

BACKGROUND

August 29, 2009 marks the fourth anniversary of Hurricane Katrina's landfall in New Orleans. According to Federal government figures, approximately 200,000 people were evacuated from the Gulf Coast Region to Texas, Florida, Georgia and Washington, D.C. 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 75% of those individuals being African American and 29.2% living below the national poverty line (which was calculated at an income of \$19,350 for a family of four in 2005). The people who fled the hurricane are considered internally displaced persons. An internally displaced person (IDP) is someone who has been forced to leave their home for reasons such as religious or political persecution, war or natural disaster, but has not crossed an international border.

Despite the passage of almost four years, thousands of those internally displaced as a result of Hurricane Katrina (hereafter internally displaced people or IDPs) who want to return to New Orleans are unable to do so. One reason is the lack of housing. Currently, thousands of residences located throughout the various parishes remain vacant or blighted.¹ More than 14,000 families living in metropolitan New Orleans are still receiving Disaster Housing Assistance Program (DHAP) vouchers which help them pay rent.² These vouchers come with an expiration date, which was recently changed from March 2009 to September 2009. Only approximately 7,500 of these families may be eligible for Housing Choice vouchers, which gives them access to Section 8 housing.³ Once the DHAP vouchers expire, the remaining families face potential homelessness. The U.S. Department of Housing and Urban Development (HUD) acknowledges that at least 4,000 of those who do not qualify for Section 8 housing will have difficulty finding affordable housing.⁴ Exacerbating the situation, so far around 5,000 public housing units have been demolished. While some affordable housing units are being built as part of mixed income housing, there is no guarantee at this time that all demolished units will be replaced. HUD estimates that 1,326 mixed income units are currently slated to be built, of

¹ Liu, Amy, *The New Orleans Index*, The Brookings Institute Metropolitan Policy Program & Greater New Orleans Community Data Center, January 2009, at 12, available at <http://gnocdc.s3.amazonaws.com/NOLAIndex/ESNOLAIndex.pdf>.

² Policy Link, 2009, *The State of Housing: New Orleans Metro and Louisiana*, available at http://www.policylink.org/site/c.lkIXLbMNJrE/b.5160811/k.61DA/The_State_of_Housing.htm.

³ Ibid.

⁴ Ibid.

which a fraction will be public housing units.⁵ This is all happening at a time when rents in the New Orleans metro area are 52% higher than pre-Katrina levels.⁶

After Katrina, the federal government placed tens of thousands of families in trailers which were meant to provide temporary shelter. Today, there are approximately 3,400 families still living in trailers in Louisiana and Mississippi, 760 of which are in New Orleans.⁷ After being told that they would be evicted if they did not vacate their trailers by May 30, 2009, the trailer residents will now be given the option to purchase their trailers for \$5 or less.⁸ Many of the FEMA trailers contain levels of formaldehyde, a carcinogenic toxin, which are 75 times the recommended maximum for U.S. workers.⁹ The federal government has indicated that trailers with elevated levels of formaldehyde will not be available for purchase. As a result, only 1,160 of the trailers currently being used qualify for purchase by these IDPs. HUD has not yet provided a clear indication of how it will supply the remaining trailers.¹⁰

Making the trailers available for purchase, however, sidesteps the issue of right of the IDPs to resettle in a manner similar to their pre-hurricane situation. Many of the trailer residents are homeowners who are trying to get their homes fixed, but do not have enough money to fix their home or are facing other obstacles. Besides not being adequate replacements for homes or apartments, a 2007 survey of displaced residents living in trailers found that, nearly half of those surveyed reported being in worse health than the day before Katrina and 30 per cent had been victims of theft and one in six women reported being a victim of domestic violence.¹¹

There are other environmental concerns that must be taken into consideration when planning the return of IDPs. For example, in soil samples collected by the Environmental Protection Agency and analyzed by the Natural Resources Defense Council (NRDC), a non-profit environmental organization, over the five months immediately following Hurricane Katrina, the NRDC found levels of arsenic that "potentially pose a significant

⁵ See U.S. Department of Housing and Urban Development, Press Release, *HUD, Partners Break Ground At St. Bernard to Bring New Mixed-Income Community to New Orleans*, December 9, 2008, available at <http://www.hud.gov/news/release.cfm?CONTENT=pr08-183.cfm>.

⁶ Liu, Amy, *The New Orleans Index*, The Brookings Institute Metropolitan Policy Program & Greater New Orleans Community Data Center, January 2009, at 12, available at <http://gnocdc.s3.amazonaws.com/NOLAIndex/ESNOLAIndex.pdf>.

⁷ Bohrer, Becky & Byrd, Sheila, *FEMA Working to Move Gulf Coast Trailer-Dwellers*, The Washington Post, May 30, 2009.

⁸ Dewan, Shaila, *Katrina Victims Will Not Have to Vacate Trailers*, The New York Times, June 4, 2009, available at: <http://www.nytimes.com/2009/06/04/us/04trailers.html?ref=us>.

⁹ Hsu, Spencer S., *FEMA knew of Toxic Gas in Trailers*, Washington Post, July 20, 2007, at A01, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2007/07/19/AR2007071901039.html>.

¹⁰ Dewan, Shaila, *Katrina Victims Will Not Have to Vacate Trailers*, The New York Times, June 4, 2009, available at: <http://www.nytimes.com/2009/06/04/us/04trailers.html?ref=us>.

¹¹ Whoriskey, Peter, *Study Says Storms Displaced More People Than Estimated*, The Washington Post, August 8, 2007, at A04, available at: <http://www.washingtonpost.com/>; see also, Schafer, Mark J., Joachim Singelmann, LSU AgCenter, Louisiana FEMA park Survey, Interim report, Louisiana Recovery Authority, April 2007, available at: <http://www.Ira.louisiana.gov/>.

cancer risk, according to EPA Guidelines."¹² Furthermore, according to the Federal Government Accountability Office (GAO), "millions of gallons of oil and unknown quantities of potentially hazardous chemicals were released into the environment" in the wake of Hurricane Katrina.¹³ Sources of chemical spills included tanks, barges, pipelines, rail cars and industrial facilities.¹⁴ In a 2007 report, the NRDC found that almost one quarter of the playgrounds and school yards tested in New Orleans contained levels of arsenic that are two to three times the levels that require clean up pursuant to both U.S. Environmental Protection Agency and Louisiana Department of Environmental Quality guidelines.¹⁴ In addition, although more than 2,200 of the FEMA trailers will not be sold to IDPs due to the high levels of formaldehyde, many IDPs have resided in these trailers since shortly after Hurricane Katrina and the long term health effects are not known.

In addition to housing and a clean environment, there is also a need to improve the infrastructure to both meet the needs of the current residents as well as provide assurances for IDPs wishing to return. Only 69% of the number of schools that New Orleans had pre-Katrina had opened as of fall 2008.¹⁵ In some parishes, the number of child care centers which have opened are at 50% or less than pre-Katrina numbers.¹⁶ Three years after Katrina, all the police stations were finally moved out of trailers, but central evidence, property, the mounted unit and the canine unit continue to operate out of FEMA trailers.¹⁷ The residents of New Orleans are also not adequately protected from future hurricanes. Hurricane modeling from June 2007, the most recent modeling available, shows that many neighborhoods have the same risk of flooding as they did prior to Katrina.¹⁸ Currently it is estimated that adequate protections will not be in place until 2011 at the earliest, six years after the levees failed.¹⁹

INTERNATIONAL HUMAN RIGHTS STANDARDS

¹² See Solomon, Gina, *Contaminants in New Orleans Sediment: An Analysis of EPA Data*, Natural Resources Defense Council, February 2007, at 4, available at: <http://www.nrdc.org/health/effects/katrinadata/sedimentepa.pdf>. The average level of arsenic found by the EPA in the greater New Orleans area is 10.6 mg/kg of soil. In comparison, the Region 6 EPA health-based soil screening level for residential areas is set at 0.29 mg/kg of soil to protect against cancer. EPA Region 6 Human Health Medium-Specific Screening Levels. November 2005: <http://www.epa.gov/>.

¹³ See Government Accountability Office, Report to Congressional Committees, *Hurricane Katrina: EPA's Current and Future Environmental Protection Efforts Could be Enhanced by Addressing Issues and Challenges Faced on the Gulf Coast*, June 2007, at 1, available at: <http://www.gao.gov/new.items/d07651.pdf>.

¹⁴ See Fields, Leslie, *Katrina's Wake- Arsenic-Laced Schools and Playgrounds Put New Orleans Children At Risk*, Natural Resources Defense Council, August 2007, at 9, available at <http://www.nrdc.org/health/effects/wake/wake.pdf>.

¹⁵ Liu, Amy, *The New Orleans Index*, The Brookings Institute Metropolitan Policy Program & Greater New Orleans Community Data Center, January 2009, at 14, available at <http://gnocdc.s3.amazonaws.com/NOLAIndex/ESNOLAIndex.pdf>.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Grissett, Sheila, *Levee system making strides*, The Times-Picayune, May 31, 2009, available at: <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-13/1243747847239560.xml&coll=1>.

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.

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 clearly supported by international law, 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?"

The Universal Declaration of Human Rights (UDHR), Article 25

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in 1948, by a unanimous vote by all member countries, including the United States. The right to adequate housing has been reaffirmed in the International Convention on the Elimination of All Forms of Racial Discrimination, to which the USA is a party, 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) right to housing."

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5

The right to adequate housing is also protected in Article 14 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 International Covenant on Civil and Political Rights (ICCPR), which the US has ratified, also includes "the right to participate in the conduct of public affairs". The latter has been interpreted broadly: "the conduct of public affairs, referred to in paragraph (a), is a

broad concept...It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels."²⁰

The status of the right to adequate housing in international human rights law and standards, including in conventions which the USA 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.²¹

United Nation's Guiding Principles on Internally Displaced Persons

The United Nations General Assembly adopted the "UN Guiding Principles for Internally Displaced Persons," (the IDP Guidelines) which are non-binding, but 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 UN Guiding Principles on Internal Displacement offer a useful tool and framework for dealing with IDPs.²²

The IDP Guidelines offer protection from forced displacement and protection to IDPs 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

²⁰ 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).

²¹ 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.

²² 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.

"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."

United Nations Guiding Principles on Internal Displacement²³

"Displacement shall last no longer than required by the circumstances."

Principle 6(3), United Nations Guiding Principles on Internal Displacement

In addition to providing guidance on the protection of IDPs 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 IDPs, 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 IDPs 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"²⁴ 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.²⁵

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 IDPs 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 and 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,²⁶ are based on existing international human rights and humanitarian law

²³ 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/menu2/7/b/principles.htm>.

²⁴ ICCPR, Article 2(3)(a).

²⁵ 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.

²⁶ UN Doc. E/CN.4/Sub.2/2005/17.

and standards. They recognize the right to adequate housing²⁷ and the right to fully participate in the planning and management of their return or resettlement and reintegration.²⁸ 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 Persons²⁹

The U.N. Human Rights Committee (the ICCPR monitoring body) has urged the U.S. to review its practices and policies to ensure the full implementation of its obligations 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. 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 healthcare.³⁰ After visiting the New Orleans area in 2008, the U.N. Special Rapporteur on racism cited the "overlap of poverty and race" as the reason for the disproportionate impact of Hurricane Katrina on minorities. The Special Rapporteur concluded that the federal and state governments should respect the Guiding Principles on Internal Displacement and "increase [] assistance to the persons displaced by Hurricane Katrina, particularly in the realm of housing."³¹

The Right to Health Care

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

²⁷ 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>.

²⁸ Art. 25, Human Rights Committee: General Comment 25. The right to participate in public affairs, voting rights and the right of equal access to public service. UN Doc. CCPR/C/21/Rev.1/Add.7.

²⁹ 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>.

³⁰ 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.

³¹ Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diene, Addendum: Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance, Follow-Up To and Implementation of the Durban Declaration and Programme of Action, UN Doc. A/HRC/11/36/Add. 3, paras. 90 & 110 April 28, 2009.

Art. 12(1), International Covenant on Economic, Social and Cultural Rights³²

The right to health is the right to the "highest attainable standard of physical and mental health". It encompasses 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.³³

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."³⁴

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) has adopted a broad conception of the right to health, recognizing it 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.*"³⁵

Article 12(2)(b) 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 improvement of all aspects of environmental and industrial hygiene" which has been authoritatively interpreted by the Committee on Economic, Social and Cultural Rights (CESCR) (in General Comment 14) to incorporate "The right to a healthy natural environment comprising, " *inter alia*... the requirement to ensure an adequate supply of safe and potable water and basic sanitation; the prevention and reduction of the population's exposure to harmful substances such as ... harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health. . . . Article 12.2 (b) also embraces adequate housing . . ."

³² 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. The United States has signed but not ratified this Covenant. As a signatory, the U.S. is obligated not to defeat the object and purpose of the Covenant. Vienna Convention on the Law of Treaties, Article 18.

³³ The right to health: Article 12, ICESCR; 5 (e) (iv) ICERD; 11.1 (f), CEDAW among others.

³⁴ Article 5(e)(iv) ICERD.

³⁵ 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).

The United States 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 Covenant³⁶

THE STAFFORD ACT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (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 Guiding Principles on Internal Displacement. It fails to recognize that the federal government should bear the responsibility for overseeing disaster recovery and instead vests the primary responsibility with the states. IDPs are not legally entitled to humanitarian assistance or help with either returning to their residences or resettling. IDPs are only protected from intentionally discriminatory government actions, not those which have discriminatory impact. There is no right to housing, education and healthcare; such assistance from the government is discretionary.

The U.S. State Department issues foreign aid based on policies that detail a commitment by our government to protect human life through three phases of humanitarian assistance: transition, reintegration and long term development assistance, the same rights are not afforded to Americans displaced within our own borders by national disasters as declared by the President and executed by the Stafford Act.

On February 26, 2009, the Senate Disaster Subcommittee issued a report entitled *Far From Home* which recommends amendments to certain sections of the Stafford Act pertaining to housing. These recommendations 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. While these recommendations are laudable, they primarily address housing concerns and fall short of the broad changes needed. Amnesty International is calling on Congress to take this opportunity to amend the Stafford Act and bring it in line with international law.

Nowhere are the shortcomings of the Stafford Act more apparent than in the post-Katrina response by both federal and state governments. Solutions for temporary, and then permanent, housing, were slow to come. As the Senate Disaster Subcommittee noted, as a result of the inadequate response by the Federal government, the needs of hundreds of thousands of citizens were not met.³⁷ The federal government often

³⁶ Vienna Convention on the Law of Treaties, Article 18.

³⁷ See Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs, *Far From Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement*, February 26, 2009, at 2 (discussing both Hurricanes Katrina and Rita).

required the state or local government to first put up their own money before being reimbursed for their clean up and rebuilding efforts, thereby hampering both.³⁸ This resulted in delays fixing water, sewage, debris removal, schools and government facilities, in addition to housing.³⁹ Money set aside for aid or rebuilding often was tied up by bureaucratic roadblocks. As of December 2008, three parishes, Orleans, Plaquemines and St. Bernard, have received less than 60% of the Public Assistance funds obligated to them by FEMA. These funds are needed to pay for things such as debris removal and infrastructure repairs, which cannot occur without timely adequate funding.⁴⁰ Often non-profit organizations have had to step in to bridge the gap in government assistance and help rebuilding efforts.

RECOMMENDATIONS

The response to Hurricanes Katrina and Rita demonstrated beyond question that the development of a strategic plan for initial disaster response and long term disaster recovery after a catastrophe of that scale is a matter of national security. Given the inability of state authorities to protect citizens during national disasters of catastrophic scale, the following is recommended:

- Designate a separate category for governmental response to a catastrophic national disaster that is defined as one that results in or contributes to displacing through mandatory evacuation orders at least 25% 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, healthcare, 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, healthcare systems, and school.

³⁸ See *ibid.*, at 1-24.

³⁹ See *ibid.*, at 11.

⁴⁰ Liu, Amy, *The New Orleans Index*, The Brookings Institute Metropolitan Policy Program & Greater New Orleans Community Data Center, January 2009, at 14, available at <http://gnocdc.s3.amazonaws.com/NOLAIndex/ESNOLAIndex.pdf>.

- 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 healthcare;
 - 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 that includes 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.