

HURRICANE KATRINA:

Racial Discrimination and Ethnic Cleansing in the United States in the Aftermath of Hurricane Katrina

A Response to the 2007 Periodic Report of the
United States of America.

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in the Aftermath of Hurricane Katrina:
A Report to the United Nations' Committee for the Elimination of Racial
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Executive Summary

In the aftermath of Hurricane Katrina, displaced residents of New Orleans and the Gulf Coast and exploited reconstruction workers are crying out for justice and demanding human rights protections from the racial discrimination they suffer from the U.S. Government and its political subdivisions. As detailed in this report, governmental actions have subjected a predominantly African American population to conditions that affect human survival by prolonging internal displacement more than two years after the hurricane.

Governmental actions pursuant to the Robert T. Stafford Act, the federal disaster law, have worsened the crisis of displacement by subjecting internally displaced Gulf Coast residents to brutal treatment and arbitrary incarceration. The U.S. Government has consistently denied residents of New Orleans and the Gulf Coast their human right to housing through a host of unjust policies and programs that have created a housing crisis and a growing number of homeless people. In addition, there has been no action by the U.S. Department of Justice (“DOJ”) to launch a comprehensive investigation into the abusive treatment of hurricane evacuees by law enforcement and military personnel, which has been documented by law enforcement agencies and non-governmental organizations. Similarly, the DOJ has not protected reconstruction workers, who are mostly Latino and Caribbean immigrants, from abuse, exploitation, and discrimination by governmental contractors. The U.S. Department of Health and Human Services and other governmental authorities have failed to re-open public health care facilities, and have contributed to an increase in the number of deaths due to the lack of medical services. Hurricane-related environmental impacts, such as arsenic contamination of sediment and debris disposal, have been a burden on communities of color who have been denied public health protection by the US Environmental Protection Agency.

Against tremendous opposition from the U.S. Government, hurricane survivors are struggling to return home and rebuild their communities. The government’s failure to protect the rights of displaced people, who are predominantly African American violates the Convention on the Elimination of All Forms of Racial Discrimination (“CERD”) and is contrary to the United Nations’ *Guiding Principles on Internal Displacement*, which specifically prohibits ethnic cleansing and racial discrimination.

During the 87th Session (July 10-28, 2006) of the United Nations’ Human Rights Committee, the Committee issued *Concluding Observations* regarding the U.S. Government’s compliance with the International Covenant on Civil and Political Rights that urged the U.S. Government to implement the *Guiding Principles on Internal Displacement*. By its actions the U.S. Government has rejected the UN Human Rights Committee’s recommendation and has delayed by several months the submission of a follow-up report, as instructed by this Committee.

In the U.S. Government’s current human rights report to the UN Committee on the Elimination of Racial Discrimination, which presents two misleading paragraphs regarding governmental responses to Hurricane Katrina, the U.S. Government has demonstrated not only a lack of candor, but also a low regard for the Committee and its efforts to ensure the human right to freedom from racial discrimination. We urge this Committee to exercise its authority to compel the U.S. Government to comply with CERD and the UN *Guiding Principles on Internal Displacement*.

Introduction

“These troops are fresh back from Iraq, well trained, experienced, battle tested, and under my orders to restore order in the streets. They have M-16s and they are locked and loaded. These troops know how to shoot and skill and they are more than willing to do so if necessary and I expect they will.”

– Louisiana Governor Kathleen Blanco, quoted in ABC News, Sept. 2, 2005 (three days after Hurricane Katrina struck the state of Louisiana)

[In the aftermath of Hurricane Katrina], “New Orleans is not going to be as black as it was for a long time, if ever again.”

– U.S. Cabinet Secretary Alphonso Jackson, Department of Housing and Urban Development, quoted in *The Washington Post*, Sept. 29, 2005

“We finally cleaned up public housing in New Orleans. We couldn’t do it, but God did.”

– U.S. Congressman Richard Baker (R-LA), quoted in *The Wall Street Journal*, Sept. 9, 2005

The above statements by United States officials are not an aberration of an otherwise humane governmental response to Hurricane Katrina, but instead are reflections of the racial discriminatory policies and practices established by the U.S. Government in the aftermath of the hurricane. As discussed below, these policies and practices violate the Convention on the Elimination of All Forms of Racial Discrimination (“CERD”) and are contrary to the United Nations’ *Guiding Principles on Internal Displacement*, which specifically prohibit ethnic cleansing and any governmental action that is intended to or results in the alteration of the racial composition of a population that is displaced by a disaster.¹

Contrary to implementing the UN *Guiding Principles on Internal Displacement*, as requested by the UN Human Rights Committee in its Concluding Observations of July 2006, the U.S. Government has taken full advantage of the flaws in the Robert T. Stafford Act, the federal disaster law, which allow it to deny the rights of displaced people, in particular African Americans and the poor, to return home. The chart below presents the extreme contrasts between the UN *Guiding Principles on Internal Displacement* and the Robert T. Stafford Act regarding the rights of individuals displaced by a disaster and the responsibilities of national governments.

¹ United Nations’ *Guiding Principles on Internal Displacement*, Principle 6(2).

It is noteworthy that the U.S. Government is a co-sponsor of international resolutions in support of the United Nations’ *Guiding Principles on Internal Displacement*, which recognizes the rights of individuals who remain in their sovereign nations but are uprooted from their communities as a result of a natural or man-made disaster and also establishes the responsibilities of national governments. United Nations, Commission on Human Rights, Resolution 2003/51, Apr. 23, 2003; United Nations, General Assembly, Resolution 54/167, Dec. 17, 1999. Such support by the U.S. Government was further demonstrated approximately one year prior to Hurricane Katrina when the U.S. State Department established the *USAID Assistance to Internally Displaced Persons Policy*, which recognizes that internally displaced people or “IDPs are among the world’s most vulnerable population groups” and sets standards for protecting IDPs that are based on the *Guiding Principles on Internal Displacement*. U.S. State Department, *USAID Assistance to Internally Displaced Persons Policy*, PD-ACA-558, Oct. 2004.

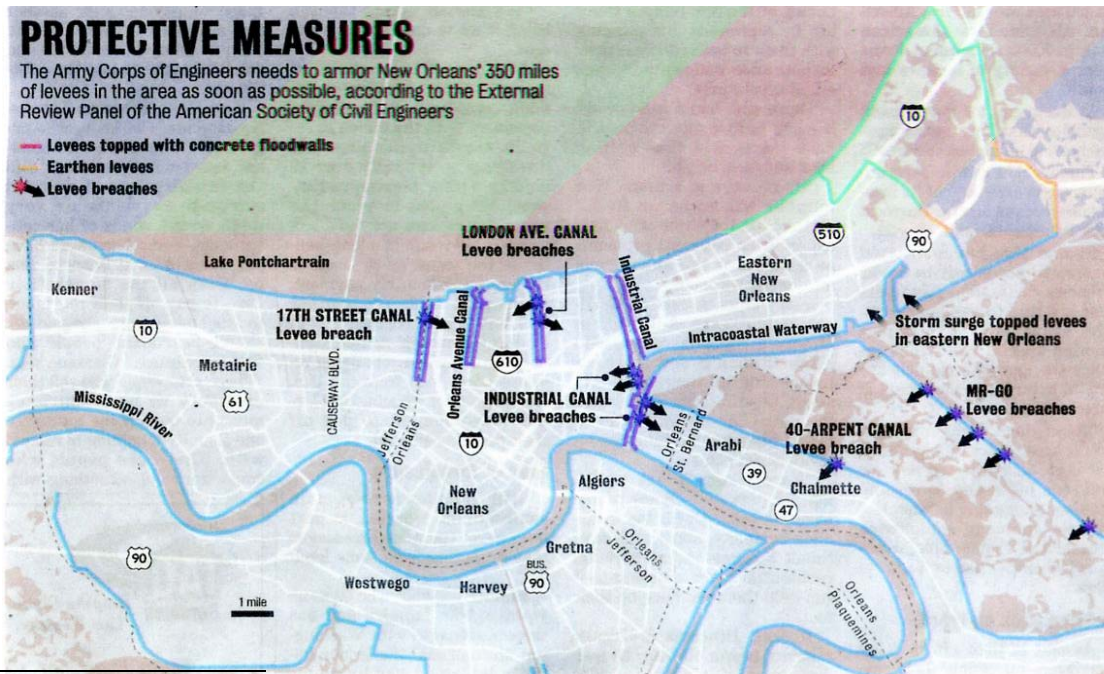
Recovery Issue	Robert T. Stafford Act (Federal Law on Disaster Response)	United Nations' Guiding Principles on Internal Displacement
<p>Should the federal government have primary responsibility for disaster recovery?</p>	<p>No. States have primary responsibility for disaster recovery. The federal government's responsibility is limited to matters under exclusive federal control as established by the U.S. Constitution or federal law. All other federal responses to a disaster are discretionary acts that are completely immune from lawsuit. (42 USC §5191 & §5148)</p>	<p>Yes. National governments have the primary duty to provide protection and humanitarian assistance to people who are displaced by a natural or man-made disaster. (Principles 3 & 25)</p>
<p>Should people who have been displaced by a disaster have a right to humanitarian assistance and assistance to either return to their residences or resettle?</p>	<p>No. Individuals do not have a legal right to assistance. The federal government is not even required to provide essential assistance, which includes emergency medical care, reduction of immediate life-threatening risks, and housing. (42 USC §5170b)</p>	<p>Yes. All displaced persons have the right to request and receive protection and humanitarian assistance from governmental authorities as well as the right to voluntarily return or resettle in safety and with dignity. (Principles 3, 25 & 28)</p>
<p>Should displaced people be protected from governmental actions that result in discriminatory impacts?</p>	<p>No. Federal courts have limited the prohibition against discrimination to an intentional act of discrimination, not an act that results in a discriminatory impact. (<i>Sandoval v. Alexander</i>, US Supreme Court, 2001)</p>	<p>Yes. Displacement that is aimed at or results in "ethnic cleansing" or altering the racial, ethnic or religious composition of an affected people is prohibited. Displaced persons have a right to governmental assistance and protection that does not intentionally discriminate or result in a discriminatory impact. (Principles 4, 6, 18 & 24)</p>
<p>Should displaced people have the right to housing, education, and healthcare?</p>	<p>No. Housing assistance, temporary educational facilities, and healthcare services are provided at the discretion to the federal government. (42 USC §5174(b), §5174(c) & §5170b.a.3.D)</p>	<p>Yes. Displaced persons have the right to housing, education, and medical services that requires the government to provide temporary housing for the duration of the displacement, support for the rebuilding of permanent homes; educational and training facilities, and medical services, including mental health care and social services. (Principles 18, 19, 23, 28 & 29)</p>

Article 5 of the CERD prohibits racial discrimination in all its forms. With respect to Hurricane Katrina, the actions taken by the U.S. Government have denied several of the rights enumerated under this article.

Denying the Human Right to Security of the Person and Protection from Bodily Harm and Violence, CERD Art. 5(b)

Negative consequences of a natural disaster are to be expected; however, what should not be expected or condoned is the failure of U.S. President George Bush and the U.S. Department of Homeland Security to act on advance warning that Hurricane Katrina would cause levee breaches and massive devastation in New Orleans, Louisiana,² where the population is predominantly African American,³ and to ensure a safe and humane evacuation prior to the hurricane striking the Gulf Coast region.⁴

In violation of Article 5(b), which protects the human right to the security of the person and protection against bodily harm, the Bush administration did not inform the public of the advance warning it received regarding the likelihood that levees and floodwalls in Louisiana would be breached by the Hurricane Katrina storm surge. Nor did the government inform the public that such levees and floodwalls were of substandard construction that made them vulnerable to breaches and overtopping by a storm surge. It was not until ten months after the storm that the U.S. Army Corps of Engineers publicly admitted that it constructed faulty levees and floodwalls in Louisiana, where 15 instances of breaches and overtopping occurred.⁵ (See map of levee and floodwall breaches in the Greater New Orleans area in Louisiana, below.)



² Joby Warrick, *White House Got Early Warning on Katrina*, THE WASHINGTON POST, Jan. 24, 2006, p. A2.

³ According to U.S. Census data, 67.3% of the population in New Orleans, Louisiana was African American prior to Hurricane Katrina. For more details, see <http://quickfacts.census.gov/qfd/states/22/2255000.html>.

⁴ U.S. House of Representatives, *A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, Report 109-377, Feb. 15, 2006.

⁵ U.S. Army Corps of Engineers, *Performance Evaluation of the New Orleans and Southeast Louisiana Hurricane Protection System*, June 1, 2006.

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The substandard construction of levees and floodwalls caused 80% of the city of New Orleans, Louisiana to flood, and caused significant flooding that ruined cities and rural communities in the Gulf Coast region. Approximately 1.3 million people were immediately displaced by Hurricanes Katrina and Rita.⁶ Due to the failure of the U.S. Government to continue monitoring the number of displaced people, there is no data that accurately indicates the number of people currently displaced from hurricane impacted communities in Georgia, Alabama, Mississippi, Louisiana, and Texas. However, a recent study estimates that the number of people displaced by the hurricane in Louisiana is approximately 400,000, which includes approximately 200,000 people displaced from New Orleans.⁷

The hurricane evacuation plan, which was prepared with the technical assistance of the U.S. Department of Homeland Security's Federal Emergency Management Agency ("FEMA"),⁸ increased the risk of injuries and deaths for the predominantly African American population in New Orleans. The evacuation plan centered on directing vehicular traffic away from the storm, which is dependent on people driving away from the storm and finding accommodations in other locations.⁹ Through extensive media coverage, the world witnessed the racially discriminatory result of the government's hurricane evacuation plan that essentially abandoned a predominantly African American population in flooded neighborhoods for several days without humanitarian assistance. This population included people who do not own vehicles and/or do not have the means to afford or access accommodations away from the storm. Approximately 120,000 of the 484,000 residents of New Orleans did not own cars at the time of the storm.¹⁰ The government's failed evacuation plan jeopardized the lives of residents and led to the deaths of approximately 1,833 people in violation of the CERD Article 5(b), which recognizes the human right to protection from bodily harm inflicted by government officials.

Further, in violation of Article 5(b), the predominantly African American population trapped in floodwaters that inundated New Orleans was subjected to brutal treatment by law enforcement and military personnel. African American citizens were commonly referred to as "looters," and presumed to be criminals.¹¹ Three days after the hurricane, the Governor of Louisiana issued a "shoot-to-kill order" for military and law enforcement personnel.¹² There is significant media coverage of the large groups of African American people being detained by armed military and law enforcement personnel at various

⁶ Hurricane Rita struck Louisiana and southwest Texas two weeks after Hurricane Katrina. Louisiana Recovery Authority, *Louisiana Recovery and Impact Data for Katrina*, August 2007, available at www.lra.louisiana.gov/secondyear.html.

⁷ *Id.*

⁸ The U.S. Federal Emergency Management Agency ("FEMA") provides technical assistance to state and local governments in the development of hurricane evacuation plans. For more details, see www.fema.gov/plan/prevent/nhp/index.shtm.

⁹ *Supra* n. 4.

¹⁰ Emma Dixon, *Stalling the Dream: Cars, Race and Hurricane Evacuation*, United for a Fair Economy, Jan. 10, 2005.

¹¹ Cedric Herring, *Hurricane Katrina and the Racial Gulf: A Du Boisian Analysis*, DU BOIS REVIEW, 3:1, 2006, pp. 129-144; Sarah Kaufman, *The Criminalization of New Orleanians in Katrina's Wake*, Social Science Research Council, June 11, 2006.

¹² Louisiana Office of the Governor, *Response to the U.S. Senate Committee on Homeland Security and Governmental Affairs Document and Information Request Dated October 7, 2005 and the to the U.S. House of Representatives Select Committee to Investigate the Preparation for and Response to Hurricane Katrina: Overview of Governor Kathleen Babineaux Blanco's Actions in Preparation for and Response to Hurricane Katrina*, Dec. 2, 2005.

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locations without food and water for several days prior to evacuation. Law enforcement departments in the states of New Mexico and Michigan, namely the New Mexico Department of Public Safety and the Michigan State Troopers, who aided Louisiana in protecting public safety immediately after the storm, filed reports with the U.S. Department of Justice that complained of the brutality by the Baton Rouge, Louisiana Police Department against African American residents who evacuated to Baton Rouge.¹³ Their reports documented that Baton Rouge police officers were hitting suspects in handcuffs, using devices that delivered electric shocks to people who were neither suspects nor detained, and destroying the personal property of hurricane evacuees.¹⁴ Predominantly African American residents of New Orleans, who attempted to cross the Crescent City Connection Bridge in order to seek safe haven away from high floodwaters, were blocked by law enforcement personnel in the Gretna Police Department and the Jefferson Parish Sheriff's Office who fired warning shots from rifles and yelled at them to go back to New Orleans.¹⁵ African American residents of New Orleans were killed and severely maimed by gun shots fired by local law enforcement personnel as they waited for rescue on the Danziger Bridge in New Orleans, Louisiana.¹⁶

To date, there is only an estimated number of deaths from drowning in floodwaters, injuries from falling objects caused by strong hurricane winds, and shootings, which is 1,833 (the approximate number of deaths by state: Louisiana – 1,577; Mississippi – 238; Florida – 16; Alabama -2; Georgia – 2).¹⁷ The actual number of people who died remains unknown. The Katrina death toll is the third highest death toll among hurricanes in the history of the United States. It is important to note that the two highest death tolls resulting from hurricanes occurred during the 1920's,¹⁸ decades before significant developments in meteorological forecasting, telecommunications, transportation infrastructure, and hurricane protection systems.

More than two years after Hurricane Katrina, the condition of flood protection in the Greater New Orleans area has exacerbated racial disparities. A June 2007 report by the US Army Corps of Engineers documented that its current efforts in upgrading and repairing levees would significantly reduce the level of floodwater that inundated predominantly white neighborhoods during Hurricane Katrina, but exclude predominantly African American neighborhoods from such flood reduction. Specifically, the report shows that, as a result of the flood protection improvements conducted by the Army Corps of Engineers

¹³ Dan Frosch, *Cop Out*, SANTA FE REPORTER (Santa Fe, NM), Oct. 26, 2005; reprinted in Gambit Weekly (New Orleans, LA), Nov. 11, 2005, available at http://www.bestofneworleans.com/dispatch/2005-11-05/news_feat2.php.

¹⁴ *Id.*

¹⁵ Some New Orleans residents have filed five lawsuits against the Gretna Police Department and the Jefferson Parish Sheriff's Office for threatening the use of force to deny access to the Crescent City Connection, a bridge that crosses the Mississippi River. See Paula Purpura, *Claims Upheld in CCC [Crescent City Connection] Suit*, The Times-Picayune (New Orleans, LA) Dec. 4, 2007, p. B-1, available at <http://www.nola.com/news/t-p/metro/index.ssf?base/news-25/1196750351212270.xml&coll=1>, reporting on recent judgments in the lawsuits.

¹⁶ John Burnett, *What Happened on the Danziger Bridge*, National Public Radio ("NPR"), Sept. 13, 2006. See NPR website for written and audio report that includes photos of Danziger Bridge victims and autopsy report, available at [archhttp://www.npr.org/templates/story/story.php?storyId=6063982](http://www.npr.org/templates/story/story.php?storyId=6063982). See also Orleans Parish District Attorney Office, News Release: *Seven Police Indicated for Danziger Bridge Shooting Deaths*, Sept. 28, 2006, available at <http://secure.cityofno.com/Portals/DA/portal.aspx?portal=102&load=~PortalModules/ViewPressRelease.ascx&ite mid=3377>.

¹⁷ Alex Grauman *et al*, *Hurricane Katrina: A Climatological Perspective*, National Climatic Data Center of the National Oceanic and Atmospheric Agency, Technical Report 2005-01, October 2005, p. 3.

¹⁸ *Id.*

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in response to Hurricane Katrina, the predominantly white neighborhoods of Lakeview and Old Metairie would both have a 5.5 feet reduction in floodwater, while the predominantly African American neighborhood of New Orleans East, which also has the largest population of Vietnamese Americans in the city, would have no reduction in floodwater; the predominantly African American neighborhood of Gentilly would have a 6 inch reduction in floodwater, and the predominantly African American neighborhood of the Lower 9th Ward would have 1.5 feet reduction in floodwater.¹⁹ According to the Army Corps of Engineers, a comprehensive reduction in flooding will not be completed until the year 2011. Without adequate flood protection, African American residents are exposed to life-threatening conditions for at least the next five years.

An additional discriminatory impact is the likelihood that displaced African Americans will face the significant economic hardship of returning to neighborhoods that do not have adequate flood protection, which will necessitate their paying higher costs for home insurance than whites due to the likelihood of repeated flooding and paying more than whites to rebuild and refurnish homes that have a significant risk of repeated flooding.

Although the Army Corps of Engineers recognizes that “many citizens of New Orleans are awaiting proposals and actions to lower the risk of floods and improve infrastructure to protect human health and safety before returning and rebuilding,”²⁰ the racially discriminatory result of the Army Corps’ actions to lower the risk of flooding in only predominantly white neighborhoods has the effect of denying the right of African American residents of New Orleans to return home. Such actions taken by the Army Corps constitute a form of “ethnic cleansing” in violation of CERD, which is expressly prohibited by Principle 6 (2) of the United Nations’ *Guiding Principles on Internal Displacement*.

Denying the Human Right to Equal Treatment Before Tribunals & All Other Organs Administering Justice, CERD Art. 5(a)

African American who attempted to evacuate New Orleans were subjected to a pattern of incarceration without due process that entailed their being detained without formal charges, having no opportunity to post bail or seek legal representation.²¹ During their detention, African American residents of New Orleans described inhumane conditions in the prisons.²² Numerous reports have documented the brutal treatment of inmates in the Orleans Parish Prison during the storm. Some of these inmates were detained in prisons long after their sentences were completed.²³ Evacuees who were detained in this manner have been traumatized by this detention, and several have pursued legal action to redress this

¹⁹ US Army Corps of Engineers, Inter-Agency Performance & Evaluation Task Force, Risk and Reliability Report, available online at <http://nolarisk.usace.army.mil/#map>. See also The Times-Picayune graphic illustrations of the flood risk maps prepared by the US Army Corps of Engineers at <http://blog.nola.com/graphics> (click on “The Risk of Hurricane Flooding Today”).

²⁰ US Army Corps of Engineers, Mississippi Valley Division, New Orleans District, *Emergency Alternative Arrangements*, Feb. 23, 2007, p. 2.

²¹ Jared Wadley, *Advocates Seek Due Process for Hundreds of Incarcerated Hurricane Victims*, NEWS SERVICE, available at http://www.ur.umich.edu/0506/Jan23_06/16.shtml.

²² *Id.*

²³ American Civil Liberties Union, *Broken Promises: Two Years After Katrina*, Aug. 20, 2007, available at <http://www.aclu.org/prison/conditions/katrina/katrina.html>.

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injustice. More than two years after the hurricane, the Orleans Parish Prison remains ill prepared to humanely evacuate inmates in the event of another storm.²⁴

Denying the Human Right to Housing, CERD Art. 5(e)(iii)

More than two years after Hurricane Katrina, the U.S. Government has developed policies and practices that specifically prevent internally displaced African American residents of New Orleans and the Gulf Coast region from returning home through an unprecedented scheme of privatization. In violation of Article 5(e)(iii), the U.S. Department of Housing and Urban Development (HUD), which controls government-subsidized housing in New Orleans, has entered into contracts with private developers that entail the demolition of 70% of the public housing,²⁵ many of which sustained little or no damage from the hurricane. The residents of public housing in New Orleans are all African American. The government has approved plans by private developers for the construction of a golf course and market rate housing²⁶ that will eliminate 82% of public housing apartments that were lived in prior to the storm. Specifically, the HUD-approved redevelopment plan reduces the number of low-income apartments in the Lafitte housing development from 896 to 276; the St. Bernard housing development from 1,436 to 160; the B.W. Cooper housing development from 1,550 to 154; the C.J. Peete housing development from 723 to 154. The demolition of public housing is part of the federal government's so-called Hurricane Katrina "recovery" efforts that create a housing crisis for approximately 5,000 African American families, who lived in public housing prior to the storm. HUD recently announced that the demolition of public housing is scheduled to begin on December 15, 2007.

In addition, HUD has approved funds for residential repair and rebuilding in Louisiana that would provide on average a woefully inadequate grant that is capped at \$150,000 to homeowners who lost everything, and no direct benefit to renters, who are predominantly African American and comprised 60% of the pre-hurricane population of New Orleans; and are unable to afford the rents that have skyrocketed since the storm.²⁷

The Federal Emergency Management Agency ("FEMA") has provided temporary housing to displaced residents of the Gulf Coast in the form of trailers that exposed residents to high levels of formaldehyde contained in the cabinets and other furnishing.²⁸ A Congressional hearing exposed the fact that FEMA knew of the formaldehyde exposures and attempted to suppress complaints by residents of serious health effects triggered by the toxic chemical.²⁹ Formaldehyde exposures in FEMA trailers only

²⁴ *Id.*

²⁵ US Department of Housing and Urban Development, *News Release: Housing Authority of New Orleans Approves Firms to Redevelop of St. Bernard, B.W. Cooper, and C.J. Peete*, March 28, 2007, available at <http://www.hud.gov/news/release.cfm?content=pr07-030.cfm>.

²⁶ *Id.* (*HANO Developer Fact Sheet*, available at <http://www.hud.gov/news/releases/pr07-030b.cfm>).

²⁷ Staff Reports, *Renters in New Orleans Want Road Home, Too*, NEW ORLEANS CITY BUSINESS, Nov. 27, 2006.

²⁸ U.S. Congress Oversight & Reform Committee, *Committee Probes FEMA's Response to Toxic Trailers*, July 19, 2007, available at <http://oversight.house.gov/story.asp?ID=1413>. See also, Sheldon Alberts, *Katrina Survivors Suffer in FEMA's Dirty Little Secret Trailers*, National Post (Canada), Aug. 28, 2007, available at <http://www.nationalpost.com/news/story.html?id=d3c0b8fa-31d3-4695-a806-5cfd2fef53e5&k=35727>.

²⁹ *Id.*

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exacerbate the impact of the government's initial failure to timely provide temporary housing;³⁰ establish oppressive conditions for displaced people who lived in fenced-off areas reserved for FEMA trailers;³¹ and, presently, to eliminate temporary housing that is still needed by displaced residents who do not have the means to find alternative housing.³² For the thousands of predominantly African American displaced people who are dependent on governmental assistance, FEMA has also established significant barriers to their accessing housing subsidies that provoked courts to condemn the agency's actions:

[FEMA] must free the evacuees from the 'Kafkaesque' housing assistance application process they have had to endure. . . . It is unfortunate, if not incredible, that FEMA and its counsel could not devise a sufficient notice system to spare those beleaguered evacuees the added burden of federal litigation to vindicate their constitutional rights.

ACORN v. FEMA, No. 06cv1521 (Nov. 29, 2006).

[This Court] has seen scant evidence that desire for openness and clarity guided any of FEMA's communications, and this obfuscation has acted much to the detriment of the plaintiffs, and indeed, the entire country.

McWaters v. FEMA, No. 05-5488 (E.D. La. 2006).

The U.S. Government's denial of the human right to housing has contributed to the growing numbers of homeless people in New Orleans, which is currently estimated to be 12,000.³³ The denial of the human right to housing for a predominantly African American displaced population is a violation of CERD Art. 5(e)(iii). Further, the U.S. Government's actions alter the racial composition of New Orleans and other communities that were predominantly African American prior to the hurricane, which constitutes a form of ethnic cleansing that is expressly prohibited by the UN *Guiding Principles on Internal Displacement*, Principle 6(2).

Denying the Human Right to Public Health, Medical Care, Social Security and Social Services, CERD Art. 5(e)(iv)

Prior to Hurricane Katrina, the city of New Orleans had one of the nation's highest numbers of residents who did not have health insurance and relied on the public health care system. The permanent closure of the public hospital in New Orleans after the storm, the loss of 7 of the 22 private and public hospitals in Louisiana, and the displacement of nearly 5,000 doctors have contributed to the rising number of deaths in the aftermath of Hurricane Katrina.³⁴ A health survey found that 72% of African American

³⁰ Kerry Sanders, *Thousands Still Waiting for FEMA Trailers: Fewer Than Half the 25,000 Promised Have Been Delivered*, MSNBC, Dec. 10, 2005, available at <http://www.msnbc.msn.com/id/10399646/from/RL.5>.

³¹ Amy Goodman, *FEMA's Dirty Little Secret: A Rare Look Inside the Renaissance Village Trailer Park, Home to Over 2,000 Hurricane Katrina Evacuees*, Democracy Now, Apr. 24, 2006, available at http://www.democracynow.org/2006/4/24/femas_dirty_little_secret_a_rare.

³² Becky Borrer, *FEMA to Close Post-Katrina Trailer Parks*, THE ASSOCIATED PRESS, Nov. 30, 2007, available at http://ap.google.com/article/ALeqM5i8y8aPifHXBqMAjL_GXlElYFTXoAD8T7J48G1.

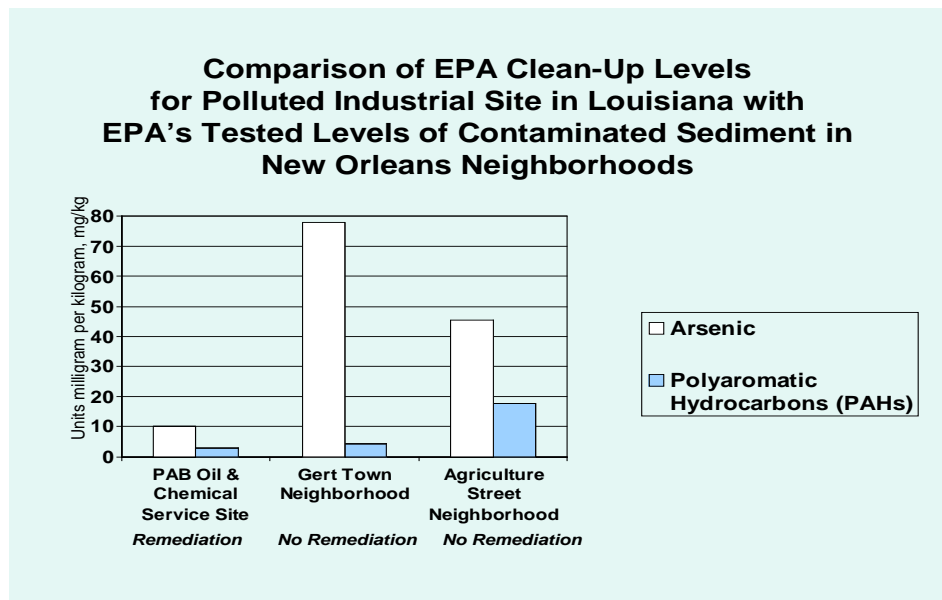
³³ Associated Press, *Homeless Camp Outside of New Orleans City Hall*, MSNBC, Nov. 16, 2007, available at <http://www.msnbc.msn.com/id/21840886>.

³⁴ Steven Sternberg, *New Orleans Deaths Up 47%*, USA Today, June 21, 2007, available at http://www.usatoday.com/news/nation/2007-06-21-new-orleans-crime_N.htm.

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New Orleanians report that their access to health care has been reduced following the storm, which is significantly greater than 32% of white residents who report reduced access to health care.³⁵ Both the traumatic impact of surviving the storm and the significant stress related to governmental obstacles to recovery have intensified the unmet need for mental health care and trauma counseling among displaced residents. Notwithstanding the dire consequences caused by the lack of medical services, the U.S. Department of Health and Human Services has failed to implement a plan for rebuilding the storm-damaged hospitals and clinics that are desperately needed in New Orleans.

The U.S. Government’s responses to the environmental consequences of the storm have contributed to public health threats. Communities of color – a Vietnamese-American neighborhood in New Orleans and the African American community of Mossville, which is located next to Lake Charles, Louisiana – have had to battle against being subjected to the disposal of massive amounts of debris resulting from Hurricanes Katrina and Rita, as proposed by governmental authorities that waived environmental standards.³⁶ Such governmental actions follow a pattern of discrimination known as environmental racism.³⁷ In addition, the sediment left behind by flood waters in residential areas contain significant levels of arsenic that exceed the US Environmental Protection Agency’s clean up standard that was applied to the removal of toxic soil from an industrial site. However, EPA has determined that no clean up is needed in the neighborhoods that flooded.³⁸ See chart below contrasting EPA’s clean up standard for arsenic that it applied at the PAB Oil & Chemical Service Site with EPA’s detected levels of arsenic in the post-Katrina sediment collected from the African American neighborhoods of Gert Town and Agriculture Street in New Orleans, Louisiana.



³⁵ Henry J. Kaiser Foundation, *Giving Voice to the People of New Orleans: The Kaiser Post-Katrina Baseline Survey*, May 2007, p. 36.

³⁶ See, e.g., Leslie Eaton, *A New Landfill Sets Off a Battle*, THE NEW YORK TIMES, May 8, 2006, available at http://www.nytimes.com/2006/05/08/us/08landfill.html?_r=1&oref=slogin.

³⁷ Robert Bullard, et al, *Toxic Waste and Race at 20, 1987-2007: Grassroots Struggles to Dismantle Environmental Racism in the United States*, United Church of Christ Commission on Racial Justice, Feb. 2007, available at <http://www.ejrc.cau.edu/2007%20UCC%20Executive%20Summary.pdf>.

³⁸ US Environmental Protection Agency, *Summary Results of Sediment Sampling in Response to Hurricanes Katrina and Rita*, Aug. 17, 2006 available at <http://www.epa.gov/katrina/testresults/sediments/summary.html>.

Racial Discrimination in the Aftermath of Hurricane Katrina

The U.S. Government's actions deny the human right to public health and medical care for a predominantly African American displaced population in violation of CERD Art. 5(e)(iv).

Conclusion & Recommendation

Against tremendous opposition from the U.S. Government, hurricane survivors are struggling to return home and rebuild their communities. The government's failure to protect the rights of displaced people, who are predominantly African American violates the Convention on the Elimination of All Forms of Racial Discrimination ("CERD") and is contrary to the United Nations' *Guiding Principles on Internal Displacement*, which specifically prohibits ethnic cleansing and racial discrimination.

In the U.S. Government's current human rights report to the UN Committee on the Elimination of Racial Discrimination, which presents two misleading paragraphs regarding governmental responses to Hurricane Katrina, the U.S. Government has demonstrated not only a lack of candor, but also a low regard for the Committee and its efforts to ensure the human right to freedom from racial discrimination. We urge this Committee to exercise its authority to compel the U.S. Government to comply with CERD and the UN *Guiding Principles on Internal Displacement*.