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Preliminary Report on Hurricane Gustav and the Inadequacies of US Policy

The US Human Rights Network (USHRN) condemns the numerous anti-humanitarian and irresponsible statements made by government officials during Hurricane Gustav and the inequitable policies drafted by various entities of the US government that guided the response to Hurricane Gustav. We further condemn the numerous human rights violations reported between August 30th and September 7th, 2008 by evacuees, independent monitors, and the press.

The US Human Rights Network calls on all levels of the US government to adopt and implement the United Nations Guiding Principles on Internal Displacement to avert humanitarian crises such as those that occurred during the evacuation, return, and resettlement phases of Hurricane Gustav. USHRN further calls on the US government to adhere to the principles of equal and equitable protection stipulated in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the International Covenant on Civil and Political Rights (ICCPR), both ratified by the US government. The institutionalization of these principles and conventions will enable the US government to fulfill its responsibilities and obligations to provide the broadest and most effective protections to persons displaced by natural disasters. These responsibilities are consistent with Principle 3 of the Guiding Principles, which state in Section 1, *“National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.”*¹

The USHRN draws attention to the following violations and irresponsible statements, actions, and policies of the government to illustrate the inadequacies of current policies, provisions, and perspectives of the US government and its failure to safeguard basic human rights in a time of crisis:

Policies

- (a) On Friday, August 29th, 2008, Louisiana Governor Bobby Jindal and the Louisiana Department of Social Services (DSS) issued the “Primer on Emergency Support Function 6: Mass Care, Emergency Assistance, Housing and Housing Services.” This primer rationalized disparate treatment and the provision of

¹ See Guiding Principles on Internal Displacement website
<http://www.unhchr.ch/html/menu2/7/b/principles.htm>.

unequal protections for evacuees who either required or used the state of Louisiana's evacuation assistance as opposed to those who evacuated of their own accord and were provided better accommodation. As stated by STAND and the New Orleans Workers' Center for Racial Justice, "the impact of the policy is that the poorest in New Orleans – predominantly African American families struggling for stability since Hurricane Katrina – have least access to humane conditions in a time of disaster".²

(b) Despite the many lessons drawn from the inadequate response to Hurricane Katrina, the federal government is still operating under the framework of the Robert T. Stafford Disaster Relief and Emergency Act, which places the burden of disaster recovery and resettlement on the states. The majority of states in the Gulf Coast do not have the resources and revenues to bear this burden on their own. Furthermore, with their longstanding legacies of institutional racism, these states often do not have the institutional mechanisms in place to adequately mitigate against racial discrimination in times of crisis.³

These policies violate the following Principle(s) on Internal Displacement:

- **Principle 9**
States⁴ are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with special dependency on and attachment to their lands.
- **Principle 24**

² STAND (n.d.) Never Again: Lessons from Louisiana's Gustav Evacuation. Retrieved from [http://www.neworleansworkerjustice.org/never_again_final_report\[1\].pdf](http://www.neworleansworkerjustice.org/never_again_final_report[1].pdf) (esp pp.11-12) ; *State Gears Up Shelter Plans For Upcoming Storm Season, Urges Residents To Plan Ahead* (2008 May 16) Retrieved from Louisiana Homeland Security and Emergency Preparedness Web site: <http://www.ohsep.louisiana.gov/archive/shelplans.htm>; 'Never again, ' again (2008, September 20).. Retrieved from New York Times Web site: <http://www.nytimes.com/2008/09/21/opinion/21sun2.html>; Plans to respond to respond to the problems experienced during Hurricane Gustav **do not** include a modification of this policy.--see Barrow, B. (2008, September 23) *Shelter system will be retooled, official vows*. Retrieved from The Times Picayune Web site: <http://www.nola.com/timespic/stories/index.ssf?/base/news-6/122214728157990.xml&coll=1>

³ Jindal, B. (2008, August 27) *Governor Jindal Issues Letter Requesting Pre-Landfall Federal Disaster Declaration* Retrieved 4 October 2008 <http://www.gov.state.la.us/index.cfm?md=newsroom&tmp=detail&articleID=508>

⁴ Readers should note that the usage of "state" here refers to the Federal Government of the United States, not the individual states that constitute the Federated Union such as Louisiana, Mississippi or Alabama.

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.

- **Principle 25**

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.

Evacuation and Return Procedures

(a) The State of Louisiana and the Federal Emergency Management Agency (FEMA) did not provide sufficient or adequate transportation for evacuees – people waited hours in the heat for transportation from pick-up sites and many buses were without water or air conditioning needed to prevent heat exhaustion amongst the elderly and infirm.⁵

(b) Many evacuees reported to the press and independent monitors that they were falsely or inadequately informed regarding their evacuation locales and sites, and were not adequately informed of the return process and procedures, resulting in many elderly and infirm residents being left without adequate transportation to return to their places of residence from the drop-off sites.⁶

(c) The registration process mandated by the City of New Orleans to receive evacuation assistance served as an inhumane deterrent to migrants and those accused of crimes.⁷

(d) Evacuees reported being turned away from several shelters in Alabama.⁸

(e) Evacuees reported being treated in a racist and degrading manner by being sorted into animal groups during the return process in Louisville, Kentucky.⁹

⁵ Maggie, L. (2008, August 31). *Gustav takes aim* Retrieved from The Times Picayune Web site: <http://www.nola.com/news/t-p/index.ssf?/base/news-0/1220161304139690.xml&coll=1&thispage=1>.

⁶ STAND (n.d.) *Never again: Lessons from Louisiana's Gustav evacuation* Retrieved from [http://www.neworleansworkerjustice.org/never_again_final_report\[1\].pdf](http://www.neworleansworkerjustice.org/never_again_final_report[1].pdf) (p. 11); 'Never again,' again (2008, September 20). Retrieved from The New York Times Web site: <http://www.nytimes.com/2008/09/21/opinion/21sun2.html>.

⁷ Carr, S. (2008, September 15) *Latino workers decided to stay during Gustav* Retrieved from The Times Picayune Web site: http://www.nola.com/hurricane/index.ssf/2008/09/latino_workers_decided_to_stay.html; *No shelter from the storm* (2008, September 6) Retrieved from New York Times Web site: http://www.nytimes.com/2008/09/07/opinion/07sun2.html?_r=1&oref=slogin.

⁸ Reported to independent human rights monitors by several evacuees and bus drivers in New Orleans Thursday, September 4 and Friday, September 5, 2008.

These actions violate the following Principle(s) on Internal Displacement:

- ***Principle 4***
 1. These principles shall be applied without discrimination of any kind, such as race, color, sex, language, religion, or belief, political or other opinion, national, ethnic, or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.

- ***Principle 7***
 1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
 2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
 3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:
 - a. A specific decision shall be taken by a State authority empowered by law to order such measures;
 - b. Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
 - c. The free and informed consent of those to be displaced shall be sought;
 - d. The authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation;
 - e. Law enforcement measures, where required, shall be carried out by competent legal authorities; and
 - f. The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Housing and Shelter Standards

⁹ *Louisville Red Cross refers to evacuees as animals* (2008, September 6) Retrieved 2008 October 4 from <http://gustavinfo.org/?p=309>. Documented on Friday, September 5, 2008 by Corrigan, R. and Gilles, N. in Louisville see report, *Conditions for Gustav Evacuees at the Red Cross Shelter in the Louisville, Kentucky Exposition Center*, and photo at www.ushrn.org.

(a) Evacuees widely reported to the press and independent monitors that they were housed in sub-standard facilities that lacked adequate bathing facilities, plumbing, lighting or air conditioning, and made little to no provision for privacy.¹⁰

(b) Evacuees also widely reported excessive policing at the relief shelters that was intrusive and arbitrary.¹¹

These actions violate the following Principle(s) on Internal Displacement:

- **Principle 12**
 1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
 2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.
 3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
 4. In no case shall internally displaced persons be taken hostage.

- **Principle 18**
 1. All internally displaced persons have the right to an adequate standard of living.
 2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
 - a. Essential food and potable water;
 - b. Basic shelter and housing;
 - c. Appropriate clothing; and
 - d. Essential medical services and sanitation.

Provisions

¹⁰ Barrow, B. (2008, September 23) *Shelter system will be retooled, official vows*.

Retrieved from The Times Picayune Web site:

<http://www.nola.com/timespic/stories/index.ssf?/base/news-6/122214728157990.xml&coll=1>;

Alison Bath (2008, September 7) Hurricane Gustav

Teaches Lessons from Shreveport times.com Web site:

<http://www.shreveporttimes.com/apps/pbcs.dll/article?AID=/20080907/NEWS01/809070320/1060>;

STAND (n.d.) *Never again: Lessons from Louisiana's Gustav evacuation*

Retrieved from [http://www.neworleansworkerjustice.org/never_again_final_report\[1\].pdf](http://www.neworleansworkerjustice.org/never_again_final_report[1].pdf)

esp. pp. 15-16, 20-23.

¹¹ STAND (n.d.) *Never again: Lessons from Louisiana's Gustav evacuation* Retrieved

from [http://www.neworleansworkerjustice.org/never_again_final_report\[1\].pdf](http://www.neworleansworkerjustice.org/never_again_final_report[1].pdf) (esp. pp.

16-17).

(a) Louisiana Governor Bobby Jindal and New Orleans Mayor Ray Nagin both made statements that the government would not be responsible for the provision of food, water, and medical treatment for residents in impacted areas who chose not to evacuate.¹²

(b) After the issuance of mandatory evacuation orders, FEMA and various government agencies initially made no provisions to assist residents who self-evacuated with resources to cover their living or return and resettlement expenses.¹³

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 - c. Appropriate clothing; and
 - d. Essential medical services and sanitation.

Harassment, Arbitrary Arrest and Detention

(a) Residents in New Orleans Parish were reportedly detained and sent to prison facilities for violating a highly arbitrary curfew that in effect served as a de-facto application of “martial law”.¹⁴

¹² Bohar, B. (2008, August 29) *In New Orleans, no shelter for those who stay* Retrieved from Fox News Web site:

<http://www.foxnews.com/wires/2008Aug29/0,4670,GustavEvacuation,00.html>;

Mandatory evacuations to begin Sunday in New Orleans (2008, August 31) Retrieved from CNN Web site:

<http://www.cnn.com/2008/US/weather/08/30/gustav.prepare/index.html>.

¹³ Russell, G. Russell, G (2008, September 28) *Storm rages over Gustav response*.

Retrieved from The Times Picayune Web site:

<http://www.nola.com/timespic/stories/index.ssf?/base/library-156/1222580541120200.xml&coll=1&thispage=3>.

¹⁴ Russell, G. (2008, September 28) *Storm rages over Gustav response*. Retrieved from The Times Picayune Web site:

<http://www.nola.com/timespic/stories/index.ssf?/base/library-156/1222580541120200.xml&coll=1>.

(b) Both residents in New Orleans Parish and evacuees were subjected to intensely harassing security checks and searches after the Hurricane and during the return phase of operations.¹⁵

(c) Evacuees in several states, including Louisiana, Kentucky, Tennessee, and Alabama, were reportedly subjected to arbitrary arrests for questioning authorities regarding the inadequate housing conditions and inhumane treatment they were subjected to.¹⁶

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Conclusion and Recommendations

The documentation provided in this preliminary report clearly demonstrates that numerous and systemic human rights violations occurred during the evacuation, return, and resettlement phases of Hurricane Gustav. These violations are the direct result of the inadequate natural disaster policies of the US government and the government's failure to adhere to various human rights conventions and covenants, such as ICERD and ICCPR.

To avert future disaster-related humanitarian crisis and human rights violations, the US Human Rights Network calls on the US Government to take the following steps towards the adoption and implementation of the Guiding Principles on Internal Displacement:

1. The Department of Homeland Security, FEMA, and all state governments -- particularly those of the Gulf Coast, which are most likely to be the subject of major calamities from hurricanes -- should institute a broad-based human rights

¹⁵ STAND (n.d.) *Never again: Lessons from Louisiana's Gustav evacuation* Retrieved from [http://www.neworleansworkerjustice.org/never_again_final_report\[1\].pdf](http://www.neworleansworkerjustice.org/never_again_final_report[1].pdf) (esp. pp. 16-17).

¹⁶ STAND (n.d.) *Never again: Lessons from Louisiana's Gustav evacuation* Retrieved from [http://www.neworleansworkerjustice.org/never_again_final_report\[1\].pdf](http://www.neworleansworkerjustice.org/never_again_final_report[1].pdf) (pp. 16-17).

- training series for all government officials, essential personnel and non-government agencies responsible for humanitarian aid, response and recovery. This training should cover the relevant international human rights and humanitarian law including the ICERD and ICCPR, the Guiding Principles, complemented by the framework adopted in 2004 by the United States Agency for International Development (USAID) in their “Assistance to Internally Displaced Persons Policy.”
2. The Governors and State Legislatures of the Gulf Coast states should institute the Guiding Principles on Internal Displacement and redraft their emergency management protocols and procedures to ensure compliance with these principles.
 3. According to the Guiding Principles 3 (1), “national authorities have the primary duty and responsibility to provide protection and humanitarian assistance from these authorities.” Therefore, the federal government should make the Principles standard operating procedure for the Department of Homeland Security and FEMA, abolish the Stafford Act, and develop a comprehensive piece of national legislation that complies with the basic tenets of the principles and is grounded in respect and the provision of protection for human rights.

The US Human Rights Network also calls on the US government to fully implement the protective principles outlined in the ICERD and ICCPR to avert disaster-related humanitarian crises.