Ian Moncaster:

If you think back to some of the images you saw on January 12th, when the earthquake in Haiti happened, most of the photos that you saw were people, families and individuals, in anguish. When you look at these photos, you essentially look at these parents and you look at the kids and you say, "Act of God. Nothing I can do about that. Thank God it wasn't me. If." What's interesting in the international relief and development field is that if you can back that image up and show that same photo of a family in front of a collapsed building, then you start to say, "Hmm. It's something about building codes. It's something about quality of construction. It's something about governance." And those are all things that this country knows a lot about, and there's a way to get in so that the kinds of photos that we saw can get better over the coming years.

Haiti's earthquake in January wasn't just a natural disaster. The extreme damage it caused, we're talking over 200,000 people who died, 300,000 people who were injured, a million and a half people who were internally displaced. It was less a consequence of the shifting of the tectonic plates than it was a failure of systemic poverty and the institutions that were designed to help make them better. Those failures essentially made Haiti extremely vulnerable to any kind of stress. You start comparing the result in Haiti with the result in Chile, and you start to understand what I'm talking about.

In the field of international relief and development, activities get broken down in a number of different ways. One way is you look at relief, rehab, development. Immediate relief in Haiti is over. People who have been injured have either survived or not. We're now into a rehabilitation and development phase. The other way to cut international relief and development activities is to break it down by people who do direct implementation, who focus on partnership, or who focus on advocacy. So there's three different ways.

My name is Ian Moncaster, and I'm pleased to be the president of the World Affairs Council. Our job is to help enrich the conversations that go on in this community on some of the toughest global issues that are happening. We do these programs through a combination of events like this one, through professional development for teachers, as well as bringing international visitors around. This is a topic about which I care a great deal because, in fact, I lived in Haiti between ’89 to ’91.

This evening, we're pleased to host Brian Concannon, who is the director of the Institute for Justice and Democracy in Haiti, as part of our new series of "Focus on Haiti." The conversation is, how do you use legal advocacy as a strategy for making improvements in the lives of Haitians affected by disaster? Brian's going to specifically address the ongoing work to protect victims of sexual violence and people at risk of eviction from internal displacement camps, as well as advocacy efforts designed to expose the gap in the delivery of not only food assistance but aid to Haiti.

We do all of our programs with the assistance of our community. And I'd like to, tonight, acknowledge our co-sponsors, the William H. Gates Public Service Law Program here at the U-Dub; the Washington State Bar Association, the international-practice section; and our co-presenters, CulturaLinks USA, Global Seattle, Maha-Lilo, and the University of Washington.
Center for Human Rights.

I also, before we start, want to take the opportunity to thank a generous supporter who made a matching gift opportunity for us. In your cards this evening, you saw a small little box slip. This is, basically, a family who wants to help the council celebrate another 60 years. We're coming up to our 60th anniversary. Their family has essentially said, "We will match whatever new donations we get in." So I ask you to take a look at that. Whenever you join the organization or make a gift, it will get matched, and that's always a good thing for everybody.

As many of you know, we do these kinds of events. We also do a bunch of stuff out in the Twitter-sphere. Tonight, for example, the conversation will be captured on the Twitter-sphere, with live tweeting using #WACHaitiSeries. For those of you on Twitter, feel free to follow along. For those who are out in the Twitter-sphere, those questions can get sent to us and can be brought back to us, and we'll get them into this conversation.

Following Brian's remarks this evening, you all have a question card. So the goal is to, basically, get your questions on the card. It's critical for me that they be legible and concise. What's going to happen, as you get your questions done, pass them out, someone will come around to the sides and bring them down, and then they'll start to group them into the big sections so that we can make sure that we get all of your questions in. Our goal this evening is to get as many of your questions into this conversation as we can.

You know from your program that Brian worked for the United Nations as a human-rights officer in Haiti. You know that he became the director of the Institute for Justice and Democracy in Haiti. He's worked with judges. He's worked with law students. He's worked with international relief and development professionals.

He's done a lot of work on international human-rights cases, the most famous one being the Raboteau case. And if you remember, this was right after about '94, '95. There were elections going on, and essentially the Haitian government moved in, and a whole series of villagers were beaten and/or killed. The numbers range anywhere between 24 to 50, depending upon what report you want to see. Essentially, people were driven into the sea, and many died in that case. This human-rights case, which was prosecuted, Brian did a lot of the legwork for that. And it essentially went off to the Inter-American Justice Court. Help me out, Brian.

**Brian Concannon:**

Inter-American Commission on Human Rights.

**Ian:**

Inter-American Commission on Human Rights. So it was one of the most significant cases that has happened, and it has continued to influence American-Haitian policy. What you don't know about Brian is that he, in fact, has two young children, who are actually the same age as my two young children. What you will learn about him is that his passion for helping people using law is quite remarkable.

So with that, let's turn this over to Brian and get him up here. Brian?

[applause]

**Brian:**
Thank you, Ian. That was a great introduction. I especially liked the framing of the purpose is making those sad pictures of families, partially destroyed families in front of destroyed houses, get better as time progresses. And I think that we all have a role to play in that. I don't think that making life better for people who really need the help is something that's reserved for lawyers or development professionals or any particular group of people. I think it's something that we all can and should be and need to be involved in. It's actually being back in Seattle for me. I lived here right after college, now 25 years ago. And so it's nice to see that the rain hasn't stopped. I did get off the plane and it was bright sunshine this morning, and I thought things had changed.

And it's really great to be with the World Affairs Council, because I think that the World Affair Council's mission of promoting debate is exactly what is needed. I think that one of the problems with the way things go wrong in poor countries, some of the root causes of that can be traced back to our country. And I think that the reasons why we have problematic policies towards poor countries is that we are not engaged, as citizens, enough and that things get done sometimes in our name that we wouldn't put up with if we really knew what was going on. So I think it's vital for us to have an idea of what's going on.

So I work for the Institute for Justice and Democracy in Haiti. But when I say "we," talking about our work, I mean both IJDH, which is a US-based organization, and also the Bureau des Avocats Internationaux, or the BAI. Because I co-managed the BAI for nine years; I was there from 1999 to 2004. And we do all our work together. We do different parts of the work, but all our cases are addressed collectively. And pretty much the way the division goes is the lawyers on the ground in Haiti do most of the Haitian legal work, and we provide some legal backup, some fund-raising, and we in the United States work on US policy towards Haiti to complement the justice work that's going on, on the ground in Haiti.

How do I change these? Is there a clicker? All right.

All right. So our key relationships, first of all, are between BAI and IJDH. And I think it's an innovative partnership because one of the interesting things, often, the general paradigm is that you have an organization based in a wealthy country and then you start, then you have some kind of affiliate in the poor countries. IJDH and BAI are the opposite. The BAI was around for 10 years, and then I was kind of dispatched from the Haitian organization to create a US organization that supports it.

Our other important relationship is with our clients. The approach that we use that characterizes that relationship, we call it the victim-centered approach. And that means we do the traditional things that lawyers do: we go to court, we write complaints. But we also go further than that. We ask our clients what they really need. And we very much accompany them. We help them organize demonstrations, we help them create their organizations, obtain funding, do media work, whatever they think they need to advance their fight for justice.

And our approach, as Ian mentioned, we've got what's called the rights-based approach, which is fairly easy for lawyers to have that kind of approach. But one of the things that we think is important is promoting that kind of approach for everybody. Not that everybody has to be a lawyer, but that for anybody working towards the development of Haiti, for justice in Haiti, it's important to take the approach to the extent of how your action is going to affect the exercise of human rights by poor Haitians.

And I'll talk a little bit in detail about what the rights-based approach means, but one example, off the top, is there's been a lot of controversy over shelter provided to people following the earthquake. There's right now about somewhere between 1.2 and 1.5 million people living in tents, or some kind of temporary structures. Most of them are not in tents. Most are under some kinds of
And when you talk to a lot of the people who are tasked with providing that shelter, they'll say the situation's actually pretty good, because they'll look at their statistics and they'll find out that there's been a whole bunch of these blue tarps distributed in Haiti. But then when you go to the point of view of the people on the ground in Haiti and you look at what they're living in and what happens when it rains, which is that they have to stand up holding all their belongings, then it's a very different picture than you get from looking at the amount of tarps that are distributed.

And obviously, the amount of tarps distributed is an important metric, but it's easy for people to get lost and say, "We've done our job because those blue tarps have gone out the door," when it's more important to see what happens and whether those blue tarps have, in fact, created adequate for the people. And shelter is a right. It's guaranteed under international law, but also under Haiti's constitution, that everybody has a right to decent shelter.

How many people have seen this picture? As Ian mentioned, there was about 200,000 people died in the earthquake. My guess is it's actually a little bit lower than that, but nobody really knows. It was a lot of people.

How many of those 200,000 people do you think died in this pretty spectacular building collapse? Any guesses? Anyone want to take a guess?

Audience Member:

Two.

Brian:

Two? That's actually right. I hate when someone does that. You're supposed to say 300. That's not where you get 200,000 dying, in those spectacular building collapses. You get to 200,000 by people dying in neighborhoods like this, which is a neighborhood on the hillside. It was illegal to build there, and as Ian mentioned in the introduction, it was zoning codes that were not enforced. There were building codes that were not enforced. If you walked around there before the earthquake hit, you would have been shocked walking around them. They were super-steep. You were on steps the whole time. You could see the buildings crumble before your eyes, because they were made without enough cement. They were built by people who didn't have any training. And just on a regular day, they were crumbling, and it was clear that if there was any kind of stress on these that they would fail. Most of the people were thinking that it would fail because of a flood, because there hadn't been an earthquake in Haiti in a long time, so what people were thinking about was flooding. And in fact, neighborhoods like that were collapsing in small amounts under floods, but when the earthquake happened, they just completely collapsed.

One of the things that was actually interesting, when I first went to Haiti after the earthquake, I had seen a lot of pictures like that. And I was, I guess, as well as you can be, prepared to see this kind of thing. What I wasn't prepared for was how many buildings were actually not damaged. And it's clear that without having US-quality workmanship, you can build buildings that can survive earthquakes. But those clearly were not.

Another way of showing what happened was if you look at the earthquake in Chile that happened just a couple weeks after the Haiti earthquake. This is an oversimplification, because a lot depends on what's the ground made of, where is its bedrock, how deep it is, and things like that. But the Chilean earthquake was about 500 times stronger than the Haiti earthquake, and Haiti suffered about 230 times more deaths. And the big difference in that was that Chile, although not a
fabulously rich country, did have enough resources to have some earthquake codes and the buildings more or less comply with that.

And so a lot of this, you can look at a scene like this and you can say it was a problem of building design. But it's also a problem of failure to enforce the law.

Another thing is this wasn't a surprise. The fact that these areas crumbled was not a surprise to the people who lived in there. They knew they were moving their families into very dangerous places, but they had no choice. And part of the reason why they had no choice, the basic reason was money, but the reason why they were poor, in part, was a historic and pretty systematic inability to enforce their own basic rights.

They were not able to enforce contract rights. This happened to me all the time in Haiti. I'd have market-women come up to me and talk about how they had been slowly building enough money to kind of pull themselves and their families a little bit out of poverty, and then they would lose the money because their suppliers or a customer would end up screwing them and taking the money. They weren't able to access courts, especially if they were women, but also because they were poor. And so they couldn't enforce the contracts, so they basically had to sit out and take that loss and then continue in the cycle of poverty.

Same thing with employment rights. People aren't able to work their way out of poverty because employers are allowed to not pay the extremely small minimum wages. They're able to be fired illegally. They're able to be taken advantage of in a whole bunch of ways, and they don't have any effective recourse.

Especially for women, child support and alimony is almost completely unenforceable. A middle-class or wealthy woman would have the resources to do that. It would be much harder for her to get to court than a middle-class or wealthy man, but she could do it. But a poor woman, which is the majority of Haitian women--the vast majority--have no ability to get to court to enforce these kinds of rights. And they and their children are then condemned to the cycle of poverty. And the right to education. Over half of primary-school-age kids in Haiti, before the earthquake, were not attending school because they couldn't afford it.

There's certainly plenty of blame to go around Haiti for this situation. But I think, also, if we're going to look honestly at Haiti's problems, we need to look in the mirror a little bit and see which of our policies have contributed to this situation.

Just a few highlights. In 1804, Haiti became independent, the second independent country in our hemisphere. The first independent country in the hemisphere, one of the founding documents, the Declaration of Independence, said a lot of really good things about all men being created equal and endowed with basic rights like liberty. We didn't really mean that completely. We meant the "men" part. We didn't mean the "all" part. And just like we didn't allow women the right to vote, we obviously didn't allow the large percentage of our population that was slaves to participate.

And because of that, because of our own limitations in how much we were implementing our espoused principles, we could not accept the fact that Haiti was an independent, successful country, and so we did our best to keep it from being independent or successful. We didn't recognize Haiti until 1865. That's obviously significant. That was done just after we emancipated our own slaves. So as we got closer to implementing our own ideals, that allowed us to implement our ideals with respect to Haiti a little bit more.

More recently, in 2000, we didn't like Haiti's government's economic policy. And it's kind of interesting because the policies that we were trying to get Haiti's government to implement are
policies that, in many ways, have been discredited in the last couple years in our own government, of keeping government small and keeping government out of regulating business and regulating society. At that time, that was our orthodoxy, and we were not willing to accept that Haiti was taking a different path.

So we imposed a development-assistance embargo. We stopped all our own aid to the Haitian government, and we got other organizations to stop theirs as well, including some of that was illegal. For instance, we stopped the Inter-American Development Bank from giving a loan that by the bank's own charter was disbursable. And the bank's own charter is that politics aren't allowed to interfere with development work, but we overrode the bank's own charter and said, "You've got to stop this loan," which the bank complied with.

There were also some of our trade policies. And President Clinton made what I thought was a very courageous admission in testimony before the Senate in March of this year, where he mentioned that some of his policies were more helpful to Arkansas farmers than they were to Haitian farmers. One of the things that he was talking about was forcing Haiti to drop its rice tariffs, and the tariffs were there to protect Haiti's farmers against US competition. And obviously, US agriculture is highly efficient. It's highly mechanized. But it's always highly subsidized, in ways that the Haitian government never could do. And so, when you've got this mechanized, efficient, subsidized rice coming in to the Haitian market, it put farmers out of business. And where did the farmers go when they got put out of business? To the city, where they had no jobs, so they had to live where they could, which was up on those hillsides that collapsed.

I think the rights-based approach is important for a bunch of reasons. And for me, the most important is it transforms that picture that Ian was talking about, of the hurt family in front of the destroyed house, because there's a couple of ways we can react to that. One of them is that this is a bad thing that happened. And I think that that is probably the easiest way to do it, and probably the most common.

Just an example. How many people have read something about Haiti in the last week? OK, actually a lot. You guys are ruining all my lines. In the last call, no one said that. Two people said in the last week, and I think three people had said in the last month, and then everybody said they had read stuff in January, February, March, and April.

Except for this room, the attention on Haiti seems to be dying. And I think it's because people, they have donor fatigue, news-consumer fatigue, all sorts of fatigue. And part of that is you keep reading about very bad things happening. And you feel powerless, you feel the situation can't change, so you keep your sympathy with the Haitian people but you put your attention elsewhere. And I think that the rights-based approach is a very powerful way of transforming that kind of dynamic of Haiti being a place where bad things happen to a place where good things can happen.

The first people that can be transformed are poor Haitians themselves. It's very different perceiving yourself and being perceived as a victim of these bad things happening, of impersonal forces, versus someone whose rights have been violated. And if you've got a right that's been violated, that gives you something to do: you can go try to get that right enforced. And it becomes extremely empowering. We see this all the time. I'll give you some examples later in the talk.

It's also empowering for the duty-bearers. That's Haiti's president, Préval. And Haiti's government is obviously the number-one duty-bearer with respect to the people in Haiti, but the international community is as well. And I think that President Clinton was courageously assuming the duty when he talked about the problems with some of the US trade policies, although he did assume that when he was no longer able to do anything about it.
And then the third are UN troops. For the last seven years in Haiti, six years, there's been a UN peacekeeping force. And in many ways, the United Nations, and also a lot of nonprofit groups, are doing some of the work that a government ordinarily does, and that does impose on them some responsibility towards the people that they're there to protect.

But perhaps the most powerful transformation by the rights-based approach is to us. The first us is as consumers of media. It's very different, if we look at things that are coming across, by the Internet or by the newspaper, if we look at it as "These are bad things" versus "These are rights that we can do something about."

It affects us as citizens. The United States has an enormous amount of influence on what goes on in Haiti. We provide a large percentage of Haiti's budget. We're very frequently sending soldiers down to Haiti. We're Haiti's second-largest trading partner. We're the largest destination for Haitian refugees, and the largest Haitian diaspora group is in the United States. And all that gives us quite a bit of power as citizens, and if we can get our government to have a much more constructive policy towards Haiti, things will improve in Haiti.

We can also engage in Haiti, using the rights-based approach, based on our skills. That's a picture of a couple US lawyers who were down there working on Haiti. Almost everybody knows someone who went down to Haiti, as a nurse, as a doctor, as an engineer. It was actually pretty impressive, in the months that followed, how generous Americans were with their time and their skills. And there's just a huge amount of skills that can be put to use for Haiti, both in Haiti but also in the United States, and there's lots of work that we can do from the comfort of our homes that will support rights in Haiti.

And finally, we can take a rights-based approach to our generosity. Over half of American families gave money to Haiti, which was an incredibly generous outpouring of money, but the effect of that has not really been realized. I'll just give you one example. We put out a report, three weeks ago, based on a survey in the camps, a survey we did in July. Among the questions they asked was they asked the families, in the last week, had you gone without food? And 70 percent of families said that someone in their family had gone a full day without food in the last week. 50 percent of the families with kids had said a kid had gone a whole day without food in the last week. And that's an obviously distressing discrepancy between the great generosity of Americans and others and the continuing violations of pretty serious rights in Haiti.

We can take a rights-based approach to our generosity. And I think that, obviously, we need to respond to what our heart is telling us, but we can also get our head involved and, if we're writing a check, take a look at what the organization does. There's all sorts of ways of evaluating effectiveness, and I urge you to think of one of those ways is whether or not they do take a rights-based approach and they do lead towards the long term empowerment of the Haitian people and the long term respect for rights.

Ian talked a little bit about the Raboteau case. And this was pre-earthquake, so it's a little bit off-topic, but I think it shows some of the opportunities for justice as a transformative force in Haitian society, and also some of those challenges.

Raboteau is a poor area. It's basically on a salt flat in the city of Gonaïves, which is a poor city. And it's a place where people had nothing to lose. There's been a bunch of dictatorships in Haiti. One of them was from 1991 to 1994. And towards the end of that, Raboteau was the last place that was still resisting the dictatorship, and it was because people there really had nothing to lose.

And on April 22nd of 1994, the army and its paramilitary allies decided that they wanted to finish with Raboteau as being the last bastion of resistance. So they came in before dawn and started
busting doors in and harassing people, and their plan was to get the young men who were the backbone of the resistance to flee, and then they'd shoot them when they were fleeing, which is what happened. A bunch of people got killed. In fact, nobody knows exactly how many because a lot were buried in shallow graves. A lot were swept out to sea, because they ran towards the sea, and some were killed in the water. It wasn't thousands. My guess is it was probably somewhere between 18 and 30, probably closer to 18.

But the victims, they very courageously started fighting for justice, literally the day after the massacre. They got a local justice of the peace to come in to tell their stories, which was almost foolhardy by the justice of the peace and the victims because then there was an official record, and if the army had wanted to, they could've just grabbed that and gone back and finished the job. They didn't, though. When democracy was restored about six months after the massacre, the victims of Raboteau did whatever they could to advance their cause for justice. They wrote songs. They did demonstrations. They did press conferences. They'd sit outside judges' houses and justice officials' houses, until they really got their case to trial.

It took six years, and it wasn't until 2000 that there was a trial, but it was actually a great trial. One of the things that was exciting to me and shows the transformative power of justice efforts in Haiti is that the trial that happened in 2000 was beyond our wildest dreams in 1996, when my office started working on it. At the time, we thought we could get the trial done in six months, which was delusional. But the trial that we thought we could get in six months was nowhere near, wasn't a 10th as good, as the trial that eventually happened in 2000. So, in some sense, those four years of banging our head against the walls actually did pay off with a very good trial.

Amnesty International, the UN, any human-rights group that observed it said it was fair to victims and defendants alike, which was a great achievement for Haiti's justice system. Certainly, everybody's aware of stories of dysfunction in Haiti. The justice system is probably about the worst, the most dysfunctional part of the Haitian government. But through some pressure and through some specialized programs, it actually was made to work. And it completely re-calibrated everybody's expectations. Now people in the justice system knew they could do a high-quality proceeding, and more important, citizens knew what they could expect from the justice system.

One of the highlights, for me, of the trial was we used to, people we were working with on other cases, take them down to watch a couple days of the trial. And there was this one guy, Jean-Louis, he was a victim of another massacre, and he'd always say, "Brian, I want justice. I want justice." And I'd say, "Yeah, we're working. Jean-Louis, we're going to get you justice." And then, on the way back from watching the Raboteau trial, he said, "Brian, I want justice." I said, "Yeah, yeah, I know." He said, "No, no, I really want justice. And I want..." And he listed all the things we had in the trial: forensic anthropological evidence, the documentary, all these things that had never been introduced, that had not been used much in the Haitian justice. All of a sudden he had a clear idea of what high-quality justice meant, and that's something that you're never going to erase that from people's minds.

We ended up convicting 17. There were 22 defendants on trial. We convicted 17. And we also convicted, mostly in absentia, all the members of the high command. This was a guy named Carl Dorélien, who was in Miami. Most of the high command had gone to Miami. Some of them had gone to Central America. But we kept after, and working with the Department of Homeland Security, we ended up getting three of the high-command people deported back to Haiti to face charges, including one, a major general, who's still the highest-ranked officer ever deported from the United States on human-rights grounds. And it's quite an achievement for a justice system like Haiti's to be able to achieve that.

Another good thing that happened out of the case was, this is Jean Sénat Fleury. He was the
investigating judge on the case. And people like him, the case was a mechanism for them to increase their ability to do their jobs. He got some special training. When we started the case, he wasn't around. He was a low-level judge. We were trying to get good judges, we couldn't find them, and they were basically manufactured while we were working on the case.

So he had gotten some special training in France. He had gotten some more experience in the Haitian justice system. And then he got appointed to our case, and he got some additional help from the United Nations and some other sources to be able to do this case well, and all of a sudden he was a very accomplished judge. His role was to write something called an ordinance, which is analogous to a US indictment, and it's still the best document ever produced by the Haitian justice system.

The bad news of the Raboteau case is that the case happened in 2000. In 2004, there was a coup d'État, which was engineered in large part by our tax dollars. Our president didn't like Haiti's president, and so Haiti's president was put on one of the planes that was used for the torture-rendition program. They just detoured it to Guantanamo Bay, took off from Guantanamo Bay, went to Haiti. The president was forced on it. The plane landed in a couple other places. It was an unmarked plane and had filed a false flight plan and ended up in the Central African Republic with Haiti's president.

What followed was the jails were emptied out, including everybody he had ever put in jail. Jean was forced off the bench. The prosecutor in the case had his house burnt down and his law office destroyed. The chief judge in the case was beat up. One of our clients, who was one of the witnesses, he was brought into the police station and a gun was put to his head and he was killed. Three other of our clients had their houses burnt down with everything they owned in them.

And so it was a great loss, certainly, to me, but thousands of times more for the people who were the victims of this and who had fought so hard for justice. But they kept fighting. Democracy came back to Haiti in 2006, and they went right back to fighting it. Some people, like Jean, just decided he had enough. And he now lives in Boston, which I think is sad. It's a sad brain drain on Haiti. But that's Marie-Jeanne, and she kept fighting.

One of the things that we did was we teamed up with the Center for Justice and Accountability, which is an organization in San Francisco that goes after human-rights abusers that have found refuge in the United States and files civil suits against them. We actually filed civil suits against Carl Dorélien because, when he was in hiding in Florida, he won the Florida lottery. He won, I forgot how much. I think it was $6 million. That's what I said. When that happened, I said, "There's no justice in the world." It happened in maybe 1997, three years before we did the trial. But we ended up working with CJA. We ended up attaching his lottery ticket.

And Marie-Jeanne is smiling because that's on a bench outside of the federal courthouse in Miami, and Marie-Jeanne, to her, going to Port-au-Prince was a huge deal. She was a very local person, didn't speak a word of French, never mind English, had never been to much besides poor areas of Port-au-Prince and the poor areas of Gonaïves, where she lived. But she very courageously made the trip to Miami, testified in a federal courtroom, which must have been incredibly intimidating, but she managed to get the testimony done. And we ended up getting a large verdict against Colonel Dorélien.

The share for the Raboteau victims was $430,000. To me, one of the inspiring parts of it is, because of the legal technicalities, Marie-Jeanne had the right to every penny of that $430,000. She split it 100 ways. So she got 1-100th of it, so she got $4,000, when she could have had 430, and that kind of shows the solidarity and how Haitians conceptualize their fight for justice as a collective one. And then that's my colleague, Mario Joseph. He took the check, Marie-Jeanne signed the check.
over to Mario, and then he ended up writing checks out to all the other 99 victims.

We kind of lost Jean. He's in Boston now. That's Frénot Cajuste, the guy who had his law office burnt down and he was kicked out of being a prosecutor. When democracy came back in, he got back into the public service, and at that time he was the chief judge of a new courthouse they had just opened. He's now with the appeals court, so he's continuing to use the skills he developed in the Raboteau case for other cases.

I'd like to tell a little bit the story of Eramithe Delva. She's emblematic of some of the same fights for justice, and both the ups and downs of it. I first came into contact with Eramithe probably around 1996 or '97. During the dictatorship that went from '91 to '94, when the Raboteau massacre happened, another thing happened was large-scale political rapes, and Eramithe was a victim of one of those. She got together with a bunch of other women who had been similarly attacked, and they created kind of an underground organization to try to get people some medical attention and to provide some group moral support and informal therapy so people could try to survive with what had been inflicted upon them.

When democracy was restored in 1994, just like the Raboteau victims were fighting for justice, she was going, she and, and other groups were trying to fight for justice for these political rapes. And, and that was actually groundbreaking work. At that time, the international tribunals for Yugoslavia and Rwanda had not prosecuted those cases. No one had been prosecuted for, for large scale, political raves. And, so they're really kind of at the cutting edge.

Their case actually ended up running out of time. when the 2004 coup happened, the, we'd prepared the case. We hadn't yet filed it, and it was no longer possible after that. But the, the, the 2004 coup unleashed another series of, of violence, including, including rapes. Indium, Aramit saw this happening, so she, they organized even tighter to, and they created an organization called Kofaviv, which opened up a clinic, provided some, they got some volunteers, psychological assistance. And they were able to provide some, some counseling to people and did whatever the could to try to, try to help these women.

When democracy was restored again in 2006, they said, OK, we're gonna keep, keep organizing and they kept building their organization. When the earthquake happened, they immediately because they'd been such good organizers. And women were collecting in these camps, especially poor women. They immediately started organizing.

And a series of, it's a little bit complicated, the causality of this, but it's generally the social breakdown that accompanied the earthquake led to a epidemic of sexual assaults in the camps. And Kofaviv very courageously fought against this. The police didn't effectively respond for a bunch of reasons, including that a lot of the police capacity was knocked out by the earthquake. But also because of some systematic problems of the law enforcement and justice system never being particularly responsive to women.

So Aramit was organizing along the camps, and they went from sort of very local, trying to get a few women together, to broader meetings of getting coalitions of organizations together to create a collective response. They did some self-defense. We got them a bunch of whistles that they distributed to their members with some training. And they used it as an individual self-defense tool where women could blow the whistle to do an alarm. It was also a tool for organizing, because then you'd create signals. You'd get women together and say OK. Here's the signal if this is, if I'm in trouble to distinguish it from my kid steals the whistle.

And that ended up becoming a very effective way. It both showed, it gave the women's groups credit because they were able to provide something to their potential members. But it was also an
effective organizing tool. We're also able to get, that is Malia, one of Aramit's colleagues. And she's actually in Geneva. And Malia had never been out of Haiti, and here she is in the United Nations building in Geneva testifying before the U.N. Human Rights Council. This was in June of this year.

And they've taken to the streets. They're demonstrating. That banner says, it's Kofaviv. It's the women's commission. The commission of women victims for victims. And what it says below, it says, we say that we're tired with the rapes on children and women in the camps. And they've been very effective on just doing demonstrations on anybody they think needs to get that message. And it's led to concrete improvements. There's been lights. A little bit better patrols by both the United Nations and the Haitian police. And actually just in the last month, we've had eight arrests. And from January twelfth until the beginning of September, we weren't aware of any arrests. Anybody that was still in jail for any of these rapes. And just in the last month, there's been eight. And, you know, that's a drop in the bucket. But a drop is better than nothing in a bucket, and hopefully it will lead to a trickle, which will lead to more.

And the other thing is, even eight is actually, eight arrests helps as deterrents, because one of the things we're looking to do is to, is when we get at least a couple drops in the bucket, then we go and publicize that. And it gets on the radio that the police are making these kinds of arrests. Which even though there are not enough arrests, the fact that there's a perception that the arrests are happening will be a deterrent.

Another story I'd like to tell is of the Barbaran Corps, Barbaran Corps II. And is the name Barbaran Corps familiar to anybody? OK, rum drinkers. A great Haitian rum. And so it's got a very positive association, and unfortunately the Barbaran Corps I and II is somewhat tainting that. Those are two displaced persons camps near the Barbaran Corps facility. And there's no connection between the rum makers and these camps. But they're pretty grim.

Right behind that kid, is, that's a pool of water that's, when it hasn't rained in a while, it's a foot deep and takes up a big part of the camp. And tenants are forced, people are forced to put their shelters right up against that water. And that water's got, you know, it's got obviously mosquito larvae. It's got feces because the sewers run, when the rain comes in, things get washed from the latrines into that. And it's pretty horrible. And the people are living in incredibly cramped quarters.

And you know, as there, we didn't do a survey in terms of how many people in that particular camp aren't eating, but it's probably actually worse than the average of half the families having have their kids go at least one day a week without food. And so, conditions are pretty grim there. And you think, if you get there you think, well, nothing could be worse than living in a camp like this. Except there is. You can get kicked out of the camp. And that is happening to thousands of camps.

Landowners, both private landowners and public landowners are saying, we need our land for other purposes. And they're forcing people out. And our legal position is that, that is illegal. You cannot kick people out if there's nowhere else to go. You know, we don't like to demonize the landowners, because it's really the government's responsibility to create safe tent cities for safe places and safe transitional housing. But in the meantime, landowners can't just kick people out. They can't send in the bulldozers and kick people out.

The Barbaran Corps camp, this bulldozer is not at the Barbaran Corps camp. The landowner tried to kick them out in June. They came with a bunch of police officers who say, you've gotta move out in the next two weeks. And in those two weeks, we got them some legal help. We sent them some lawyers to, to tell the police they weren't allowed to do that. To tell the landowners they could not do that legally.
And we also helped organize people in the camps. They would physically confront the police and the bulldozers in an organized and non-violent way. And as a result, that has worked. And we're still in negotiations among with the landowners. And they've tried to accommodate, some of what the camp residents are trying to accommodate, help the landowner out, you know. Move their tents to places that don't interfere with his use of it.

But what they're mostly saying is, look. You've got a problem. We've got a problem. We need to get together and put pressure on the government to make sure we have good transitional housing. We've got our levers to pull, which is going out in the street and demonstrating. You know, you're a landowner. You've got some money. You've got other levers to pull, and you should pull them. And so they've been take, going out into the street.

They've been going, this demonstration was targeting the prime minister and trying to make him personally responsible for the, they're asking them to intervene for a ban or a moratorium on evictions. And one of the kind of neat things, this is a banner at a protest against evictions, and some of them are kind of typical of traditional demonstrations of this site. And if you look at this, [foreign] is kind of down with the second hand state. So it's a, you know, a pretty criticism of the government, and is the type of thing that demonstrations in Haiti have always been saying.

But something that's interesting is that, the middle red thing is, we've got the right for decent housing under article 22 of the constitution of 1987. And it's really neat to see the victims being able to articulate their grievances in those terms. And it puts, it activates the whole transformative power of rights. First, they're standing up for a right, which gives them a little bit more persistence and courage in their efforts. And then it also puts more pressure on the government, because then they're put on notice that they're violating the rights if they go through with the evictions.

There's been, as he'd mentioned, there's been some problems with the earthquake response. And a lot of those problems can be traced back to violations of rights in legal problems. And a lot of times, in one of things we struggle against is the perception that the type of stuff that lawyers do is secondary. That first, you need to feed people, give them decent housing, give them basic healthcare. And then you can do things like try to get the justice system working. And it doesn't work out that way.

One of the problems and one of the reasons why you have 1.3 million people living in these camps is that it is, in fact, a little bit difficult for both the government and non-governmental actors to find safe housing. Back, it was probably in March, so just about six weeks or so after the earthquake, I got a call from Habitat for Humanity. And they said, "We've got a proven system. We want to build transitional housing in Haiti. We know how to build the houses. We know how to get things down. We can do all this. But we don't know that if we build someone a house, if they're going to be able to own it. We need a way to be sure that if we put a house on a property that the land underneath it won't be taken away." And my answer was, "You don't."

There's no way you can be sure, except in a few situations, that someone else is not going to be able to steal that land out from under the person. Land titles in Haiti, most land doesn't even have a formal title to it. And lands that do have formal titles, often they have conflicting titles, and so there's no way of saying who really owns the property, or both people have equal legal footing for saying that they own the property. And that just creates a huge mess when you're trying to do large-scale transitional housing or large-scale urban renewal.

Other things is the fact that the assistance is uneven and inadequate. And I think that if there had been a rights-based approach to that, you wouldn't have the problem of large groups of people who are being completely missed by the earthquake response.
Another part where I think a rights-based approach might help is in the consultation and the coordination of aid. Every report that has come out about Haiti since the earthquake has said that the coordination is horrible and that there's lots of things that could be done much better if things were better coordinated. It was a call to action in March, but when you start getting into September and the same things have happened, it's becoming more than inexcusable.

And I think, again, a rights-based approach, when you start, what people are doing is they're looking at institutional objectives, or "This is the way we've already done it," and they're looking at kind of the traditional ways of acting. And that's causing rights violations. And I think that the rights-based approach is a way for those actors to say, "OK, we're not here to distribute a certain amount of blue tarps. We're here to make sure people have their right to housing, and how are we going to change our work to do that? And that's going to involve consulting more with Haitians so the distribution is better. It'll involve consulting with other people who are distributing blue tarps so we make sure that we cover everything."

And the last one is there are promises that are made, not kept. The 55 percent of American families who gave the money, that money has been given, but the vast majority of the large money, which is government money that's been promised, has not come. That's always been a problem in Haiti, but it's particularly bad now with the earthquake. People were particularly generous in promises. And it seems to be the consensus among people better educated on this than me, but when there was a donors' conference in March, the amounts promised, depending on how you count, it's somewhere between $9 billion and $12 billion. And there seemed to be a general consensus that that was actually a lot of money and that probably could pretty much fix the problems of Haiti.

But it's been clear that that money's not coming. I think it's less than a quarter of the money that was promised in the first year has arrived. Pretty much, it seems pretty clear that that $9 billion is not going to come anywhere close to arriving.

Another area that I think is important from a rights-based approach is the issue of elections. Haiti's got elections scheduled for November 28th of this year. They're pretty big elections. It's one-third of the Senate, the entire House of Deputies, which is like our House of Representatives, and the president. So a lot is at stake. The senators are going to be in office for six years, the deputies for four and the president for five. So whoever wins the elections on November of this year is going to have a pretty lasting impact on Haiti.

The people who are going to win the elections are probably not going to be the people who would win a fair election because the government has done a pretty good job of excluding most of the competition from those elections. From the legislative part, 14 parties were excluded. Some of those might have been excluded for good reason, but we don't know because the electoral council never gave a comprehensive explanation. I know some of those, because I've looked into some of the exclusions, and informally they gave reasons, and that those reasons were not at all justified under Haitian law.

So they're keeping 14 parties, including Fanmi Lavalas, which is the party that's won ever election in Haiti that it's ever contested. And the presidential candidates, 15 presidential candidates were excluded. Most of the parties that had been excluded from the legislative didn't even bother to present candidates at the presidential election, but even among those who did, almost half were excluded. Some of them, again, were probably excluded for good reasons. A lot of people heard about Wyclef Jean. And I think that based on public information, again, there's been no explanation so I can't say for sure, but it looks to me like Wyclef was appropriately excluded, because there is a five-year residency requirement and it seems pretty clear to me that he's been living in New Jersey, not Haiti, for the last five years. But there are other people who have much closer cases, and it's pretty clear that their exclusions were not justified by legal considerations, only by political ones.
And so we're really concerned that these elections are going to be not supported by the Haitian people. The same electoral council, back in 2009, or an almost-same electoral council--most of the members were there--ran elections and again excluded some parties, and 95 percent of Haitian voters did not show up. And we're expecting a similar thing, probably not a 95-percent boycott, but at least 70 to 80 and perhaps more percent of Haitian voters are going to stay home.

The government that comes in, and they're going to be in power for a long time, and they're also going to have to ask their citizens to make a lot of sacrifices. They're going to have to ask people living in camps to move to other camps. They're going to have to make decisions about whether you spend the money they do have in the cities, where the earthquake happened, or in the countryside, to keep people from having to move into the cities where they're vulnerable. They're going to have to make very difficult decisions among whether you're spending money for houses, for schools, for agriculture.

And all these are very difficult decisions, and the only way you can make them effectively and the only way you can get the cooperation of the people is to either have the popular trust or to use a lot of force. And it seems pretty clear to me, and to most of the people we're in contact with in Haiti, that it's extremely unlikely that the government coming out of these elections is going to have any popular trust, which leaves the alternative of using a lot of force to get the people to make the sacrifices that are needed. I'm extremely worried that Haiti, for the next five years, is going to enter into a cycle of civil unrest, where you're going to have some disruptions. You're going to have the government required to apply force to implement its policies, which will lead to some retaliation by people, which will lead to greater force, and which could spiral out of control, and certainly make it very difficult to do anything in Haiti, especially rebuild after the earthquake.

The elections concern us because we're paying for them. The electoral council, they estimate it's about $29 million for these elections and that two-thirds of that is coming from abroad, a big percentage of that from either the US or US payments through the UN and the Organization of American States to the elections.

And so, if we said the US has enough financial power on that, if we said, "No elections unless you let all the parties in, " the parties would get in. We have so far chosen not to do so. I think our government believes that the current government is doing a good job at a lot of things, especially financial accountability, and that they're good partners with the US, which I think are important considerations, but I think they're not as important as listening to what the Haitian people want. And so I think that we've got a shortsighted policy that we think might be helpful in the short term, but I'm pretty confident it's going to be extremely harmful to Haiti, and to the US, in the long term.

Because one of the things, as an American, there's obviously the moral issues of whether we should do things, of building Haitian democracy and making life more dignified for Haitians. But there's also the selfish financial interests, and the U.S. spends a lot of money sending troops to Haiti at least every decade. We pay a lot of money dealing with the refugee flows that are generated by political instability and by economic conditions.

A good percentage of the drugs coming into the U.S., and I think it's generally around 10 to 15% of the cocaine, at least the cocaine that comes up on the Atlantic side, passes through Haiti. The reason why it passes through Haiti is that you've got an unstable government that's never been able to even build roads to remote areas, never mind get police there. As a result, it's very easy for people to bring drugs in.

Let me talk a little bit about what we can do in our different roles. The first thing that I recommend for people is to stay informed. This is preaching to the converted, which is unusual for me, so it's good to see a lot of people here know that you have to stay informed.
Sometimes you have to look out a little bit. Obviously, the Haiti stories in major newspapers have gone down. I think that's a pretty inevitable part of the news cycle, but there are lots of places where you can get news on Haiti.

I'll give a plug for our website, haitijustice.org, where we intentionally put stuff up for people who don't have a gazillion hours to keep in touch with everything on Haiti on the Internet, but have time once a week or so to look at what the big developments are.

The second thing to do after staying informed is to stay engaged. There are lots of ways to do it. One way that we've built to channel people who want to help in with the limited time, it's called the Half-Hour for Haiti program.

Now it's about once a month we put out an action alert that's educational, it's concrete, and it's a way of advancing human rights in Haiti. The latest one -- we put one out a couple weeks ago -- it was on the elections.

Representative Maxine Waters had circulated a letter to her colleagues in the House of Representatives. It was a letter to Secretary Clinton saying that we shouldn't support elections that are unfair and are going to cause bigger problems in Haiti.

We asked people to call their representatives to ask them to sign, and we'll take credit for all of them who did, although it's pretty disingenuous. We ended up having 44 members of Congress sign on. It's obviously well short of a majority, but it was a lot of people who are influential in Haiti policy and a pretty big deal with a Congress with a lot else going on.

Another way to stay engaged is to volunteer, and there are lots of ways to do that. Again, it depends on what your passion is and what your skill set is. Obviously, we use lawyers, but we have people who can do PowerPoints. We have statisticians, we have public health people, a pretty wide variety of people who are able to participate in our projects.

The last is financial support. I recommend when people ask me how you should contribute financially to Haiti -- obviously, our organization, like any non-profit, needs financial support. But I encourage people to see what they're passionate about and what they make a personal connection to.

But when you're doing that, also take a good look at the website and at other reports about that organization to see if they do have an approach that is sustainable and leads to the long-term development of Haiti.

Let me give you a quick example of how our volunteers have worked. This was right after the earthquake when we heard that things in the camps were bad despite all this money going forward. We were trying to figure how do we document this without having any money to do it.

We gave questionnaires to three of our Haitian organizations. They went out, and they did 4,500 censuses. Then we worked with another organization in the U.S. that went out and did a more intensive survey of 90 families.

So we had all this information, and then we needed to put it in a report. We're actually lawyers, not statisticians. We couldn't do that. We put the call out to our Facebook page, and we got 25 people. We got professors, statisticians, public health people who said, "Sure, I'm happy to help." Put out this great report that I don't even know how it got done, but it was a great report.

Then we presented it at a hearing at the Inter-American Commission on Human Rights. We got it to
USAID, to members of the U.S. Congress, to a guy named Paul Farmer, who is on our board, who got it to the United Nations, and to other people who are working on Haiti.

Then we wanted a bigger bang, so we teamed up with a group called the New Media Advocacy Project. They made a video about conditions in the camp, which they got volunteer film editors and volunteer camera people to do that. Then we got the video out to everybody and, of course, put it on the Internet, and it became a big deal.

So that's it. These are just some of the types of things that we do, and I'm not going to go through that list. We talked a little bit about all of them. But I'd just like to thank everybody for coming and for caring about Haiti, and I look forward to the conversation.

[applause]

Ian:

So you all have the question cards. Pass them up. Pass them up to the side, and someone will get them up to us. One of the questions, Brian, I wanted to start off with while we wait for these cards to come up is this whole Bush/Clinton Haitian initiative. Initial research seems to indicate that they've raised over $50 million. Less than $5 million has actually been dispersed.

The challenge was to whom does it go? How does it go? How do you not usurp Haitian authority, at the same time understanding that the Haitian civil service has been devastated by the earthquake? What's going on?

Brian:

very good question. There has been a lot of critique of the aid effort, and I think some of those critiques are justified. A lot of the people who are being critiqued will say this is an extremely difficult situation. First of all, the earthquake's devastation made everything difficult. It took out most of the government ministries. It took out 20% of the civil servants. There's rubble in the streets. You can't get anything done. The infrastructure is hurt.

That does give people a good excuse, but I think we have to look at also some of the root causes of that. One of the things that was really frustrating for me was in the first month there was a lot of talk about how people couldn't distribute food.

Basically, what was happening the people who had the food wouldn't distribute it unless they had a bunch of U.S. soldiers there to guard them because they were afraid of riots.

You're reading that in the paper, and then I was getting emails from people who had church programs, other small programs on the ground who were saying, "We can distribute food safely. We've had this feeding program for a year, two years, 10 years. We can do it. We just can't get the food."

There was this huge disconnect between the people who had connections on the ground and had the relationships where they could distribute food safely, and the people that actually had the food. I think that in other ways that's still happening today, and I think that the coordination does need to be done.

The other issue that I think is raised about the money not being dispersed is there's also an inherent conflict between spending money for long-term development and addressing root causes versus giving people immediate aid.
As certainly someone who's been working on root causes for 15 years, a lot of me thinks, OK, that's what you need to do. But on the other hand, we're talking to people whose kid hasn't gone a day without eating in the last week, and it's very hard to say, no, that kid can't do it.

My response to all that is I can't say, yes, you should put the money into the system versus giving this kid something to eat. But I think what's important to me is the process, that you need to have a process of a government that's legitimate leading it and that the other organizations follow the lead of the government.

I think that there is legitimate concern about the Haitian government's ability, both ability to implement in terms of general capacity, but also the fear that money will be siphoned off. I think all those concerns need to be addressed, but I think they really can be addressed if you organize the program correctly. As you know in your work, it's hard, but I think it can be done.

Ian: I want to push back a little bit in terms of we've still got $45 million sitting there in the bank not being spent. We've got two former presidents of the United States, some of the most powerful people in the world. Any sense of what's going on? Is there going to be movement there? It just seems stuck from outside.

Brian: I think there has been some movement. The framework that's been agreed on by the Haitian government and the international community, which is very controversial within Haiti, is the ICRH. It's the Interim Commission for the Reconstruction of Haiti, which is a group made up of half the voting members are Haitian, and the other half are non-Haitian. Bill Clinton is a co-chair, and Jean-Max Bellerive, Haiti's prime minister, is the other co-chair. And that's the organization that's supposed to be deciding how money is being spent, but using as a guide Haiti's development plan that they presented back in March, which has been criticized as being vague.

That structure has taken a long time to get up to speed. I think it was about a month ago, they started disbursing the first moneys through that. And so hopefully that will get accelerated.

I would actually say that in terms of making long term projects, projects that the payoff really is more than a year away, I think there's actually very good reason to wait a couple months, first of all to insist on fair elections, and to wait a couple months until there's a government that does have the legitimacy for making some of these long term decisions.

Ian: There was a question here from the audience that feeds right into this. And this is a statement from the questioner here. There was the Haitian sentiment of not trusting foreigners, especially Americans. Going back to Bill Clinton's mea culpa on the rice issue, do you think that this sentiment is valid?

Brian: Yes. [laughs] The quick answer. Starting from, again, if you look at some of the things we talked about, our non-support for the second independent country in the hemisphere, our support for the Duvalier dictatorships, our kidnapping of Haiti's president, I think there's reason to be suspicious. I lived in Haiti for nine years, and I never had anybody that I could tell. I'm sure it happened, but I couldn't tell that anybody disliked me because I was American. In 15 years, no one spat on my face or said, "Get out of here, American."

Haitians are, I think, very legitimately concerned about some American policies. But there's this ancient proverb of "laver mains sol les terre." Does anyone want to translate that for me? [laughs] Which is "wash your hands and dry them in the dirt." And that's often used to describe US policy, where we do a lot of very good things, giving a lot of money, in some cases supporting democracy, supporting infrastructure, and then doing something like kidnapping the president that ruins everything that we had done.
I don't think Haitians, in general, have a hatred of Americans or dislike everything that Americans do, but I think that they are aware that there are some areas where US policy needs improvement.

**Ian:** We have a question here that relates to this one, again around kind of global leadership. We've talked about it, in some respects, from the American perspective. This was a global disaster. There was a global outpouring of support. What could a global coalition look like that might have more legitimacy in pushing some of these policy changes?

**Brian:** I think that, in terms of aid responders, one of the interesting things to me, and one of the very good things that has happened, is things like President Clinton's admission that some of his policies hurt Haiti. Edmond Mulet, the head of MINUSTAH, the UN mission in Haiti, just in today's papers in Haiti talked about how the UN and other organizations had for years been undermining the Haitian government. There was a big donors' conference. I think it was March 30th of this year in New York. I was at a preparatory conference to that a week before, and everybody got up and said, "Yes, we can. We have to develop Haitian capacity. We have to support the Haitian government. We have to let Haitians learn the skills to get themselves out. We can't be politicized." All the things that we've been complaining about for years, and all of a sudden everybody was agreeing with us. That was great. But I think there's been a lot of lag between the espoused ideals and the actual changing of practices.

If you look at what people are actually saying, I think it's actually pretty good. And what I would see as the next step is to act consistently with a recognition of what needs to be done.

**Ian:**

"What people are saying." Who are those people? Who are the countries that are pushing this and that we should be watching?

**Brian:**

Well, I'm not sure who's pushing it. I know who's saying it. People like President Clinton, who's, at some point, at least an unofficial representative of the United States; he's got some connections with the foreign-policy establishment. People within the US government are saying those kinds of things. The top UN people are saying it. The countries that I think have had the most influence over Haiti are the US first, Canada, France, probably the second tier, maybe Venezuela next, and then the European countries. Those are the countries that are probably going to have to take some leadership on this issue. They've certainly taken rhetorical leadership, in terms of talking about building back, and they call it "building back Haiti better." And there just is an obvious lag between practicing what's been preached.

**Ian:**

We have a series of questions here that are a little bit more focused. Given the importance of burial funerary rites in Haitian culture and the amount of fatalities, unidentified bodies, and the mass graves from the earthquake, is there a place for a large-scale human-identification effort in the human-rights approach to rehabilitate the Haitian people?

**Brian:**

That's a really good question. And I don't know. My guess is it'd be pretty tough to do. What happened was, when the earthquake hit, the government made a decision that 200,000 bodies were a huge public-health hazard and that you needed to sacrifice the dignity of the dead in order to preserve the lives of the living. And basically, bodies were just piled into trucks and carted out to a
place called Titanyen, which had been for a long time kind of a burial ground or a dumping ground for bodies, and just put in huge piles.

I think that the 200,000 number actually might be a little bit high, but it's a huge amount of people there. I think it would be extremely difficult. Obviously, the bodies have been decomposing now for nine months. I think it would be difficult technically, I think it would be difficult financially to do that. Obviously, that's desirable because the Haitian people, burials with dignity is extremely important and is a great cause. Of people I've talked to who've lost people, they've expressed their anguish, even seven, eight months later, about the fact that they weren't able to get a decent burial. I don't think that's likely within the current context of that happening.

Ian:

That takes us to the next level here. Is there any chance of establishing the infrastructure to support a forensic DNA-identification network to help prosecute and deter sexual violence?

Brian:

Yeah, that can happen. I think that right now the scientific capability of the Haitian police is pretty light. My understanding is that DNA stuff has to be done outside the country. We did some DNA work in the Raboteau case, not to get any perpetrators but to identify some of the victims. There was a forensic anthropology team that came in and did some exhumations. And through DNA, among several other tools, they were actually able to construct an account of what had happened that was extremely consistent with the accounts that were presented by the victims. The forensic anthropologists didn't tell the court anything that the victims hadn't already said, but they were able to confirm it with scientific data, which I think was extremely persuasive to the jury.

Obviously, in sexual-assault cases, the DNA evidence in many of them can be extremely important. Part of the problem is you don't have a database. It's not like you can check the database against all the convicted felons. But I think it could be useful where the victim can identify the perpetrator but the perpetrator is saying he wasn't there.

Ian:

series of questions here related to land rights. And essentially, you spoke earlier about no real land title, in many cases, no proper ownership of land. So if there is no current land tenure, if the current land-tenure system is not very strong, how can the current "landowner, " in quotation marks, kick people out of the camps? The follow-on question of this is, is there a plan to create land rights? And the next part is, if there is a plan, what's it really going to take to make that happen so that places like Habitat could actually go in and reconstruct? So the first question is land rights. They don't exist. They're complicated. Titles, surveys. What's the scoop?

Brian:

Yeah, that's actually a great question. It looks like, and we haven't been able to do any statistical analysis but just anecdotally, it seems that the landowners who are most aggressive about kicking people out are people who actually, probably, have the least good titles. We suspect that that's part of the motivation, that they're titles aren't any good, and that they fear that if people are staying there then someone's going to do the research and find out the titles aren't that good, and they're going to say, oh, this is an excellent place for a resettlement camp, because people are there, and it really is state land not private land. So, we think actually the lack of land title is pushing people to do more evictions.
Second, in terms of what needs to be done, there's general recognition of the problem. It's difficult to get from recognition to the problem to a solution. Obviously, if you're going to say, we're going to create some system, inherit to creating some logical system, means some people who think they have the right to the land are going to lose that right.

People obviously going to resist that, if it's poor people, people who don't have a lot of land, but that's all they have, they're going to resist it in the ways they can. If it's huge land owners they can pull all the leverage that they have, which will make it extremely difficult.

What has happened is the government has set aside a few areas where they said, and this was land that wasn't really productive land or useful for other things, and they've said that we're taking this. It's been kind of complicated, there's been some scandals and allegations that it was an inside job, and government supporters got payoffs to sell their useless land at a high price. But there has been some land that's been purchased through assertive eminent domain.

More recently the government, just last month, issued a decree that a big area of downtown was taken by eminent domain. It's not quite clear exactly what that means, but the government said, none of this land can be sold, or improvements made. You basically can't make any changes pending our plan of what we're going to do with that. That's most of the downtown business district.

It appears that the idea is that this is going to be the center of rebuilding a more well-planned and less chaotic business district in Port of Prince. Which can certainly be a good thing, but there will be resistance as there's going to be winners and losers in that. What all the camp residents are saying, well look if you can use your eminent domain powers to build business that's great, but if you've got those powers why can't you use them to get me a place to live that's not sitting on a cesspool?

Ian:

Are there any examples that come from much the land right reform had that happened throughout, for example, in Central America? Part of the reason I ask, here in Seattle, in particular, there's an organization called the Rural Development Institute, which has a lot of land rights for the poor. If you could think about how technology which exists, mapping technology in particular, could help with at least the identification of the parcels, could that move things forward? Is the land actually surveyed at this point?

Brian:

Some is, some isn't. There's actually been a couple of plans to try to do some, use technology to do the surveys. One of the problems, one of the ways that the system has evolved with this land insecure tenure, is that the system is always presented as given a lot of weight to actual possession. So if you had a house and a wall around your property it was pretty hard for someone to kick you off of that. They would need an extremely strong title, and they need to jump through a bunch of legal hoops, to keep you off. So poor people especially, that was how they kept their title, the wall and the house. The houses have now collapsed, the walls have collapsed, and the people are no longer there to physically defend their land, so it is opening up for pretty wide scale appropriation by people. We've seen some signs of that. It's been encouraging that the kind the, I was expecting it to be much bigger and much worse by this point in time. That hasn't yet happened, but I fear it's a matter of time.

What some groups have been doing, they have been going down and surveying it using GPS's, and at least creating some kind of informal registers that can be used in some kind of way of resolving
disputes down the road, as when they're in some kind of plan for first clearing the ruble and then for building houses there.

Ian:

We have a series of questions here related to sexual violence. Essentially the questions here relate to, you talked about eight individuals having been arrested. What's the likely progression of them ending up in court, in terms of what's the time frame? I mean, some of these cases are six and seven years in the process. Given the current state of the judicial system, what's the prognosis, even though they've been arrested?

Brian:

We don't know, because there's never been any kind of systematic attempt to prosecute rape. Rape has always been prosecuted, but the vast majority has not, and it's been particular cases that were compelling for one reason or another that the justice system took. One of our concerns, one of our other projects, is the Health and Human Rights in the Prisons Project. One of the things we're doing is, 80% of the people in Haiti's prisons have not been convicted of anything, and we've been trying to reduce that percentage. So we are very concerned about putting people in jail indefinitely. Where we're going to be pushing for prosecutions and pushing for arrests, we're also going to be pushing for speedy prosecutions. We're hoping that within two years all of our cases can go to trial. We're pushing the judges to do initial hearings.

One of the things that happens is people get put into jail without, and they never really have a hearing. They go two years without having a serious hearing about whether there is probable cause to hold them. That's one of the things that we're doing. We're saying look, we've got a case file and this is why we think this person should be arrested, but the justice system does need to do a hearing and release people that shouldn't be there.

Ian:

The second question here, in this same vain, relates to widely reported stories around LGBT rights in Haiti. There was a story reported in the midst of an earthquake, an LGBT organization was holding a meeting, 10 or 12 people were trapped in there. The report was that people said, don't bother rescuing them, let them go. It's been widely reported. What is the context? Within the context of LGBT rights in Haiti, is it a conversation? How does a rights-based approach move the needle on those issues?

Brian:

It does, and that's one of the areas, and I think we're guilty of that as well. Generally, the human rights movement in Haiti has not done a good job of addressing those issues. I think that's due to a bunch of things, I think part of it is the profile of violations of LGBT rights. There haven't been high-profile violations, in the sense of the rapes in the camps, or the Raboteau massacre. So I think a lot of it is, there are serious human rights violations, but I think it's just under the radar screens of a lot of people doing human rights work. There's also, there's a lot of ambivalence about these kinds of rights within Haitian society. One kind of really interesting example of that was Michelle Pierre-Louis, who was nominated to be Prime Minster about a year and a half a go. When she was first nominated there was the predictable criticism on political grounds, and it was interesting that she was criticized by both the Left and the Right on her policies, and her associations.

But, after that there was the second wave, a couple weeks later, where the so called values controversy, where it was reported that she was a lesbian, and that people came out against that. It
was interesting that people who had a history of fighting against other kinds of discrimination, including gender discrimination, color discrimination, economic discrimination, were willing to participate in the sexual orientation discrimination.

I think it was a teachable moment in Haiti's history. I'm not sure how much teaching got done, although, to the credit Michelle Pierre-Louis was confirmed as Prime Minister and did serve. So I think there's at least that positive example.

In terms of what's being done, I'll probably be able to answer that better tomorrow. There's an organization in New York that's actually working with a Haitian LGBT organization, put out a report on LGBT rights since the earthquake. They actually called us last week and said they were going to send us a report by the end of this week, and they want us to look over it, and look for opportunities to collaborate. So that's question's about a day early.