

Haitian Massacre Victims Win Historic Victories in United States Courts
Boston Haitian Reporter
June 6, 2008

A lot of bad news comes out of Haiti these days, but for a group of people in Raboteau, a poor neighborhood of Gonaives where bad news comes often, May 16 was a day of good news. After 14 years of fighting for justice, they received checks for a total of \$400,000, to compensate them for their losses in the 1994 Raboteau massacre. The money came from the Florida lottery winnings of Carl Dorélien, a member of the military high command during Haiti's 1991-1994 dictatorship, who had fled the restoration of democracy in 1994, then won over \$3 million with a lucky ticket in 1997.



The Raboteau victims will not get rich. The money is already split among 97 of them, and will undoubtedly be divided hundreds of times more among needy family members, neighbors and friends. Most of the victims will continue to wake up each morning in small, crowded houses with no running water. They will go out to the Raboteau streets that are inundated with sewer water during the rainy season, and have no trees to block the hot sun. But the money will help, especially now as Raboteau and the rest of Haiti suffer from the food crisis. More important, for the rest of their lives, the victims will be able to say they gave their country and the world a lesson in fighting for justice, winning three landmark lawsuits in two countries.

On April 22, 1994, the Haitian army and its thug allies descended on Raboteau before dawn. The neighborhood was the last area that openly protested for the return of Haiti's democratic government that had been overthrown by the soldiers in 1991, and the attackers were determined to shut the neighborhood up. No one knows how many people were killed- relatives were prevented from recovering the bodies, so many washed out to sea, or were buried in shallow graves on the beach. But the survivors were terrified enough that the whole neighborhood, perhaps 4,000 people or more, fled.



But the victims did not shut up, instead they started fighting for justice. The very next day, they filed complaints with the local justice of the peace, naming the names of the

perpetrators, even though that risked further retaliation. When democracy was restored in October 1994, they filed more complaints. Along with their lawyers, the victims worked with and pressured police, prosecutors, judges and the media, until the case reached trial in September 2000. After 6 weeks of trial, they succeeded in convicting 53 people, including the dictatorship's top leaders, for murder and other crimes. They also won a judgment for a billion gourdes in compensation (about \$28 million U.S. today).

Marjorie Cohn, an international law professor and President of the National Lawyers Guild, called the Raboteau trial in Haiti "one of the most important human rights cases anywhere in the Americas." Adama Dieng, the U.N. Independent Expert on Haiti, called it "a huge step forward." People all over Haiti recognized it as the first time that poor people had been able to use the justice system to defend their rights against the rich and powerful in a prominent case.

The victims brought their fight to the U.S., where the top leaders were hiding (they had been convicted *in absentia*). Three members of the High Command, including Col. Dorélien, were deported over the next three years to face charges. One of them, a Major-General, is the highest ranked military officer ever deported from the U.S. to face human rights charges. Two cases were filed in Florida to recover Dorélien's lottery proceeds, one in Federal Court, the other in State Court.

Meanwhile, Haiti suffered another coup d'état in February 2004. The new dictatorship, the Interim Government of Haiti (IGH) did not want any huge steps forward for justice, or any precedent that dictators could be held accountable for their crimes. So the IGH and its thug allies systematically dismantled the Raboteau case's progress. Everyone in prison on the case was released. The trial judge was beaten up. One of the victims who had testified at trial was shot shortly after the coup. Two others had their houses burned down, including the few possessions that they owned.



In what Amnesty International called "a huge step backwards," in May 2005 the regime's Supreme Court overturned some of the Raboteau convictions, on legal grounds that the Court and international legal experts had unanimously rejected under the democratic governments.

The victims had more success in their U.S. battles. In 2006, a Florida State Court confirmed that the original Haitian verdict was legal and enforceable in the U.S., one of the first times that a U.S. court has enforced a human rights judgment from another country. The Florida case is especially historic because it showed that Haiti's much-criticized justice system could rise to the occasion and conduct a complicated case that satisfied U.S. standards.

A year later, another case went to trial in Miami Federal Court on behalf of the Raboteau victims and Lexiuste Cajuste, a labor leader who had been brutally tortured in 1993. After

hearing the testimony and Col. Dorélien's defense, the jury ordered Dorélien to pay the plaintiffs \$4.3 million.

The health of the Raboteau proceeding has always been a good indicator of the health of Haiti's democracy. When Haiti's democracy progresses, the case progresses; when the democracy stalls or goes backwards, so does the case. When the massacre happened in April 1994, Haiti was under a most undemocratic military dictatorship, and the case had no chance in the courts. At the Haiti trial, Roland Paphius, the former government prosecutor, was asked why he did not pursue the case in April 1994. He cited the proverb: *konstitisyon se papye, bayonet se fe* (the constitution is paper, a bayonet is steel), and said the proverb was certainly true in April 1994. Anyone pursuing a case against the army under that dictatorship risked imprisonment or death.

When democracy was restored in 1994, the government prosecutors, the police, the Ministry of Justice and the international community all joined the victims to push the case. But the justice system, after so many years of dictatorship, was just not up to it. The judges were not trusted by the people, the prosecutors were not prepared to handle such a complex case and the courtroom facilities were inadequate. So the case proceeded, but very slowly.

The victims kept fighting, and the longer democracy remained in Haiti, the more the justice system improved. The democratic government brought in new, better trained judges and prosecutors, and they honed their skills on the job, working in a democratic justice system for the first time. New courtrooms were built. The Administration of President René Préval (1996-2001), especially, invested in the Raboteau massacre case, creating a special office to help the victims and organize trial logistics, and supporting special teams of lawyers, investigatory police and prosecutors. By the time the case got to trial in September 2000, Haiti had enjoyed six years of continuous democracy and the justice system was able to produce a trial that was superior to anything anyone had believed possible five years before.



The Interim Government, another dictatorship, reversed the process of Haiti's democratization along with the Raboteau verdict when it came to power in March 2004. Several of the new, trained judges and prosecutors were forced out, and replaced with the regime's friends. Courts in Haiti once again became an instrument of repression, as the jails filled with the regime's political opponents. When the IGH did not like a ruling of the Supreme Court, it illegally fired half the judges and replaced them with its supporters.

The IGH was replaced two years ago, in May 2006, by an elected administration, once again headed by President Préval. The new government is not arresting political opponents or illegally removing judges. It has also created enough security that the

victims were able to distribute a large amount of money amongst themselves without anyone getting killed, no small feat.

But Haiti's elected government is also not doing anything to prosecute human rights violations by the IGH or other dictatorships. There are no special prosecutors or police, and government officials do not even speak publicly about justice for the IGH's victims. Many of the prosecutors and judges who participated in the IGH's persecution are still in their position, and still persecuting. Some political prisoners remain in jail, others have been let out, but their cases continue.



President Préval's government is also not doing anything to resurrect the Raboteau case. It has not moved to arrest any of those who escaped prison in 2004, or to appeal the Supreme Court's unjustified 2005 decision.

President Préval is not yet halfway through his term, so there is still time. In his first administration, most of President Préval's successes, including the Raboteau trial, came at the end of his term. But the seeds for those successes were planted earlier, and it does not appear that any seeds have yet been planted for the victims of human rights violations.

The Raboteau victims, working with few resources from their crowded houses in one of Haiti's poorest neighborhoods, have shown the world that persistent, non-violent fighting for justice can lead to victories that are both historic and very concrete. Let's hope that others suffering from injustice in Haiti follow their example. The Raboteau victims also showed that Haiti's justice system can rise to the occasion and act justly even in difficult cases. Let's hope that their government builds on that foundation.

Brian Concannon Jr., Esq., directs the Institute for Justice & Democracy in Haiti (IJDH) www.HaitiJustice.org. He has worked on the Raboteau massacre case since 1995, with the United Nations, the Bureau des Avocats Internationaux in Haiti and IJDH.