998). Available at http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=454841.

26. Ibid., p. 34, para. 4.27(a).

27. See, for example, Letter from Lawrence Harrington, US Executive Director of the Inter-American Development Bank, to President Iglesias, of the Inter-American Development Bank (July 16, 2001).

28. On the FOIA suit: The Robert F. Kennedy Center for Justice & Human Rights (RFK Center) filed a FOIA request with the US Department of Treasury in August 2003. The request sought access to internal communications between the Treasury Department and the IDB regarding the social sector loans to Haiti. In August 2006, after receiving no documents and little response for three years, the RFK Center filed a complaint against the Treasury Department in the United States District Court for the District of Columbia. By January 30, 2007, the Treasury Department had released 4,606 pages of documents to the RFK Center. These included emails and correspondence between the IDB, Treasury, and the US State Department. The documents are on file with the RFK Center and form the basis of much of the analysis in this section. On the IDB's prohibition against political considerations, The IDB Articles of Agreement state: "[t]he Bank, its officers and employees shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighted impartially in order to achieve the purpose and functions stated in Article I." See Agreement Establishing the Inter-American Development Bank, Article VIII, §5(f). (done at Washington, DC, on April 8, 1959, and entered into force for the United States on December 30, 1959; 10 U.S.T. 3029; T.I.A.S. No. 4397, as amended).

29. In December 2001, the Treasury Department circulated the following language to its own staff and to that of the USED: "In return for the formation of a [Provisional Electoral Council] formed on this basis, the [US] Ambassador may tell Aristide that the US would not oppose the gradual release of [the loans] provided that the conditions for their disbursement are satisfied . . . [Treasury Department official is] expecting points from State regarding the political situation (resolution of disputed election and working with the opposition being the main ones)." Disclosure of Treasury Department to RFK Center via FOIA litigation. For more details, see the *Full Report* (see note 2).

30. Email from Bruce Juba, Special Counsel, Office of the US Executive Director at the Inter-American Development Bank, to Ivy Kosmides, Treasury Department, and Stephen Altheim, Treasury Department (April 4, 2001, 17:13 EST).

31. Commitment fees amount to 1% of an undisbursed amount. In an email from Bruce Juba, Special Counsel, Office of the US Executive Director at the Inter-American Development Bank, to Robert Conley, Treasury Department, Steven Altheim, Treasury Department, and Ivy Kosmides, Treasury Department (December 7, 2001, 15:56 EST), Juba wrote, "the idea of the commitment fee is that the money is locked up and countries should get on with the business of ratification, signature, compliance and drawing/executing the loans. The case of Haiti is admittedly extreme in that ratification by parliament was delayed and now, disbursements have been not forthcoming due to a variety of concerns by the Bank and Board." Email from Ivy Kosmides, Treasury Department, to Bruce Juba, Special Counsel, Office of the US Executive Director, Inter-American Development Bank, and

Robert Conley, Treasury Department (December 7, 2001, 15:58 EST). These commitment fees were eventually waived after significant advocacy by human rights groups and US Members of Congress.

32. In November 2001, then-US Ambassador to Haiti, Dean Curran, stated, "[t]here now are a certain number of loans of the Inter-American Development Bank that are not yet disbursed with the objective of trying to request of the protagonists of the current situation, in the current political crisis, to reach a compromise." Interview with Dean Curran, US Ambassador to Haiti, location unknown (November 21, 2001). The Haitian government countered by suspending loan repayment, "because of the fragility of net foreign exchanges and in the conviction that the Bank would not be proceeding to the disbursement of the ratified loans." Faubert Gustave, Governor for Haiti, Address at Annual Meeting of the IDB Board of Governors (March 25, 2003).

33. Dan Beeton, "What the World Bank and IDB Owe Haiti," *Global Policy Forum* (July 24, 2006), stating that, "the government agreed to meet the IMF requirements for the Staff Monitored Program . . . despite the devastating impact it would have on the populace." Available at http://www.ijdh.org/pdf/RoundupJuly21-Aug12006.pdf.

34. US Department of State, Office of the Spokesman, *Factsheet: Haiti and the International Financial Institutions*, (December 29, 2003). Available at http://www.state.gov/r/pa/prs/ps/2003/27565.htm.

35. In testimony before the Senate Foreign Relations Committee, Taylor stated that Haiti's failure to address human trafficking had placed it in Tier Three status under the US's human trafficking ranking system, subjecting Haiti to non-humanitarian and non-trade sanctions. According to Taylor, unless Haiti made progress within the next two months, the US would use their best efforts to deny lending or other assistance to Haiti by the IFIs. *Successes & Challenges for US Policy to Haiti*, *Hearing before the Senate Foreign Relations Committee*, 108th Cong. 1st Sess. (2003) (statement by John Taylor, US Treasury Secretary).

36. Meetings between RFK Center staff and officials of several Member States of the IDB, 2003.

37. The following were considered to be improved water sources: public or household connection to a public water source (36.3%); protected well (12.2%); protected spring (4.6%); and rainwater (2.1%). M. Cayemittes**,** M. F. Placide, S. Mariko et al., *Enquête Mortalité, Morbidité et Utilisation des Services, Haïti, 2005–2006* (2007), p. 20 [hereinafter, "*EMMUS-IV*"]. Available at http://www.measuredhs.com/pubs/pdf/FR192/FR192.pdf. In 2004, 52% of city-dwellers and 56% of households in the countryside had improved access according to WHO/UNICEF, Joint Monitoring Programme for Water Supply and Sanitation, in *Coverage Estimates: Improved Drinking Water: Haiti* (2006). Available at http://www.wssinfo.org/pdf/country/HTI_wat.pdf. See also, UNDP, *La Vulnérabilité en Haïti: Chémin Inévitable Vers la Pauvreté? Rapport National sur le Développement Humain — Haïti* (2004), p. 74 [hereinafter, "*RNDH*"].

38. See World Bank, *Project Appraisal Document on a Proposed Grant in the Amount of SDR 3.4 Million (US$5 Million Equivalent) to the Republic of Haiti for a Rural Water and Sanitation Project*, World Bank Report No: 38080 (2006), p. 28 [hereinafter, "World Bank Appraisal"]. Available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2007/01/05/000020953_20070105093521/Rendered/PDF/38080.pdf. See also, FOKAL, *Étude sur L'Approvisionnement en Eau Potable en Haïti: Etat Des Lieux, Propension à Payer, Mode de Gestion et Possibilités D'appropriation des Systèmes D'adduction en Eau Potable Pour les Usagers* (2005), p. 28 [hereinafter, "*Étude sur l'Approvisionnement*"].

39. Basic sewerage exists in only 27% of the country. PAHO, *Situation of Potable Water in Haiti* (2004). Available at http:// www.paho.org/english/dd/ped/Water.ppt. Open latrines (20.7%), hanging toilets (on stilts) (14.1%), and "other" (0.1%) were considered to be rudimentary toilets. *EMMUS-IV* (see note 37), p. 21.

40. *RNDH* (see note 37), p. 74. On the link between unsanitary water and diarrheal disease transmission, see, for example, J. C. Semenza et al., "Water Distribution System and Diarrheal Disease Transmission: A Case Study in Uzbekistan," *American Journal of Tropical Medicine and Hygiene* 59 (1998), p. 941. Untreated water contains many diarrhea-inducing pathogens that particularly decimate children under five. *RNDH* (see note 37), p. 102; Pan American Health Organization, "Country Profile: Haiti," *Epidemiological Bulletin* 24/1

(2003), pp. 13–16; F. Fernand, A. Ross, and H. Perry, "Assessing the Causes of Under-five Mortality in the Albert Schweitzer Hospital Service Area of Rural Haiti," *Panamerican Journal of Public Health* 18/3 (2005), pp. 178–186.

41. Ministry of Planning and External Cooperation, Growth and Poverty Reduction Strategy Paper (2007), p. 42. This opinion was shared by the Technical Specialist Engineer interviewed for this investigation.

42. On SNEP, see "Loi Organique du Service National d'Eau Potable," *Le Moniteur*, (October 10, 1977); on the MTPTC supervision, see World Bank Appraisal (see note 38), pp. 28–29.

43. SNEP, *Directivesonale de Développement du Secteur Eau Potable et Assainissement en Milieu Rural* (2006) [hereinafter, "*Directives*"]. The General Director of SNEP told the investigative team in spring 2008 that SNEP is revising this document.

44. World Bank Appraisal (see note 38), p. 29.

45. See World Bank Appraisal (Ibid.), pp. 2, 28.

46. *Étude sur l'Approvisionnement* (see note 38), p. 72 (translation by authors).

47. Two percent have taps in the house, and 8% have them in the courtyard. *EMMUS-IV* (see note 37), p. 20.

48. *RNDH* (see note 37), p. 41.

49. A recent national study found almost equivalent levels of diarrhea in children drinking from improved versus non-improved sources. *EMMUS-IV* (see note 37), p. 134. The UN recently reported that the quality of the water distributed by the three potable water agencies in Haiti is not regularly assured. *RNDH* (Ibid.), p. 42.

50. *RNDH* (Ibid.), p. 20.

51. Library of Congress, *Country Profile: Haiti* (May 2006), p. 10. Available at http://lcweb2.loc.gov/frd/cs/profiles/Haiti.pdf.

52. Interview with Emmanus Dorval, *Ingénieur Spécialiste Technique, Ministère des Travaux Publics, Transports et Communications, Cellule Eau Potable et Assainissement* (URSEP).

53. *EMMUS-IV* (see note 37), p. 20.

54. See S. Guy, *Haiti: The Struggle for Water* (2004). Available at http://www.pbs.org/frontlineworld/fellows/haiti/indexa.html.

55. Ibid.

56. On paying fees only to equipment owners: *Étude sur l'Approvisionnement* (see note 38), p. 55. See Guy (see note 54).

57. Ibid.

58. *Étude sur l'Approvisionnement* (see note 38), p. 8 (translation by authors).

59. See Guy (see note 54).

60. Ibid.

61. International organizations involved in the water sector in Haiti include World Vision, CARITAS, Oxfam, and Action Contre la Faim. See MINUSTAH, *Haiti: NGOs/Agencies per Commune — Water and Sanitation Sector* (September 2006). Available at http://www.reliefweb.int/rw/fullMaps_Am.nsf/luFullMap/23A7CE67302E359D852572520072B425/$File/minustah_PRG10_hti060921.pdf?OpenElement. For examples of smaller NGOs that conduct water projects in Haiti, see *Clean Water for Haiti and Water for Life for Haiti.* Available at http://www.cleanwaterforhaiti.org/; and http://www.wflhaiti.com/. For an excellent overview of the role of NGOs in the water sector in Haiti, see *Étude sur l'Approvisionnement* (see note 38), pp. 45–46.

62. See World Bank Appraisal (see note 38), p. 34.

63. See, for example, G. Brin, *Evaluation of the Safe Water System in Jolivert Haiti by Bacteriological Testing and Public Health Survey* (2003). Available at http://www.jolivert.org/research.htm (evaluating an NGO-led project to implement a simple point-of-use water treatment system in northern Haiti); see also, *EMMUS-IV* (see note 37), p. 20. The study discussed in Section IV made similar findings in relation to Port-de-Paix.

64. Behavior has been one barrier to instilling proper sanitary protocols; children with better-educated mothers are slightly less prone to water-borne maladies. *EMMUS-IV* (see note 37), p. 134; see also, World Bank Appraisal (see note 38), p. 34.

65. Ibid.

66. *Directives* (see note 43), p. 32.

67. See *Étude sur l'Approvisionnement* (see note 38), p. 69.

68. See ibid., p. 45.

69. See ibid.

70. See World Bank Appraisal (see note 38), p. 2.

71. See ibid., pp. 2–3.

72. See generally, URSEP. Available at http://www.ursep.org/.

73. See ibid.

74. See ibid.

75. See *Étude sur l'Approvisionnement* (see note 38), pp. 46–47.

76. See World Bank Appraisal (see note 38), p. 3.

77. See MINUSTAH, "L'Eau Potable: Un Besoin de Plus en Plus Pressant en Haïti" (March 2008). ("Entre autres actions en cours, l'installation de compteurs dans les domiciles afin de responsabiliser le consommateur et d'éviter le gaspillage.")(*Among other actions being implemented, the installation of water meters in residences in order to make the consumer more responsible and to avoid waste.*) Available at http://www.reliefweb.int/rw/RWB.NSF/db900SID/EGUA-7DASHF?OpenDocument.

78. IDB, *Potable Water and Sanitation Sector Reform and Investment Program Environmental Assessment Annex II*, IDB Document No. HA-0014/ENV-SUM A-II (July 1997) [hereafter, "Environmental Assessment Annex II"]; p. 11, para. 1.33 (on the 1997 population at 30,000), and p. 12, para. 1.36 (on the "functionally incapable" water system at Port-de-Paix).

79. Ibid., para. 1.34.

80. Ibid., para. 1.35.

81. Ibid., para. 1.36.

82. Ibid., para. 1.37.

83. Ibid., para. 1.39.

84. Ibid., para. 1.40.

85. Ibid., para. 1.42.

86. Ibid., para. 1.33.

87. UNICEF , *Child Alert: Haiti* (New York: UNICEF, March 2006). Available at http://www.unicef.org/childalert/haiti/content/Child%20Alert%20Haiti%20(En).pdf, p. 123.

88. Dr. Laurent Beauge, Departmental Director of the Ministry of Public Health (*Ministère de la Santé Publique et de la Population — Département Sanitaire du Nord-Ouest*). Personal communication.

89. See also, G. Brin, L. Bossi, P. Buscemi et al., *Water Resources and Wetlands Study for Haiti and the US Virgin Islands* (June 2003), p. 15. Available at http://ceemeng.mit.edu/reports.html (describing the harvesting of water from *sous dlo* by community members in Jolivert, Haiti, near Port-de-Paix).

90. See Table 2 of the *Full Report* (see note 2), p. 33.

91. Environmental Assessment Annex II (see note 78), p. 13, para. 1.41.

92. Ibid., p. 18, para. 1.56.

93. Ibid., p. 18, para. 1.57.

94. Ibid., p. 19, para. 1.60.

95. IDB, *Potable Water and Sanitation Sector Reform and Investment Program*, IDB Document No. 1010/SF-HA (approved August 12, 1998), p. 15, para. 2.13.

96. See URSEP (see note 72).

97. See ibid.

98. For a discussion of how tariffs and pay-as-you-go schemes can be implemented in a rights-respecting manner, see AAAS, COHRE, SDC, and UN-HABITAT, *Manual on the Right to Water and Sanitation* (2007), Chapter 10. Available at http://www.cohre.org/store/attachments/RWP-Manual-water.pdf.

99. UNICEF, (see note 87).

100. The All-In-One Home Drinking Water Test Kit. Available at http://www.h2okits.com/site/1286521/product/WS-425B.

101. Environmental Protection Agency, *Ground Water and Drinking Water, Setting Standards for Safe Drinking Water* (Washington DC: November 2006). Available at http://www.epa.gov/safewater/standard/setting.html.

102. UCAIHS Approval HS# 6113, approved May 14, 2007; extended January 28, 2008.

103. CHRGJ, RFK Center for Justice & Human

Rights, Partners In Health, and Zanmi Lasante (see note 2).

104. See the *Full Report* (see note 2) for tabular data of the results discussed in this section.

105. WHO suggests a minimum of 20 liters of water per person, per day, for basic survival, and 50 to 100 liters per day, per person, to meet most health needs. G. Howard and J. Bartram, *Domestic Water Quantity, Service Level and Health* (Geneva: World Health Organization, 2003), p. 22.

106. Ibid., p. 22.

107. Although there was no public water available at the time of the survey, water had been available intermittently through the public system during the previous five years.

108. Howard and Bartram (see note 105), p. 3.

109. "Typhoid fever" was reported by an even higher percentage of respondents. We are reporting 4 cases in 160 individuals. These numbers represent only cases with enough details of history, reported laboratory findings, and response to appropriate therapy. While this is a high incidence of typhoid in a small sample size, and no statistical conclusions can be drawn, the case histories for typhoid in each instance were very convincing.

110. A water sample taken from a central tap by investigators at *Hôpital Immaculée Conception* was bacterially contaminated.

111. UN Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment No. 15, The Right to Water, UN Doc. No. E/C.12/2002/11 (2002), para. 3 [hereinafter, "ESCR Committee, General Comment No. 15"].

112. Ibid., para. 12.

113. Ibid.

114. Ibid.

115. Inter-American Committee on Human Rights, Annual Report 2002, OEA/Ser.L/V/II.117, Doc. 1, rev. 1 (2003).

116. Constitution of the Republic of Haiti (1987) [hereinafter, "Haiti Constitution"], Articles 19, 22, 23, 32, and 35.

117. See, for example, *Free Legal Assistance Group et al. v. Zaire*, African Commission on Human and Peoples' Rights, Comment No. 25/89, 47/90, 56/91, 100/93 (1995). (African Commission on Human and People's Rights held that the failure of the government to provide basic services such as safe drinking water . . . constitutes a violation of the Article 16 right to health); *Menores Comunidad Paynemil s/ Accion de Amparo,* Expte. Sala II. Cámara de Apelaciones en lo Civil, Neuquen (1997) 311-CA-1997 (Argentina court required states to address pollution of drinking water sources); *F. K. Hussain v. Union of India* (1990); O. P. 2741/1988 (considering opposing views regarding the impact of a government agency's plans to dig wells on a set of islands on water quality); *Government of the Republic of South Africa and Others v. Grootboom and Others* (2001) (1) SA 46 (CC) (South Africa) (addressing obligations of states to progressively fulfill socio-economic rights, including water). Courts in India and Colombia have held that the right to water is an inherent part of the right to life. For discussion, see H. Smets, "The Right to Water in National Legislations," *Agence Française de Développement* (2006), pp. 46–47, 78.

118. For a list of the international treaties that protect the right to water either explicitly or implicitly (through the protection of rights that are inextricably linked to the right to water), see the *Full Report* (see note 2), p. 40.

119. See Article 38(1), Statute of the International Court of Justice. Available at http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0.

120. See, for example, UN Committee on Economic, Social, and Cultural Rights, Concluding Comments (Israel), E/C.12/1/Add.90 (May 23, 2003), para. 31 ("basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law"); see also, S. I. Skogly, *Beyond National Borders: States' Human Rights Obligations in International Cooperation* (Antwerp: Intersentia, 2006), p. 124; and M. E. Salomon, *Global Responsibility for Human Rights: World Poverty and the Development of International Law* (Oxford: Oxford University Press, 2007), pp. 124–125. State submissions to the OHCHR on the issue of the legal right to water are available at http://www2.ohchr.org/english/issues/water/contributions.htm.

121. See B. G. Ramcharan (ed), *The Right to Life in International Law* (Dordrecht/ Boston: Martinus

Nijhoff Publishers, 1985); see also, ESCR Committee, General Comment No. 15 (see note 111), para. 3.

122. *Universal Declaration of Human Rights*: Article 3 (right to life) and Article 25(1) (right to adequate standard of living). Universal Declaration of Human Rights (UDHR), G.A. Res. 217A (III), UN GAOR, Res. 71, UN Doc. No. A/810 (1948), Article 25. Available at http://www.un.org/Overview/rights.html; *Declaration on the Right of Development*: Article 8(1) (right to access of basic resources). Declaration on the Right to Development, G.A. Res. 41/128, UN Doc. No. A/41/53 (1986), Article 1; *Millennium Development Goals*: Goal 7 (ensure environmental sustainability with the sub-goal of reducing by half the proportion of people without sustainable access to safe drinking water). The Millennium Development Goals Report (New York: UN, 2007). Available at http://www.un.org/millenniumgoals/pdf/mdg2007.pdf.

123. The Committee on Economic, Social and Cultural Rights has repeatedly called on states to comply with their obligations under the Convention when acting within international financial institutions, including in relation to the right to water. See ESCR Committee, General Comment No. 15 (see note 111), para. 36; ESCR Committee, General Comment No. 14, The Right to the Highest Attainable Standard of Health, UN Doc. No. E/C.12/2000/4 (2000), para. 39; ESCR Committee, General Comment No. 12, The Right to Adequate Food, UN Doc. No. E/C.12/1999/5 (1999), para. 41; and ESCR Committee, General Comment No. 18, The Right to Work, UN Doc. No. E/C.12/GC/18 (2006), para. 30. Numerous scholars have argued that states remain responsible for their human rights commitments in their roles as member states of IFIs.

124. Vienna Convention on the Law of Treaties, Article 18, May 23, 1969, 1155 U.N.T.S. 331 [hereinafter, "Vienna Convention"]. Note that there are other ways for states to consent to be bound, for example, through accession.

125. For the sake of brevity, this article often refers to the rights of "Haitians." The reader should bear in mind that the government of Haiti bears responsibility for the rights not only of those who live in Haiti and have Haitian nationality (Haitians), but also for anyone under the state's jurisdiction.

126. See Vienna Convention (see note 124), Article 18.

127. Haiti has ratified the ICCPR and the American Convention, both of which guarantee these rights. Haiti has signed but not ratified the ICESCR. See UN Treaty Database, Status by Country. Available at http://www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet (comprehensive list of what treaties the government of Haiti has and has not ratified). Violations of the most basic economic and social rights, such as the right to food, water, and health, may amount to violations of the rights to life, personal liberty, and security.

128. Haiti Constitution (see note 116), Articles 19, 22, 23, and 32.

129. FIAN International and Bread for the World, *Identifying and Addressing Violations of the Human Right to Water: Applying the Human Rights Approach*, p. 5. Available at http://www.menschenrechtwasser.de/downloads/violations_human-rights-water.pdf.

130. States have an obligation not only to "do no harm" with regard to individuals' human rights, but high-income states may also have a "responsibility to provide appropriate international assistance and cooperation for low-income countries." P. Hunt, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, UN Doc. No. A/HRC/7/11 (2008), para. 61. While this argument was formulated in relation to the right to health, it could be extended to other human rights.

131. See ibid., para. 31.

132. See, for example, UN Human Rights Committee, *The Nature of the General Legal Obligations Imposed on State Parties to the Covenant,* General Comment No. 31, UN Doc. No. CCPR/C/21/Rev.1/Add.13 (May 26, 2004), para. 10 [hereinafter, "UN Human Rights Committee, General Comment No. 31"].

133. ESCR Committee, General Comment No. 15 (see note 111), para. 31.

134. UN Committee on Economic, Social and Cultural Rights, The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Guideline 19, UN Doc. No. E/C.12/2000/13 (2000).

135. B. Ghazi, "The IMF, the World Bank Group

and the Question of Human Rights," doctoral thesis (University of Geneva, 2004), pp. 47–51.

136. S. Narula, "The Right to Food: Holding Global Actors Accountable Under International Law," *Columbia Journal of Transnational Law* 44/3 (2006), p. 742.

137. Given that member states generally do not exert "effective control" through their actions via IFIs, arguments for the duty to protect and fulfill are more difficult to support under existing legal standards. The most familiar context is when a state's armed forces occupy another territory. See European Court of Human Rights, *Loizidou v. Turkey*, 20 Eur. H.R. Rep. 99, 139 (1995); European Court of Human Rights, *Issa v. Turkey*, 41 Eur. H.R. Rep. 567, 588 (2005). Effective control may also be achieved through the activities of a state's troops as a contingent in peacekeeping forces. See, for example, UN Human Rights Committee, General Comment No. 31 (see note 132), para. 10; see generally, R. Künnemann, "Extraterritorial Application of the International Covenant on Economic, Social and Cultural Rights," in F. Coomans and M. T. Kamminga (eds), *Extraterritorial Application of Human Rights Treaties* (2004).

138. See, for example, Ghazi (see note 135), p. 138.

139. ESCR Committee, General Comment No. 15 (see note 111), para. 60. See also P. Hunt, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, *Addendum, Missions to the World Bank and the International Monetary Fund in Washington, D.C. (October 20, 2006) and Uganda (February 4–7, 2007)*, paras. 107–110.

140. ESCR Committee, General Comment No. 15 (see note 111), para. 32.

141. Ghazi (see note 135), p. 136.

142. See Vienna Convention (see note 124).

143. The United States has ratified the ICCPR, which protects the right to life (Article 6). See UN Treaty Database, Status by Country. Available at http://www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet. The US is also bound by customary international law, which protects the minimum core of economic and social rights. Both of these sources of law impose obligations on the US concerning the right to water. See *Full Report* discussion (see note 2), Section V.

144. The analysis in this section draws in part from documents created by the UN Office of the High Commissioner for Human Rights. Available at: http://www.ohchr.org; see especially, OHCHR, *Frequently Asked Questions on a Human Rights-Based Approach to Development* (2006). Available at http://www.ohchr.org/Documents/Publications/FAQen.pdf.

145. All human rights, whether they are civil and political rights (such as the rights to life, equality before the law, and freedom of expression); economic, social, and cultural rights (such as the rights to work, social security, and education); or collective rights (such as the rights to development and self-determination), are indivisible, interrelated, and interdependent. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others. See OHCHR, *What are Human Rights?* Available at http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx.

146. See generally, J. Fox, "Transparency for Accountability: Civil Society Monitoring of Multilateral Development Bank Anti-Poverty Projects," *Development in Practice* 7 (1997), pp. 167–172.

147. See, for example, ESCR Committee, General Comment No. 2, International Technical Assistance Measures (1990), para. 8(d) (recommending that rights contained in the Covenants be considered at each stage of development).