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HUMAN RIGHTS IN THE GULF COAST

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UN-NATURAL DISASTER

HUMAN RIGHTS IN THE GULF COAST



Cover photo, front:
Steps leading to a bulldozed home in the Lower Ninth Ward, New Orleans, Louisiana. Photos © Amnesty International USA, February 2010.

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600 PENNSYLVANIA AVENUE SE, 5TH FL · WASHINGTON, DC 20003 AMNESTYUSA.ORG/DEMANDDIGNITY · DEMANDDIGNITY@AIUSA.ORG

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Above: Aerial image showing flooding of the Lower Ninth Ward, New Orleans, Louisiana following levee failure during Hurricane Katrina. © NOAA. 2005.

“The line through all three issues [health, housing and criminal justice] is the way that poor African-Americans are marginalized and the way the three systems have further marginalized them. Historical, structural and institutional racism has been a common line through all.”

AI interview with Dr. Kimberley Richards, People’s Institute for Survival and Beyond, 10 February 2010.

BACKGROUND

On August 29, 2005, Hurricane Katrina, one of the strongest hurricanes to ever hit the United States, caused flooding to most of the low-lying areas of the Gulf Coast, including New Orleans, Louisiana, Biloxi, Mississippi, Coden, Alabama and the surrounding communities.¹ It is estimated that more than 1,800 people from these three states died in the storm.² Hurricane Rita struck the region just a few weeks later on September 23rd. While Rita did not have

the same devastating impact as Hurricane Katrina, it led to the mass evacuation of nearly three million people and the storm surge overwhelmed the unrepaired levee system and led to further flooding of parts of New Orleans.³

According to Federal government figures, approximately 200,000 people were evacuated from the Gulf Coast Region to places such as Texas, Florida, Georgia, and Washington, D.C.⁴ Of the more than 400,000

residents who lived in New Orleans prior to Katrina, approximately 350,000 lived in areas that were damaged by the storm, with seventy-five percent of those individuals being African-American and more than twenty-nine percent living below the national poverty line (which was calculated at an income of \$19,350 for a family of four in 2005).⁵ While the City of New Orleans has regained two-thirds of its pre-Katrina population numbers⁶ and US Census estimates for the New Orleans Metropolitan



Above: Aerial images taken before and after flooding caused by levee failure during Hurricane Katrina show the destruction and lack of rebuilding in the Lower Ninth Ward, New Orleans, Louisiana. (from left) Fall 2004, prior to Hurricane Katrina. Fall 2005, one year after Hurricane Katrina. February 2009, more than three years after Hurricane Katrina. 2004 and 2005 images © USGS Wetlands Research Center, CWPPRA Task Force, Louisiana Department of Environmental Quality. Data Source: *Atlas: The Louisiana Statewide GIS*. 2009 image © U.S. Geological Survey.

Statistical Area are approximated to be at eighty-five percent of its pre-Katrina population numbers,⁷ reports state that it is not necessarily the former residents who have replenished those numbers.⁸

Prior to the catastrophic effects of Hurricanes Katrina and Rita, the populations of the Gulf Coast states suffered from a severe lack of access to adequate health services and housing. During the immediate after-

math of the storms, access to both of these services was even further compromised and the Federal government was slow to rectify the situation. Furthermore, the legal system of Orleans Parish, the parish that makes up most of the City of New Orleans, was seri-

ously affected by the storm surge leading to increased incidences of excessive use of force, abuses of individuals in detention and due process violations.

Now, nearly five years into the recovery

A CLOSER LOOK: PUBLIC HOUSING IN NEW ORLEANS

DeBorah W. a resident of the St. Bernard Public Housing development fled New Orleans with her family the night before Hurricane Katrina struck in 2005. She spent nearly eight months living in Houston and returned to New Orleans in May 2006. After spending most of the year living with family, she moved into a trailer provided by the Federal Emergency Management Agency (FEMA) in early 2007. She told Amnesty International that her asthma was manageable when she moved however, the trailer was contaminated with formaldehyde and she had to start using an inhaler because of the affect it had on her health.

After living in the FEMA trailer for nearly a year DeBorah moved into a newly refurbished apartment in the Iberville Public Housing Development in April 2008. While her unit had been refurbished the surrounding units had not been and after a month of living there, problems with mold began to develop. DeBorah told Amnesty International that she repeatedly called maintenance to scrape the walls and re-paint them, but because the units around her were not remediated, the mold would quickly return.



process since Katrina, for the residents of New Orleans in particular and the Gulf Coast states more generally, there is a continued lack of access to housing and health care and issues related to the criminal justice system persist. These obstacles

have contributed in preventing the overall return of former residents (known under international human rights standards as internally displaced persons (IDPs)) and lead to rights violations for those who have returned. While this report will look at

similar issues across the three Gulf Coast states heavily affected by the destruction of Hurricanes Katrina and Rita, these issues are intrinsically intertwined in the New Orleans region to significantly impact low income residents and communities of color.

DeBorah's respiratory problems progressively worsened and she was diagnosed with emphysema and chronic obstructive pulmonary disease. She now takes nine medications and three pumps of her inhaler on a daily basis to manage her breathing. DeBorah repeatedly requested a transfer to a new apartment from Iberville's management office. "I am tired of living like this. They were not even listening to my crying. They think it's a joke but it's really not ... I am really hurting. This project is taking its toll on me ... Fresh air, that's what I need. But I have to go inside at night and go to bed and I have to stay breathing this in."

In December 2009 DeBorah finally was moved into a new unit. She told Amnesty International that the units above her new unit are unoccupied and that she recently noticed mold in her hallway closet. When asked what she planned to do if the condition in her apartment worsens like before, she replied, "I'll leave it in God's hands."

Amnesty International interviews with DeBorah W., February 11, 2010 and March 16, 2010; Transcript of video on Mayday New Orleans website.¹⁰

One way to help prevent this from happening again is to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act)⁹ to include human rights principles that ensure the rights to health and housing for all disaster survivors. The Stafford Act provides statutory authority for the federal government to respond to areas hit by natural disasters, most notably through the Federal Emergency Management Agency (FEMA). The Stafford Act in its current form does not conform to the United Nations Guiding Principles on Internal Displacement. The Guiding Principles note that national authorities have the primary duty to protect the public from experiencing conditions leading to

displacement. When displacement occurs, national authorities are to provide humanitarian assistance without discrimination. They are to ensure that displaced persons are accorded full equality in the exercise of all human rights as do other persons in that country. They also have the right to an adequate standard of living including adequate food, water, housing, as well as the right to education and to the highest attainable standard of health including access to adequate health services. However the Stafford Act fails to recognize that the federal government should bear the responsibility for overseeing disaster recovery. Displaced persons are not entitled under US law to humanitarian assistance or help with either returning to their residences or resettling. Federal law only protects displaced persons from intentionally discriminatory government actions, not those which have discriminatory impact. There is no federally recognized right to housing, education and health care; such assistance from the government is discretionary.

Soon after Katrina, Congress appropriated \$60 billion to fund the Federal Disaster Relief Fund, the account which FEMA uses to fund Stafford Act activities required by federal law, for instance debris removal and rebuilding schools and other public buildings. The Fiscal Year 2006 Department of Defense Appropriations Act (H.R. 2863) included \$29 billion for specific needs arising from Hurricane Katrina that are not covered by the Stafford Act, for instance funding for activities in Louisiana, Mississippi and Alabama in the form of Community Development Block Grants to, in part, help homeowners and landlords rebuild.¹¹ Congress also passed the Gulf Op-

KEY FINDINGS:

<p style="text-align: center;">LACK OF AFFORDABLE HOUSING</p> <p>Not enough is being done to replace affordable rental housing as well as demolished public housing units in Louisiana and Mississippi, preventing former residents from returning and threatening those who have been receiving hurricane-related rental assistance in the region with the possibility of homelessness.</p> <p style="text-align: center;">OBSTACLES TO REBUILDING</p> <p>Homeowners have been prevented from rebuilding their homes due to problems with the disbursement of funds under the Community Development Block Grants in Louisiana, Mississippi and Alabama.</p> <p style="text-align: center;">LACK OF PRIMARY HEALTH CARE</p> <p>Access to primary health care for the uninsured, low income and communities of color in New Orleans is severely impacted by the decision to close Charity Hospital while a facility to replace similar services will not be completed for at least several years.</p>	<p style="text-align: center;">LACK OF MENTAL HEALTH CARE</p> <p>The lack of access to mental health care in both New Orleans as well as the coastal areas of Mississippi is negatively impacting hurricane survivors who are suffering from increased rates of mental health issues since the hurricanes, as well as affecting mental health practitioners and law enforcement in these areas.</p> <p style="text-align: center;">POLICE ABUSE AND MISCONDUCT</p> <p>Local law enforcement in New Orleans was not adequately prepared for the aftermath of Hurricane Katrina which led to many instances of excessive force and abuses in detention.</p> <p style="text-align: center;">CRIMINAL JUSTICE ISSUES</p> <p>Issues around the criminal justice system, including lengthy pre-trial detentions for non-violent and low level offenses negatively impact individuals' ability to maintain employment and housing and contribute to the cyclical nature of crime in New Orleans.</p>
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portunity Zone Act in 2005¹² to establish tax incentives for developers to rebuild the local and regional economies, including the redevelopment of affordable housing. There have been problems with the way that these programs have been administered which have affected Gulf Coast residents'

rights to adequate housing.

On February 26, 2009, the Senate Disaster Subcommittee issued a report titled, "Far From Home," which recommends amending certain sections of the Stafford Act pertaining to housing. These recom-

mendations call for an expansion of the responsibility of the federal government during times of catastrophic disaster and would streamline the bureaucracy currently in place, finalize and test a national disaster housing plan, end reliance on FEMA trailers now and in the case of future disasters and bring permanent housing back on-line faster by releasing Disaster Relief Funds for a Rental Repair Program.¹³ While these recommendations are laudable, they primarily address housing concerns and fall short of the broad changes needed and, more than a year later, have not led to broader reform of the Stafford Act.

Amnesty International believes that the best and most effective way to secure and rebuild lives in the wake of Hurricane Katrina is by respecting, protecting and fulfilling the human rights of those affected. Amnesty International is calling on Congress to urgently amend the Stafford Act and bring it in line with international law and standards.

SCOPE AND METHODOLOGY

Since 2005, Amnesty International has been working on human rights issues in New Orleans and the Gulf Coast, focusing on the replacement of lost public housing in New Orleans and campaigning to amend the Stafford Act to incorporate human rights principles from international law and standards. This report was developed in the context of Amnesty International's Demand Dignity campaign to end the human rights violations that drive and deepen poverty. Amnesty International's researchers conducted a research mission in New Orleans, Louisiana and Biloxi, Mississippi

from 10-12 February 2010. The research team spoke with advocates and survivors and conducted further interviews via telephone during the ensuing weeks. Amnesty International also conducted desk research involving the review of media accounts, non-governmental organization (NGO) and government reports and statistical data. Representatives of Amnesty International also attended the Universal Periodic Review consultation held in New Orleans on 27 January 2010 where issues around housing, health care and the criminal justice system were raised. Representatives of multiple agencies of the federal government including the US Department of State, the US Department of Justice's Civil Rights Division, the US Department of Homeland Security, and the US Department of Housing and Urban Development were in attendance.

HOUSING ISSUES IN THE GULF COAST

Amnesty International is concerned that the slow progress in housing recovery has violated the rights of those residents who have returned and could prevent many Gulf Coast residents from ever being able to return in the future. The right to

“There are no good jobs in the area for livable wages. You need affordable housing for people... Everyone deserves a right to affordable housing”

AI interview with Kawana Jasper, Mayday New Orleans, 11 February 2010.

adequate housing guarantees access to a safe, habitable, and affordable home with protection against forced eviction. Without adequate housing, an individual is vulnerable to human and natural forces, compromising other human rights including the rights to family life, health, education, employment and privacy. Issues that have plagued the recovery process include the demolition of public housing; a lack of a commitment by the states to rebuild lost rental units and provide affordable housing for residents; and authorities' inability to disburse enough money for homeowners to rebuild or to do so in a timely fashion have created a climate where homelessness has increased and former Gulf Coast residents cannot afford to return, leading to permanent displacement.

KEY FACTS: POVERTY¹⁴

- » In Louisiana, 744,218 people or 17.3% of the population lived below the poverty level in 2008.
- » In Mississippi, 601,607 people or 21.2% of the population lived below the poverty level in 2008.
- » In Alabama, 712,835 people or 15.7% of the population lived below the poverty level in 2008.

"I'm concerned that some units may not get built at all"

Congresswoman Maxine Waters (August 21, 2009).

Right: Demolished Public Housing in New Orleans, Louisiana: (Clockwise from right) Vacant lot that used to be the BW Cooper Public Housing Development. Several finished mixed income homes where St. Bernard Public Housing Development was located. Wood construction of new homes being built where CJ Peete Public Housing Development stood. Photos © Amnesty International USA, February 2010.



PERMANENT LOSS OF PUBLIC HOUSING UNITS IN NEW ORLEANS

Amnesty International is concerned about the demolition of public housing units and the failure to ensure one-for-one replacement of lost units in the plans for redevelopment in New Orleans. While demolitions of the four largest public housing developments took place nearly two years ago, construction has only taken place at two of the four locations and the new developments only replace a portion of the total number of units lost. As a result, former residents of these developments face permanent displacement.

The locations of the developments are in what is considered prime real estate in the city of New Orleans, located close to major tourist and business sites and thoroughfares. One advocate explained to Amnesty International that many of the developments were built in a ring around the downtown area to allow residents to be close to the business district for low-wage jobs in the service and tourism industry.

"The city depended on [the public housing residents] for cultural traditions and food, but its residents walked to work and lived on food stamps."¹⁵ Soon after Katrina, the Department of Housing and Urban Development (HUD) and the Housing Authority of New Orleans (HANO) boarded up the developments and announced their plans for demolition of the largest four developments (St. Bernard, B.W. Cooper, C.J. Peete and

"The new construction is mostly wood, not brick and mortar. Another Katrina will take these buildings down."

AI Interview with Sam L. Jackson, Sr., Mayday New Orleans, 11 February, 2010.



Lafitte) with a move towards mixed income developments.¹⁶ However the plans for re-development do not include a one-for-one replacement in lost public housing units. The only development that has proposed a replacement of all of its affordable housing units is Lafitte, while the other three will lose roughly eighty percent of the public housing units occupied prior to Katrina.¹⁷ According to one report, St. Bernard had 963 public housing units that were demolished and will be replaced by 465 homes with only 153 available to the families who used to live there.¹⁸ A total of 3,077 apartments were demolished in 2008, however problems continue to cause delays in the

construction of the new developments.¹⁹

During AI's research mission in February 2010, Amnesty researchers observed ongoing work at the former St. Bernard and C.J. Peete developments, while B.W. Cooper and Lafitte remained fenced-off, empty visages of what once stood.

In late 2009, the UN Special Rapporteur on housing visited New Orleans and focused attention on the demolition of the public developments and stated:

"The Special Rapporteur deeply regrets the demolition of thousands of public hous-

*ing units in New Orleans. Many residents and victims of Hurricane Katrina were prevented from returning to their homes (many of which according to residents sustained little storm damage) and had their homes demolished. The current housing crisis in New Orleans reflects the disastrous impact of the demolition policy. In particular, the demolition of the "Big Four" housing complexes (B.W. Cooper, C.J. Peete, Lafitte and St. Bernard) has displaced approximately 20,000 individuals. Only one public housing complex still remains, Iberville, which is in need of better maintenance. Residents of Iberville fear demolition of their homes."*²⁰

A CLOSER LOOK: PERMANENT SUPPORTIVE HOUSING IN NEW ORLEANS

While the state and local governments have fallen short of their obligations to provide affordable housing for its residents, especially those who are currently homeless, local non profits have stepped in to help fill the gap. For instance, Unity of Greater New Orleans is working to create permanent supportive housing developments that are equally divided between those working in the service industry and those who are chronically homeless, veterans and the disabled who are at or below thirty percent of the average median income.

Their model will consist entirely of affordable units with onsite supportive services available to its residents, such as financial and budget management services. The goal of the project is to remove blight and rehabilitate existing buildings in redeveloping neighborhoods.

Jessica Venegas of Unity of Greater New Orleans described to Amnesty International that the building that is currently being rehabilitated under this model in the Mid City section of New Orleans was previously a magnet for crime in the neighborhood. Construction is slated to begin in March 2010, however the organization is waiting for the state to provide the capital subsidies it earlier promised the organization.²¹

The construction of the new, mixed income developments has been a slow process and has faced many obstacles. While the developments at the former C.J. Peete and St. Bernard are only partially completed as observed by Amnesty International researchers, the developments are reportedly scheduled to open in March 2010.²² However B.W. Cooper and Lafitte have faced serious financing hurdles, which could only be rectified by Congress extending the GO Zone tax credits—which had an original deadline of December 2010—to December 2012, as well as the developers receiving an infusion of money from HANO and HUD.²³ HANO granted the developers of Lafitte a \$10.5 million loan and HUD plans on providing similar money to the developers of B.W. Cooper. However, both developments reportedly cannot begin vertical construction unless the GO Zone tax credit deadline is extended.²⁴ As of the writing of this report, Congress has yet to extend the deadline.²⁵

Even when the new developments are completed, advocates worry that former residents will not be able to access the reduced number of public housing units that should be available. One advocate who spoke to Amnesty International commented, “HUD doesn’t want to serve public housing residents. Mixed Income is the new policy...”²⁶

LACK OF PUBLIC HOUSING IN MISSISSIPPI

Amnesty International is concerned about the severe lack of public housing in the coastal area of Mississippi since Katrina.²⁷ According to one advocate who spoke with Amnesty International, all of the public housing units in Mississippi Regional Housing Authority 8, which includes the coastal cities Gulfport, Biloxi and Pascaguola, were damaged during the storms. Damaged units in both Gulfport and Pascagoula were sold off to private entities and one non-profit, the South Mississippi Hous-

ing and Development Corporation,²⁸ which plans on creating mixed income developments.²⁹ Another advocate reported that other units were demolished and residents were evicted with only thirty days notice in order to create market rate units in places like Gulfport.³⁰ According to recent reports, the Mississippi Development Authority (MDA) is disbursing \$110 million in federal funds to four coastal housing authorities to replace public housing lost to Katrina. However, advocates voiced concerns about how the money is allocated as well as how quickly it will be disbursed.³¹ For instance, as of December 2009, the MDA noted that only 1,588 units of the 1,931 that existed pre-Katrina will be rebuilt and, even though 1,200 units have been rebuilt in Gulfport and Biloxi, no units have been built in the cities of Bay St. Louis and Waveland.³²

“Homelessness needs to be thought of from the get-go, both from an immediate standpoint during disasters and long term with recovery.”

AI Interview with Jessica Venegas, UNITY for Greater New Orleans, 2 March 2010.

THE LACK OF AFFORDABLE RENTAL HOUSING IN NEW ORLEANS:

Amnesty International is concerned about reports that the funding for housing recovery did not adequately account for the large numbers of renters who lost their housing during the storms. Renters, who

made up the vast majority of residences in New Orleans prior to the storm, were hit especially hard during the storm and lag even further behind than homeowners in the housing recovery process. More than half of the 82,000 rental units lost were deemed affordable³⁶ to households making less than eighty percent of the area medium income prior to Katrina.

3 will receive recovery assistance, leaving displaced renters critically vulnerable. Jefferson, St. Bernard and Plaquemines Parishes were particularly far behind in replacement of lost units.⁴⁰

The US Government Accountability Office recently found that, “[a]lthough the proportional damage to rental units was greater, more federal dollars were awarded for homeowner units through the programs ... reviewed. Specifically, federal and state agencies awarded around \$13 billion for homeowner units and around \$1.8 billion for rental units, with the majority of funding awarded through the [Community Development Block Grant (CDBG)] program.”⁴¹ Furthermore, they found that the lack of affordable housing in the region due to the slow pace of rental housing construction under these federal programs and the decision by states to focus the majority of federal funds on repairing homeowner units, rather than rental units, was a significant barrier to those trying to transition to permanent housing.⁴² Meanwhile, members of the Louisiana State Government are pushing to limit the further rebuilding of affordable units and want to reallocate nearly \$1 billion in unused CDBG funds to

KEY FACTS: RENTAL HOUSING

Nearly 82,000 units of rental housing in Louisiana were lost due to damage from the hurricanes with most of those units located in the greater New Orleans area.³³

Recent estimates are that only thirty-eight percent of the lost rental units in New Orleans have been rebuilt.³⁴

Four years after the storm, rents are still nearly forty percent higher than pre-Katrina levels.³⁵

While New Orleans already faced an affordable housing crisis prior to Katrina,³⁷ rents skyrocketed from anywhere between seventy to eighty percent in the year immediately after the storms in Orleans and Jefferson Parishes respectively.³⁸ While rents have since stabilized, they are still nearly forty percent higher than pre-Katrina levels. For instance, a typical monthly rent for an apartment is \$773, unaffordable for many working in the service industry and for health care support workers.³⁹

The lack of funds being dispensed for rebuilding has also hit renters extremely hard. In hurricane affected areas across Louisiana, according to one report, only 2 in 5 affordable damaged rental units will be repaired or replaced with recovery assistance. In New Orleans, just over 1 in



KEY FACTS: HOMELESSNESS

Recent estimates of homelessness in New Orleans have ranged from nearly 10,000 individuals and families⁴³ to as many as 12,000.⁴⁴

According to a survey conducted by Unity for Greater New Orleans, sixty percent of those surveyed said they were homeless because of Katrina.⁴⁵

combat housing blight and rebuild infrastructure instead.⁴⁶ While Amnesty International acknowledges that CDBG funds can be used for combating blight and rebuilding infrastructure, more needs to be done to ensure that there is adequate affordable housing for the residents of Louisiana.

The termination of the Disaster Housing Assistance Program⁴⁷ in November 2009 moved 3,000 households still needing housing assistance into a new case management program that would help them transition into permanent housing by the end of March 2010.⁴⁸

Amnesty International is concerned that the overall lack of affordable housing in New Orleans in particular, and in Louisiana generally, may prevent individuals who are currently homeless from finding permanent housing and the cessation of rental assistance programs at the end of March 2010 may contribute to the already high numbers of homeless individuals in the city.



LACK OF AFFORDABLE HOUSING IN MISSISSIPPI

Amnesty International is concerned about the lack of permanent affordable housing in areas of Mississippi affected by Hurricane Katrina. After Hurricane Katrina, FEMA replaced the trailers that were in use as temporary housing with one, two and three bedroom cottages that were placed on lots temporarily while people rebuilt their homes.⁴⁹ According to one advocacy organization, the cottages sustained very little damage during a recent hurricane and were deemed to be a useful stopgap to the lack of affordable housing in the area

Above: Unused cottages stored in Turkey Creek, Mississippi. Advocates report hundreds of cottages sit unused while area suffers from a shortage of affordable housing. Photo © Amnesty International USA, November 2009.

until more units could be financed or built.⁵⁰ The permanent placement of cottages in certain municipalities was met with local resistance. For instance, the City of Waveland prohibited the permanent place-

ment of cottages being used as temporary housing by classifying them as mobile homes and restricting them to trailer parks while also preventing new cottages from being brought in. The Mississippi Center

“There isn’t a housing shortage, there is a shortage of affordable housing [in Mississippi].”

AI Interview with Charmel Gauden, Gulf Coast Fair Housing Center, 25 February 2010.

Right: Lack of rebuilding in the Lower Ninth Ward, New Orleans, Louisiana. (clockwise from left) Vacant and overgrown lots where houses once stood. Heavily damaged and abandoned house. Unfinished construction of a house. Photos © Amnesty International USA, January 2010.



for Justice filed a lawsuit and a settlement was reached in which the city rescinded all of the restrictive provisions in the ordinance except for the allowance of new cottages.⁵¹ However, different ordinances to restrict permanent placement of cottages are currently in place in Gulfport⁵², Bay St. Louis, Pass Christian and Long Beach. The cities of Bay St. Louis, Pass Christian and Long Beach recently passed ordinances that have restrictive minimum square footages set at 850 square feet. The cottages themselves are reportedly only between 600-700 square feet, so none would receive approval under the ordinances in these three cities.⁵³ According to advocates who spoke with Amnesty International, neither the state nor federal governments have stepped in to pressure the localities to allow the permanent placement of cottages as affordable housing.⁵⁴ These ordinances greatly impact low income residents from

obtaining permanent affordable housing. By employing zoning ordinances that have a discriminatory impact, local governments are preventing displaced Mississippi residents from rebuilding their lives and are hampering recovery efforts. Meanwhile, advocates estimate that there are between 400-700 unused cottages warehoused in lots.⁵⁵ These cottages will eventually be sold or auctioned off by June 2010.⁵⁶

Compounding the affordable housing issue in Mississippi is a post-Katrina spike in rents by as much as \$200 per unit and a reported lack of Section 8 vouchers going to the areas hit hardest by the storms.⁵⁷ The state of Mississippi received more

than 3,000 Section 8 Housing vouchers to help make up the difference in the lack of affordable housing for displaced Katrina

KEY FACTS: THE ROAD HOME PROGRAM

Even though \$7.95 billion in grants was paid out through the Road Home program as of June 2009⁵⁸, eighty-one percent of New Orleans homeowners were left with insufficient funds to rebuild.⁵⁹

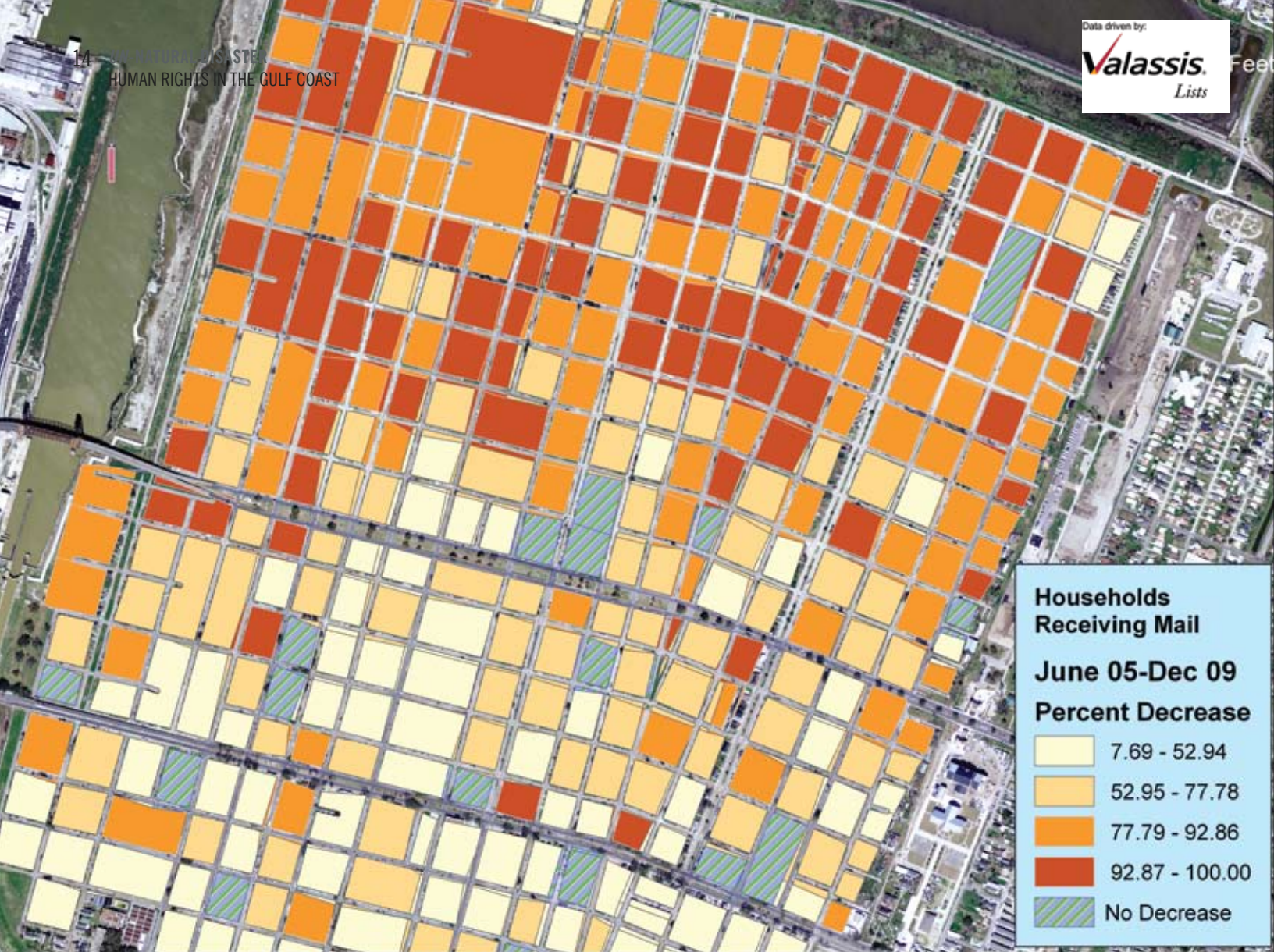


survivors. It was reported to Amnesty International that, despite advocacy by local housing organizations, vouchers were distributed across the entire state and were not targeted to the four coastal public housing authorities.⁶⁰ Mississippi government officials have stated that they cannot find enough residents living in temporary housing to accept vouchers,⁶¹ despite the nearly 5,000 households in the coastal region on a waiting list for assistance.⁶² Amnesty International is concerned that the lack of permanent affordable housing may lead to permanent displacement and potential homelessness of low income residents in Mississippi.

THE WAYWARD “ROAD HOME” TO NEW ORLEANS

Following the devastation of Hurricane Katrina, the federal government allocated money to the states in the form of Community Development Block Grants for homeowners to rebuild their damaged homes. The program in Louisiana, titled the “Road Home” program and overseen by the Louisiana Recovery Authority (LRA), was contracted out to a private contractor, ICF International. The program was designed to give eligible homeowners up to \$150,000 in compensation for their damaged homes with three options: to either rebuild, sell their home to the State and relocate to

another part of Louisiana or sell their home to the State and relocate to another state.⁶³ According to reports, the program has been plagued with problems for homeowners applying for funds at each step along the way. For instance, one persistent problem was a lack of disclosure to the applicants about the program’s own rules and policies, which changed frequently. Auditors of the program found that errors by ICF International in applicants’ information abounded, and due to lack of notice about the appeals process and about applicants’ information, individual home owners received substantially less money than they should have received for the value of their homes.⁶⁴



Above: Analysis of the change in the number of households actively receiving mail in New Orleans' Lower Ninth Ward between June 2005, three months before Hurricane Katrina, to December 2009, more than four years later. The persistent, and dramatic, change reflects the slow pace of rebuilding in the area. Image © Amnesty International USA. Data driven by Valassis Lists. From a compilation by the Greater New Orleans Community Data Center <<http://www.gnocdc.org>>.

Furthermore, the program was deemed insufficient in providing the necessary

resources for individual homeowners to rebuild. According to some reports, residents located in mainly communities of color were paid lower grant amounts than those living in largely Caucasian communities where properties had higher values mainly as an effect from pre-storm housing segregation.⁶⁵

An analysis of grants in Orleans Parish that were disbursed by 2008 found "the highest concentration of grants between \$115,000 and the \$150,000 limit went to residents of Lakeview, Lakewood and Eastover, among the most expensive real estate in the city's heavily flooded neigh-

borhoods" while "Eastern New Orleans, by contrast, has a high concentration of grants between \$40,000 and \$65,000."⁶⁶ This disparity was in large part a reflection of LRA's policy of using the pre-storm value of the home, versus the amount of damage sustained in the storm, to determine the amount of money to be disbursed. State-wide, it was reported that the average Road Home applicant fell about \$35,000 short of the money needed to rebuild their home, with highly flooded, historically African-American communities particularly impacted.⁶⁷ The result has been a complete lack of redevelopment of specific com-



Above: House with unrepaired wind damage in Mississippi: Houses with wind damage were excluded from receiving rebuilding funds in Mississippi. Advocates report that nearly 2000 households continue to live in wind damaged homes. Photo © Charlie Gaulden for the Gulf Coast Fair Housing Center, January 2010.

Several thousand homeowners have not been able to rebuild and are living in wind-damaged homes in Mississippi because they have not received funds through the state program.⁷² According to FEMA, there are currently 283 families living in travel trailers along the coast⁷³ while advocates report that nearly 2000 families still lack the funds to rebuild homes from wind damage.⁷⁴ Advocates point to the lack of oversight on how Mississippi disbursed and spent the funds it received as being a major obstacle in the rebuilding process.⁷⁵

munities and neighborhoods like the Lower Ninth Ward, where currently there are nearly 6,500 unoccupied residential addresses.⁶⁸ Amnesty International researchers observed large swaths of plots that remain empty while many of the structures that do exist are abandoned and retain the markings from FEMA search and rescue teams more than four years after the storm. Amnesty International is concerned that the problems with the Road Home program may have led to the permanent displacement of many predominantly low income and African-American New Orleans residents.

FAILURE TO REBUILD HOMES IN MISSISSIPPI

The state of Mississippi has been slow to disburse CDBG funds to homeowners affected by the storms and excluded certain homeowners from receiving funds

altogether. According to reports, Mississippi received nearly \$5.5 billion in CDBG funds in the months after Hurricane Katrina, however, as of June 2009, the state has only spent \$2.85 billion on housing reconstruction and recovery with just twenty-one percent going to income-limited housing programs in the state.⁶⁹ Furthermore, Mississippi excluded wind damaged homes from receiving funds through its CDBG program and excluded home owners living in counties north of the three coastal counties from receiving any rebuilding funds altogether. It is reported that nearly 7,300 homes suffered major to severe wind damage in the three counties along the Mississippi coast due to Katrina, with an additional 8,000 homes that suffered wind damage even further north.⁷⁰ Meanwhile, in 2008, with approval from HUD, the Governor of Mississippi reallocated \$570 million of its unused CDBG funds to expand the port in Gulfport, Mississippi.⁷¹

INADEQUATE FUNDING FOR REBUILDING HOMES IN ALABAMA

The State of Alabama did not receive sufficient funds from the federal government to fully rebuild the housing that was damaged in the storm, and the distribution of funds on a local level has been slow in reaching homeowners. Similar to Louisiana and Mississippi, the Alabama coast suffered devastating damage from Hurricane Katrina. Alabama received more than \$95 million in CDBG funds following the storms, with \$31.5 million of that allocated to local governments for housing reconstruction.

⁷⁶ Mobile County, which suffered the most damage from the storm and received \$18.9 million from the state, has spent just \$11 million of its allocated funds on housing repair. As of the four year anniversary of the storm, only 121 homes had been rebuilt. Furthermore, recent reports state that the remaining housing reconstruction funds will only assist roughly half of the 779 eligible homeowners by the summer of 2010.⁷⁷

According to the Governor's office, there are more than 350 additional households not included in this total that missed the deadline for applying for CDBG rebuilding funds.⁷⁸ According to one advocate, organizations are currently focused on appealing to Congress to allocate additional funds to help rebuild. "We're fighting for quantification for \$100-\$110 million more for some 539, mostly impoverished families who qualified for CDBG funds over two years ago. We probably need \$500 million. The Federal Government just didn't give enough."⁷⁹

A CLOSER LOOK: THE LOWER NINTH WARD HEALTH CLINIC

Alice Craft-Kearney is a registered nurse and was working as part of the recovery team at Charity Hospital during Hurricane Katrina. She told Amnesty International that she sought shelter at her brother's house where she and her family rode out the storm for seven days.

After the water receded, Ms. Craft-Kearney and her family were evacuated to New Mexico, where they received medical care and shelter for nearly four weeks. She returned to the area in February 2006 only to find that she was laid off and Charity Hospital was shuttered.

"People were dying from a lack of connection to a primary health care entity. There was no Charity Hospital and only triage care was taking place at the University compound and the Convention Center. It was all acute care, no primary health care was available. People needed medications and to be followed and tracked but this wasn't available."

Without employment and rebuilding her life, she was asked to spearhead the effort for a clinic in the Lower Ninth Ward, an area severely lacking in primary health care services. "We had the commitment to do something here because the Lower Ninth Ward was historically the last place to get anything," she reports to Amnesty International.

HEALTH CARE ISSUES IN THE GULF COAST

While the inability to rebuild housing and the unavailability of affordable housing works as an impediment to former residents returning to New Orleans and rebuilding their lives, the unavailability of fundamental services, such as health care, is also a contributing factor. The Stafford Act as currently written neither restores nor ensures access to these services. Amnesty International is concerned that the inability

to access health services not only acts as a disincentive for displaced residents to return, but also leads to rights violations for those who remained or have returned. Under international law, the right to the "highest attainable standard of physical and mental health" encompasses both freedoms (such as the right to control one's health and body) and entitlements (for example, to equality of access to health care), and consists of two basic components: healthy living conditions and health care.⁸⁰

"I'm not attached to the building. My concern is the return of the services... While they fight about Charity, people are going to die."

AI Interview with Alice Craft-Kearney, Lower Ninth Ward Health Clinic, 19 February 2010.

“We didn’t want to be waiting on the health care bus like people did on Convention Boulevard following the storm.”

Together with a former colleague from Charity Hospital, Patricia Berryhill, she helped restore a damaged home into the Lower Ninth Ward Health Clinic.⁸⁷ The clinic has been open since February 27, 2007, and provides primary health care to the residents of the Lower Ninth Ward four and a half days a week with two part-time doctors. She reports that ninety-five percent of her clients do not have insurance.

While Ms. Craft-Kearney mentions that she received no funding from the state government, the clinic remains operational on private donations, NGO support like that of Direct Relief International and federal funding through the Primary Care Access and Stabilization Grant (PCASG).⁸⁸

Ms. Craft-Kearney reports that the federal funding through PCASG supplies nearly seventy-five percent of her operational funds, however the grant is scheduled to end in September 2010. Ms. Craft-Kearney reported to Amnesty International that she is not sure where she will find the additional funds necessary to keep the clinic open when the federal funding ends.⁸⁹

LACK OF ACCESS TO PRIMARY AND MENTAL HEALTH CARE IN NEW ORLEANS

Even though the City of New Orleans has regained two-thirds of its pre-Katrina population numbers⁸¹ and US Census estimates for the New Orleans Metropolitan Statistical Area are approximated to be at eighty-five percent of its pre-Katrina population numbers,⁸² the city still lacks the ability to provide many services to the community. For instance, Orleans and St. Bernard Parishes have only reopened sixty-nine and

fifty-seven percent of the public schools that existed pre-Katrina respectively.⁸³ This while child care centers are still at only half of their pre-Katrina totals in both of these parishes.⁸⁴ However, the largest disparity in recovery that has the greatest impact on the community is the low number of hospitals to be reopened in the area. For instance, neither of the two hospitals that existed in St. Bernard Parish has reopened, while only twelve out of the 23 hospitals that were in operation prior to the storm

have reopened in Orleans Parish.⁸⁵ However, no hospital closing more exemplifies the impact that lack of access to health care can have on a community as the closing of Charity Hospital.

The state of Louisiana has a system of safety net hospitals throughout the state that provides health care for those without health insurance. Louisiana State University (LSU) operates ten state-funded inpatient hospitals and a network of over 350 clinics that primarily serve individuals in the state without insurance. These hospitals fall under the state mandate that all residents have access to health care services. They provide about eighty-five percent of the total uncompensated care for the state with the remaining fifteen percent provided by community hospitals.⁸⁶ The Medical Center of Louisiana at New Orleans (MCLNO), otherwise known locally as “Charity Hospital”, was one of the largest hospitals in New Orleans and was also a teaching hospital. According to statistics from the Kaiser Commission on Medicaid and the Uninsured, Charity Hospital prior to Katrina was recognized as:

“the safety net hospital in the city representing about 14 percent of all admissions, 19 percent of all births, and 23 percent of all emergency room visits for the New Orleans area. Charity served a largely poor, predominantly minority population through inpatient care, a network of outpatient clinics and the busiest emergency department in the city. Nearly three-quarters of its patients were African American, and 85 percent had annual incomes of less than \$20,000. Over half of the inpatient care provided by MCLNO was for patients

“They need to quit treating health care as a commodity and start treating it as a human right that isn’t transferrable.”

AI Interview with Brad Ott, Committee to Save Charity, 18 February 2010

without insurance, representing two-thirds of the care to the uninsured in the city.”⁹⁰

In addition, Charity Hospital acted as a

referral center for trauma care, providing thirty-six percent of the trauma discharges in New Orleans, as well as providing twenty-eight percent of the inpatient psychiatric

care in the city. It also provided the vast majority of outpatient primary care for the uninsured, with over 150 primary care and specialty clinics located throughout New Orleans.⁹¹

A CLOSER LOOK: MATERNAL HEALTH AND DISASTER PLANNING

The lack of disaster-related protocols and procedures particularly affected pregnant women, some of whom went into labor prematurely.

In the days after Hurricane Katrina, reports surfaced from both New Orleans, Louisiana and Biloxi, Mississippi of women in labor being flown by helicopter as far away as Texas to give birth in a hospital,⁹² one woman being given medication to halt labor and forced out of one hospital with no place to go,⁹³ women who were evacuated going into labor at the Houston Astrodome,⁹⁴ hospitals turning away women in labor,⁹⁵ premature babies evacuated without their mothers,⁹⁶ and doctors delivering a baby by caesarean section by flashlight.⁹⁷

One nurse-midwife reported, “When we were in Katrina there was nobody to take care of these women. They delivered in the airport. They didn’t have equipment. They didn’t have clothes. We had no supplies for those infants... They kept talking about disaster preparedness. Nobody was talking about mothers, babies and infants. There’s no money going into disaster preparedness for mothers and babies.”⁹⁸

Amnesty International recently released a report which documents the high rates of maternal mortality and pregnancy-related complications in the US, *Deadly Delivery: The Maternal Health Care Crisis in the USA*. Maternal mortality is considered a bellwether of the overall public health – an indicator of the health and health care problems throughout the population and the health care system.⁹⁹

In Louisiana, 25.9% of women are uninsured¹⁰⁰ and 51% of women live in medically underserved areas of the state.¹⁰¹ Furthermore, 15.5% of women in Louisiana receive delayed pre-natal care or no pre-natal care at all.¹⁰² These factors contribute to the high number of maternal deaths in Louisiana, which ranks forty-sixth in the country with a rate of 15.9 deaths per 100,000 live births.¹⁰³

While much needs to be done to improve the overall availability and access to health care for women in the State of Louisiana, disaster-related policies and protocols for pregnant women and newborn babies must be put in place to prevent the problems from arising again during future disasters.

During the Hurricane, doctors, nurses and staff stayed on to try and provide services to the patients still there and to those who would need help because of the storm. Roughly 200 people were eventually trapped in the hospital because of the storm and were not evacuated until September 2nd.¹⁰⁴ The facility was shuttered after reportedly suffering extensive damage, and it was soon announced by state officials that the hospital structure should be torn down.¹⁰⁵ Within months after Hurricane Katrina, almost all of Charity Hospital’s 3,800 staff members were laid off or furloughed.¹⁰⁶ Despite reports that it would cost less money to refurbish and repair Charity Hospital in its current location,¹⁰⁷ LSU and the Veterans Administration put forth plans in 2008 to build a new, 424 bed teaching hospital in a different location. The plans for the new facility have been approved by Governor Jindal and will cost a reported \$2 billion to build.¹⁰⁸ Advocates who spoke with Amnesty International believe that Katrina was used as a pretext to move ahead with plans that pre-date the storm to close Charity and scale back the state-run hospital system.¹⁰⁹

While a lawsuit has been filed to reopen Charity Hospital and ensure the same access to care for the uninsured and low income residents of New Orleans,¹¹⁰ it is reported that the new LSU facility might take as long as eight years to be completed¹¹¹ and may not provide the same services

that existed at Charity.¹¹² This may have a drastic impact on New Orleans residents, considering the large amount of services Charity Hospital provided to the uninsured prior to Katrina,¹¹³ which is notable since more than twenty percent of Louisiana residents did not have health insurance in 2008.¹¹⁴ Furthermore, one in four New Orleans residents did not receive needed medical care because they did not have access to a doctor, clinic or pharmacy.¹¹⁵ Meanwhile, advocates report that residents in predominantly African-American neighborhoods, like the Lower Ninth Ward and East New Orleans, travel anywhere from fifteen to thirty minutes to reach a hospital in Charity's absence.¹¹⁶ One advocate noted to Amnesty International, "We need a hospital we can get to without going over a drawbridge."¹¹⁷ Amnesty International is concerned that the lack of access to medical facilities in New Orleans and the time that it would take to provide replacement

"It has become criminal to be mentally ill. If you are ill and become violent, you are sent to prison for care."

AI Interview with Alice Craft-Kearney, Lower Ninth Ward Health Clinic, 19 February 2010.

facilities violates residents' rights to an adequate standard of health.

Amnesty International is also concerned that the plans to build the new LSU/VA facility will displace residents who returned and rebuilt in the Mid City neighborhood of New Orleans following Hurricane Katrina. The current plans for the new facility would require the demolition of twenty-seven square blocks and uproot both homeowners and businesses located in the lower Mid City area of New Orleans.¹¹⁹ It has been reported that as many as 249 homes would be demolished and dozens of businesses would be affected.¹²⁰ While Amnesty International recognizes the need for a medical facility in the region to provide access for its residents, the construction of a new facility should not lead to further displacement of Katrina survivors.

Amnesty International is concerned about the lack of access to mental health care in New Orleans. Charity Hospital operated a Crisis Intervention Unit (CIU), which was the largest psych ward in New Orleans with 96 beds. Prior to Katrina, police would bring individuals suffering from mental health issues to the CIU where they would

be placed in a bed and receive in-patient mental health care.¹²¹ When Charity was shutdown, advocates report that portions of the psych unit went to the New Orleans Adolescent Hospital (NOAH)¹²² which has served both adults and adolescents with inpatient beds and outpatient services since Katrina.¹²³ However, NOAH was closed in 2009, leaving the City of New Orleans short of bed space for inpatient mental health care.¹²⁴

A recent survey of New Orleans residents found that fifteen percent were diagnosed with a serious mental illness such as depression, while seventeen percent reported taking medication for emotional or mental health issues. These results represent an increase in percentages from the previous survey, conducted in 2006.¹²⁵ Mental illness is proportionally higher among the homeless population in New Orleans. According to a survey of the homeless population conducted by Unity for Greater New Orleans, forty percent of those surveyed described having a mental health issue.¹²⁶ Since the closing of both Charity Hospital and NOAH, New Orleans Parish Prison is now the largest acute-care psychiatric facility in the City of New Orleans with 60 beds for mental health patients.¹²⁷ However once individuals are released, they reportedly do not receive further psychiatric monitoring.¹²⁸ Amnesty International is concerned that without increased attention to mental health issues and increased access to mental health facilities in the region, these problems will only increase and have secondary consequences, such as an increase in violent interactions with local police authorities.

KEY FACTS: HEALTH INSURANCE.¹¹⁸

- » In Louisiana, 519,000 people or 20.1% of the population did not have health insurance in 2008.
- » In Mississippi, 869,000 people or 17.9% of the population did not have health insurance in 2008.
- » In Alabama, 561,000 people or 11.9% of the population did not have health insurance in 2008.

LACK OF ACCESS TO PRIMARY AND MENTAL HEALTH CARE IN MISSISSIPPI

During the immediate aftermath of the storm in Mississippi, health care problems primarily related to the ability to access an already overtaxed health care system. Prior to Katrina, many people relied on local clinics for regular care of chronic illness. After the storm, clinics did not have adequate supplies or records to maintain the necessary levels of care. Some clinics were badly damaged by the storm. For instance, Coastal Family Health Clinics, based in Biloxi, lost four of its nine clinics and all medical records, including two sets of backups.¹²⁹ Problems in accessing health facilities were exacerbated by the low numbers of doctors who returned immediately following the storm. Shawn Zehnder Lea, vice president for strategic communications of Mississippi Hospital Association, said, "In Mississippi's rural areas, access to health care, especially primary care physicians, is a growing concern." Before Katrina, fifty-six percent of physicians in the state reportedly practiced in four counties, with two-thirds of Mississippi counties officially labeled as "health professional shortage areas."¹³⁰ Furthermore, twenty-five percent of respondents to a 2008 survey of displaced Mississippi residents cited the emergency department as the primary source of health care services.¹³¹

It was reported to Amnesty International that a major problem facing the coastal community is the dramatic increase in mental health issues and incidents resulting from those problems.¹³² For instance, one study found a dramatic rise in violence among displaced Mississippi residents

"The criminal justice system drives everything in the community. It all intersects with people's lives. People can't get employed or get housing. The criminal justice system both solves people's problems and also causes problems."

AI interview with Norris Henderson, V.O.T.E., 24 February 2010.

since Katrina.¹³³ According to one advocate, "Alcohol, drug and domestic violence abuse all increased after Katrina for people who were self-medicating. Some people went to jail because they were trying to cope."¹³⁴ The increase in mental health issues has been exacerbated by a lack of mental health professionals in the region. Katrina forced many mental health practitioners to leave the Gulf Coast region permanently. The result today is that many providers are short-staffed and cannot give timely attention to all patients. Staff at the Coastal Family Health Center in Biloxi reported that patients wait three to four months to see a specialist.¹³⁵ It was reported to Amnesty International that of those practitioners and clergy that are available to provide therapeutic services in the region, many are overwhelmed by the numbers of people needing mental health services and are suffering from burn-out.¹³⁶

CRIMINAL JUSTICE ISSUES IN NEW ORLEANS

While Amnesty International recognizes that criminal justice issues have been a long standing problem in the Gulf Coast generally and in New Orleans in particular, this report will focus on only a few of the

issues which are affecting residents post-Katrina. The right to equality before the law prohibits discrimination before the law on grounds such as race. Racial profiling, over-policing of particular racial groups, and excessive law enforcement techniques disproportionately affecting particular races violate human rights law and standards. Furthermore, all detained arrestees are "entitled to trial within a reasonable time or to release" and that it "should not be the general rule that persons awaiting trial shall be detained in custody." Amnesty International recognizes and supports Mayor-elect Landrieu's collaborative work with community stakeholders in the process for hiring the new Chief of Police as well as the creation of an independent police oversight system.¹³⁷ However, Amnesty International remains concerned about problems within the criminal justice system in New Orleans and how those problems impact residents who were deeply affected by Hurricane Katrina.

In the days during and immediately after Hurricane Katrina, the criminal justice system failed the people of New Orleans. During the immediate destruction of the storm, the NOPD lost a significant amount of its first responders. While eighty officers

A CLOSER LOOK: POLICE SHOOTINGS ON DANZIGER BRIDGE

On the morning of September 4, 2005, just days after Hurricane Katrina struck, New Orleans Police Department (NOPD) officers shot six people on Danziger Bridge, killing two African-American men.¹³⁸ One of the two people killed was a forty-year-old mentally ill man named Ronald Madison who was shot seven times in the back.¹³⁹

A witness said that “Madison did not appear to have a weapon and that he was running away from police, ‘hands out, full speed’ when he was shot.”¹⁴⁰ Nineteen year old James Brissette was the other murdered victim while another one of the four individuals who was shot lost an arm.¹⁴¹ At the time, the NOPD claimed they were returning fire from “snipers” on the bridge.¹⁴²

In February 2010, a former NOPD supervisor, Michael Lohman, pleaded guilty to participating in a major cover-up aimed at justifying the shootings. He admitted that he “failed to order the collection of evidence or canvassing of witnesses, helped craft police reports riddled with false information, participated in a plan to plant a gun under the bridge and lied to investigators who questioned police actions.”¹⁴³

The Federal Bureau of Investigations and the US Department of Justice’s Civil Rights Division are investigating the incident.¹⁴⁴

themselves needed to be rescued from the roofs of storm damaged houses, one hundred and forty-seven more officers abandoned the NOPD and the people of New Orleans.¹⁴⁵ The NOPD was not alone in this failure. Reports surfaced that deputies from the Sheriff’s Department walked off the job while others resigned when they were forced to stay on at Orleans Parish Prison after the storm, abandoning the detained inmates in the middle of a crisis.¹⁴⁶ Among the abandoned detainees were reportedly between 100-150 juveniles who had been transferred from juvenile facilities to Orleans Parish Prison shortly before the storm.¹⁴⁷ Furthermore, reports of excessive force by police were prevalent with at least ten shootings and four fatalities in the days following Katrina.¹⁴⁸ Mississippi residents experienced similar problems with excessive force in the immediate aftermath of Hurricane Katrina. According to the ACLU, there were many complaints of police

officers using excessive force, including Tasers, during routine traffic stops. Many of these stops reportedly occurred when people violated city-imposed curfews while attempting to retrieve items from their homes or check on relatives.¹⁴⁹

Due to the flooding of the Orleans Parish Prison facility, the NOPD converted the Greyhound bus station into a rudimentary detention center, known as “Camp Greyhound,” to house individuals arrested in the weeks after the storm hit.¹⁵⁰ Media reports of abuse of prisoners and other rights violations were numerous,¹⁵¹ with many of the people detained for minor violations such as curfew violations or accused of looting on questionable grounds. For instance, according to one media account, the first person detained at Camp Greyhound had stolen a rental car and driven to the bus station to buy a ticket in order to evacuate from the city, and another was

accused of stealing an abandoned bus even though he drove sixty people to safety.¹⁵² One article described how some detainees were pressed into forced labor to clean up the court houses, prisons and police stations.¹⁵³ Detainees’ due process rights were also violated. According to some media accounts, prisoners were denied the ability to make phone calls¹⁵⁴ for days and sometimes weeks.¹⁵⁵ Meanwhile, detainees were told by the lone public defender that if they contested the charges against them, they would be sent to Hunt Correctional Center where they would have to wait up to twenty-one days to be processed. Without access to legal counsel, nearly all of the detainees chose to plead guilty and accept community service according to one media account.¹⁵⁶

Amnesty International is concerned that individuals are being detained in pre-trial detention for unnecessarily long periods

of time for even minor violations, and that those who are indigent are unable to access an attorney. Hurricane Katrina flooded the Orleans Parish Criminal District Court.¹⁵⁷ Within days after the hurricane, Governor Kathleen Blanco issued an executive order declaring that because Katrina had “rendered courthouses inoperable and caused ‘destruction and disruption of services and infrastructure to our system of justice,’ all deadlines in legal proceedings would be suspended for thirty days.”¹⁵⁸ Louisiana state statutes require that following an arrest, the state has sixty days to accept or refuse felony charges against a detainee, and 45 days for misdemeanors. If this time passes, the defendant is entitled to be released without any bond obligation.¹⁵⁹ However, reports published during

the year after Hurricane Katrina note that individuals arrested for even minor charges languished in prisons for months, with some spending more time in prison than they would have had they been convicted and sentenced.¹⁶⁰ An advocate who spoke with Amnesty International reported that while the District Attorney’s office implemented an expedited screening process in 2009, as of February 2010, individuals were still being held for as much as 45-60 days for non-violent offenses. He explained that the lengthy pre-trial detention can have a long-term affect on individuals, resulting in a cyclical system of crime and homelessness since they are likely to lose their employment as well as miss rent and be evicted from their apartment while serving a lengthy detention for a crime they

had not even been convicted of. “Crime is economics. People who don’t have are needing to get by. They need living wages. The tourism and service industry do not pay enough so you can’t make a living in those fields. Rents and costs have gone up, but not wages. Criminal justice issues contribute to this. Able-bodied people can’t get employed because of doing time and will need to do crime to survive.”¹⁶¹

Hurricane Katrina also had a devastating effect on the indigent defense system in New Orleans. Under Louisiana law, every criminal defendant must be provided with counsel within 72 hours of arrest.¹⁶² According to reports, chronic underfunding of the indigent defender program had been a problem for more than ten years prior to

A CLOSER LOOK: POLICE ABUSE AND MISCONDUCT IN NEW ORLEANS

Steven Elloie is the manager of a family owned bar in the Central City neighborhood of New Orleans. On June 23, 2006, six to ten NOPD officers entered the bar of the Elloie family and searched the premises without a warrant and without permission¹⁶³ looking for “two young black men wearing blue jeans and white T-shirts.”¹⁶⁴

According to media accounts, Mr. Elloie was in the back store room and came out when he heard the commotion in order to assist the officers. The officers proceeded to beat Mr. Elloie and Taser him two times while one or more officers drew their side arms and threatened the other patrons of the bar. The officers dragged Mr. Elloie out of the bar and charged him with resisting arrest and battery on a police officer.

They then tried to bring him to Orleans Parish Prison, however prison officials refused to admit him with the injuries he sustained until he received medical attention. Mr. Elloie was treated at a hospital for injuries to his head, body and extremities that included multiple bruises, and abrasions, numbness and tingling of his skin as well as an elevated heart rate and high blood pressure.¹⁶⁵

While the charges against Mr. Elloie were later dropped, according to the ACLU, Mr. Elloie filed a complaint with the NOPD’s Public Integrity Bureau (PIB). Although he provided a taped statement and a list of witnesses to the incident, the PIB later classified his allegations as “not sustained” and refused to explain its decision on the complaint.¹⁶⁶ Mr. Elloie filed a lawsuit against the City of New Orleans which was settled in January 2010.¹⁶⁷

Katrina.¹⁶⁸ Prior to Katrina, approximately seventy-five percent of the Orleans Parish Public Defender's budget came from fees and fines imposed on convicted traffic,

“When the police department is forced to do the job of the mental health system, it's a lose-lose situation for everyone.”

Jeffrey C. Rouse, MD, Chief Deputy Coroner for Orleans Parish¹⁶⁹

misdemeanor and felony defendants. However with the lack of enforcement for such crimes after Katrina, the public defender's office could no longer pay its employees and laid off nearly eighty percent of its staff.¹⁷⁰ According to the ACLU, in October 2006, eleven staff attorneys in the public defender's office shared three thousand cases.¹⁷¹ Advocates who spoke with Amnesty International described how the public defender's office covers eighty-eight percent of all traffic or criminal cases, but is only funded at about thirty percent of the District Attorney's office.¹⁷² According to one news article, in March 2009 the public defender's office stopped accepting low level cases due to the office's workload being too high.¹⁷³ With eighty to ninety percent of the defendants in the criminal justice system being indigent,¹⁷⁴ it is imperative to fully fund and staff the public defender's office to not only provide proper representation, but to also assist individuals from being detained for long periods of time in pre-trial detention unnecessarily.

Amnesty International is concerned about the increase in violent interactions between NOPD officers and mentally ill residents in New Orleans, exacerbated by the increased rate of mental health issues since Katrina, the high number of homeless residents with mental issues, and the lack of mental health care. Mental health officials and law enforcement agencies in the New Orleans area have reported a sharp increase in the number of requests to pick up mentally ill patients, a rise in the number of people who resist violently, or both.¹⁷⁵ The New Orleans police estimate they get at least 200 calls a month to take a person in crisis to the hospital.¹⁷⁶ Meanwhile, accounts of deadly interactions between police and mentally ill residents continue to be reported in the media.¹⁷⁷ One advocate who spoke with Amnesty International noted, “You have to get arrested in order to get any mental health help in New Orleans.”¹⁷⁸ Dr. Jeffrey Rouse, the deputy psychiatric coroner for Orleans Parish, reported that the rise in violent resistance since Katrina is a direct result of the all but total obliteration of the mental health system in the New Orleans area. “There is no effective mental health infrastructure for the most severely mentally ill, the psychotic, the dangerous and the suicidal people who need to be hospitalized,” he said.¹⁷⁹ Amnesty International is concerned that the inability to provide mental health care will only perpetuate this problem for the foreseeable future in New Orleans.

NATIONAL DISASTER RECOVERY FRAMEWORK

On 27 August 2009, FEMA announced that it had established the National Disaster Recovery Framework Working Group to create a comprehensive coordinating structure that will effectively deliver recovery assistance.¹⁸⁰

The Working Group drafted the National Disaster Recovery Framework (NDRF).¹⁸¹ The NDRF outlines “scalable, flexible and adaptable coordinating structures” for disaster recovery efforts by government officials, businesspeople, nonprofits and individuals.¹⁸² It is to act as a companion to the National Response Framework (NRF) issued by FEMA in 2008. While the NRF addresses disaster first-response activities, the NDRF will address long-term recovery processes and focus on the full restoration of social services, infrastructure, schools, case management, economic revitalization and many other areas needed to move an “impacted community...toward self-sufficiency, sustainability and resilience.”¹⁸³ The Working Group held meetings around the US to solicit input from stakeholders in government and civil society, and has produced a draft, which was available for public comments with a final version intended for release on June 1, 2010.¹⁸⁴

While Amnesty International commends the Working Group for recognizing the need to create a long term disaster policy, Amnesty International is concerned that the NDRF will not have the force of law or any binding effect on the federal agencies in charge of disaster response nor does it provide specific and enforceable rights for IDPs who are affected by a disaster. Other organizations have also voiced concerns regarding the current draft of the NDRF.¹⁸⁵ While the

NDRF does call for greater federal oversight¹⁸⁶ as well as recognize that non-profit organizations “play a critical role” in a successful recovery¹⁸⁷, without the force of law and without incorporating the UN Guiding Principles for Internal Displacement, Amnesty International is concerned that the problems that occurred in the Gulf Coast in the aftermath of Hurricane Katrina will be perpetuated in any future disaster response by the Federal government.

CONCLUSION

Internally displaced persons are typically among the most vulnerable populations, often coming from disadvantaged racial and ethnic groups and poverty-stricken communities. They are dependent on often antagonistic or non-responsive governments that allowed or enabled the conditions that created the displacement.

To help support this population, the United Nations High Commissioner for Human Rights developed the Guiding Principles on Internal Displacement. These principles consider IDPs to be:

“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.”

The Guiding Principles note that national authorities have the primary duty to protect the public from experiencing conditions

leading to displacement. When displacement occurs, national authorities are to provide humanitarian assistance without discrimination. They are to ensure IDPs are accorded full equality in the exercise of all human rights as do other persons in that country. They also have the right to an adequate standard of living including adequate food, water, housing, as well as the right to education and to the highest attainable standard of health including access to adequate health services.

The United States has endorsed and called attention to the Principles on multiple occasions. The U.S. Agency for International Development (USAID) has noted: “Governing authorities in affected countries hold primary responsibility for IDPs; their wellbeing, security, safe return home and resettlement.”¹⁸⁸ Department of Homeland Security Special Advisor Igor Timofeyev has noted, “The United States strongly supports these voluntary principles and recognizes that they provide a useful framework in addressing the numerous challenges posed by internal displacement. Indeed, they articulate multiple important protections that also find expression in the Covenant [on Civil and Political Rights] which is of course a legally binding treaty.”¹⁸⁹

In 2006, the UN Human Rights Committee urged the United States to review its practices and policies to ensure the full implementation of its obligation to protect life and of the prohibition of discrimination against IDPs, whether direct or indirect, as well as of the Guiding Principles on Internal Displacement, in the areas of disaster prevention and preparedness, emergency

assistance and relief measures. It further urged the United States to increase its efforts to ensure that the rights of poor people and in particular African-Americans, are fully taken into consideration in the post-Katrina reconstruction plans with regard to access to housing, education and health care.¹⁹⁰

Nearly five years after the devastating impact of Hurricane Katrina, decisions made and actions taken at the federal, state and local levels have severely impacted Gulf Coast residents’ rights to adequate housing, health and equal access to the criminal justice system. Rights violations in these three areas not only are mutually reinforcing, but also combine to have a disproportionate impact, severely affecting low income communities and communities of color while creating the circumstances which prevent their return. As result, the demographics of the region are being permanently altered, in contravention of the UN Guiding Principles on Internal Displacement.¹⁹¹ One way to prevent these human rights violations from being committed during future disasters is to amend the Stafford Act, the principle statute used by the federal government during disaster recovery, to bring it in line with international law and standards including the UN Guiding Principles.

INTERNATIONAL HUMAN RIGHTS STANDARDS

Amnesty International believes that the best and most effective way to secure and rebuild lives in the wake of Hurricane Katrina is by respecting, protecting and fulfilling the human rights of those affected.

THE RIGHT TO EQUALITY BEFORE THE LAW

The right to equality before the law prohibits discrimination before the law on grounds such as race. The Universal Declaration of Human Rights (UDHR) affirms the right to equality before the law.

“All are equal before the law and are entitled without any discrimination to equal protection of the law.”

Article 7, Universal Declaration of Human Rights

Equality before the law as a human right has been reaffirmed in the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Article 26 of the ICCPR specifically prohibits discrimination under the law and guarantees equal protection of the law. Article 5 of ICERD guarantees the right to equality before the law, specifically in the enjoyment of “[t]he right to equal treatment before the tribunal and all other organs administering justice” and “the right to security of person and protec-

tion by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.”¹⁹² The ICERD prohibits policies or practices that are discriminatory in either purpose or effect.¹⁹³ The UN Human Rights Committee has also noted that the ICCPR’s prohibition on discrimination should be understood to encompass both discriminatory impact purposes and effects.¹⁹⁴ Therefore, policies or practices that have a disproportionate impact on a protected group may be discriminatory in effect and so in breach of international law.¹⁹⁵ The US has not adhered to this understanding of the prohibition on discrimination, and in most cases federal courts only protect against discrimination that can be shown to arise from discriminatory intent. The United States’ approach has been rejected by the Committee on the Elimination of Racial Discrimination, the body charged with interpreting the ICERD.¹⁹⁶

The Committee on the Elimination of Racial Discrimination has expressed its concern regarding racial discrimination in the administration and functioning of the US criminal justice system and “*the disproportionate number of persons belonging to racial, ethnic and national minorities in the prison population, allegedly due to the harsher treatment that defendants belonging to these minorities, especially African American persons, receive at various stages of criminal proceedings.*”¹⁹⁷ In order to meet its obligations under Article 5(a) of the International Convention on the Elimination of all Forms of Racial Discrimination, the Committee has recommended that the US “*take all necessary steps to guarantee the right of everyone to equal treatment before*

tribunals and all other organs administering justice, including further studies to determine the nature and scope of the problem, and the implementation of national strategies or plans of action aimed at the elimination of structural racial discrimination.”¹⁹⁸

The UN Human Rights Committee has expressed concerns about human rights violations related to Hurricane Katrina, specifically regarding “*information that the poor, and in particular African-Americans, were disadvantaged by the rescue and evacuation plans implemented when Hurricane Katrina hit the United States, and continue to be disadvantaged under the reconstruction plans.*”¹⁹⁹ The Committee has requested “*the results of the inquiries into the alleged failure to evacuate prisoners at the Parish prison, as well as the allegations that New Orleans residents were not permitted by law enforcement officials to cross the Greater New Orleans Bridge to Gretna, Louisiana.*”²⁰⁰ The Committee declared that the US should review its policies and practices to ensure full implementation of its obligations under Article 6 and Article 26 of ICCPR “*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 matters related to disaster prevention and preparedness, emergency assistance and relief measures.*”²⁰¹

Racial profiling, over-policing of particular racial groups, and excessive law enforcement techniques disproportionately affecting particular races violate human rights obligations under the Universal Declaration of Human Rights,²⁰² the International Cove-

nant on Civil and Political Rights,²⁰³ and the International Convention on the Elimination of all Forms of Racial Discrimination.²⁰⁴

ADEQUATE HOUSING AS A HUMAN RIGHT

The right to adequate housing guarantees access to a safe, habitable, and affordable home with protection against forced eviction. Without adequate housing, an individual is vulnerable to human and natural forces, compromising other human rights including family life, health, education, employment and privacy. The right to adequate housing is guaranteed under international law and standards, starting with the foundational Universal Declaration of Human Rights.

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care ...”

Article 25, *Universal Declaration of Human Rights (UDHR)*.

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in 1948. The right to adequate housing has been reaffirmed in the International Convention on the Elimination of All Forms of Racial Discrimination, to which the US is a party. That treaty states:

“States parties undertake to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin to equality before the law, notably in the enjoyment of the following rights:...(e) in particular... (iii) the right to housing.”

Article 5, *International Convention on the Elimination*

of All Forms of Racial Discrimination (ICERD).

The right to adequate housing is also protected in Article 14(2)(h) of the International Convention on the Elimination of Discrimination Against Women, Article 27(3) of the Convention on the Rights of the Child, and Article 11 of the International Covenant on Economic, Social and Cultural Rights, all of which have been signed, but not ratified, by the United States.

The status of the right to adequate housing in international human rights law and standards, including in conventions which the US has signed and ratified, is clear and unequivocal. States’ obligations related to the right to adequate housing include to respect that right through non-interference, to protect it from interference by third parties, and to fulfill the right through concrete, targeted and effective steps to achieve progressively the full realization of the right, including through prohibiting and eliminating discrimination in the realization of the right, and prioritizing the most vulnerable, including those affected by natural disasters.²⁰⁵

THE RIGHT TO HEALTH

States shall “recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

Article 12(1), *International Covenant on Economic, Social and Cultural Rights (ICESCR)*.

The right to the “highest attainable standard of physical and mental health” encompasses both freedoms (such as the right to control one’s health and body) and entitlements (for example, to equality of

access to health care), and consists of two basic components: healthy living conditions and health care.²⁰⁶

The right to health is recognized in the constitution of the World Health Organization to which the US is a party, and in Article 5(e)(iv) of the ICERD to which the US is also a party. The latter states that “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of ... the right to public health, medical care, social security and social services.”²⁰⁷ Furthermore, Article 12(2)(d) of the ICESCR states that “steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: ...The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”²⁰⁸

The Committee on Economic, Social and Cultural Rights (the body of independent experts which monitors implementation of the International Covenant on Economic, Social and Cultural Rights) had interpreted the right to health as: “an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information ... A further important aspect is the participation of the population in all health-

related decision making at the community, national and international levels.”²⁰⁹ The Committee has outlined four interrelated and essential elements to the right of health which include: *availability*,²¹⁰ *accessibility*, *acceptability* and *quality*. With regards to accessibility, the Committee designates four overlapping designations, including: *non-discrimination*,²¹¹ *physical accessibility*,²¹² *economic accessibility*,²¹³ and *information accessibility*.

The US has signed but not ratified the International Covenant on Economic, Social and Cultural Rights. As a signatory, the U.S. is obligated not to defeat the object and purpose of the Covenant.²¹⁴

THE RIGHT TO LIBERTY AND SECURITY OF THE PERSON

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Article 9(1), *International Covenant on Civil and Political Rights*.

The right to liberty and security of the person is protected in Article 9 of the IC-CPR. The right to a speedy trial is guaranteed under Article 9(3), which states that all detained arrestees are “entitled to trial within a reasonable time or to release” and that it “should not be the general rule that persons awaiting trial shall be detained in custody.” Article 9(4) protects detainees from unlawful detention, stating that “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take

proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”

UNITED NATION'S GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

The United Nations General Assembly adopted the “UN Guiding Principles for Internally Displaced Persons,”²¹⁵ (the Guiding Principles) which set out authoritative standards based on existing instruments of international human rights and humanitarian law. The Federal Government’s United States Agency for International Development has recognized that the Guiding Principles offer a useful tool and framework for dealing with internally displaced persons.²¹⁶

“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.”

Principle 1, *United Nations Guiding Principles on Internal Displacement*

“Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence. The prohibition of arbitrary displacement includes displacement...in cases of disasters, unless the safety and health of those affected requires their evacuation... Displacement shall last no longer than required by the circumstances.”

Principle 6, *United Nations Guiding Principles on Internal Displacement*

“... [A]uthorities shall provide internally displaced persons with and ensure safe access to essential medical services...”

Principle 18(4), *United Nations Guiding Principles on Internal Displacement*

The Guiding Principles offer protection from forced displacement and protection to displaced persons at all stages of displacement: during displacement (including humanitarian assistance) and in the return, resettlement and reintegration processes. These principles have been systematically undermined in the aftermath of Hurricane Katrina.

“... [A]uthorities 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.”

Principle 28(1), *United Nations Guiding Principles on Internal Displacement*

“Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of the return or resettlement and reintegration.”

Principle 28(2), *United Nations Guiding Principles on Internal Displacement*

In addition to providing guidance on the protection of internally displaced persons from arbitrary displacement, and their protection during displacement from their homes or places of habitual residence, the Guiding Principles provide guidance on duties and responsibilities of the state and other actors in relation to return, resettlement and reintegration of displaced

persons, stressing in this process the fundamental importance of the principle of returning or resettling voluntarily, and in conditions of dignity and safety. In particular, Principle 29(2) observes the duty of the authorities to assist displaced persons to recover their property and notes in this regard that “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.” This reflects the obligation of states parties to the ICCPR to ensure an “effective remedy”²¹⁷ and a general trend in human rights and refugee law towards recognizing a right to restitution of property, whether destroyed or occupied, or to compensation for its loss.²¹⁸

In terms of return, reintegration or resettlement, the authorities must ensure that any solutions are sustainable and that an individual does not suffer multiple cycles of displacement. Relocating displaced persons to places of insecurity or to places where they cannot enjoy basic economic, social and cultural rights and are therefore unsustainable may breach a range of human rights standards.

The Principles on Housing Property Restitution for Refugees and Displaced Persons, submitted to the UN Sub Commission for the Promotion and Protection of Human Rights in the 2005 final report of the Special Rapporteur Paulo Sérgio Pinheiro,²¹⁹ are based on existing international human rights and humanitarian law and standards. They recognize the right to adequate housing²²⁰ and the right of refugees or displaced persons to fully participate in the planning

and management of their return or resettlement and reintegration.²²¹ For example, international standards state that:

“States should ensure that the rights of tenants, social-occupancy rights holder and other legitimate occupants or users of housing, land and property are recognized within restitution programmes. To the maximum extent possible, States should ensure that such persons are able to return to and repossess and use their housing, land and property in a similar manner to those possessing formal ownership rights.”

Principle 16.1 United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons²²²

The U.N. Human Rights Committee (the ICCPR monitoring body) has urged the US to review its practices and policies to ensure the full implementation of its obligations to protect life and to prohibit discrimination against displaced persons; whether direct or indirect, as well as of the Guiding Principles on Internal Displacement. It further urged the U.S. to increase its efforts to ensure that the rights of poor people and in particular African-Americans, are fully taken into consideration in the post-Katrina reconstruction plans with respect to access to housing and health care.²²³

RECOMMENDATIONS

The response to Hurricane Katrina was woefully inadequate and demonstrated the urgent need for the United States to develop a comprehensive plan encompassing both initial disaster response and long term disaster recovery. Amnesty International calls for immediate action to ensure that human rights principles are integrated into disaster relief planning, including through the measures described below.

1. The US Congress should amend the Stafford Act to incorporate the U.N. Guiding Principles on Internal Displacement and bring it into line with international law and standards. The Stafford Act should include:
 - › a Humanitarian Assistance Program
 - › a Return and Transition Assistance Program
 - › a Long-Term Development Assistance Program
 - › Protections of all rights of displaced persons during displacement and recovery
 - › Durability of Solutions, whereby explicit recognition of displaced status does not end until solutions have proven to be lasting
2. The Stafford Act should also be amended to ensure the right of all impacted individuals and communities to participate in decisions related to the right to return. Communication and coordination with impacted individuals and non-governmental organizations on the ground is essential in order to address particular local issues for individuals during the recovery process from a disaster.
3. Federal, state and local agencies should provide effective case management assistance for individuals affected by disasters in order to aid them in navigating the appropriate agencies and programs to access housing and health care services during both the immediate aftermath of a disaster and the long-term recovery process.
4. Federal, state and local governments should ensure that all persons displaced by Hurricane Katrina are guaranteed their right to return to their former homes without discrimination or be compensated for any housing that is impossible to restore as determined by a competent, impartial tribunal.
5. Federal, state and local governments should ensure that all Gulf Coast residents return to adequate housing and an environment which is consistent with the right to the highest attainable standard of health.²²⁴

Specifically:

- » The United States government, through its agencies, should recognize that all Internally Displaced Persons have the right to return to their homes or places of origin; authorities should ensure the availability of housing for low income persons who were displaced and are returning to the Gulf Coast.
- » The United States government, through its agencies, should ensure that the principles of equality and non-discrimination are applied to the resettlement and return of all internally displaced persons.
- » Internally displaced persons should be able to participate in the planning and management of their return, resettlement and reintegration into their communities. Authorities should ensure that survivors have access to information to enable them to genuinely and

effectively participate in shaping the administrative decisions which affect the exercise of their housing rights.

- » All decisions regarding the replacement of public housing unit should be made in close consultation with former residents. In particular, demolition of any public housing units should be replaced on a one-for-one basis.
- » Authorities should develop transitional and permanent housing plans in consultation with and the participation of survivors that will enable resettlement and reintegration, and respect their human rights.
- » Designate a separate category for governmental response to a catastrophic national disaster that is defined as one that results in or contributes to displacing a percentage of a population in a local jurisdiction.
 - › In this category, the federal government has primary responsibility for disaster recovery that requires the development and implementation of the following programs that are designed to meet the needs of all displaced persons, including those who are most acutely vulnerable, as well as respect the cultural traditions of displaced persons
 - » Humanitarian Assistance Program that includes, at minimum, the provision of housing, food, water, health care, access to education, vocational training, and financial assistance grants for the duration of the displacement;
 - » Return and Transition Assistance Program that includes, at minimum, the provision of transportation to return home, grants to rebuild homes and businesses, and ensuring public participation of displaced individuals in the planning and implementation of federal, state, and local governmental recovery efforts; and
 - » Long-Term Development Assistance Program that includes, at minimum, the repair, replacement or construction of damaged infrastructure, health care systems, and school.
 - › In this category, the federal government has primary responsibility for disaster recovery which ensures that persons who are displaced by a catastrophic disaster have the following protections:
 - » displaced persons are able to access personal documentation which is typically needed to vote and to access public services, education, and health care;
 - » displaced persons have access to public services, including education, health services, and pensions;
 - » displaced persons have access to family reunification and restoration of community links;
 - » displaced persons have access to employment and vocational training;
 - » displaced persons receive adequate support for the rebuilding of permanent homes and businesses;
 - » displaced persons enjoy an adequate standard of living;
 - » displaced persons are able to fully and meaningfully participate in public affairs at all levels, including the right to vote, to stand for public office, and to participate in the planning and management of their return, resettlement, and reintegration;
 - » displaced persons can voluntarily choose to return, resettle, or reintegrate, and have access to accurate information necessary for making an informed choice;
 - » displaced persons have a right to governmental assistance and protection that does not intentionally discriminate or result in a discriminatory impact;
 - › Durability of Solutions: There is explicit recognition that displaced status does not end until solutions have proven to be lasting, including
 - » Social reintegration: access to public services, including education, health services and pensions; family reunification; restoration of community links.
 - » Economic reintegration: access to employment; support for the rebuilding of permanent homes; assistance must meet the needs of the most acutely vulnerable.

ENDNOTES

- 1 See National Climatic Data Center, Summary of Hurricane Katrina, available at: <http://www.ncdc.noaa.gov/oa/climate/research/2005/katrina.html>, last visited 1 April 2010.
- 2 National Climatic Data Center, US Department of Commerce, *Hurricane Katrina: A Climatological Perspective, Preliminary Report*, October 2005, Updated August 2006, p 3; available at: <http://www.ncdc.noaa.gov/oa/reports/tech-report-200501z.pdf>, last visited 1 April 2010.
- 3 Struck, Doug and Dana Milbank, *Rita Spares Cities, Devastates Rural Areas*, The Washington Post, 26 September 2005, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/25/AR2005092500335.html>, last visited 1 April 2010.
- 4 See *Hurricane Katrina Response and Recovery Update*, Federal Emergency Management Agency, News Release HQ-05-198B, 4 September 2005, available at: <http://www.fema.gov/news/newsrelease.fema?id=18602>, last visited 1 April 2010.
- 5 Logan, John, *The Impact of Katrina: Race and Class in Storm-Damaged Neighborhoods*, Brown University, January 2006, at 7, available at: <http://www.s4.brown.edu/Katrina/report.pdf>, last visited 1 April 2010; see also the Department of Health and Human Services website, The 2005 HHS Poverty Guidelines, available at: <http://aspe.hhs.gov/poverty/05poverty.shtml>, last visited 1 April 2010.
- 6 O'Keefe, Ed, *Gulf Coast Worried About 2010 Census*, The Washington Post, 5 August 2009, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2009/08/04/AR2009080402939.html>, last visited 1 April 2010.
- 7 According to US Census estimates, Orleans Parish has regained sixty eight percent of its population numbers while St. Bernard Parish has regained fifty-eight percent. See Greater New Orleans Community Data Center, The New Orleans Index, Statistical Tables, Table 1: Total Population Estimates, available at: <http://www.gnocdc.org/NewOrleansIndex/index.html>, last visited 1 April 2010.
- 8 Johnson, Patrik, *In New Orleans, One Battered Community Coming Back, But Different*, The Christian Science Monitor, 29 August 2007, available at: <http://www.csmonitor.com/2007/0829/p01s06-ussc.html>, last visited 1 April 2010.
- 9 42 U.S.C. §5141
- 10 Video on Mayday New Orleans website, available at: http://www.maydaynolahousing.org/?page_id=201, last visited 1 April 2010.
- 11 Office of the Governor of Mississippi, *Information Related to the Federal Appropriations for Katrina Recovery*, Press Release, 3 January 2006.
- 12 Public Law 109-135 (2005).
- 13 Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs, United States Senate, *Far From Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement*, February 26, 2009, available at: http://hsgac.senate.gov/public/_files/DisasterHousingInves.pdf, last visited 1 April 2010.
- 14 Bishaw, Alemayehu and Trudi J. Renwick, *Poverty: 2007 and 2008 American Community Surveys*, US Census, September 2009, p. 4, available at: <http://www.census.gov/prod/2009pubs/acsbr08-1.pdf>, last visited 1 April 2010.
- 15 Amnesty International interview with Dr. Kimberley Richards, Organizer, The People's Institute for Survival and Beyond, 10 February 2010.
- 16 Christopher Tidmore, *Public Housing Redevelopment Sparks Multi-City Protest & Lawsuit*, The Louisiana Weekly, 3 July 2006.
- 17 Reckdahl, Katy, *Critics Question Whether New Orleans Public Housing Will Meet Needs*, The Times-Picayune, 8 December 2008, available at: http://www.nola.com/news/index.ssf/2008/12/critics_question_whether_new_n.html#, last visited 1 April 2010.
- 18 Rose, Kalima, et al. *A Long Way Home: The State of Housing Recovery in Louisiana 2008*, PolicyLink, p. 22, available at <http://policylink.info/threeyears/equityatlas.pdf>, last visited 1 April 2010.
- 19 Reckdahl, Katy, *New Orleans Public Housing Complex Gets New Life as Harmony Oaks*, The Times Picayune, 24 February 2010, available at: http://www.nola.com/politics/index.ssf/2010/02/new_orleans_public_housing_com.html, last visited 1 April 2010.
- 20 Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context, Raquel Rolnik, on her Mission to the United States of America, 12 February 2010, A/HRC/13/20/Add 4, available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.20.Add.4_AEV.pdf, last visited 1 April 2010.
- 21 Amnesty International interview with Jessica Venegas, Field Manager, Unity of Greater New Orleans, 2 March 2010.
- 22 Reckdahl, Katy, *Rebuilt Central City Homes Offering a New Lease on Life; Former C.J. Peete, St. Bernard Apartments Are Almost Ready*, The Times Picayune, 24 February 2010.
- 23 Alpert, Bruce, *Congress Works on Refilling FEMA's Disaster Fund; \$5.1 Billion Sought to Continue Plans*, The Times Picayune, 11 March 2010, p. A5.
- 24 Reckdahl, Katy, *HANO Loan Kick-Starts Plans for Lafitte; Apartments to be Built in 6th Ward*, The Times Picayune, 24 February 2010, p. B1.
- 25 Alpert, Bruce, *Congress Works on Refilling FEMA's Disaster Fund; \$5.1 Billion Sought to Continue Plans*, The Times Picayune, 11 March 2010, p. A5.
- 26 Amnesty International interview with Dr. Kimberley Richards, The Peoples Institute for Survival and Beyond, 10 February 2010.
- 27 Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010; Amnesty International interview with Roberta Avila, Executive Director, Steps Coalition, 12 February 2010; Amnesty International interview with Charmel Gauden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.
- 28 Amnesty International interview with Charmel Gauden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.
- 29 See South Mississippi Housing and Development Corporation website, available at: <http://www.smhd.org/about/our-organization/>, last visited 1 April 2010.
- 30 Amnesty International interview with Charmel Gauden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010. See also NPR Transcripts, *Poor Squeezed in Mississippi Housing Shortage*, NPR, 16 November 2005, available at: <http://www.npr.org/templates/story/story.php?storyId=5015626>, last visited 1 April 2010.
- 31 Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010; Amnesty International interview with Charmel Gauden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.
- 32 Lee, Anita, *Coast's Poorest Still in a Housing Pinch*, The Biloxi Sun Herald, 19 December 2009.
- 33 Evans, Stephen, *Broken Homes: First Hand Accounts of Living Through Louisiana's Housing Crisis - Part 1: Affordable Housing*, Louisiana Family Recovery Corps, 29 June 2009, p.9, available at: <http://www.recoverycorps.org/media/files/brokenhomes-part1.pdf>, last visited 1 April 2010.
- 34 Reckdahl, Katy, *How Much Affordable Housing does New Orleans Have and How Much Does it Need?*, The Times-Picayune, 10 October 2009, available at: http://www.nola.com/politics/index.ssf/2009/10/how_much_affordable_housing_do.html, last visited 1 April 2010.
- 35 Liu, Amy, The New Orleans Index Anniversary Edition: Four Years After Katrina, The Brookings Institution Metropolitan Policy Program, 2009, p. 6-7, available at: <https://gnocdc.s3.amazonaws.com/NOLAIndex/NOLAIndex.pdf>, last visited 1 April 2010.
- 36 The United States Department of Housing and Urban Development considers housing unaffordable if monthly housing expenses (including utilities) surpass 30% of a household's monthly income. See HUD website at: <http://www.hud.gov/offices/cpd/affordable-housing/index.cfm>, last visited 1 April 2010.
- 37 Fifty-six percent of very low income households in New Orleans were paying more than half of their income for housing prior to the storms. See Popkin, Susan, et al, *Rebuilding Affordable Housing in New Orleans: The Challenge of Creating Inclusive Communities*, The Urban Institute, January 2006, available at: http://www.urban.org/UploadedPDF/900914_affordable_housing.pdf, last visited 1 April 2010.
- 38 Meitrodt, Jeffrey, *Rising Rent*, The Times-Picayune, 15 October 2006, p. 1.
- 39 Liu, The New Orleans Index Anniversary Edition: Four Years After Katrina, p. 6-7.
- 40 Kalima, *A Long Way Home: The State of Housing Recovery in Louisiana 2008*, at 6.
- 41 US Government Accountability Office, *Disaster Assistance: Federal Assistance for Permanent Housing Primarily Benefited Homeowners; Opportunities Exist to Better Target Rental Housing Needs*, January 2010, p. 28, available at: <http://www.gao.gov/new.items/d1017.pdf>, last visited 1 April 2010.
- 42 US Government Accountability Office, *Disaster Housing: FEMA Needs More Detailed Guidance and Performance Measures to Help Ensure Effective Assistance after Major Disasters*, August 2009, pp.

11-13, available at: <http://www.gao.gov/new.items/d09796.pdf>, last visited 1 April 2010.

43 Plyer, Allison et al, *Housing Production Needs: Three Scenarios for New Orleans*, The Greater New Orleans Community Data Center, Annual Report, November 2009, p. 15, available at: <https://gnocdc.s3.amazonaws.com/reports/GNOCDCHousingProductionNeeds2009.pdf>, last visited 1 April 2010.

44 Sasser, Bill, *Surge in Homeless Hits New Orleans*, The Christian Science Monitor, 28 March 2007, available at: <http://www.csmonitor.com/2007/0328/p03s03-ussc.html>, last visited 1 April 2010.

45 Dewan, Shaila, *Resources Scarce, Homelessness Persists in New Orleans*, The New York Times, 28 May 2008, available at: <http://www.nytimes.com/2008/05/28/us/28tent.html>, last visited 1 April 2010.

46 Reckdahl, *How Much Affordable Housing does New Orleans Have and How Much Does it Need?*; Chacko, Sarah, *LRA Allocates \$5 million to Redress Tainted Drywall*, Baton Rouge Advocate, 13 November 2009, p. A13.

47 The Disaster Housing Assistance Program ("DHAP") is an interagency agreement between FEMA and HUD that replaced FEMA's rental assistance program in late 2007. In response to an estimated 45,000 families that remained in FEMA housing when the program began, DHAP was created to use the public housing resources of HUD to alleviate an extended problem that HUD was more structurally suited to handle than FEMA. See FEMA Disaster Housing Strategy, Testimony of Milan Ozdinec, Deputy Assistant Secretary, U.S. Department of Housing and Urban Development Before the Senate Ad Hoc Subcommittee of State, Local and Private Sector Preparedness and Integration, 110th Congress, 8 March 2008.

48 Pic Adams, Jane, *Case Management Organizations Receive Grants*, The Times-Picayune, 15 November 2009, p. D4.

49 See Mississippi Alternative Housing Program website at: <http://mscottage.org>, last visited 1 April 2010.

50 *Hurricane Katrina: Has Mississippi Fallen Further Behind?*, The Steps Coalition, 29 August 2009, pp. 14-15, available at: http://www.stepscoalition.org/downloads/news/reports/k+4_report-update.pdf, last visited 1 April 2010. Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010.

51 Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010; See also Mississippi Center for Justice website, available at: http://www.mscenterforjustice.org/featured-article.php?article_id=110, last visited 1 April 2010.

52 Gulfport passed a local ordinance in January 2009 to allow a limited number of cottages to become permanent housing, with the stipulation that they were already in use by December 1, 2008, that they are placed on permanent foundations by May 1, 2009 and so long as all neighbors living in a 160 foot radius of the structure do not disapprove of its permanent placement. Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010; Burton, Keith, *Gulfport to Allow Permanent MEMA Cottages*, Gulf Coast News, 16 January 2009, available at: <http://www.gulfcoastnews.com/GCNNewsGulfportCottages011609.htm>, last visited 1 April 2010.

53 Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, February 11, 2010.

54 Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010; Amnesty International interview with Charmel Gaulden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.

55 Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010.

56 See Mississippi Alternative Housing website; Amnesty International interview with Charmel Gaulden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.

57 Newsom, Michael, *New Study Looks at Housing on Coast*, The Biloxi Sun Herald, 4 February 2009.

58 Liu, *The New Orleans Index Anniversary Edition: Four Years After Katrina*, p. 12.

59 Kalima, *A Long Way Home: The State of Housing Recovery in Louisiana 2008*, p. 38.

60 Amnesty International interview with Andrew Canter, Attorney, Mississippi Center for Justice, 11 February 2010; Amnesty International interview with Charmel Gaulden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.

61 Lee, Anita, *Some Won't Accept Rental Help*, The Biloxi Sun Herald, 7 January 2010.

62 Newsom, *New Study Looks at Housing on Coast*; Amnesty International interview with Charmel Gaulden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.

63 See Road Home website at: <http://road2la.org/homeowner/default.htm>, last visited 1 April 2010.

64 Finger, Davida, *Hurricane Katrina: Stranded and Squandered: Lost on the Road Home*, 7 Seattle Journal of Social Justice, 59, 73-82, Winter 2008.

65 Kalima, *A Long Way Home: The State of Housing Recovery in Louisiana 2008*, p. 42.

66 Hammer, David, *Did Road Home Treat All Neighborhoods Fairly?*, The Times Picayune, May 27, 2008.

67 Kalima, *A Long Way Home: The State of Housing Recovery in Louisiana*, p. 7.

68 Liu, *The New Orleans Index Anniversary Edition: Four Years After Katrina*, p. 20.

69 *Hurricane Katrina: Has Mississippi Fallen Further Behind?*, pp. 4-5.

70 *Hurricane Katrina: Has Mississippi Fallen Further Behind?*, p. 16.

71 Stuckey, Mike, *Feds OK Mississippi's Katrina Grant Diversion*, MSNBC.com, 25 January 2008, available at: <http://www.msnbc.msn.com/id/22805282/>, last visited 1 April 2010. In December 2008, several organizations filed a lawsuit to prevent the diversion of the money, however the Federal judge hearing the case ruled that the plaintiffs lacked standing to bring the lawsuit and threw the case out of court in January 2010. See *NAACP wants Katrina Funds Case Reinstated*, The Associated Press, 23 February 2010.

72 Amnesty International interview with Roberta Avila, Steps Coalition, 12 February 2010.

73 *NAACP wants Katrina Funds Case Reinstated*, The Associated Press, 23 February 2010.

74 Amnesty International interview with Roberta Avila, Executive Director, Steps Coalition, 12 February 2010.

75 Amnesty International interview with Roberta Avila, Executive Director, Steps Coalition, 12 February 2010.

76 Statement of Craig H. Baab, Alabama Appleseed Center for Law and Justice, Inc., Subcommittee on Housing and Community Opportunity of the Committee on Financial Services, US House of Representatives, 8 May 2008, available at: <http://financialservices.house.gov/hearing110/baab.pdf>, last visited 1 April 2010.

77 Sayre, Katherine, *Katrina: Four Years After the Storm*, Press-Register, 29 August 2009.

78 Letter from Bill Johnson, Director, Alabama Department of Economic and Community Affairs, to Congresswoman Maxine Waters, Chairwoman, US House of Representatives, Subcommittee on Housing and Community Opportunity, 17 April 2009. (Letter on file with Amnesty International).

79 Amnesty International interview with Zack Carter, Advocate, Alabama-Arise, 25 February 2010.

80 See, Article 12, International Convention on Economic, Social, and Cultural Rights; Article 5 (e)(iv), International Convention on the Elimination of All Forms of Racial Discrimination, and Article 11.1 (f), Convention on the Elimination of All Forms of Discrimination Against Women.

81 O'Keefe, *Gulf Coast Worried About 2010 Census*.

82 According to US Census estimates, Orleans Parish has regained sixty eight percent of its population numbers while St. Bernard Parish has regained fifty-eight percent. See Greater New Orleans Community Data Center, The New Orleans Index, Statistical Tables, Table 1: Total Population Estimates.

83 See Greater New Orleans Community Data Center, The New Orleans Index, Statistical Tables, Table 36: Open Public Schools in New Orleans Metro Area by Parish.

84 See Greater New Orleans Community Data Center, The New Orleans Index, Statistical Tables, Table 43: Open Child Care Centers in New Orleans Metro Area & Louisiana.

85 See Greater New Orleans Community Data Center, The New Orleans Index, Statistical Tables, Table 42: Open State-licensed Hospitals by Parish.

86 *A Pre-Katrina Look at the Health Care Delivery System for Low Income People in New Orleans*, Kaiser Commission on Medicaid and the Uninsured, Kaiser Family Foundation, January 2006, p. 1, available at: <http://www.kff.org/uninsured/upload/7442.pdf>, last visited 1 April 2010.

87 Arrillaga, Pauline, *New Orleans Nurses Turn Home Into Clinic*, USA Today, 13 January 2008, available at: http://www.usatoday.com/news/nation/2008-01-13-2845774646_x.htm, last visited 1 April 2010.

88 The PCASG was awarded to the Louisiana Department of Health and Hospitals (DHH) and is administered by the Louisiana Public Health Institute (LPHI) as the local partner of DHH. PCASG is a \$100 million dollar grant program designed to meet the increase demand for health care services in the four-Parish Greater New

- Orleans area (Jefferson, Orleans, Plaquemines and St. Bernard Parishes), provide high quality primary and behavioral health care at the community level, and decrease reliance on emergency rooms for conditions more appropriately treated in an outpatient setting. See the Louisiana Public Health Institute website at: <http://lphi.org/home2/section/3-146/primary-care-access-and-stabilization-grant>, last visited 1 April 2010.
- 89** Amnesty International interview with Alice Craft-Kearney, R.N., Executive Director, Lower Ninth Ward Health Clinic, 19 February 2010.
- 90** *A Pre-Katrina Look at the Health Care Delivery System for Low Income People in New Orleans*, p. 2.
- 91** *A Pre-Katrina Look at the Health Care Delivery System for Low Income People in New Orleans*, p. 2.
- 92** Geiger, Cathy, *Evacuation Became a 'Little Blessing'*, The Arizona Republic, 15 October 2005, p. 27S.
- 93** Contreras, Joseph, *Born After the Storm*, Newsweek, 15 September 2005.
- 94** *Astrodome Triage Center Treating Hundreds*, The Associated Press, 5 September 2005.
- 95** Jefferson, Jennifer, *Couple Makes it to Hospital Just In Time*, The Tallahassee Democrat, 10 September 2005, p. A4; Contreras, Joseph, *Born After the Storm*, Newsweek, 15 September 2005.
- 96** Boettcher, Mike, *Premature Babies Spared Katrina's Wrath*, MSNBC.com, 1 September 2005, available at: <http://www.msnbc.msn.com/id/9162855/>, last visited 1 April 2010; Sewell Chan, *A Hospital Takes in The Tiniest of Survivors*, The New York Times, 6 September 2005, p. 24.
- 97** Barr, Stephen, *Mississippi Air Force Base Digs Out to Speed Other Hurricane Victims' Recoveries*, The Washington Post, 12 September 2005, p. B2.
- 98** Bernhard, Blythe, *Disaster Plans for Childbirth*, The Orange County Register, 24 August 2006.
- 99** In addition to maternal mortality, other key markers of overall population health are infant mortality rates and life expectancy. See Societal and Environmental factors and Life Expectancy, Infant Mortality, and Maternal Mortality rates: Results of a Cross-national Comparison, Soc. Sci. Med. Vol. 39, No. 1, 105-114, 1994.
- 100** James, Cara V., et al, *Putting Women's Health Care Disparities on the Map: Examining Racial and Ethnic Disparities at the State Level*, Kaiser Family Foundation, Percentage of women uninsured: table 2.1, p.49; available at <http://www.kff.org/minorityhealth/upload/7886.pdf>, last visited 1 April 2010.
- 101** James, *Putting Women's Health Care Disparities on the Map*, Percentage of women living in a medically underserved area of the state: table 4.2, p. 85.
- 102** James, *Putting Women's Health Care Disparities on the Map*, Percentage of women with delayed or no prenatal care: table 2.8, p. 63.
- 103** Maternal mortality rate numbers: National Women's Law Center, Maternal Mortality Rate, (per 100,000 live born infants), 1999-2004, *National Report Card on Women's Health*; available at <http://hrc.nwlc.org/Status-Indicators/Key-Conditions/Maternal-Mortality-Rate.aspx>, last visited 1 April 2010.
- 104** *Patients Finally Rescued from Charity Hospital*, CNN.com, 3 September 2005, available at: <http://www.cnn.com/2005/US/09/03/katrina.hospitals/index.html>, last visited 1 April 2010.
- 105** *Official Recommends Tearing Down Charity Hospitals*, USA Today.com, 5 October 2005, available at: http://www.usatoday.com/news/nation/2005-10-05-charity-hospitals_x.htm, last visited 1 April 2010.
- 106** Moller, Jan, *Charity Plan Calls for Shift in Services*, The Times Picayune, 9 November 2005, available at: <http://www.nola.com/katrina/pages/110905/1109A05.pdf>, last visited 1 April 2010.
- 107** FEMA estimated the storm damage to Charity at \$23.9 million, however a firm hired by LSU put the costs of refurbishment and repair for pre-Katrina problems at more than \$650 million. Bascetta, Cynthia and Katherine Siggerud, *Hurricane Katrina: Status of the Health Care System in New Orleans and Difficult Decisions Related to Efforts to Rebuild It Approximately 6 Months After Hurricane Katrina*, US Government Accountability Office, Letter to Congressional Committees, 28 March 2006, available at: <http://biotech.law.lsu.edu/katrina/govdocs/d06576r.pdf>, last visited 1 April 2010. Advocates argue that it would be cheaper to rebuild Charity in its current location.
- 108** Barrow, Bill, *LSU-VA Hearing Set Today at State Capitol*, The Times-Picayune, 21 January 2008, available at: http://www.nola.com/news/index.ssf/2009/01/suva_hospital_hearing_set_tod.html, last visited 1 April 2010.
- 109** Amnesty International interview with Brad Ott, Spokesman, Committee to Reopen Charity Hospital, 18 February 2010; Amnesty International interview with Alice Craft-Kearney, R.N., Executive Director, Lower Ninth Ward Health Clinic, 19 February 2010.
- 110** Moran, Kate, *Lawsuit Filed to Re-Open Charity Hospital*, The Times-Picayune, 17 January 2008, available at: http://www.nola.com/news/index.ssf/2008/01/lawsuit_filed_to_reopen_charit.html, last visited 1 April 2010.
- 111** See Save Charity Hospital website, available at: <http://www.savecharityhospital.com/content/review-plans>, last visited 1 April 2010.
- 112** Amnesty International interview with Brad Ott, Spokesman, Committee to Reopen Charity Hospital, 18 February 2010.
- 113** *A Pre-Katrina Look at the Health Care Delivery System for Low Income People in New Orleans*, p. 1.
- 114** See US Census Bureau, Table H106, Health Insurance Coverage Status by State for All People: 2008, available at: http://www.census.gov/hhes/www/cpstable/032009/health/h06_000.htm, last visited 1 April 2010.
- 115** *Health Challenges for People the People of New Orleans: The Kaiser Post-Katrina Baseline Survey*, The Kaiser Family Foundation, July 2007, P. 30, available at: <http://www.kff.org/kaiserpolls/upload/7659.pdf>, last visited 1 April 2010.
- 116** Amnesty International interview with Dr. Kimberley Richards, Organizer, The Peoples Institute for Survival and Beyond, 10 February 2010; Amnesty International interview with Alice Craft-Kearney, R.N., Executive Director, Lower Ninth Ward Health Clinic, 19 February 2010.
- 117** Amnesty International interview with Alice Craft-Kearney, R.N., Executive Director, Lower Ninth Ward Health Clinic, 19 February 2010.
- 118** *Health Insurance Coverage by State for All People: 2008*, U.S. Census Bureau, Current Population Survey, 2009 Annual Social and Economic Supplement, Table H106, available at: http://www.census.gov/hhes/www/cpstable/032009/health/h06_000.htm, last visited 1 April 2010.
- 119** Moller, Jan, *Legislators Weigh Price Tag for New LSU Teaching Hospital in New Orleans*, The Times Picayune, 22 January 2009, available at: http://www.nola.com/news/index.ssf/2009/01/legislators_weigh_price_tag_fo.html, last visited 1 April 2010; See, Save Charity Hospital website.
- 120** See Doctors for Charity Hospital website, available at: <http://www.doctorsforcharity.com/facts.html>, last visited 1 April 2010; Amnesty International interview with Brad Ott, Spokesman, Committee to Reopen Charity Hospital, 18 February 2010.
- 121** Webster, Richard, *Loss of Charity Hospital's Crisis Intervention Unit Limits Options*, New Orleans City Business, 21 August 2006, available at: http://findarticles.com/p/articles/mi_qn4200/is_20060821/ai_n16689326/, last visited 1 April 2010.
- 122** Amnesty International interview with Brad Ott, Spokesman, Committee to Reopen Charity Hospital, 18 February 2010.
- 123** Barrow, Bill, *Patients to Start Moving from Doomed New Orleans Adolescent Hospital Next Week*, The Times Picayune, 17 July 2009, available at: http://www.nola.com/news/index.ssf/2009/07/patients_to_start_moving_from.html, last visited 1 April 2010.
- 124** Barrow, *Patients to Start Moving from Doomed New Orleans Adolescent Hospital Next Week*.
- 125** *New Orleans Three Years After the Storm: The Second Kaiser Post-Katrina Survey, 2008*, The Kaiser Family Foundation, August 2008, P. 35, available at: <http://www.kff.org/kaiserpolls/upload/7789.pdf>, last visited 1 April 2010.
- 126** Dewan, *Resources Scarce, Homelessness Persists in New Orleans*.
- 127** *New Orleans Facing Mental Health Crisis*, CBS News.com, 19 February 2008, available at: <http://www.cbsnews.com/stories/2008/02/19/national/main3843892.shtml>, last visited 1 April 2010.
- 128** Jervis, Rick, *Mental Health Crisis Plagues New Orleans*, USA Today, 4 March 2008, available at: http://www.usatoday.com/news/nation/2008-03-04-katrina-health_N.htm, last visited 1 April 2010.
- 129** Associated Press, *Katrina Devastated Medical Care: Disaster Plans Lacking for Health-Care Firms when Hurricane Hit*, Memphis Commercial Appeal, 19 December 2007.
- 130** Gillette, Becky, *Physician Shortage Especially Acute in Rural Areas of State*, Mississippi Business Journal, 2006.
- 131** Shehab, Nadine, *Access to Care Among Displaced Mississippi Residents in FEMA Travel Trailer Parks Two Years After Katrina*, 27 Health Affairs 422, 2008.
- 132** Amnesty International interview with Dr. Alice Graham, Executive Director, Interfaith Disaster Task Force, 26 February 2010.
- 133** M. Anastario et al., *Increased Gender-Based Violence Among Women Internally Displaced in Mississippi 2 Years Post-Hurricane Katrina*, 3 Disaster Medicine and Public Health Preparedness 18 (2009).

- 134 Amnesty International interview with Dr. Alice Graham, Executive Director, Interfaith Disaster Task Force, 26 February 2010.
- 135 Voices from the Field: Louisiana and Mississippi Four Years After Katrina, *Americares*, 27 August 2009, available at: <http://www.americares.org/newsroom/voices-from-the-field/hurricane-katrina-4th-fourth-anniversary.html>, last visited 1 April 2010.
- 136 Amnesty International interview with Dr. Alice Graham, Executive Director, Interfaith Disaster Task Force, 26 February 2010.
- 137 Amnesty International interview with Norris Henderson, Executive Director, Voices of the Ex-Offender, 24 February 2010.
- 138 Burnett, John, *What Happened on New Orleans' Danziger Bridge?*, NPR, 13 September 2006, available at: <http://www.npr.org/templates/story/story.php?storyId=6063982>, last visited 1 April 2010.
- 139 Maggi, Laura, *Charges Rejected Against Danziger Seven*, The Times Picayune, 13 August 2008, available at: http://www.nola.com/news/index.ssf/2008/08/charges_rejected_against_danziger.html, last visited 1 April 2010.
- 140 Griffin, Drew, *Witness in 2006: New Orleans Cops Shot Man in Back as He Ran Away*, CNN.com, 24 February 2010, available at: <http://www.cnn.com/2010/CRIME/02/24/nopd.shooting/index.html>, last visited 1 April 2010.
- 141 Griffin, *Witness in 2006: New Orleans Cops Shot Man in Back as He Ran Away*.
- 142 Burnett, *What Happened on New Orleans' Danziger Bridge?*
- 143 Maggi, Laura, *Former Police Officer Pleads Guilty to Danziger Bridge Shooting Cover-Up of Stunning Breadth*, The Times Picayune, 25 February 2010, available at: http://www.nola.com/crime/index.ssf/2010/02/former_police_officer_pleads_g.html, last visited 1 April 2010.
- 144 *Feds Search NOPD in Post-Katrina Shooting Investigation*, CNN.com, 10 August 2009, available at: <http://www.cnn.com/2009/CRIME/08/10/louisiana.katrina.shootings/index.html>, last visited 1 April 2010.
- 145 Testimony of Warren J. Riley, Superintendent of the New Orleans Police Department, *Hurricane Katrina: The Role of the Governors in Managing a Catastrophe: Hearing Before the Senate Committee on Homeland Security and Governmental Affairs*, 109th Congress, 6 February 2006.
- 146 *Abandoned and Abused: Orleans Parish Prisoners in the Wake of Hurricane Katrina*, ACLU, 2006, p. 32, available at: <http://www.aclu.org/files/pdfs/prison/oppreport20060809.pdf>, last visited 1 April 2010.
- 147 *Treated Like Trash: Juvenile Detention in New Orleans Before, During and After Hurricane Katrina*, The Juvenile Justice Project of Louisiana, May 2006, p. 3, available at: http://jjpl.org/PDF/treated_like_trash.pdf, last visited 1 April 2010.
- 148 Thompson, A.C., Brendan McCarthy and Laura Maggi, *New Orleans Police Department Shootings After Katrina Under Scrutiny*, The Times Picayune, 12 December 2009, available at: http://www.nola.com/crime/law_and_disorder/index.ssf/breaking_news/nopd_acts_under_fire.html, last visited 1 April 2010.
- 149 *Broken Promises: Two Years After Katrina*, ACLU, August 2007, p. 13, available at: http://www.aclu.org/files/pdfs/prison/broken-promises_20070820.pdf, last visited 1 April 2010.
- 150 Johnson, Kevin, *'Camp Greyhound' Outpost of Law and Order*, USA Today, 8 September 2005, available at: http://www.usatoday.com/news/nation/2005-09-08-camp-greyhound_x.htm, last visited 1 April 2010; Amnesty International interview with Yvette Thierry, Organizer, and Robert Goodman, Jr., Coordinator, Safe Streets/Strong Communities, 12 February 2010.
- 151 Azulay, Jessica, *Abuse, Forced Labor Rampant in New Orleans Justice System*, New Standard, 12 October 2005, available at: <http://newstandardnews.net/content/index.cfm/items/2475>, last visited 1 April 2010.
- 152 *'Camp Greyhound' Home to 220 Looting Suspects*, The Washington Times, 9 September 2005, available at: <http://www.washingtontimes.com/news/2005/sep/09/20050909-122226-7515r/>, last visited 1 April 2010; Brady, Jeff, *New Orleans Housing Prisoners in Bus Station*, NPR, 9 September 2005, available at: <http://www.npr.org/templates/story/story.php?storyId=4838671>, last visited 1 April 2010.
- 153 Azulay, Jessica, *Abuse, Forced Labor Rampant in New Orleans Justice System*.
- 154 Azulay, *Abuse, Forced Labor Rampant in New Orleans Justice System*.
- 155 Azulay, *Abuse, Forced Labor Rampant in New Orleans Justice System*; Garrett, Brandon, L. and Tania Tetlow, *Criminal Justice Collapse: The Constitution After Hurricane Katrina*, 56 Duke Law Journal 127, 139, 2006.
- 156 Azulay, *Abuse, Forced Labor Rampant in New Orleans Justice System*.
- 157 *Broken Promises: Two Years After Katrina*, p. 13.
- 158 Gouvis Roman, Caterina, Seri Irazola and Jenny W.L. Osborne, *After Katrina, Washed Away? Justice in New Orleans*, Urban Institute Justice Policy Center, August 2007, available at: http://www.urban.org/UploadedPDF/411530_washed_away.pdf, last visited 1 April 2010.
- 159 Garrett, *Criminal Justice Collapse: The Constitution after Hurricane Katrina*, p. 148. See also Executive Order KBB 05-32, Emergency Suspension of Prescription, Peremption and other Legal Deadlines, available at <http://doa.louisiana.gov/osr/other/kbb05-32.htm>, last visited 1 April 2010.
- 160 Louisiana Code of Criminal Procedure, Article 701
- 161 *Broken Promises: Two Years After Katrina*, p. 18.
- 162 Amnesty International interview with Norris Henderson, Executive Director, Voices of the Ex-Offender, 24 February 2010.
- 163 Louisiana Code of Criminal Procedure, Article 230.1
- 164 McCarty, Brendan, *Two Police Misconduct Lawsuits Settled*, The Times Picayune, 22 January 2010, available at: http://www.nola.com/crime/index.ssf/2010/01/two_police_misconduct_lawsuits.html, last visited 1 April 2010.
- 165 *Broken Promises: Two Years After Katrina*, p. 13.
- 166 *Broken Promises: Two Years After Katrina*, p. 13.
- 167 McCarty, *Two Police Misconduct Lawsuits Settled*.
- 168 See Metzger, Pamela, R., *Doing Katrina Time*, 81 Tulane Law Review 1175, March 2007; Gouvis Roman, *After Katrina, Washed Away? Justice in New Orleans*, Urban Institute Justice Policy Center, *Broken Promises: Two Years After Katrina*, p. 30.
- 169 Parks, B., *Unearthing answers from Katrina*, Star-Ledger, 27 August 2006, p. 1.
- 170 Metzger, *Doing Katrina Time*; Gouvis Roman, *After Katrina, Washed Away? Justice in New Orleans*.
- 171 *Broken Promises: Two Years After Katrina*, p. 30.
- 172 Amnesty International interview with Yvette Thierry, Organizer, and Robert Goodman, Jr., Coordinator, Safe Streets/Strong Communities, 12 February 2010.
- 173 *Public Defender's Office Not Taking New Defendants*, Associated Press, 4 March 2010, available at: <http://www.wlwtv.com/news/Public-defenders-office-not-taking-new-defendants-86368927.html>, last visited 1 April 2010.
- 174 *Broken Promises: Two Years After Katrina*, p. 33.
- 175 Hunter, Michelle, and John Pope, *Stressed? No, We're OK, Really, We Are; Actually, We're On the Edge, Mental Health Experts Say*, The Times-Picayune, 3 July 2006.
- 176 Maggi, Laura, *Jindal's Mental Health Plans May Provide Relief in Metro Area*, The Times-Picayune, 15 April 2008, available at: http://www.nola.com/news/index.ssf/2008/04/jindals_mental_health_plans_ma.html, last visited 1 April 2010.
- 177 Potash, Mordecai N., M.D., *The Struggle for Mental Healthcare in New Orleans—One Case at a Time*, Psychiatry (Edgmont), July 2008; Foster, Mary, *NO Police Struggle With Mental Patients*, USA Today, 19 February 2008, available at: http://www.usatoday.com/news/nation/2008-02-19-3502547157_x.htm?loc=interstitialskip, last visited 1 April 2010.
- 178 Amnesty International interview with Yvette Thierry, Organizer, Safe Streets/Strong Communities, 12 February 2010.
- 179 Hunter, *Stressed? No, We're OK, Really, We Are; Actually, We're On the Edge, Mental Health Experts Say*.
- 180 *National Disaster Recovery Framework Initiative*, FEMA, available at: <http://www.fema.gov/recoveryframework/>, last visited 1 April 2010.
- 181 The Long-Term Disaster Recovery Working Group is a group of Department Secretaries and Administrators from more than twenty departments, agencies, and offices, headed by the Secretaries of Homeland Security and Housing and Urban Development. See National Disaster Recovery Framework Initiative website.
- 182 Federal Emergency Management Agency, National Disaster Recovery Framework: Draft 2, 5 February 2010.
- 183 Federal Emergency Management Agency, National Disaster Recovery Framework: Draft 2, p.10, 5 February 2010.
- 184 See National Disaster Recovery Framework Initiative website.
- 185 Some of the public comments and criticisms from other organizations include: NDRF does not devote enough attention to impact of disasters on mental/spiritual health, nor to possible contributions of faith-based community; NDRF distinction between private and non-profit sectors is "confusing and unsuitable," especially with regard to medical facilities. Suggests better inclusion of medical community as stakeholders, partners, etc.; Detailed suggestions as to provision of housing for displaced persons, accessible housing

for people with disabilities. Detailed suggestions about compliance with disability-related laws, policies, etc.: Calls for rigorous plan for implementing NDRF, in light of past government failures to implement similar frameworks. Cautions that failure to do so could lead to another “Second Disaster” like the one following Katrina.; Calls for incorporating UN Guiding Principles on Internal Displacement into NDRF, especially with regard to discrimination; Notes that NDRF mentions discrimination only once. For more comments from NGOs, See: <http://www.regulations.gov/search/Regs/home.html#docketDetail?R=FEMA-2010-0004>, last visited 1 April 2010.

186 NDRF draft, p. 5.

187 NDRF draft, p.18, The Framework describes nonprofits as “vital,” “critical,” “needed,” and “crucial.”

188 USAID, *USAID Assistance to Internally Displaced Persons Policy*, Oct 2004

189 US Mission to the United Nations in Geneva Press Release, “U.S. Meeting with U.N. Human Rights Committee, U.S. Delegation Response to Oral Questions from the Members of the Committee,” 18 July 2006. See also, Betty King, former United States Ambassador to the Economic and Social Council of the United Nations, noting, “All states should apply internationally recognized norms with regard to internally displaced persons” and support the Guiding Principles as the “normative standard for international treatment of internal displacement.” US Mission Geneva Press Releases, Statement by Ambassador Betty King Of the United States of America To the Economic and Social Council On Special Economic, Humanitarian and Disaster Relief Assistance: Strengthening the Coordination of the Emergency Humanitarian Assistance of the United Nations, 11 July 2001.

190 Human Rights Committee, 10-28 July 2006, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Concluding Observations on the United States of America.

191 “The prohibition of arbitrary displacement includes displacement...[w]hen 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...” Principle 6(a), Guiding Principles on Internal Displacement, Office of the High Commissioner for Human Rights, U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Comm. Hum. Rts. res. 1998/50.

192 Article 5(a) and (b), International Convention on the Elimination of all forms of Racial Discrimination

193 Article 1(1), ICERD

194 General Comment No. 18: non-discrimination, 10/11/1989, HRI/GEN/1/Rev.6 at 146.

195 General Recommendation No.14: Definition of Racial Discrimination, 22/03/1993, HRI/GEN/1/Rev.6 at 203.

196 Concluding observations of the Committee on the Elimination of Racial Discrimination, 8 May 2008, CERD/C/USA/Co/6, para. 10.

197 CERD, Seventy-second session, Geneva, 18 February - 7 March 2008, Consideration of Reports Submitted By States Parties under Article 9 of the Convention, Concluding Observations of the Committee on the Elimination of Racial Discrimination: USA, Concluding Observation 20

198 CERD, Seventy-second session, Geneva, 18 February - 7 March 2008, Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations of the Com-

mittee on the Elimination of Racial Discrimination: USA, Concluding Observation 20

199 HRC, Eighty-seventh session, 10-28 July 2006, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Concluding Observations of the Human Rights Committee: USA, Observation 26

200 HRC, Eighty-seventh session, 10-28 July 2006, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Concluding Observations of the Human Rights Committee: USA, Observation 26

201 HRC, Eighty-seventh session, 10-28 July 2006, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Concluding Observations of the Human Rights Committee: USA, Observation 26

202 Article 2, Universal Declaration of Human Rights.

203 Article 2(1), International Convention on Civil and Political Rights

204 Article 2, ICERD

205 For more information see UN Committee on Economic, Social and Cultural Rights, General Comment no 4, the right to adequate housing, contained in UN Doc. E/1992/23; and Amnesty International, Human Rights for Human Dignity: a primer on economic, social and cultural rights, AI Index POL 34/009/2005

206 Article 12, International Convention on Economic, Social and Cultural Rights; 5(e)(iv), International Convention on the Elimination of All Forms of Racial Discrimination; 11.1(f), Convention on the Elimination of All Forms of Discrimination Against Women.

207 Article 5(e)(iv) ICERD

208 Article 12(2)(d), International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976.

209 Committee on Economic, Social and Cultural Rights, General Comment 14, *The Right to Health*, UN Doc. E/C.12/2000/4, para 11. The scope of the right to health has also been clarified in the work of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Special Rapporteur on the right to health).

210 Availability means that “[f]unctioning public health and healthcare facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party.”

211 “Health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.” Para 12(b).

212 “Health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, persons with disabilities and persons with HIV/AIDS. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas. Accessibility further includes adequate access to buildings for persons with disabilities.” Para 12(b).

213 “Health facilities, goods and services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups.” Para 12(b).

214 Vienna Convention on the Law of Treaties, Article 18.

215 Guiding Principles on Internal Displacement, Office of the High Commissioner for Human Rights, U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Comm. Hum. Rts. res. 1998/50, available at: <http://www.unhcr.ch/html/menu2/77/b/principles.htm>.

216 Although the United States does not accept the UN Guiding Principles as an expression of governing international law, it recognizes the valuable practical role the principles can play in the protection of IDPs. United States Agency for International Development, Assistance to Internally Displaced Persons Policy, October 2004, PD-ACA-558, available at http://pdf.dec.org/pdf_docs/PDACA558.pdf.

217 ICCPR, Article 2 (3) (a)

218 See, W. Kälin, ‘Guiding Principles on Internal Displacement: Annotations’, Studies in Trans-national Legal Policy, No. 32 (Amer. Soc. Int’l L. and the Brookings Institution Project on Internal Displacement, 2000), 72; EXCOM Conclusion No. 101 (LV) 2004: Conclusion on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees.

219 UN Doc. E/CN.4/Sub.2/2005/17.

220 Principle 8.1, The Pinheiro Principles, United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, available at: <http://www.cohre.org/store/attachments/Pinheiro%20Principles.pdf>.

221 Human Rights Committee: General Comment 25. The right to participate in public affairs, voting rights and the right of equal access to public service.(Article 25) (UN Doc. CCPR/C/21/Rev.1/Add.7).

220 Principle 28(2), Guiding Principles on Internal Displacement, Office of the High Commissioner for Human Rights, U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Comm. Hum. Rts. res. 1998/50, available at: <http://www.unhcr.ch/html/menu2/77/b/principles.htm>.

222 Principle 16.1, The Pinheiro Principles, United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, available at: <http://www.cohre.org/store/attachments/Pinheiro%20Principles.pdf>.

223 Human Rights Committee, 10-28 July 2006, Consideration of Reports by States Parties under Art. 40 of the International Covenant on Civil and Political Rights, Concluding Observations on the United States of America.

224 Art. 12(1), International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* January 3, 1976.

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