

# Hurricane Katrina and the Guiding Principles on Internal Displacement

A GLOBAL HUMAN RIGHTS PERSPECTIVE  
ON A NATIONAL DISASTER



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## SPECIAL REPORT

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## FOREWORD

Hurricanes and tsunamis have displaced people from their homes throughout history. Hurricane Katrina, which struck New Orleans and the Gulf Coast in August 2005, was no exception. Hundreds of thousands of people were forced to flee their homes as the hurricane made landfall and, a few hours later, as the levees of New Orleans were breached. In light of heavy criticism of the U.S. government's response to the Katrina disaster, studies have been carried out, congressional hearings have been held, and efforts have been made at all levels to examine what went wrong and to propose measures to ensure that future government responses can be more effective.

This study, published by the Institute of Southern Studies with support from the Brookings-Bern Project on Internal Displacement, focuses on the government's response to those displaced by Hurricane Katrina through the lens of international standards, specifically the *Guiding Principles on Internal Displacement*.

The Brookings-Bern Project on Internal Displacement, an independent research and advocacy project, promotes a more effective national, regional and international response to address the global problem of internally displaced persons in support of the mandate of the Representative of the U.N, Secretary-General on the Human Rights of Internally Displaced Persons (IDPs). The Project has focused on developing normative standards for the protection of IDPs, beginning with the *Guiding Principles on Internal Displacement* in 1998 which were presented to and welcomed by the United Nations and are increasingly used by governments in developing their policies towards internally displaced persons.

Subsequent work by the Project in strengthening the normative framework for the protection of the human rights of internally displaced persons has included development of a *Framework for National Responsibility, Operational Guidelines on Human Rights and Natural Disasters* and *A Framework for Durable Solutions for IDPs*. These have been discussed and endorsed by various United Nations bodies and seek to provide further guidance to governments and humanitarian organizations seeking to promote the human rights of internally displaced persons.

The Project has also carried out policy analysis and research on a number of situations of internal displacement, from Sri Lanka to Iraq. This is the first research report that the Project has supported which focuses on internal displacement in the United States. It should be noted that the Metropolitan Policy Program of the Brookings Institution has followed Katrina-related issues since the beginning and has published many reports on the impact of the disaster, particularly on the economic recovery of the region.

We are grateful to Chris Kromm and Sue Sturgis of the Institute for Southern Studies for carrying out this study, which makes a valuable contribution in analyzing the response to Katrina-induced displacement in light of accepted normative standards for internal displacement. It is also evidence that even wealthy countries need support to respond to natural disasters in a way which upholds the rights of those who are displaced.

Elizabeth Ferris

Senior Fellow and Co-Director of the Brookings-Bern Project on Internal Displacement



# EXECUTIVE SUMMARY

When Hurricane Katrina crashed into the U.S. Gulf Coast in August 2005, it precipitated one of the greatest episodes of internal displacement of U.S. residents in the country's history. Over a million people were immediately forced from their homes and communities; today, tens of thousands of people from the Gulf Coast remain displaced across the nation.

The international community has a clear set of guidelines to protect the rights of people like those displaced by Hurricane Katrina: the United Nations Guiding Principles on Internal Displacement. Completed in 1998 by Dr. Francis Deng of the Sudan, the 30 Guiding Principles draw on existing international law and outline human rights protections for those displaced by events including natural disasters through three phases: before displacement, during displacement, and in the return, reintegration and resettlement of those displaced.

The Guiding Principles on Internal Displacement have been repeatedly affirmed by member nations of the U.N., including the United States. Indeed, the current U.S. presidential administration has called for "wider international recognition of the U.N. Guiding Principles on Internal Displacement as a useful framework for dealing with internal displacement."

To date, the United States government has not acknowledged the relevance of the U.N. Guiding Principles to those persons displaced within the U.S. by Hurricane Katrina. Yet, as this report extensively documents, the Guiding Principles are directly applicable to this devastating disaster. Before, during and after Hurricane Katrina, U.S. policy failed to adhere to basic provisions of the Guiding Principles:

- Before Hurricane Katrina struck, the U.S. government did not take adequate measures to prevent wide-scale displacement of Gulf Coast residents, including coastal protection and maintaining sound storm defense systems such as the New Orleans levees.
- The U.S. government did not adequately protect the rights of Gulf Coast residents during displacement, failing in many cases to prevent discrimination against the poor, immigrants and people of color, and allowing children, the elderly, disabled persons and other vulnerable populations to be put in life-threatening situations.

- U.S. officials did not follow Guiding Principles related to humanitarian assistance, allowing partisan politics to skew relief and recovery assistance, failing to prevent abuses by private contractors and denying displaced persons access to aid from foreign governments.
- Lastly, the U.S. government has not successfully upheld the rights of those displaced by Hurricane Katrina to return, resettlement and reintegration in the Gulf Coast, effectively failing to address the need for affordable housing, health care access, and adequate employment that would enable displaced persons to come home.

Rather than viewing Hurricane Katrina as an exception from the U.N. Guiding Principles, U.S. officials should view the 2005 storm and its aftermath as proof of the Guiding Principles' enduring value. The Guiding Principles provide a framework and guide for action that could greatly strengthen the U.S. government's ability to quickly, adequately and equitably address the ongoing crises that continue to plague tens of thousands of people displaced by Hurricane Katrina.

Hopefully, the tragedy of Hurricane Katrina will provide the impetus for the United States to bring its policies in line with international standards for protecting those displaced by disasters. By fully incorporating the Guiding Principles into all aspects of U.S. disaster law, the U.S. government can ensure those displaced in the future may be spared from suffering the same troubling fate as the victims of Hurricane Katrina.

# THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT: PROTECTING THE HUMAN RIGHTS OF DISASTER VICTIMS

When Hurricane Katrina struck the United States Gulf Coast in August 2005, it uprooted over a million of the region's residents from their homes and scattered them across the country. In the aftermath of that storm and of Hurricane Rita, which made landfall along the Texas-Louisiana border in September 2005 and dealt a second blow to many coastal communities devastated by Katrina, the media struggled to find the appropriate language to describe those exiled by the disasters.

Early news reports often referred to residents fleeing Hurricane Katrina and failed levees as "refugees." An Associated Press story that ran the day the Katrina made landfall along the Louisiana-Mississippi border applied that term to the more than 9,000 people seeking shelter in the New Orleans Superdome,<sup>1</sup> while a later AP story referred to an "unprecedented refugee crisis" unfolding in the storm's wake.<sup>2</sup> The international press also used the term "refugee" when, for example, describing the residents of New Orleans ordered out of the city after the levees broke.<sup>3</sup>

But civil rights leaders objected to the "refugee" label. Reverend Al Sharpton of the National Action Network decried the use of the word following a September 4, 2005 visit with storm-displaced Gulf residents housed at the Houston Astrodome. "These are not refugees," Sharpton said. "They are citizens of Louisiana and Mississippi, tax-paying citizens. They are not refugees wandering somewhere looking for charity. They are victims of neglect and a situation they should have never been put in in the first place."<sup>4</sup>

The Reverend Jesse Jackson of the RainbowPUSH Coalition also criticized the use of the "refugee" term in the Katrina context,<sup>5</sup> while Bruce Gordon—then president and chief executive of the National Association for the Advancement of Colored People—argued that the label put blacks, who constituted the majority of New Orleans' displaced, at risk of being deprived of their rights as U.S. citizens.<sup>6</sup>

Indeed, international law defines "refugees" as people who cross international borders while fleeing conflict in their home country, and it governs their treatment under the 1951 U.N. Convention Relating to the Status of Refugees as well as a 1967 protocol expanding the Convention's scope. The Convention and/or related protocol have been ratified to date by about 150 governments, including the United States, and are overseen by the Office of the U.N. High Commissioner for Refugees.<sup>7</sup>

Another word commonly used by the media<sup>8</sup> and U.S. government<sup>9</sup> to refer to people pushed out of their homes by Hurricane Katrina is "evacuee." However, this term is technically incorrect, since tens of thousands of people left homeless by the storm were never actually evacuated from the

affected area. Furthermore, the term "evacuee" is an informal one that is not used under national or international law.

There is a more appropriate term to describe those driven from their homes by Katrina: internally displaced persons (IDPs).

The shaping of international policy governing the treatment of IDPs got underway in the 1980s, when non-governmental organizations (NGOs) working with refugees began raising concerns about the plight of so-called "internal refugees," who eventually came to be called IDPs. In many cases, IDPs faced even worse conditions than refugees, since they were usually closer to the violence that displaced them, and since NGOs and U.N. agencies consequently faced difficulties in providing humanitarian assistance.<sup>10</sup>

Taking these concerns to the U.N. Commission on Human Rights, the NGOs called for the appointment of a special representative on IDPs. In 1992, the Commission appointed Dr. Francis Deng, a Yale-educated Sudanese minister and ambassador, as the first representative of the U.N. Secretary General on Internally Displaced Persons. Four years later, the Commission asked Deng to compile and analyze legal norms in order to develop a framework to protect IDPs.<sup>11</sup> In 1998, he submitted to the Commission the Guiding Principles on Internal Displacement, a document that sets out 30 principles detailing general human rights and humanitarian protections for IDPs as set forth in existing international law. The human rights instruments from which the Guiding Principles are drawn and which the United States has endorsed include the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and the Geneva Convention and related protocols.<sup>12</sup>

The Guiding Principles cover three phases of internal displacement: pre-displacement; displacement; and return, reintegration and resettlement, or durable solutions. They apply not only in situations of armed conflict and violence but also natural and human-made disasters.<sup>13</sup> The principles state clearly that national governments have the "primary duty and responsibility" to provide protection and humanitarian assistance to internally displaced persons within their jurisdictions.<sup>14</sup>



Though the Guiding Principles have not been restated in a binding treaty, they have been widely embraced by the international community. For example, the U.N. General Assembly in December 2003 adopted a resolution stating that “the protection of internally displaced persons has been strengthened by identifying, reaffirming and consolidating specific standards for their protection, in particular through the Guiding Principles on Internal Displacement.”<sup>15</sup> A World Summit Outcome document approved in September 2005 by the U.N. General Assembly at a meeting of more than 150 heads of state declared, “We recognize the Guiding Principles on Internal Displacement as an important international framework for the protection of internally displaced persons.”<sup>16</sup>

Though such statements are not formally binding under international law, they provide evidence of what the international community recognizes as norms and offer guidance to all authorities facing internal displacement—including the United States. In fact, U.S. policy as stated by the current administration specifically calls for “wider international recognition of the U.N. Guiding Principles on Internal Displacement as a useful framework for dealing with internal displacement.”<sup>17</sup> In 2004, the U.S. Agency for International Development issued a policy on internally displaced persons to guide its overseas aid programs that is based on the Guiding Principles, though this policy applies to people displaced in foreign countries and not to those displaced at home.<sup>18</sup>

Since Katrina, there has been an effort by human rights advocates to encourage the United States to view the response to the disaster through the lens of human rights instruments. In March 2006, for example, a number of U.S.-based organizations made presentations to the Organization of American States’ Inter-American Commission on Human Rights (IACHR) about human rights violations in the wake of Hurricane Katrina. They included the International Human Rights Law Clinic at the Boalt Hall School of Law, which presented a report to the IACHR analyzing the 2005 Gulf Coast hurricanes Katrina and Rita from a general human rights perspective<sup>19</sup>, and the Southern Poverty Law Center’s Immigrant Justice Project, which presented the findings of its report on post-Katrina human rights violations of migrant workers.<sup>20</sup> And in June 2007, the American Civil Liberties Union released an

analysis of the U.S. State Department’s report on domestic racial discrimination to the U.N. Committee on the Elimination of Racial Discrimination in which the ACLU criticized the U.S. government for failing to discuss Hurricane Katrina.<sup>21</sup>

While those analyses applied various aspects of international law to Hurricane Katrina, there has also been a study that focused specifically on the response of U.S. authorities to the disaster’s internally displaced persons. In July 2006, the U.S. Human Rights Network (USHRN)—a coalition of more than 200 U.S.-based legal, humanitarian, and advocacy organizations—submitted a so-called “shadow report” to the U.N. Human Rights Committee documenting ways in which the U.S. government’s response to Hurricane Katrina violated the International Covenant on Civil and Political Rights<sup>22</sup>, a treaty that has been legally binding on the United States since its ratification in 1992 and on which some of the Guiding Principles are based. USHRN concluded that the United States has a legal obligation to provide redress for the documented violations of displaced persons’ human rights, including providing appropriate reparations to the victims and taking immediate measures to ensure those violations are not repeated in future disasters.

After questioning a delegation of U.S. government representatives on the treatment of African Americans and the poor during and after Hurricane Katrina, the U.N. Human Rights Committee issued the following recommendation:

The [U.S. government] should review its practices and policies to ensure the full implementation of its obligations to protect life and of the prohibition of discrimination, whether direct or indirect, as well as of the United Nations Guiding Principles on Internal Displacement, in the areas of disaster prevention and preparedness, emergency assistance and relief measures. In the aftermath of Hurricane Katrina, it should increase its efforts to ensure that the rights of poor people, and in particular African Americans, are fully taken into consideration in the reconstruction plans with regard to access to housing, education and healthcare. ...<sup>23</sup>

# U.S. DISASTER LAW

## THE STAFFORD ACT

In the United States, the Robert T. Stafford Disaster Relief and Emergency Assistance Act establishes a framework for government response in situations involving hurricanes or other major disasters. Signed into law in 1988, the Stafford Act authorizes the President to issue major disaster declarations, which in turn authorize federal agencies to provide assistance to affected states and local governments. Through executive orders, the President has delegated responsibility for administering the Act's major provisions to the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security (DHS). Funding for actions taken under the Stafford Act's authority comes from the federal Disaster Relief Fund.<sup>24</sup>

Under the Stafford Act, there are five types of declarations the President can issue.<sup>25</sup> There are general emergencies, which he can issue in certain circumstances without gubernatorial request. There are fire suppression and defense emergencies, as well as pre-declaration activities when a disaster is imminent but not yet declared. Then there are major disasters, which he can declare after receiving a request from the governor of an affected state. As Hurricane Katrina approached the United States, President Bush issued major disaster declarations at the request of the governors in Florida, Louisiana and Mississippi.<sup>26</sup>

FEMA has established three major categories of disaster aid under the Stafford Act.<sup>27</sup> Individual and household aid includes immediate temporary shelter, cash grants for emergency personal needs, temporary housing assistance, home repair grants, unemployment assistance, emergency food, legal aid for low-income individuals, and crisis counseling. There is public aid available to state, tribal and local governments as well as certain private nonprofits for the repair, reconstruction or replacement of infrastructure and other basic needs. Finally, there is hazard mitigation assistance available to help state governments reduce future disaster losses.

Though the Stafford Act does not explicitly authorize the President to provide long-term recovery assistance to communities, the National Response Plan—an official document that outlines government agency responsibilities following declarations of major disasters—includes a “Long-Term Community Recovery and Mitigation Annex.”<sup>28</sup> The annex “provides a framework for federal government support to state, regional, local, and tribal governments, nongovernmental organizations (NGOs), and the private sector designed to enable community recovery from the long-term consequences” of disasters.<sup>29</sup>

## SHORTCOMINGS WITH THE ACT AND ITS IMPLEMENTATION

In the wake of Katrina, the Stafford Act has come under criticism from state and local officials in the Gulf Coast for failing to adequately address catastrophic disasters. Among the law's critics is Ed Blakely, executive director of recovery management for New Orleans, who detailed its shortcomings in April 2007 testimony before a U.S. Senate committee chaired by Senator Mary Landrieu (D-Louisiana)<sup>30</sup>:

As has been pointed out by Senator Landrieu and many other members of Congress, the Stafford Act's current legal and policy framework does not match the emergency response and long-term recovery needs of catastrophic disasters such as Hurricanes Katrina and Rita. For example, we know that the nation does not yet have the capacity to shelter large numbers of people who have to be quickly evacuated from urban areas amid pending disaster. Nor are systems in place to comprehensively assist persons who are unable to self-evacuate because of age, income, disabilities or other restrictions on movement. Furthermore, in dealing with the disasters' aftermath, current federal rules for intergovernmental coordination, funding assistance, and long-term recovery are more suitable for small towns that are hit by tornados than for major metropolitan areas that are significantly destroyed by large-scale catastrophic disasters.

Blakely testified that project worksheets used to calculate what FEMA pays local governments for Katrina-related losses have been “routinely underestimated.” In addition, FEMA's public assistance program functions as a reimbursement process, which is problematic for local governments that suffer extensive losses. “Given the level of destruction in New Orleans, where more than 300 city buildings were damaged, it is not reasonable to assume that we would be able to make such substantial investments to be reimbursed later,” he said.<sup>31</sup>

The Stafford Act also contains a requirement that local governments put up matching funds in order to receive federal assistance. The law's match requirement is 25 percent unless disaster damage costs reach \$110 per state resident, when it drops to 10 percent. While the President can completely waive the match requirement at his discretion, as he did for New York following the September 2001 terrorist attacks, he refused to waive the requirement after Katrina. That left some local governments—especially in small communities where extensive destruction essentially wiped out the tax base—unable to access needed federal recovery dollars.<sup>32</sup> That situation was not rectified until after May 2007, when

Congress passed a law that waived the match for local governments recovering from Katrina.<sup>33</sup>

The Stafford Act's shortcomings in dealing with disasters of Katrina's scope were further documented in a 2007 report by two New York University professors, who offered various recommendations for strengthening the nation's capacity to respond.<sup>34</sup> By the storm's second anniversary, there were various efforts underway in the U.S. Congress to reform the law. One proposal from Senator Landrieu sought to create a new category of disaster assistance for major catastrophes like Katrina, while the House was considering legislation that would ease other Stafford Act requirements that have proven onerous for local governments recovering from a major disaster.<sup>35</sup>

Meanwhile, Advocates for Environmental Human Rights, a nonprofit law firm based in New Orleans, has criticized the

Stafford Act for failing to incorporate the Guiding Principles on Internal Displacement. The group points out that while the federal government serves as the primary coordinator of disaster assistance under the Stafford Act, states still bear the primary responsibility for carrying out disaster recovery efforts. But according to the Guiding Principles, it is national governments that have the primary duty and responsibility to provide protection and humanitarian assistance to the displaced.<sup>36</sup> While it is commonplace for federal authorities to delegate operational work to state authorities, responsibility under the Guiding Principles still remains with the national authorities to ensure that this work is done effectively. Furthermore, while housing assistance, temporary educational facilities and emergency medical care may be provided at the discretion of the federal government under the Stafford Act, the Guiding Principles guarantee displaced persons the basic right to housing, education and health care.<sup>37</sup>



(PHOTO: FEMA)

# HURRICANE KATRINA AND DISPLACEMENT

The 2005 hurricane season was one of the costliest and most deadly in United States history, wreaking havoc across the U.S. Gulf Coast. The Federal Emergency Management Administration (FEMA) declared 90,000 square miles of the Gulf Coast to be directly impacted by Hurricane Katrina alone<sup>38</sup>—an area almost as large as the United Kingdom. By September 2005, FEMA had declared 117 counties in Alabama, Louisiana, Mississippi and Texas to be eligible for disaster assistance in the aftermath of Hurricanes Katrina and Rita.<sup>39</sup>

The number of those immediately displaced by Hurricanes Katrina and Rita is estimated at 1.3 million people,<sup>40</sup> placing the 2005 storms on par with the 1.5 million internally displaced persons in the tsunami-affected countries of Asia one year after that disaster.<sup>41</sup>

The greatest number of internally displaced persons came from southern Louisiana. One study of 18 parishes in and near New Orleans found that the storms forced 398,000 to move away and 151,000 to relocate within their parish.<sup>42</sup> One year after Katrina, two-thirds of those displaced from New Orleans were still living out of state or outside the 18-parish area.<sup>43</sup>

Displacement from the Gulf Coast has had a startling impact on the demographics of the region, especially in the metropolitan areas of New Orleans and Gulfport-Biloxi-Pascagoula, Mississippi. Four months after the storms, the population count of the seven parishes of the New Orleans metro area was 378,000 lower than pre-Katrina levels. The metro area spanning Jackson, Hancock and Harris counties in Mississippi experienced the second-greatest population decrease after the storm, with 50,000 fewer residents.<sup>44</sup>

Internally displaced persons from Hurricanes Katrina and Rita ended up in all 50 states of the country but were concentrated in Gulf Coast states. As of May 2006, 62 percent of those displaced by the storms were in Louisiana and Mississippi, with Louisiana hosting nearly 42 percent of the internally displaced population and 20 percent still in Mississippi.<sup>45</sup>

One barrier to accurately assessing the scope and needs of internally displaced persons in the wake of Hurricane Katrina is the lack of monitoring and data by federal agencies. No federal agency is responsible for collecting solid information about the number and location of internally displaced persons, and state-level data varies widely in scope and quality.

Estimates of those still internally displaced several months after the storm range from 450,000 to 650,000.<sup>46</sup> A 2006 survey found that 60 percent of those displaced from Louisiana are now based in Texas, Mississippi and Georgia, with another 25 percent displaced in Florida, Alabama, Tennessee, California, North Carolina, Illinois, Arkansas and Virginia.<sup>47</sup> Nearly 80 percent of those displaced out of Louisiana came from Orleans or Jefferson Parish.<sup>48</sup> As of June 2007, the population of Orleans Parish, Louisiana was two-thirds of its pre-Katrina levels.<sup>49</sup>

While many internally displaced persons have chosen voluntarily to settle elsewhere, many others say they would like to return to the Gulf Coast. A recent survey of Louisiana's displaced found that half want to return either to New Orleans or to Louisiana.<sup>50</sup> Interestingly, those most intent on returning are among the most socially vulnerable, with single parent households and adults over 60 comprising almost half of those wishing to return.<sup>51</sup>

Internally displaced persons seeking to return say there are several barriers preventing them from coming back. Finding money to pay for a move and concerns over finding housing were cited as primary obstacles among those displaced from Louisiana.<sup>52</sup> Other concerns such as crime, schools, levees and government leadership were cited as important although less significant barriers to coming home.<sup>53</sup>

The 2005 Gulf Coast hurricanes clearly created an enormous IDP problem for the United States that demands attention and action from the national government.

# PROTECTION FROM DISPLACEMENT

Under the U.N. Guiding Principles on Internal Displacement, governments are responsible for preventing and avoiding conditions that might lead to displacement of persons, and for taking all measures possible to minimize displacement and its adverse effects. They have a particular obligation to protect against displacement of groups with a special attachment to their lands, such as indigenous people. The U.S. government failed to meet these obligations in the case of Hurricane Katrina.

## WARNINGS WENT UNHEEDED

For years prior to Katrina, various experts had warned that the Gulf Coast—and particularly New Orleans—was at risk of devastation from a major hurricane. In August 2001, FEMA participated in an emergency training session where participants discussed the three most likely disasters to strike the United States: “First on the list was a terrorist attack in New York,” the *Los Angeles Times* later reported. “Second was a super-strength hurricane hitting New Orleans. Third was a major earthquake on the San Andreas fault.”<sup>54</sup>

The following year, the *New Orleans Times-Picayune* published a prize-winning series of articles detailing how the below-sea-level city was vulnerable to a strong storm. “Without extraordinary measures, key ports, oil and gas production, one of the nation’s most important fisheries, the unique bayou culture, the historic French Quarter and more are at risk of being swept away in a catastrophic hurricane or worn down by smaller ones,” it reported.<sup>55</sup> And that was not the only published warning: *Scientific American* ran an article in October 2001 describing the consequences should a major hurricane strike the city<sup>56</sup>, while an October 2004 story in *National Geographic* magazine accurately predicted many consequences of a major storm hitting New Orleans—including severe flooding in 80 percent of the city and as many as 200,000 people left behind.<sup>57</sup>

In fact, local, state and federal emergency officials had practiced confronting a virtual storm that bore remarkable similarities to Hurricane Katrina. “It’s eerie how close it is,” the president of the FEMA contractor that led the simulation told reporters after Katrina.<sup>58</sup> Dubbed “Hurricane Pam,” the exercise that took place in July 2004 aimed to help officials develop emergency response plans by simulating a virtual Category 3 storm with 120 mile-per-hour winds, 20 inches of rain, breached levees, and hundreds of thousands left behind.<sup>59</sup> Pam was even more deadly than Katrina, causing an estimated 60,000 deaths.<sup>60</sup>

But while this effort was made to prepare for the oft-predicted disaster, it was clearly insufficient since more than a year after the exercise took place government at all levels was still fatally unprepared for a real storm. “With Hurricane Pam’s striking resemblance to Katrina in force and devastation, many have been left wondering at the failure to anticipate,

and plan for ... essentials,” concluded the U.S. House of Representatives in its official report on the failed Katrina response.<sup>61</sup> “Is a plan that leaves 300,000 in a flooded city and results in 60,000 deaths acceptable?”

Despite the clearly understood and widely publicized storm risks for the New Orleans area, the U.S. Army Corps of Engineers—the federal agency in charge of flood protection projects for the region—not only failed to take extraordinary measures such as building a system like the one protecting the Netherlands’ port of Amsterdam from a 10,000-year flood event; it didn’t even build and maintain New Orleans’ relatively modest 100-year-flood protection system properly. In its own study of post-Katrina structural failures, the Corps concluded that the levees constituted an incomplete and inconsistent patchwork of protections, faulty in design and construction. “The hurricane protection system in New Orleans and southeast Louisiana was a system in name only,” the report concluded.<sup>62</sup>

Responsibility for the levee system’s failure is shared by the top ranks of the U.S. government, which provided inadequate oversight and funding. In the two fiscal years before Katrina struck, for instance, President Bush cut the budget for Corps projects specifically designed to strengthen New Orleans’ levees.<sup>63</sup> Though Congress restored some of the funding, it was a fraction of what the Corps had requested and resulted in the delay of at least seven construction contracts.<sup>64</sup> In total, federal funding for all Corps projects in the New Orleans district from 2001 to 2005 dropped by 44 percent.<sup>65</sup> Clearly, the government could have done more to protect the city from the catastrophic flooding that occurred after Katrina.

## INADEQUATE COASTAL PROTECTIONS

Besides levees, another critical element of hurricane protection is coastal wetlands, which are disappearing in Louisiana at the alarming rate of 25 to 35 square miles per year.<sup>66</sup> At the time Katrina hit, the federal investment in Louisiana coastal preservation efforts through the Coastal Wetlands Planning, Prevention, and Protection Act was about \$50 million per year.<sup>67</sup> But the estimated cost of the comprehensive restoration program to sustainably protect the state’s coastal communities is \$14 billion.<sup>68</sup> Two years after the storm, federal coastal restoration efforts still remained severely under-funded. For example, the \$21 billion federal water resources bill that

## LAND LOSS IS A HUMAN RIGHTS ISSUE

Brenda Dardar-Robichaux, principal chief of the United Houma Nation tribe, once attended a conference on coastal land loss at which a scientist stood before a map of Louisiana and drew a line across the area of the state most at risk of being submerged in the coming decades. It included most of the Houma lands in southern Louisiana.

“We witness firsthand on a daily basis how coastal erosion affects communities,” says Dardar-Robichaux, pointing out that the Gulf of Mexico is now literally lapping at the doorstep of some tribal members. “It’s just a matter of time before some of our communities no longer exist.”

There are various factors behind Louisiana’s escalating land loss: dredging of oil and gas access channels, levee construction, and coastal development in general. At the same time, a warming global climate is causing sea levels to rise, while natural subsidence is causing land to sink. Given the threats, experts say, we probably have only a decade left to act before facing a catastrophic loss of coastal communities, including those of indigenous people. That implicates Guiding Principle 9, which says governments are under a “particular obligation” to prevent the displacement of indigenous people.

Though the Houma are growing more vulnerable to devastation from hurricanes due to ongoing land loss, the U.S. government offered them little assistance after Katrina. One reason is that the tribe lacks federal status.

While the United Houma Nation has been petitioning the U.S. government for recognition since 1983, it faces opposition from the oil and gas industry—the same industry responsible for a significant portion of Louisiana’s land loss—over fears about what recognition of the tribe could mean for land claims.



Brenda Dardar-Robichaux of the United Houma Nation points to coastal land loss as a major issue impacting her community. (PHOTO: SUE STURGIS, ISS)

Congress approved in November 2007 after overriding a presidential veto devotes only \$1.9 billion for coastal restoration projects in Louisiana,<sup>69</sup> a fraction of the total amount needed.

The U.S. government’s failure to take adequate steps to protect Louisiana’s coast from hurricanes also implicates Guiding Principle 9, which holds that governments are under a “particular obligation” to prevent the displacement of indigenous people. South Louisiana is the homeland of the Houma people, who are indigenous to the region’s bayous and fishing com-

munities. Coastal land loss threatens the very cultural survival of the tribe, many of whom maintain ancient hunter-gatherer traditions that bind them closely to “Yakni Houma”—Houma land. As historian and United Houma Nation Vice Principal Chief Michael Dardar has written, “If settlements are abandoned and populations are allowed to disperse, with them goes the cultural integrity of our people.”<sup>70</sup> The Guiding Principles make clear that the U.S. government is obligated to ensure this does not happen. In Louisiana, its efforts came up short.

# PROTECTION DURING DISPLACEMENT

The Guiding Principles address national governments' obligations to protect people during displacement, regardless of whether that displacement is due to conflict or disaster. The Principles guarantee, among other things, the human right to dignity, security, liberty of movement, and respect of family life. They also forbid discrimination of any sort, whether it be on the basis of race, language, national origin, legal or social status, age, disability, or property. The U.S. government failed to uphold these principles in a number of ways during Hurricane Katrina.

## DISCRIMINATION AGAINST THE POOR AND PEOPLE OF COLOR

One way in which the U.S. government failed to uphold the principle of nondiscrimination was by funding an evacuation plan for Louisiana<sup>71</sup> that relied on personal vehicles as the primary means of escape, essentially denying those who do not own cars of the right-to-life protections available to those who do.<sup>72</sup>

While about 80 percent of New Orleans residents heeded the mandatory evacuation order issued before Katrina,<sup>73</sup> tens of thousands stayed behind—and the number-one reason they gave was that they lacked cars.<sup>74</sup> Indeed, at the time of the storm, about one-third of New Orleanians—approximately 120,000 people—did not own automobiles.<sup>75</sup>

Furthermore, people of color, who constituted the majority of New Orleans' pre-Katrina population, are less likely to own cars than whites. In 2000, only 7 percent of white U.S. households did not own cars, compared to 17 percent of Latino households and 24 percent of black households.<sup>76</sup> To craft an evacuation plan relying on private vehicles in the face of these facts is a failure to apply Guiding Principle 4, which states that the other principles—in this case, the right to life—shall be applied without discrimination of any kind, including on the basis of property.<sup>77</sup>

## ABANDONING THE ELDERLY AND THE DISABLED

Besides the poor, another social group that faced special difficulties evacuating—and who consequently suffered and died in disproportionate numbers—was the elderly. A study released in August 2007 by pathologists with the Louisiana State University Health Sciences Center in New Orleans looked at the approximately 850 autopsies they performed of storm victims and found that 64 percent were people age 65 and older—more than five times the percentage of New Orleanians in that age group.<sup>78</sup> An earlier analysis found that of the more than 1,300 people in Mississippi and Louisiana who died during Katrina and the ensuing floods, nearly 40 percent were over the age of 71.<sup>79</sup>

There was a great deal of media attention paid to the drowning deaths of 35 residents of one New Orleans-area nursing home after the owners declined to evacuate because they did

not anticipate the levee breaches; a jury ultimately declined to find them guilty of negligent homicide charges brought by the state of Louisiana.<sup>80</sup> But in other cases, the deaths of nursing home residents during the disaster were due to preventable problems with the evacuation. For instance, among the very first casualties of Katrina were two elderly nursing home residents who died on a school bus that took three hours to load and another five hours to travel from New Orleans to Baton Rouge, La. A third resident died later at the hospital, and 21 others were treated for dehydration after the trip on buses that lacked air-conditioning and water and that had no certified nurses on board.<sup>81</sup> The official U.S. House of Representatives' report on Hurricane Katrina concluded that nursing home evacuation decisions “were subjective and, in one case, led to preventable deaths.”<sup>82</sup>

Clearly, elderly persons' right to life was not adequately protected, which implicates the nondiscrimination clause of Guiding Principle 4, as well as that principle's other clause stating that certain IDPs including the elderly “shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.”<sup>83</sup> That did not happen during Katrina, with tragic results.

Nursing homes were not the only health care facilities where human rights were not protected adequately during the Katrina disaster. The House of Representatives' report documented numerous problems with the provision of medical care during and after the storm, which in some instances appear to contravene the Guiding Principles.

For example, the House found that New Orleans was “unprepared to provide evacuations and medical care for its special needs population and dialysis patients,” and that Louisiana officials even “lacked a common definition” of special needs. New Orleans designated the Superdome as a special needs shelter and followed an evacuation plan that focused on moving special needs patients there—even though during the Hurricane Pam readiness exercise a year earlier the city and state had agreed to coordinate a plan to transport and shelter such patients farther north. Though authorities included dialysis in their definition of special needs, the Superdome “did not have the personnel, facilities, or supplies to provide dialysis,” the House reported. The Superdome lacked even something as basic as food for diabetics. The

government's failure to plan for the needs of IDPs with physical disabilities constitutes a form of discrimination prohibited under the Guiding Principles.

The House report also found that medical care during the Katrina crisis "suffered from a lack of advance preparations, inadequate communications, and difficulties coordinating efforts." Deployment of medical care "was reactive, not proactive." Poor planning and failure to pre-position medical supplies and equipment "led to delays and shortages." Hospital emergency plans "did not offer concrete guidance about if or when evacuations should take place," and "were not adequately prepared for a full evacuation." The government "did not effectively coordinate private air transport capabilities for the evacuation of medical patients." Needed

medical care for IDPs was delayed by "deployment confusion, uncertainty about mission assignments, and government red tape." These government failures led to unsatisfactory health conditions and impeded and delayed access to essential medical services in noncompliance with several Guiding Principles.

#### IMPROPER ACCOMMODATIONS FOR IDPS

The Guiding Principles state that government authorities must ensure "to the greatest practicable extent" that IDPs are provided with "proper accommodation" and conditions of "safety, nutrition, health and hygiene."<sup>87</sup> These principles were not honored at the government-provided refuge in New Orleans or in the temporary government housing provided to tens of thousands of displaced families after the storm.



Dr. Anna Pou, who worked at the Memorial Medical Center in New Orleans during Katrina, said she found health care facilities ill-equipped to face the crisis. (PHOTO: ALEX BRANDON/AP)

#### SICK AND LEFT BEHIND

Dr. Anna Pou is a physician who worked at New Orleans' Memorial Medical Center during Hurricane Katrina's chaotic aftermath, one of the hundreds of caregivers who selflessly agreed to stay behind as the storm approached and care for people in need. In all, between 220 and 300 patients were stranded at the Tenet Health-care-owned facility during the disaster; 45 bodies were found afterwards, though some of those patients had died before the storm.<sup>84</sup> Pou was later charged with murdering nine patients who were found to have high blood levels of morphine or other medications.<sup>85</sup>

A grand jury refused to indict Pou, who denied trying to kill anyone. But the case shined a spotlight on the horrendous conditions in which patients and their caregivers languished for days due to poor planning—with no power, no potable water, in complete darkness, human waste everywhere. Backup generators failed because they had been located in places vulnerable to flooding. As temperatures climbed, staff members at some hospitals were forced to smash out fixed windows using furniture.

"We're having to care for patients by flashlight," Pou later recounted in an interview with *Newsweek* magazine. "There were patients that were moaning, patients that are crying. We're trying to cool them off. We had some dirty water we could use, some ice. We were sponging them down, giving them sips of bottled water, those who could drink. The heat was—there is no way to describe that heat. I was in it and I can't believe how hot it was. There are people fanning patients with cardboard, nurses everywhere, a few doctors and wall-to-wall patients. Patients are so frightened and we're saying prayers with them."

A report by the Urban Institute on hospitals during Hurricane Katrina found that 1,749 patients occupied the eleven New Orleans-area hospitals that were surrounded by floodwaters, yet there were no city or state plans for moving patients in the event of a catastrophe. Noting that hospitals had been excluded from the city's emergency plan, the report urged that they be included in area-wide disaster and evacuation planning in the future.

The failure of government authorities and hospitals to establish adequate evacuation plans for people with medical problems implicates the Guiding Principles' strictures against carrying out displacement in a way that violates IDPs' rights to life and dignity.<sup>86</sup>



In apparent violation of its own mandatory evacuation order, the New Orleans government bused residents who were unable or unwilling to leave to the city's Superdome sports facility,<sup>88</sup> which served as a refuge of last resort for about 25,000 people.<sup>89</sup> But the facility lacked adequate food, water and medical care, and toilets overflowed, covering floors with human excrement.<sup>90</sup> People were forced to relieve themselves in the building's dark corners.<sup>91</sup> By Wednesday, August 31, there was no food or water left at all,<sup>92</sup> yet the facility was not completely evacuated until Sunday, September 4.<sup>93</sup>

There were similarly inhumane conditions at the city's Convention Center, which served as an informal refuge and rescue drop-off point for about 20,000 people.<sup>94</sup> Women faced special security problems in government-run refuges for the displaced, with Louisiana's sexual assault database recording 70 attacks during and after the storm—and at least a dozen of them occurring at official emergency shelters and public sites.<sup>95</sup>

There have been other threats to the health and safety of IDPs due to governmental failures to provide proper accommodations. Since Katrina, over 120,000 displaced Gulf Coast residents have lived in temporary mobile homes and travel trailers issued by FEMA.<sup>96</sup> As early as May 2006, the Sierra Club reported that it had tested 31 trailers for indoor pollution and found only two where the levels of formaldehyde—a gas emitted by pressed wood products that the Environmental Protection Agency considers a suspected human carcinogen—were at or below the safety limit set by the federal government.<sup>97</sup> In several trailers, the levels were more than three times the limit.<sup>98</sup> “It makes everybody stuffed up,” trailer resident Cynthia Willis told a Mississippi TV station. “You can't breathe or anything.”<sup>99</sup>

There is strong evidence that federal officials were slow to act—and may have tried to prevent information on the safety risks from being made public. According to an internal FEMA document disclosed by CBS News, FEMA knew of extremely high levels of formaldehyde after its own employee safety department ran tests in March 2006.<sup>100</sup> Carried out on 28 trailers, those tests found at least 20 had levels of formaldehyde much higher than the Environmental Protection Agency's recommended workplace limit of .1 parts per million—in one case, as much as 1,000 percent higher.<sup>101</sup>

In July 2007, a U.S. House committee found that “FEMA leaders had suppressed warnings about the presence of high levels of potentially cancer-causing formaldehyde [in FEMA trailers], apparently to avoid legal liability,” according to the Washington Post.<sup>102</sup> It wasn't until September 2007 that FEMA began to publicize its decision to allow 60,000 Katrina-displaced families living in trailers to move into hotel or motel rooms if they are concerned about formaldehyde.<sup>103</sup>

Displaced persons living in FEMA trailers continue to be subjected to other health and safety threats. For example, a

survey of 400 residents living in temporary FEMA trailers in April and May 2006 and published in *The Annals of Emergency Medicine* found that the rate of depression among trailer park residents is seven times the national average, and that suicide attempts were roughly 79 times higher than before the disaster.<sup>104</sup> Nearly half of respondents noted a lack of security as a problem faced in travel trailer parks.<sup>105</sup>

### **SPECIAL PROBLEMS FOR WOMEN AND CHILDREN IN FEMA TRAILER CAMPS**

Even before the devastation of Katrina, the U.S. Gulf states of Louisiana and Mississippi already had some of the highest child poverty rates in the nation. In the 19 Louisiana parishes designated disaster areas after the storm, an average of 23 percent of the under-eighteen population lived below the poverty level, while countywide poverty rates were as high as 34 percent.<sup>107</sup> In the 47 Mississippi counties designated disaster areas, an average of 27 percent of the under-18 population lived in poverty, with countywide rates reaching 36 percent.<sup>108</sup>

The hurricane threw the lives of impoverished children into further disarray, with the problems they already faced exacerbated by the government's decision to emphasize temporary housing solutions. The fact that the manufactured travel trailers and mobile homes purchased from private contractors exposed IDPs of all ages to dangerously high levels of the toxic chemical formaldehyde was discussed in the previous section on accommodations for IDPs. But government-provided transitional housing for storm evacuees presents other physical and social hazards for children.

In 2006, the nongovernmental organization Save the Children assessed temporary housing camps for hurricane-displaced children and families, reporting numerous problems.<sup>109</sup> The cramped trailers and densely populated camps led to community tensions and heightened family conflicts. Many families had either lost their vehicles or didn't have any to begin with, and public transportation was often difficult to access.

Group campsites were often “bleak and unwelcoming,” the assessment found. “For example, Zirlott Park (Alabama) is dominated by broad roads and is without vegetation. The children have no playground but can see a ball field through a recently installed chain-link fence.” Only three of twenty sites provided space for communal gatherings, programs or activities for children, or religious services. In response to the findings, Save the Children and FEMA launched the Safe and Protective Communities pilot project to try to improve the environment for children in the camps.<sup>110</sup>

Save the Children investigators also found children who were separated from their parents in eleven of twenty sites. Among the reasons residents gave for the separations were transportation, quality of life, separation during rescue and sheltering after the storm, and inaccessibility of medical care.



Sharon Hanshaw of Coastal Women for Change in Biloxi, Mississippi advocates for safe and affordable housing on the coast. (PHOTO: DAGNY BROWN, ISS)

## FEMA'S TOXIC TRAILERS

Two years after Hurricane Katrina, Sharon Hanshaw was still living in a FEMA trailer—and she believes her health was hurting because of it.

The executive director of Coastal Women for Change, a Biloxi, Mississippi-based nonprofit that works to involve residents in reconstruction planning, Hanshaw suffered from a raspy cough she developed soon after moving in. She knows of other trailer dwellers who have gone to the hospital repeatedly for similar respiratory problems. While independent testing has found the trailers were off-gassing dangerous levels of formaldehyde, many units are also infested with mold, compounding residents' health problems and forcing cash-strapped families to continuously replace ruined items. These conditions implicate the Guiding Principles' guarantees that IDPs be provided with "proper accommodation" and conditions of "safety, nutrition, health and hygiene."

Despite the poor conditions in the trailers, though, moving out isn't an option for many residents—especially not for those who hold low-paying jobs in the Mississippi coast's tourist-oriented service economy, which is dominated by casinos, hotels and restaurants. Indeed, a recent study by the RAND Corp. found that affordable housing recovery in three Mississippi coastal counties heavily damaged by Katrina lags behind the pace of the rest of the housing market in the region.<sup>106</sup>

"How can you live on \$7 an hour when housing is more expensive?" asks Hanshaw, who reports that the area's home and apartment costs have doubled since the storm. "People are working two jobs just to survive."

These separations are in contradiction to Guiding Principle 17 that holds authorities responsible for ensuring that family members are not separated, for allowing family members who wish to stay together to do so, and for reuniting separated families "as quickly as possible."

In addition, Save the Children found instances where children residing in trailer camps were not attending school because of poor treatment by local school authorities and transportation problems. Under the Guiding Principles, every human being has the right to education, and governments are obligated to provide "free and compulsory" primary education to internally displaced children.

Residents at five out of twenty Gulf Coast trailer sites surveyed by Save the Children reported alcohol abuse, domestic violence and poor relationships with the local community, while residents at four sites reported sexual assaults.<sup>111</sup> And the 2006 survey of 400 people living in temporary FEMA trailers that was discussed in the previous section on accommodations for IDPs found that incidences of domestic violence were nearly triple the yearly baseline rates before displacement, while rapes reported since displacement were nearly 54 times the national yearly average.<sup>112</sup>

### PROPERTY RIGHTS AT RISK

Under the Guiding Principles, governments are obligated to protect IDPs from being arbitrarily deprived of property and possessions, and to ensure that property and possessions left behind by IDPs are protected against destruction and arbitrary and illegal appropriation. The U.S. government's actions to uphold these principles have been inadequate.

Shortly after the storms, FEMA declared 60,000 homes in the hurricane disaster area to be "beyond repair" and slated them for demolition. Yet FEMA admitted that many inspections were "rapid exterior inspections" or satellite-produced, denying important procedural safeguards to displaced homeowners before the potential loss of their property.<sup>113</sup>

Many displaced persons were also given insufficient notice of plans to demolish their homes. In New Orleans, for example, residents could not ascertain whether or not their homes were slated for demolition, much less seek judicial recourse to contest the decision.<sup>114</sup> The New Orleans city council agreed to take steps to adequately notify owners of the demolitions of their homes only after settling a lawsuit.<sup>115</sup> It also created an appeals process for homeowners to challenge city demolition orders, but it was available only to those able to physically visit City Hall.<sup>116</sup> Over 1,000 homes were demolished in New Orleans in the year after Hurricane Katrina struck.<sup>117</sup>

In June 2006, the rights of displaced property owners were put at further risk when the New Orleans City Council unanimously passed City Ordinance 26031, which set a deadline of August 29, 2006 for homeowners to gut flood-damaged

buildings or have them condemned.<sup>118</sup> Residents strongly criticized the measure on the grounds that the city failed to properly notify displaced homeowners of the decision, and that promised funds to compensate displaced homeowners for gutting costs were not made available. The deadline was extended after widespread public outcry.<sup>119</sup>

Then in February 2007, the City Council passed a new law in response to what members saw as the administration's slow progress in enforcing the 2006 law. The new policy said that after a building was judged by an inspector to pose "a serious and imminent threat," the owner would be notified that the city could demolish it after 30 business days by regular mail to their last known address and posting of notices on the

property, the city's Web site, and in three consecutive issues of the local newspaper.<sup>120</sup>

However, the city has received numerous complaints that buildings have been demolished or placed on published lists of properties to be razed without prior notice to the displaced owners, and that some buildings have been demolished even though they were in sound condition and had been gutted and secured.<sup>121</sup> In August 2007, five New Orleans homeowners sued Mayor Ray Nagin and his administration, saying the city illegally demolished their gutted, salvageable homes and demanding that the authorities either rebuild the structures or compensate them for their losses.<sup>122</sup>



Demekia Morgan (l) and Gina Womack of Friends and Families of Louisiana's Incarcerated Children call for greater investment in New Orleans school programs. (PHOTO: CHRIS KROMM, ISS)

## IT'S HARD TO LEARN WHEN YOU'RE HUNGRY

It wasn't only FEMA trailer camps where storm-displaced children faced problems getting an education after Katrina. Students across New Orleans also encountered difficulties in attending school. Not only did that contravene the Guiding Principles' provision that governments provide "free and compulsory" primary education to displaced children, but it also created problems for displaced families attempting to exercise their right to return.

Shortly after the storm, Louisiana's Recovery School District (RSD) took over administration of most of the city's schools. But it had difficulties ensuring there were enough teachers to meet demand, in part because it had fired all 4,000 of the system's employees and required teachers to seek new certification before being rehired.

Consequently, in January 2007 the RSD was forced to place about 300 students on waiting lists because there was no room for them in the city's schools, sparking civil rights lawsuits.

Another problem plaguing the city's schools was a jail-like atmosphere due in part to a security contract with The Guidry Group of Texas that in the 2006-2007 school year ballooned from \$4.4 million to \$20 million. In July 2007, public education advocates including Friends and Families of Louisiana's Incarcerated Children (FFLIC) held a rally calling for school authorities to scrap the deal, which they complained was turning the city's schools into prisons. Because some schools combined elementary and middle-school students after the storm, even some elementary-age children had to pass through metal detectors on their way to class.

"People's minds have been conditioned to believe that whenever something happens we need more security guards and more police to keep us safe," says FFLIC organizer Damekia Morgan. "But that tends to instigate problems rather than helping the situation."

While new RSD Superintendent Paul Vallas continued The Guidry Group's contract into the 2007-2008 school year, he also invited proposals from community groups for mentoring programs, after-school programs and Saturday extracurricular activities in order to change the educational climate and make the schools less prison-like. He also plans to limit high school and classroom sizes, end disciplinary expulsion, and give students a boxed meal to take home.

"The other day we had children break into one of our schools," Vallas said while speaking at a New Orleans community forum in August 2007. "They were looking for something to eat."

Furthermore, the U.S. government has done little to ensure displaced persons receive proper compensation from insurance companies, further putting them at risk of arbitrary loss of property. Homeowners have filed 6,600 insurance-related lawsuits in the Federal District Court in New Orleans, and 4,700 formal complaints have been lodged with the Louisiana Department of Insurance.<sup>123</sup> The state of Louisiana estimates that homeowners have, on average, received \$5,700 less than insurance companies rightfully owed them.<sup>124</sup> In November 2007, Louisiana Attorney General Charles Foti filed suit against a number of major insurers as well as their software suppliers and consultants, alleging the companies participated in an ongoing scheme to rig the value of property damage claims with the goal of increasing company profits.<sup>125</sup> There were similar problems with insurers in Mississippi, where state Attorney General Jim Hood sued insurance companies soon after Katrina. In early 2007, Hood reached a legal settlement with one major insurer over improper claims denials but then later sued it for breaching the agreement.<sup>126</sup> More than two years after Katrina, that suit still remained unresolved.

### **DISCRIMINATION AGAINST IMMIGRANT IDPS**

Immigrants suffered special problems during the Katrina disaster because of government discrimination, even though the Guiding Principles state that humanitarian aid and assistance shall be provided without discrimination of any kind—including on the basis of language, national origin, or legal status. And because many of these immigrants were also non-citizens, they faced additional disadvantages because they do not enjoy the full rights of citizens.

According to census data, more than one million foreign-born individuals lived in parts of the Gulf Coast affected by Katrina as well as Hurricane Rita<sup>127</sup>; a quarter of these immigrants came from Mexico and Vietnam.<sup>128</sup> Yet government authorities largely failed to alert residents of the approaching storm in any language other than English.

When governments did issue warnings in other languages, they typically came late and were of limited reach. For example, the Mississippi city of Hattiesburg distributed warning flyers in Spanish at Latino-occupied apartment complexes the day before the storm hit, but there was no similar effort to warn Spanish speakers who lived outside those complexes.<sup>129</sup> Three months after Katrina, the U.S. government changed the Emergency Alert System so storm warnings would be issued in the primary language used by the station or cable system broadcasting the announcement,<sup>130</sup> but this change will be of little help to rural Gulf communities that lack non-English-language media.

Immigrant IDPs also experienced unique problems accessing humanitarian aid after Katrina. For example, FEMA refused to assure that information about immigrants' legal status would not be shared with law enforcement agencies,<sup>131</sup> as it did fol-

lowing the September 2001 terrorist attacks on New York.<sup>132</sup> There were instances in which law officers entered shelters run by the American Red Cross and demanded identification from people who appeared to be Latinos.<sup>133</sup> And there were situations in which volunteers with the American Red Cross—which holds the legal status of a “federal instrumentality” under its congressional charter<sup>134</sup>—themselves reportedly demanded identification from people seeking aid.<sup>135</sup>

Further discouraging immigrants from requesting assistance was the fact that FEMA's relief offices used Immigration and Customs Enforcement (ICE) officers as security, and that its aid application warned that the information supplied would be shared with ICE.<sup>136</sup> This sort of bias against immigrants to receive storm warnings and to access humanitarian aid contradicts Guiding Principle 4, which forbids discrimination against IDPs on the basis of language, national or ethnic origin, and legal status.<sup>137</sup>

### **CONDITIONS FOR PRISONERS AND DETAINEES**

The treatment of inmates and detainees at Louisiana's Orleans Parish Prison (OPP) before and during the post-Katrina evacuation is another situation where the Guiding Principles were not adhered to—specifically, the prohibitions against carrying out displacement in a manner that violates the rights to dignity and protection from violence;<sup>138</sup> cruel, inhuman or degrading treatment or punishment;<sup>139</sup> and discrimination on the basis of legal status.<sup>140</sup> The problems at the facility have been documented in detail by the American Civil Liberties Union (ACLU) National Prison Project, which represents inmates in a longstanding federal lawsuit over conditions there.<sup>141</sup>

During the storm and for several days afterwards, several thousand men, women, and children as young as ten—many of them being held in pre-trial detention on minor offenses—were effectively abandoned as floodwaters rose and the power went out, plunging the cells into darkness.<sup>142</sup> As deputies fled their posts, prisoners were left standing up to their chests in sewage-contaminated floodwaters, without food, drinking water, or ventilation.<sup>143</sup>

Once they were evacuated from OPP, prisoners were sent to receiving facilities around the state where human rights abuses appear to have continued.<sup>144</sup> At one facility, for example, thousands of OPP evacuees spent several days on an outdoor football field where there were no toilets or wash facilities, and where prisoner-on-prisoner violence went unchecked by guards.<sup>145</sup> A recent ACLU report examining changes made at the prison since the disaster concluded that “OPP remains dangerously ill prepared to handle a future emergency,” with a revised evacuation plan that is “inconsistent” and “inadequate” to prevent the kinds of abuses that occurred after Katrina.<sup>146</sup>

Pregnant women were among those most severely affected

by conditions at the prison. At the time the storm hit, there were an undetermined number of pregnant women at OPP, with at least ten eventually evacuated to another Louisiana prison.<sup>147</sup> Two women reported suffering miscarriages at OPP after the storm; one of them was seven months pregnant at the time and claims she got no medical care until she was moved to the Louisiana State Penitentiary at Angola.<sup>148</sup> The other was evacuated to a highway overpass where, she later reported, prisoners “slept out there all night long in urine because we couldn’t get up. I passed out because I was bleeding very bad. No we didn’t receive water or food. They refuse to give me medical service at all. ... I thought I was going to die and never see my kids or family ever again.”<sup>149</sup>

Although the government authorities deny that there were any deaths at OPP,<sup>150</sup> deputies and prisoners reported witnessing deaths—including the death of a pregnant teen. As Deputy Deborah Williams told the American Civil Liberties Union: “It was horrible. Two of our kids drowned, and there was nothing we could do to help them. One of them was pregnant.”<sup>151</sup> The government’s failure to take adequate steps to protect pregnant women prisoners implicates Guiding Principle 4, which requires governments to provide special protection and assistance to certain classes of IDPs, including expectant mothers.

#### **OTHER CRIMINAL JUSTICE ABUSES DURING DISPLACEMENT**

There were other apparent human rights abuses involving IDPs and criminal justice authorities in the wake of Katrina, including two incidents that took place on New Orleans area bridges.

The first occurred three days after Katrina on Thursday, September 1 on the Crescent City Connection linking predominantly black New Orleans to the majority white Jefferson Parish suburb of Gretna.<sup>152</sup> As a group of about 200 IDPs including New Orleans residents, tourists, people in wheelchairs, and babies in strollers attempted to cross from the flooded city, they were met by Gretna police and other local law enforcement officials who forcibly turned them back, firing warning shots into the air.<sup>153</sup>

Amid controversy over those actions and accusations of racism, the Gretna City Council passed a resolution supporting the police chief’s decision to block the bridge, pointing out that Gretna had already taken in thousands of IDPs from New Orleans at that point and citing concerns that there were not adequate resources to care for any more.<sup>154</sup> An Orleans Parish grand jury declined to indict one Gretna police officer on charges of illegally using a weapon in connection with the firing of a gun on the bridge,<sup>155</sup> while the Louisiana attorney general has declined to pursue any criminal charges in the incident,<sup>156</sup> which is the subject of a pending federal lawsuit<sup>157</sup>. But regardless of the explanation for what happened on the Gretna bridge, the police officers’ actions appear to have contradicted the Guiding Principles, which hold that IDPs have the rights to “liberty of movement”<sup>158</sup> and “to seek safety in another part of the country.”<sup>159</sup>

The second bridge incident took place on Sunday, September 4 on the Danziger Bridge spanning New Orleans’ Industrial Canal. Responding to reports of a downed colleague, seven city police officers rushed to the site, where they shot two people to death and injured four others,<sup>160</sup> causing one to lose an arm and another to undergo a colostomy.<sup>161</sup>

While police claim they were shot at first, no weapons have been recovered linked to the civilians on the bridge, and the survivors insist they did nothing to provoke police.<sup>162</sup> An autopsy showed that one of the people killed—a developmentally disabled 40-year-old named Ronald Madison—was shot in the back.<sup>163</sup> The seven officers have been indicted for murder and attempted murder and are awaiting trial.<sup>164</sup> If found guilty, the officers will have breached the section of Guiding Principle 10 which holds that IDPs must be protected against murder and summary or arbitrary executions.<sup>165</sup>

# HUMANITARIAN ASSISTANCE

The Guiding Principles obligate governments to provide humanitarian assistance to internally displaced persons in accordance with the principles of humanity and impartiality and without discrimination. They state that international humanitarian organizations and other appropriate actors have the right to offer assistance and that consent to do so shall not be withheld—especially when authorities are unable or unwilling to provide the needed assistance themselves. They also mandate that international humanitarian organizations offering assistance are obligated to protect the human rights of IDPs. These principles were not always honored in the wake of Hurricane Katrina.

## POLITICS IN AID ALLOCATION

To understand the role that partisan politics played in the allocation of humanitarian assistance, consider the aid allotted through Community Development Block Grants, a U.S. Department of Housing and Urban Development program that funds affordable housing and infrastructure.

The first package of rebuilding legislation approved by the 109th Congress capped Democrat-led Louisiana's portion of the block grants at 54 percent of the total appropriation, even though Louisiana suffered 77 percent of all housing damage from the 2005 storms—four times that suffered in Republican-led Mississippi.<sup>166</sup> Mississippi also received 70 percent of the funds from FEMA's Alternative Housing Pilot Program designed to help storm-displaced Gulf residents.<sup>167</sup> In addition, Mississippi and Louisiana received \$100 million each for K-12 students affected by the storms, despite the fact that 69 percent were Louisiana residents.<sup>168</sup>

The Republican White House denied any favoritism, but much of the power in allocating Katrina recovery funds initially fell to a Republican Congress—and, more specifically, to a Senate committee chaired by Senator Thad Cochran, a Mississippi Republican.<sup>169</sup> Former FEMA Director Michael Brown, who resigned over his botched handling of the initial response, has also charged that politics played a role in the federal government's disaster response: "Unbeknownst to me, certain people in the White House were thinking we had to federalize Louisiana because she's a white, female Democratic governor and we have a chance to rub her nose in it," he said in a speech at Metropolitan College of New York in January 2007.<sup>170</sup>

Allowing partisan politics to interfere with aid allocation contravenes Guiding Principle 24, which states that humanitarian assistance "shall be carried out in accordance with the principles of humanity and impartiality and without discrimination." If the U.S. government is to fully honor the guiding principles, it must take steps to ensure that need rather than politics determines allocation of humanitarian assistance to IDPs.

## PRIVATE CONTRACTING ABUSES

In the aftermath of Hurricane Katrina, the U.S. government turned to private contractors to provide humanitarian relief and recovery services worth billions of dollars. Since then, government auditors and overseers, media outlets, and independent watchdog organizations have documented numerous problems with waste, fraud and abuse in these contracts—problems that suggest the assistance was not always carried out "in accordance with the principles of humanity and impartiality," as the Guiding Principles mandate. They also indicate that public funds allocated for humanitarian assistance were at times diverted to private interests for political reasons, which contradicts the Guiding Principles.

One of the reasons there was a delay of as many as six days in evacuating people from the inhumane conditions inside the New Orleans Superdome after Katrina was due to serious mismanagement on the part of the federal contractor hired to do the job. In 2002, Landstar of Jacksonville, Fla.—a company with close ties to the Bush family and the national Republican Party—won a five-year, \$289 million contract from the U.S. Department of Transportation (DOT) to shuttle people and relief supplies during national emergencies. Federal auditors found that Landstar waited until 18 hours after Katrina struck to order 300 buses for the evacuation and placed the order with a subcontractor who in turn relied on yet another subcontractor. But the botched effort still cost U.S. taxpayers \$137 million, not including a \$32 million overcharge by Landstar that government auditors later discovered and forced the company to repay. Despite those egregious problems, however, DOT in April 2006 presented a plaque to Landstar's president and CEO honoring his company's service to Gulf Coast residents.<sup>171</sup>

In another instance of the government granting Katrina-related contracts to politically connected companies, The Shaw Group of Louisiana won the contract to cover storm-damaged homes with tarps as part of the U.S. Army Corp of Engineers' "blue roof" program—even though it charged three times as much as a competitor had quoted for the same work.<sup>172</sup> Shaw also had close ties to the Bush Administration: Its executive vice president had served under President Bush as deputy assistant secretary for security affairs at the

Department of Energy and as an a senior consultant to a presidential commission, and its lobbyist was the Bush Administration's former FEMA director.<sup>173</sup>

The problems with post-Katrina contracting were widespread. An August 2006 report released by the minority staff of the U.S. House Committee on Government Reform identified 19 Katrina contracts collectively worth \$8.75 billion that were marred by waste, fraud, abuse, or mismanagement due to a lack of government oversight.<sup>174</sup> It also found that as of June 30, 2006, about \$10.1 billion in contracts valued at \$500,000 or more had been awarded to private companies for Gulf Coast recovery and reconstruction work—but only 30 percent of these contracts were awarded with full and open competition.

Another report by the nonprofit Center for Public Integrity found that Katrina contracts worth \$2.4 billion were cost-plus-fixed-fee contracts that offered profit guarantees and provided no incentive for companies to control expenses.<sup>175</sup> These findings suggest there were systemic problems involving diversion of humanitarian assistance for political reasons.

## REJECTION OF AID FROM FOREIGN GOVERNMENTS

While IDPs faced difficulties accessing needed medical care after Katrina, the U.S. government rejected other countries' donations of medical assistance. The State Department declined offers of medical teams and/or supplies from at least 41 nations, from Albania to Vietnam.<sup>176</sup>

In some instances, the aid offers were rejected because of rigid adherence to bureaucratic regulations. For example, the United States rejected numerous offers by other countries to send doctors because of concerns over medical licensing requirements. A State Department e-mail responding to an offer of medical aid from Argentina said, "...[W]ord here is that doctors of any kind are in the 'forget about it' category. Human assistance of any kind is not on our priorities list. ... It's all about goods, not people, at this point."<sup>177</sup>

But at the same time, the United States also turned down offers of medical supplies. The rejected materials included insulin and antibiotics from the Bahamas, 36,000 pairs of

## IMMIGRANTS TURNED AWAY

On September 28, 2005, officers with the Harrison County sheriff's department and U.S. marshals arrived at the American Red Cross shelter in Long Beach, Mississippi. They blocked the shelter's parking lots and exits and demanded identification from about 60 shelter residents—all of those who looked Latino.

The officers then told the Latino residents to leave the shelter within 48 hours or face deportation. Most complied out of fear of further prosecution.

This story of apparent human rights abuses committed against immigrants in the wake of Katrina was recounted by Bill Chandler, executive director of the Mississippi Immigrants Rights Alliance (MIRA), in testimony provided to the congressional Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. Although the Guiding Principles hold that humanitarian assistance is to be provided to everyone in need in the wake of a disaster regardless of national origin or legal status, this did not always happen after Katrina.

A similar incident took place on October 5, 2005 in D'Iberville, Mississippi, according to Chandler: "All Latino residents of the two Red Cross shelters, about 30 in total, were rounded up and ordered to leave within 48 hours," he testified. "According to information provided to MIRA by local directors of the two shelters, the Latino residents were expelled pursuant to a directive issued by the national [American Red Cross] that all contract

workers were to be evicted from the shelters within 48 hours, as only victims of the hurricane qualified for ARC assistance. Local officials made insufficient efforts to determine which of its Latino residents were contract workers and which ones were victims of Hurricane Katrina. Rather, all Latinos in their shelters were assumed to be contract workers who had been dumped at the shelters by labor contractors as a means of obtaining free housing."

Though MIRA negotiated extensions to the departure deadlines, all of the Latino residents—including some who were actual victims of Katrina and at least one who had been injured in the storm—ended up fleeing the shelter before the deadline



Vicki Cintra and the Mississippi Immigrant Rights Alliance say government officials haven't done enough to protect the rights of immigrant Gulf Coast residents post-Katrina. (PHOTO: COURTESY OF THE MS. FOUNDATION)

sterile gloves from Finland, pharmaceuticals from Germany, first aid kits from Norway, and vaccines from the United Kingdom.<sup>178</sup>

This rejection of needed medical care contradicts Guiding Principle 25, which states that consent to international humanitarian aid “shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.”

## THE RED CROSS AND HUMAN RIGHTS

In the wake of Hurricane Katrina, numerous problems came to light with the humanitarian assistance provided by the American Red Cross—problems that in some cases appear to have breached the Guiding Principles.

A congressionally chartered organization tasked under U.S. law with providing humanitarian relief following disasters<sup>179</sup>, the American Red Cross was the largest recipient of charitable donations following Katrina.<sup>180</sup> However, the organization faced numerous accusations of impropriety among its volunteers. These charges included improper diversion of millions of dollars’ worth of relief supplies away from storm victims for private gain and failure to follow procedures in tracking and distributing supplies.<sup>181</sup> Not only did these actions violate the Red Cross’s own rules, but they contradicted the Guiding Principles’ strictures against diversion of aid.<sup>182</sup>

There were other problems with the Red Cross’s provision of humanitarian assistance that appear to contravene the Guiding Principles. For example, there were reports in Mississippi of Latinos being ordered to leave Red Cross shelters under the mistaken assumption that they were newly arrived immigrant workers rather than IDPs,<sup>183</sup> treatment that fails to uphold the guarantees of nondiscrimination outlined in the Guiding Principles. There were also reports of some Red Cross shelters excluding those with psychiatric disabilities<sup>184</sup> despite the Guiding Principles requirement of nondiscrimination on the basis of disability.

In southern Louisiana, officials with the indigenous United Houma Nation have reported that the Red Cross completely bypassed serving the displaced in their area immediately after the storm, and later provided inadequate relief and support.<sup>185</sup> That’s another instance of apparent discrimination in provision of humanitarian aid, as well as a failure to honor the Guiding Principles’ protections for indigenous populations.

In response to the charges, the Red Cross conducted an internal investigation that found it had taken inadequate measures to protect against financial fraud and diversion of aid.<sup>186</sup> Also, the U.S. Senate Finance Committee commissioned a report from Government Accountability Office auditors that documented a lack of trained staff in the affected states and a lack of coordination between the Red Cross and FEMA that interfered with the provision of needed aid.<sup>187</sup> And officials with the international Red Cross who assisted their American counterparts during the disaster also documented disconnects between the needs of IDPs and supplies the organization had arranged, the absence of a plan to guide distribution of supplies, and a lack of inventory control, with one British Red Cross official writing that “the basic needs of beneficiaries are not being met.”<sup>188</sup>

In May 2007, the U.S. government enacted a new law overhauling the organization’s governance designed to avoid the problems that occurred after Katrina.<sup>189</sup> The Red Cross also launched a post-storm effort to recruit more volunteers who are racial and ethnic minorities.<sup>190</sup> But it remains to be seen whether the changes that have been made to date will be adequate to protect against future human rights abuses during a disaster of Katrina’s scope.



Due to an inadequate evacuation and relief plan, many Gulf Coast families were left to fend for themselves after Katrina. (PHOTO: COURTESY OF NOAA)



# RETURN, RESETTLEMENT AND REINTEGRATION

The Guiding Principles call on national governments to establish conditions and provide the means to allow internally displaced persons to return to their homes voluntarily, in safety and with dignity. They also call on governments to make special efforts to ensure the full participation of IDPs in the planning and management of their return or resettlement. There are a number of ways in which the U.S. government did not honor these principles after Hurricane Katrina.

## THE AFFORDABLE HOUSING CRISIS

In the wake of the 2005 storms, the widespread destruction of housing made access to affordable housing a critical problem. The hurricanes destroyed or damaged 302,000 housing units across the Gulf Coast.<sup>191</sup> Seven out of ten of the destroyed or damaged units—216,000 in all—were affordable to low-income households, and 92,000 were affordable to very low-income households.<sup>192</sup>

The impact of Hurricanes Katrina and Rita on renters was especially severe. Of the 200,000 housing units impacted in Louisiana, 40 percent were rental units;<sup>193</sup> of these, over half were affordable to households making less than 80 percent of the area median income.<sup>194</sup> By one estimate, Hurricane Katrina destroyed up to three-quarters of the affordable rental units for extremely low-income households in the New Orleans area.<sup>195</sup>

Even while it was creating programs to assist homeowners, Congress took over a year to establish programs aimed at rebuilding rental units in the afflicted region.<sup>196</sup> This inadequate response to the needs of renters failed to ensure the right of return enshrined in Guiding Principle 28.

Today, displaced persons trying to exercise their right of return still face major obstacles to finding affordable rental housing. In New Orleans, rents have risen as much as 40 to 200 percent since the storms.<sup>197</sup> Programs to facilitate the rebuilding of rental units have been largely unsuccessful. In July 2007, the *New York Times* reported that “hardly any of the 77,000 rental units in New Orleans have been rebuilt.”<sup>198</sup>

Public housing residents have faced even greater obstacles. Before Hurricane Katrina, 5,100 families lived in public housing in New Orleans.<sup>199</sup> In June 2006, the U.S. Department of Housing and Urban Development and the HUD-controlled Housing Authority of New Orleans declared their intention to demolish the B.W. Cooper, C.J. Peete, Lafitte and St. Bernard public housing complexes and replace them with privately developed mixed-income housing. If carried out, the plan would eliminate 4,500 public housing units in New Orleans<sup>200</sup> while building in their place only about 800 units of traditional public housing.<sup>201</sup> This is at a time when thousands of residents are still displaced and thousands of others are on a waiting list for low-income housing in the city.<sup>202</sup> At the same time, HUD opposed a bill sponsored by U.S. Senator Mary

Landrieu (D-Louisiana) that would have required any demolished units to be replaced.<sup>203</sup>

The decision to demolish New Orleans public housing is especially unwarranted given that most of the public housing units were minimally damaged by the storms, according to at least one independent housing expert.<sup>204</sup> The Housing Authority of New Orleans’ own insurance estimates found that all of the affected units at C.J. Peete and Lafitte could be repaired for less than \$10,000 each, and most for less than \$5,000.<sup>205</sup> Demolition of the facilities would cost \$450 million more than repairing them and \$174 million more than modernizing them.<sup>206</sup>

The lack of adequate efforts to assist displaced residents of public housing isn’t an issue only in Louisiana. In Mississippi, the 2005 storms destroyed 300 of the state’s 1,570 public housing units along the coast and more than 8,000 rental units across the three coastal counties of Jackson, Hancock and Harrison. Yet two years after the storm, there was no plan to replace these units.<sup>207</sup> That policy represents a government-created barrier to return for displaced public housing residents.

Furthermore, the plan to replace public housing throughout the storm-affected region with more costly private housing effectively discriminates against poor and predominantly African-American tenants who were displaced by the storm. This contradicts the Guiding Principles’ ban on discrimination against IDPs on the basis of race, social status or property.

## OBSTACLES TO A ROAD HOME

Two years after the hurricanes, displaced Gulf Coast homeowners still faced overwhelming obstacles in returning to their homes. These difficulties constitute a threat to the rights enshrined in Guiding Principle 28, which calls on governments to “establish conditions, as well as provide the means” to enable displaced persons “to return voluntarily, in safety and with dignity, to their homes or places of habitual residence.”

The U.S. Congress did not approve, and the President did not sign, legislation to compensate homeowners for housing reconstruction until ten months after Hurricane Katrina.<sup>208</sup> After the federal legislation to assist homeowners was passed, the programs were administered by the states of Louisiana and Mississippi, where they were further beset by delays and management difficulties. A year after Hurricane Katrina, no

federal reconstruction funds had been disbursed to homeowners in either state.<sup>209</sup>

Louisiana authorized a \$756 million contract to Virginia-based ICF International to administer what the state dubbed “the Road Home Program.” As of February 2007—18 months after Hurricane Katrina struck—only 630 of the 107,000 people who applied for aid through the program had received checks.<sup>210</sup> As of September 1, 2007, out of over 184,000 applications received, only 50,000 had been recorded.<sup>211</sup> The program faced an almost \$5 billion funding shortfall, for which Congress pledged \$3 billion in November 2007.<sup>212</sup>



Colette Pichon Battle, founder of Moving Forward Gulf Coast, has criticized government aid programs for storm survivors as overly bureaucratic and punitive. (PHOTO: COURTESY OF MOVING FORWARD GULF COAST)

## DROWNING IN FEMA’S RED TAPE

In August 2005, Colette Pichon Battle saw her family and friends in Slidell, Louisiana flee when six feet of floodwaters poured into their homes. After the storm, she watched with growing frustration as they struggled to keep their heads above not floodwaters but government red tape.

Pichon Battle was one of the founders of Moving Forward Gulf Coast, which helps storm survivors navigate a confusing array of government assistance programs. One of the biggest problems she faced was the Federal Emergency Management Agency’s (FEMA) emergency relief program, which attempted to reclaim nearly \$410 million it says went to people who weren’t qualified to receive aid.

FEMA mailed thousands of letters to storm survivors demanding repayment, but it admitted that many of

## AN INADEQUATE STANDARD OF LIVING

Hurricane Katrina wrought immense economic devastation along the U.S. Gulf Coast, with many displaced residents losing their jobs and economic livelihood. The storm eliminated over 230,000 jobs in the Gulf region.<sup>213</sup> Over 50 percent of the workforce was displaced in New Orleans alone.<sup>214</sup> As of November 2005, New Orleans workers had filed over 48,347 active unemployment claims.<sup>215</sup>

Given the economic destruction brought by Hurricane Katrina, the U.S. government had a special obligation as outlined in Principle 18 to guarantee IDPs were able to maintain “an adequate standard of living.”

those letters went to people who made honest mistakes filling out their paperwork or who couldn’t decipher the agency’s confusing rules. Sometimes FEMA’s own recordkeeping was to blame: In one case, the agency sought to recoup \$10,000 in rental assistance from a poverty-stricken storm survivor who had never applied for or received any rental assistance.

Targets of recoupment often weren’t told they had the right to appeal—itsself a confusing process that even a practicing attorney like Pichon Battle says she needed special training to navigate. “How can regular people win these cases?” she asks. “The answer is, they can’t.”

Once they lose the appeal, aid recipients had to pay the money back immediately, as FEMA began charging interest on the “loan” within months. Among those Moving Forward helped were elderly storm survivors told their Social Security checks would be garnished if they didn’t pay up. The problems faced by aid seekers raise questions about whether authorities honored Guiding Principle 28, which calls on governments to “establish conditions, as well as provide the means” to enable displaced persons “to return voluntarily, in safety and with dignity, to their homes or places of habitual residence.”

In June 2007, a federal judge ordered FEMA to immediately cease many of its recoupment efforts, blasting the agency’s notification letters for their “incomprehensible hieroglyphic abbreviations” and decrying the lack of an appeals process as a violation of due process rights. The judge also urged FEMA to return to its original mandate of alleviating suffering and helping those entitled to relief.

“Here the federal government failed by not protecting the people of New Orleans—and now they want to talk about fraud?” says Pichon Battle. “People would be appalled if they knew the government would do that to people who have been victimized several times over.”

As of August 2006, the unemployment rate among displaced persons who had not returned to their homes was 23 percent<sup>216</sup>—almost five times the national rate of 4.7 percent.<sup>217</sup> But at the same time, the U.S. government was eliminating aid to displaced persons without jobs. In June 2006, federal unemployment assistance was terminated for all Katrina displaced persons, with nearly 64,000 displaced persons cut from unemployment assistance that month, without any assurance that the displaced had achieved “an adequate standard of living” without government assistance.<sup>218</sup>

Many displaced persons continue to suffer unique and devastating economic hardship. A 2007 survey of displaced Louisianans found that nearly a third of them have an income of under \$20,000 a year.<sup>219</sup> Over 40 percent wanted to return to the state but could not; the most commonly-cited obstacle was “lack of money to pay for a move.”<sup>220</sup> That suggests the U.S. government’s efforts have not been adequate to ensure Katrina’s displaced maintain “an adequate standard of living.”

### UNEQUAL RIGHTS AT WORK

The first Guiding Principle calls on governments to ensure that displaced persons enjoy the same rights guaranteed to others in their country. Yet in the aftermath of Hurricane Katrina, workers on the Gulf Coast—including heads of households trying to earn money to allow their displaced family members to return—found themselves without the same protections and standards enjoyed by other Americans. That’s because shortly after Katrina federal officials suspended or altered national labor standards, putting returning Gulf Coast residents at special jeopardy of abuse and creating barriers to their return.

On August 30, 2005, for example, President George Bush issued an executive order that suspended enforcement by the Occupational Safety and Health Administration in the hurricane-impacted region. Nearly 60 percent of cleanup workers surveyed in one New Orleans study said they had been exposed to dangerous substances at work such as mold, arsenic, petroleum, asbestos, and other toxins<sup>221</sup>, while another study found over a quarter of workers saying they labored in “dangerous conditions.”<sup>222</sup> Under normal enforcement protocol, employers would have been fined for failure to provide safety training and protective equipment. On January 25, 2006, OSHA announced it would resume enforcement—but not in seven of the hardest-hit parishes in Louisiana, including New Orleans.<sup>223</sup>

On September 8, 2005, President Bush waived by executive order the Davis-Bacon Act in the Gulf Coast, which guarantees workers a “prevailing wage,” even though the prevailing wage in Louisiana for laborers was already a relatively low

\$9.26 per hour. In response to pressure from workers’ rights advocates, the White House rescinded the order in November 2005. However, all of the recovery contracts awarded up to that date remained exempt from Davis-Bacon requirements.<sup>224</sup>

On September 9, 2005, the Department of Labor moved to exempt contractors bidding on Gulf Coast work from the requirement to submit a written affirmative action plan. As of October 4, 2005, only 1.5 percent of the \$1.6 billion in Katrina and Hurricane Rita-related contracts let by the Federal Emergency Management Agency had gone to minority businesses, well below the 5 percent required to meet federal standards.<sup>225</sup>

Labor advocates contend that these and other instances of relaxed labor standards have created a climate of abuse that is reflected in the widespread mistreatment of reconstruction workers. For example, a survey of 218 workers in New Orleans by Interfaith Worker Justice during the summer after Katrina found that 42 percent believed they had been unjustly fired or disciplined and 29 percent felt they had been victims of discrimination.<sup>226</sup> That survey included both displaced residents attempting to exercise their right of return as well as people who had come to the region to work following the storm.

Many displaced persons seeking work in the Gulf Coast have also been denied full and just compensation for their labor. In a 2006 survey of New Orleans reconstruction workers, nearly half—47 percent—reported they had not received all the pay they were entitled to, and 55 percent said they received no overtime pay for hours worked beyond 40 hours per week.<sup>227</sup> Another survey found that 16 percent of legally documented workers said they had been paid less than they were owed.<sup>228</sup>

The federal government’s response to these and other reported abuses was inadequate. The U.S. Department of Labor (DOL) is the agency tasked with monitoring and protecting the basic rights of workers in the United States, including wages, occupational health and safety, and affirmative action requirements. However, in the wake of Hurricane Katrina the DOL continued to depend on individual worker complaints as the primary means for tracking workplace abuses—even though one survey of New Orleans rebuilding workers found that none were aware they were legally entitled to file complaints with the DOL.<sup>229</sup>

Widespread abuses of and wage theft from displaced workers—and the lack of an effective government response—have led some labor rights advocates to compare the condition of workers in the Gulf Coast to slavery. These abuses represent a possible failure to uphold Guiding Principle 11, which forbids slavery or “any contemporary form of slavery.”<sup>230</sup>

## DENIED A VOICE IN RECOVERY

Guiding Principle 28 makes explicit that authorities must not only ensure the right of return and provide the means for resettlement, but that “[s]pecial efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.”

Displaced persons from the Gulf Coast have faced overwhelming obstacles to involvement in decision-making about their return. For months, displaced residents failed to receive notices about neighborhood planning meetings and major decisions affecting housing, schools, medical care and other recovery plans.<sup>231</sup> Although almost two-thirds of those who were displaced from New Orleans ended up out of state or outside the 18-parish area surrounding the city, few efforts were made to engage these displaced residents in decision-making.<sup>232</sup>

These barriers to participation were perhaps most egregious in the denial of voting rights to displaced persons in the wake of the storms. In April 2006, when the city of New Orleans held its first major election after Hurricane Katrina, a mayoral race, an estimated 200,000 registered voters were still displaced from the city. This was out of a total of 299,000 registered voters, meaning over two-thirds of the New Orleans voting population was still displaced.<sup>233</sup> The Department of Justice refused requests from civil rights advocates that the U.S. government accommodate displaced persons by creating satellite voting centers in cities such as Houston, Atlanta, Memphis, Tenn., and Dallas.<sup>234</sup> After public outcry, the Louisiana legislature authorized the creation of ten limited satellite voting centers in ten parishes, but none outside the state.<sup>235</sup> Federal and state officials also failed to provide displaced persons with election information, and refused a request that displaced registered voters be sent ballots automatically rather than having to request them.<sup>236</sup>

Furthermore, the Federal Emergency Management Agency refused to share updated address lists with officials and advocacy organizations attempting to reach displaced voters. This appears to be a possible contradiction of Guiding Principle 30 that states, “All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.”<sup>237</sup>

Displaced voters continue to face threats to their ability to participate in post-Katrina decision-making. A lawsuit filed by the NAACP Legal Defense Fund (LDF) in August 2007 contends that a “purge” of Louisiana voter database ordered by Secretary of State Jay Dardenne has eliminated 21,000 internally dis-

placed persons from the state’s voter rolls, even though the policy is under review by the Department of Justice. The state has targeted another 34,000 voters for possible purging from the list on the grounds that they are registered in two states.<sup>238</sup>

The NAACP notes that four of the five states that Louisiana officials are looking at in determining dual-state registration are places where many Katrina survivors have been displaced to: Florida, Georgia, Mississippi and Texas. As LDF Director-Counsel Theodore Shaw stated, “It is well known that many of those who remain displaced are African-American voters who have encountered difficulty returning to their residences in Orleans Parish. Until they are able to rebuild and return to their homes, our lawsuit will help ensure that eligible voters retain the right to participate in the political process.”<sup>239</sup>

## LACK OF HEALTH CARE ACCESS

Katrina took a severe and long-lasting toll on medical care in the U.S. Gulf region, which was already troubled before the storm. In 2004, the United Health Foundation ranked Louisiana the worst state in the nation in terms of health,<sup>240</sup> while New Orleans had one of the nation’s highest rates of uninsured.<sup>241</sup> Consequently, many of the city’s residents had relied on the Charity Hospital system, which was permanently closed after the storm. In fact, of the seven general hospitals that operated in New Orleans before the disaster, only one was operating at pre-storm levels two years later.<sup>242</sup> This has created a significant barrier to return for displaced residents in need of medical care.

It also appears to have negatively impacted the health status of displaced persons attempting to exercise their right of return. New Orleans’ death rate has risen 47 percent since the two years preceding Katrina.<sup>243</sup> In a recent survey, 36 percent of residents of the New Orleans metropolitan area reported reduced access to health care.<sup>244</sup> The problem is especially severe for the city’s African-American residents, 72 percent of whom reported reduced health care access<sup>245</sup>—evidence of underlying discrimination.

Gulf residents are also facing an increase in psychological problems since the storm in part because of the stresses of their own displacement and that of friends and family, yet there are few facilities to provide treatment. Two years after Katrina, the largest provider of psychiatric care in New Orleans was the Orleans Parish Prison, with 60 acute care beds.<sup>246</sup> This contradicts Guiding Principle 28, which calls on authorities to establish conditions allowing IDPs to return home “in safety and with dignity.”

## PUBLIC HEALTH AND TOXICS

In the wake of Hurricane Katrina, scientists working with the Natural Resources Defense Council (NRDC) and other nongovernmental organizations made repeated trips to New Orleans to investigate potential health threats. They documented dangerous levels of mold that presented a serious risk to returning residents—a threat the federal Environmental Protection Agency (EPA) did not adequately monitor and warn the public about.<sup>247</sup>

“I came back to my neighborhood and found mold growing all over the walls of my house and my neighbors’ homes,” said Pam Dashiell, a New Orleans neighborhood activist. “But there was no information provided by FEMA, EPA, or anyone else about whether it was safe and what I should do to protect myself. I didn’t know I needed to be wearing a respirator, or even where to go get one.”<sup>248</sup>

The NRDC also worked with a Louisiana-based scientist and other environmental organizations to test the sediment left by the floodwaters that covered New Orleans. They found dangerously high levels of industrial chemicals and heavy metals as well as alarming levels of long-banned pesticides that floodwaters carried from an abandoned factory into a residential neighborhood.<sup>249</sup> The independent tests largely confirmed earlier testing conducted by the EPA.<sup>250</sup> The NRDC also conducted its own analysis of government test data and found levels of arsenic, lead, and toxic petroleum compounds across the city at levels that should have triggered a mandatory cleanup or additional investigation.<sup>251</sup> The NRDC senior scientist who oversaw the analysis called the state’s declaration that the results showed no problems “stunning.”<sup>252</sup>

In 2007, the NRDC and other NGOs again sampled more than 100 sites in New Orleans and found that six of the nineteen schoolyards tested contained soil that exceeded cleanup guidelines for arsenic established by the state of Louisiana and the federal government.<sup>253</sup> However, the governments did not take any immediate action to protect returning students from the potential threat.<sup>254</sup> As of the storm’s second anniversary, neither Louisiana nor the federal government had conducted a single cleanup of contaminated sediment.<sup>255</sup>

The Government Accountability Office, the investigative arm of the U.S. Congress, has confirmed that the federal government made false assurances about public health threats to Gulf Coast residents after Katrina. In a report released in June 2007, the GAO criticized information the EPA offered the public on post-Katrina health risks, saying it was unclear and inconsistent on how to protect against exposure to some contaminants.<sup>256</sup>

“For example, EPA did not state until August 2006 that its December 2005 report—which said that the great majority of the data showed that adverse health effects would not be expected from exposure to sediments from previously flooded areas—applied to short-term visits, such as to view damage to homes,” GAO reported.<sup>257</sup>

GAO also found that while EPA told Gulf Coast residents their health was protected from the risks associated with asbestos inhalation, it failed to deploy air monitors in and around New Orleans neighborhoods where demolition and renovation activities were concentrated.<sup>258</sup> The authorities’ failure to take adequate steps to protect the public from environmental health hazards represents a failure to honor Guiding Principle 28, which holds the government responsible for establishing conditions that allow IDPs to return home safely.



A resident walks through toxic ankle-deep mud in post-Katrina New Orleans. Governmental agencies and independent tests revealed that dangerously high levels of toxins such as heavy metals were stirred up by the storms. (PHOTO: ANDREA BOOHER, FEMA)

# RECOMMENDATIONS

As the documentary evidence collected in this report clearly shows, the treatment of internally displaced persons by all levels of government in the wake of Hurricane Katrina is a matter that requires further investigation, monitoring and action. In particular, the Guiding Principles make clear that federal officials bear primary responsibility for protecting the human rights of IDPs. If the United States is to honor its commitment to the U.N. Guiding Principles, officials in all branches of the federal government are obligated to examine existing disaster law and policy and, where necessary, reform existing policy and formulate new policy to ensure the rights of Katrina's internally displaced—as well as any residents displaced by future disasters—are adequately protected.

The full range of policy issues that must be addressed to ensure the United States adequately protects the human rights of internally displaced persons during and after natural disasters is beyond the scope of this report. However, the experience of Hurricane Katrina does point to a broad set of basic recommendations that must be considered to bring the U.S. government's treatment of IDPs into alignment with the U.N. Guiding Principles on Internal Displacement:

**(1) RECOGNIZE INTERNALLY DISPLACED PERSONS:** The U.S. government should acknowledge the legitimacy of the category of internal displacement and assume the responsibilities delineated in the Guiding Principles in its approach to Hurricane Katrina and future natural disasters. This includes:

(A) Officially recognizing those displaced by Hurricane Katrina and future disasters as internally displaced persons; and

(B) Extending the human rights protections afforded to internally displaced persons under the Guiding Principles to displaced Gulf Coast residents and those displaced by future disasters.

**(2) BRING U.S. DISASTER LAW IN LINE WITH THE U.N. GUIDING PRINCIPLES:** The U.S. government should ensure the U.N. Guiding Principles are incorporated into all aspects of domestic disaster law. Specific steps should include:

(A) Amending existing disaster law to formally acknowledge the U.N. Guiding Principles and including their guaranteed human rights protections; and

(B) Establishing a Congressional commission to review the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the statutory authority for most federal disaster response activities, as well as other laws and regulations related to natural disasters to identify where U.S. policy does not conform to the U.N. Guiding Principles and what policy measures are needed to protect the human rights of internally displaced persons.

**(3) PROTECTION FROM DISPLACEMENT:** The tragedy of Hurricane Katrina made clear that the U.S. government should strengthen efforts to protect populations from displacement in order to comply with the U.N. Guiding Principles. In the case of Hurricane Katrina and the Gulf Coast, these measures would include:

(A) Ensuring adequate and sustainable coastal restoration along the U.S. Gulf Coast, which scientists agree is one of the best defenses against future storms for vulnerable coastal populations;

(B) Ensuring the integrity of storm defense systems protecting vulnerable populations, such as the levees that failed in New Orleans and flooded 80 percent of the city; and

(C) Strengthening federal legislative oversight of the U.S. Army Corps of Engineers and other agencies tasked with the maintenance and improvement of storm defenses.

(D) Also, in accordance with the U.N. Guiding Principles, the U.S. government should take action to ensure that residents in other areas of the country that are particularly vulnerable to natural disasters are adequately protected from the threat of displacement.

**(4) PROTECTION DURING DISPLACEMENT:**

The U.S. government should act to ensure that the rights of internally displaced persons are protected during displacement. The experience of Hurricane Katrina has revealed the need to develop and strengthen policy across all agencies involved with internally displaced persons, including:

(A) Ensuring that displaced persons are not deprived of legal protections afforded to others in the country, such as labor laws, environmental protections and the right to due process;

(B) Creating and implementing effective evacuation plans, including provisions for those without transportation, those with special needs, language minorities and prisoners;

(C) Taking needed policy measures to ensure the safety and well-being of vulnerable populations such as women, children, the elderly and people with disabilities;

(D) Protecting the rights and safety of prisoners and others under custody of the state; and,

(E) Ensuring that the human rights of immigrants who are displaced are protected, regardless of legal status.

**(5) HUMANITARIAN ASSISTANCE:** The U.S. government should take all necessary steps to ensure that the provision of humanitarian aid following domestic disasters adheres to the U.N. Guiding Principles' guarantees of impartiality and non-discrimination. The experience of Hurricane Katrina has underscored the importance of addressing the following issues:

(A) Revising U.S. law to ensure that humanitarian assistance is allocated strictly on the basis of need without the inappropriate interference of partisan politics;

(B) Expanding oversight and management of private companies contracted to conduct relief and rebuilding programs, and acting swiftly to punish unlawful activity by private contractors or the failure to adequately carry out projects designed for the benefit of internally displaced persons;

(C) Formulating a clear policy governing the acceptance of humanitarian aid offered by foreign governments and other international actors to prevent waste and to ensure that available assistance reaches those in need; and

(D) Exercising appropriate oversight of the congressionally chartered American Red Cross to ensure that operational changes made following Hurricane Katrina adequately protect the human rights of those it assists in future disasters.

**(5) THE RIGHT OF RETURN, RESETTLEMENT AND REINTEGRATION:** The U.S. government must protect the rights of internally displaced persons to return to their places of habitual residence. The U.S. government should actively strive to remove barriers IDPs face to return and resettlement, including:

(A) Developing a comprehensive plan to ensure internally displaced persons can quickly return to safe and affordable housing in the place of their habitual residence;

(B) Protecting the rights of homeowners to due process and from arbitrary loss of property;

(C) Ensuring that the full range of needs for internally displaced persons to return are effectively addressed, including adequate health care, children's rights to education, and protection from toxic pollution and other public health hazards; and

(D) Maximizing the involvement of displaced persons in decision-making related to resettlement, including ensuring that all meetings and processes are well-publicized, accessible to all displaced populations, and democratic; and that the voting rights of displaced persons are vigorously protected.

**(6) COLLECTION AND ACCESS TO INFORMATION:** To ensure that these and other policy objectives are effectively implemented, the U.S. government should ensure that it collects all relevant information about the location and needs of internally displaced persons and makes this information available to all appropriate agencies and institutions.



(PHOTO: CHRIS KROMM, ISS)

# UNITED NATIONS GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

## INTRODUCTION: SCOPE AND PURPOSE

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.
2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.
3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:
  - (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
  - (b) States when faced with the phenomenon of internal displacement;
  - (c) All other authorities, groups and persons in their relations with internally displaced persons; and
  - (d) Intergovernmental and non-governmental organizations when addressing internal displacement.
4. These Guiding Principles should be disseminated and applied as widely as possible.

## SECTION I — GENERAL PRINCIPLES

### PRINCIPLE 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.
2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

### PRINCIPLE 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.
2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

### PRINCIPLE 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.
2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

### PRINCIPLE 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.
2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

## SECTION II — PRINCIPLES RELATING TO PROTECTION FROM DISPLACEMENT

### PRINCIPLE 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.



#### PRINCIPLE 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
2. The prohibition of arbitrary displacement includes displacement:
  - (a) When it is based on policies of apartheid, “ethnic cleansing” or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
  - (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
  - (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
  - (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
  - (e) When it is used as a collective punishment.
3. Displacement shall last no longer than required by the circumstances.

#### PRINCIPLE 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:
  - (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
  - (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
  - (c) The free and informed consent of those to be displaced shall be sought;
  - (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
  - (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and

- (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

#### PRINCIPLE 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

#### PRINCIPLE 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

### SECTION III — PRINCIPLES RELATING TO PROTECTION DURING DISPLACEMENT

#### PRINCIPLE 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:
  - (a) Genocide;
  - (b) Murder;
  - (c) Summary or arbitrary executions; and
  - (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.Threats and incitement to commit any of the foregoing acts shall be prohibited.
2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:
  - (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
  - (b) Starvation as a method of combat;
  - (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
  - (d) Attacks against their camps or settlements; and
  - (e) The use of anti-personnel landmines.

PRINCIPLE 11

1. Every human being has the right to dignity and physical, mental and moral integrity.
2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:
  - (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
  - (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
  - (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

PRINCIPLE 12

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.
3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
4. In no case shall internally displaced persons be taken hostage.

PRINCIPLE 13

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

PRINCIPLE 14

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.
2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

PRINCIPLE 15

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and
- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

PRINCIPLE 16

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.
3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.
4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

PRINCIPLE 17

1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.
3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.
4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

PRINCIPLE 18

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
  - (a) Essential food and potable water;
  - (b) Basic shelter and housing;
  - (c) Appropriate clothing; and
  - (d) Essential medical services and sanitation.
3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

PRINCIPLE 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

PRINCIPLE 20

1. Every human being has the right to recognition everywhere as a person before the law.
2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.
3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

PRINCIPLE 21

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
  - (a) Pillage;
  - (b) Direct or indiscriminate attacks or other acts of violence;
  - (c) Being used to shield military operations or objectives;
  - (d) Being made the object of reprisal; and
  - (e) Being destroyed or appropriated as a form of collective punishment.
3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

PRINCIPLE 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:
  - (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
  - (b) The right to seek freely opportunities for employment and to participate in economic activities;
  - (c) The right to associate freely and participate equally in community affairs;
  - (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
  - (e) The right to communicate in a language they understand.

PRINCIPLE 23

1. Every human being has the right to education.
2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programs.
4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

## SECTION IV — PRINCIPLES RELATING TO HUMANITARIAN ASSISTANCE

### PRINCIPLE 24

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

### PRINCIPLE 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

### PRINCIPLE 26

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

### PRINCIPLE 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.
2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

## SECTION V — PRINCIPLES RELATING TO RETURN, RESETTLEMENT AND REINTEGRATION

### PRINCIPLE 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.
2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

### PRINCIPLE 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.
2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

### PRINCIPLE 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

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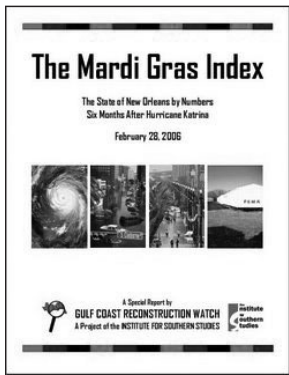


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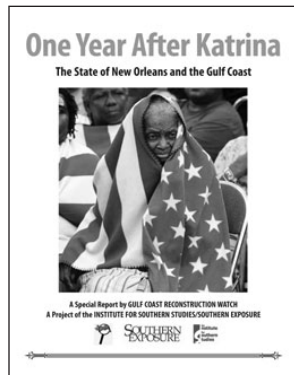
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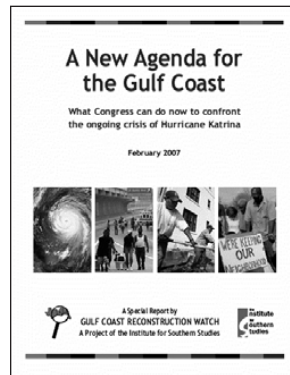
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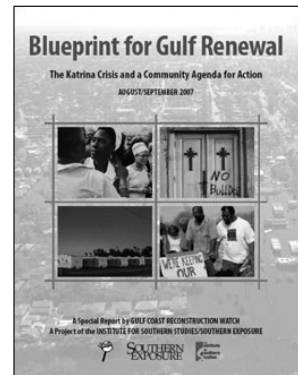
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