UN-NATURAL DISASTER

HUMAN RIGHTS IN THE GULF COAST
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Cover photo, front:
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"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. It is estimated that more than 1,800 people from these three states died in the storm. 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 unreppaired levee system and led to further flooding of parts of New Orleans.

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. 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). While the City of New Orleans has regained two-thirds of its pre-Katrina population numbers and US Census estimates for the New Orleans Metropolitan
Human Rights in the Gulf Coast

Returning Home is a Human Right
Amnesty International April 2010

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

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 aftermath 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 seriously 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.

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) to include human rights principles that ensure the rights to health and housing for all disaster survivors. 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

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.”

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. Congress also passed the Gulf Opportunity Zone Act in 2005 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-

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<td><strong>LACK OF AFFORDABLE HOUSING</strong></td>
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<td>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.</td>
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<td><strong>OBSTACLES TO REBUILDING</strong></td>
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<td>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.</td>
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<td><strong>LACK OF PRIMARY HEALTH CARE</strong></td>
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<td>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.</td>
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<td><strong>LACK OF MENTAL HEALTH CARE</strong></td>
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<td>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.</td>
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<td><strong>POLICE ABUSE AND MISCONDUCT</strong></td>
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<td>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.</td>
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<td><strong>CRIMINAL JUSTICE ISSUES</strong></td>
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<td>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.</td>
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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 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 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: POVERTY**

» 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 C.J. 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.” 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. However the plans for redevelopment 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. 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. A total of 3,077 apartments were demolished in 2008, however problems continue to cause delays in the construction of the new developments.

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 housing 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.”
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 B, which includes the coastal cities Gulfport, Biloxi and Pascagoula, 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 Housing 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

RETURNING HOME IS A HUMAN RIGHT
Amnesty International April 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 affordable to households making less than eighty percent of the area medium income prior to Katrina.

While New Orleans already faced an affordable housing crisis prior to Katrina, rents skyrocketed from anywhere between seventy to eighty percent in the year immediately after the storms in Orleans and Jefferson Parishes respectively. 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.

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 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.

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.” 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. 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.

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

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

“Homelessness needs to be thought of from the get-go, both from an immediate standpoint during disasters and long term with recovery.”
Amnesty International April 2010
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.

KEY FACTS: HOMELESSNESS

Recent estimates of homelessness in New Orleans have ranged from nearly 10,000 individuals and families to as many as 12,000. According to a survey conducted by Unity for Greater New Orleans, sixty percent of those surveyed said they were homeless because of Katrina.

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 Program 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.
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. 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 until more units could be financed or built. The permanent placement of cottages in certain municipalities was met with local resistance. For instance, the City of Waveland prohibited the permanent placement 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 Gaulden, Gulf Coast Fair Housing Center, 25 February 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. However, different ordinances to restrict permanent placement of cottages are currently in place in Gulfport, 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 footage 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. 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. 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. These cottages will eventually be sold or auctioned off by June 2010.

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. 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 residents. As of June 2009, eighty-one percent of New Orleans homeowners were left with insufficient funds to rebuild.

**KEY FACTS: THE ROAD HOME PROGRAM**

Even though $7.95 billion in grants was paid out through the Road Home program, as of June 2009, eighty-one percent of New Orleans homeowners were left with insufficient funds to rebuild.
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.\textsuperscript{60} Mississippi government officials have stated that they cannot find enough residents living in temporary housing to accept vouchers,\textsuperscript{61} despite the nearly 5,000 households in the coastal region on a waiting list for assistance.\textsuperscript{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.\textsuperscript{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.\textsuperscript{64}
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. 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 neighborhoods” while “Eastern New Orleans, by contrast, has a high concentration of grants between $40,000 and $65,000.” 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. Statewide, 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. The result has been a complete lack of redevelopment of specific com-

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>.
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.\textsuperscript{17} According to FEMA, there are currently 283 families living in travel trailers along the coast\textsuperscript{18} while 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.

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.\textsuperscript{19} 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.\textsuperscript{20} 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.\textsuperscript{21}

Communities and neighborhoods like the Lower Ninth Ward, where currently there are nearly 6,500 unoccupied residential addresses.\textsuperscript{22} 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.
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.”

“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. 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).

Ms. Craft-Kearney reports that the federal funding through PCASG supplies nearly seventy-five percent of the additional funds necessary to keep the clinic open when the federal funding ends.

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 numbers 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, 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. This while child care centers are still at only half of their pre-Katrina totals in both of these parishes. 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. 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. 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
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.

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. 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.

Within months after Hurricane Katrina, almost all of Charity Hospital’s 3,800 staff members were laid off or furloughed. Despite reports that it would cost less money to refurbish and repair Charity Hospital in its current location, 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.

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.

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, it is reported that the new LSU facility might take as long as eight years to be completed and may not provide the same services.
that existed at Charity. 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, which is notable since more than twenty percent of Louisiana residents did not have health insurance in 2008. 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. 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. One advocate noted to Amnesty International, “We need a hospital we can get to without going over a drawbridge.” 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 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. It has been reported that as many as 249 homes would be demolished and dozens of businesses would be affected. 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. When Charity was shutdown, advocates report that portions of the psych unit went to the New Orleans Adolescent Hospital (NOAH) which has served both adults and adolescents with inpatient beds and outpatient services since Katrina. However, NOAH was closed in 2009, leaving the City of New Orleans short of bed space for inpatient mental health care.

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. 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. 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. However once individuals are released, they reportedly do not receive further psychiatric monitoring. 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.

“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.

**KEY FACTS: HEALTH INSURANCE**

- 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. 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.” 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.

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. For instance, one study found a dramatic rise in violence among displaced Mississippi residents since Katrina. 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.” 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. 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.

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. 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...
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. 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. 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.” Nineteen year old James Brissette was the other murdered victim while another one of the four individuals who was shot lost an arm. At the time, the NOPD claimed they were returning fire from “snipers” on the bridge.

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.”

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

A CLOSER LOOK: POLICE SHOOTINGS ON DANZIGER BRIDGE

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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. 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. 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. 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.”

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.159 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. 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. 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.”

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 permission looking for “two young black men wearing blue jeans and white T-shirts.”

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.

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. Mr. Elloie filed a lawsuit against the City of New Orleans which was settled in January 2010.
Katrina.\textsuperscript{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, 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.\textsuperscript{169} According to the ACLU, in October 2006, eleven staff attorneys in the public defender’s office shared three thousand cases.\textsuperscript{170} 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.\textsuperscript{171} 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.\textsuperscript{172} With eighty to ninety percent of the defendants in the criminal justice system being indigent,\textsuperscript{173} 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.\textsuperscript{174} The New Orleans police estimate they get at least 200 calls a month to take a person in crisis to the hospital.\textsuperscript{175} Meanwhile, accounts of deadly interactions between police and mentally ill residents continue to be reported in the media.\textsuperscript{176} One advocate who spoke with Amnesty International noted, “You have to get arrested in order to get any mental health help in New Orleans.”\textsuperscript{177} 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.\textsuperscript{178} Amnesty International is concerned that the inability to provide mental health care will only perpetuate this problem for the foreseeable future in New Orleans.

\textbf{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.\textsuperscript{179} The Working Group drafted the National Disaster Recovery Framework (NDRF).\textsuperscript{180} The NDRF outlines “scalable, flexible and adaptable coordinating structures” for disaster recovery efforts by government officials, businesspeople, nonprofits and individuals.\textsuperscript{181} 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.”\textsuperscript{182}

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.\textsuperscript{183} While Amnesty International commend 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.\textsuperscript{184} While the
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.”

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.

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.

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 protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.” The ICERD prohibits policies or practices that are discriminatory in either purpose or effect.

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. 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. 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.

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.” 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.”

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.” 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.” 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.”

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

**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.

**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 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.” 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.”

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." The Committee has outlined four interrelated and essential elements to the right of health which include: availability, accessibility, acceptability and quality. With regards to accessibility, the Committee designates four overlapping designations, including: non-discrimination, physical accessibility, economic accessibility, and information accessibility. The US has signed but not ratified the International Covenant on Economic, Social and Cultural Rights. As a signatory, the US is obligated not to defeat the object and purpose of the Covenant.

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 ICCPR. 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,” (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.

“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 18(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” 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.

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, are based on existing international human rights and humanitarian law and standards. They recognize the right to adequate housing and the right of refugees or displaced persons to fully participate in the planning and management of their return or resettlement and reintegration. 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 Persons

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.
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. 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


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/NewOrleans/index.html, last visited 1 April 2010.


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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.

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28 Amnesty International interview with Charmel Gaulden, Executive Director, Gulf Coast Fair Housing Center, 25 February 2010.


31 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.


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/affordablehousing/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 storm. 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/100914_affordable_housing.pdf, last visited 1 April 2010.


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49 See Mississippi Alternative Housing Program website at: http://mscottage.org, 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.


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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 36: 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.


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 Metropolitan Area.
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/3-145/primary-care-access-and-stabilization-grant, last visited 1 April 2010.  
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187 NDRF draft, p. 18. The Framework describes nonprofits as “vital,” “critical,” “needed,” and “crucial.”


192 Article 5(a) and (b), International Convention on the Elimination of All Forms of Racial Discrimination 1965.

193 Article 1(1), ICERD

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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


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209 Committee on Economic, Social and Cultural Rights, General Comment 14, The Right to Health, UN Doc. E/C.12/2004/4, 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 quality 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).


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