BIBLIOGRAPHY: The Haitian Earthquake and other Disasters—Human Rights, Public Health, and Development

This bibliography is dedicated to the survivors of the January 12, 2010, earthquake in Haiti. It contains abstracts on human rights, public health, and development issues relevant to environmental disasters and sustainable and participatory recovery efforts.


USAID launched a project in 1995 to deliver basic health services in Haiti. The project began by reimbursing contracted NGOs for documented expenditures or inputs. In 1999, payment was changed to being based partly on attaining performance targets or outputs. The project also provided technical assistance to the NGOs, along with opportunities to participate in an NGO network and other cross-fertilization activities. Remarkable improvements in key health indicators have been achieved in the six years since payment for performance was phased in. Although it is difficult to isolate the effects of performance-based payment on these improved indicators from the efforts aimed at strengthening NGOs and other factors, panel regression results suggest that the new payment incentives were responsible for considerable improvements in both immunization coverage and attended deliveries. Results for prenatal and postnatal care were less significant, perhaps suggesting a strong patient behavioral element that is not under the influence of provider actions.


In this paper, we focus on the use of remittances to school children remaining in migrant communities in Haiti. After addressing the endogeneity of remittance receipt, we find that remittances raise school attendance for all children in some communities regardless of whether they have household members abroad or not; however, in other communities, we only observe this effect among children living in households that do not experience any family out-migration. Our finding underscores the simultaneous and opposing impacts of household out-migration and remittance receipt on children's schooling. While the receipt of remittances by the household lifts budget constraints and raises the children's likelihood of being schooled, the disruptive effect of household out-migration imposes an economic burden on the remaining household members and reduces their likelihood of being schooled. As such, remittances ameliorate the negative disruptive effect of household out-migration on children's schooling and, given the substantial costs of schooling in Haiti, contribute to the accumulation of human capital in the midst of extreme poverty.

This article attempts to tease out whether human security has been integrated in institutional discourses and practices, beyond its obviously limited currency in UN Security Council debates and resolutions. It starts from the observation that the underlying priorities of a human security approach - promoting physical safety, violence reduction, human rights, control of the instruments of violence, use of child soldiers, and so forth - are increasingly showing up in these forums, even when the label of human security is formally eschewed. In fact, several governments within and outside of the Security Council, have worked hard to implement human security policies through the so-called protection of civilians (POC) agenda.


Of the 1.6 million Haitian youth aged 15-24, only 13 percent are content with their lives. More than half of 20-year-olds have not completed secondary education and nearly half of youth in the labor market are unemployed. This paper investigates protective and risk factors predisposing youth to positive and negative behaviors. These factors, including poverty, gender, education, labor market, migration, family, health, and violence, are examined by using statistics and probability models based on Haiti's first household living conditions survey. Key findings show that female youth need special attention because they are more likely than their male peers to drop out of school and to be unemployed or inactive. Role models, guidance, expectations, and contacts in the form of parents or household heads are decisive factors in keeping youth in school, and to some extent, in their finding employment. In addition, domestic migration has a negative impact on the probability of being unemployed or inactive (positive self-selection), while marriage, drug abuse, and domestic violence increase the probability of dropping out of school.


This article combines health and water research results, evidence from confidential documents released under the Freedom of Information Act, legal analysis, and discussion of historical context to demonstrate that actions taken by the international community through the Inter-American Development Bank are directly related to a lack of access to clean water in Haiti. The article demonstrates that these actions constitute a clear violation of Haitians' right to water under both domestic and international law. The article exposes the United States government's role in blocking the disbursement of millions of dollars in international bank loans that would have had life-saving consequences for the Haitian people. The loans were derailed in 2001 by politically-motivated interventions on behalf of the US and other members of the international community in direct violation of the Inter-American Development Bank charter. To demonstrate the impact of these interventions, the article presents data gathered in a study that employed human rights and public health methodologies to assess the right to water in Haiti. The data reveal that Haitians experience obstacles concerning every aspect of the right to water: difficulties with water availability, limited physical and economic accessibility, and poor water quality. The article provides a framework of concrete duties and obligations that should be
followed by all actors involved in Haiti in order to realize Haitians' human right to water. In response to the undeniable link between the international community's political interference and the intolerably poor state of potable water in Haiti, the article concludes with a recommendation that all actors in Haiti follow a rights-based approach to the development and implementation of water projects in Haiti.


This paper analyzes poverty in Haiti based on the first Living Conditions Survey of 7,186 households covering the whole country and representative at the regional level. Using a USD1 a day extreme poverty line, the analysis reveals that 49 percent of Haitian households live in absolute poverty. Twenty, 56, and 58 percent of households in metropolitan, urban, and rural areas, respectively, are poor. At the regional level, poverty is especially extensive in the northeastern and northwestern regions. Access to assets such as education and infrastructure services is highly unequal and strongly correlated with poverty. Moreover, children in indigent households attain less education than children in nonpoor households. Controlling for individual and household characteristics, location, and region, living in a rural area does not by itself affect the probability of being poor. But in rural areas female headed households are more likely to experience poverty than male headed households. Domestic migration and education are both key factors that reduce the likelihood of falling into poverty. Employment is essential to improve livelihoods and both the farm and nonfarm sector play a key role.


This paper addresses labor markets in Haiti, including farm and nonfarm employment and income generation. The analyses are based on the first Living Conditions Survey of 7,186 households covering the whole country and representative at the regional level. The findings suggest that four key determinants of employment and productivity in nonfarm activities are education, gender, location, and migration status. This is emphasized when nonfarm activities are divided into low-return and high-return activities. The wage and producer income analyses reveal that education is key to earning higher wages and incomes. Moreover, producer incomes increase with farm size, land title, and access to tools, electricity, roads, irrigation, and other farm inputs.


This article is an attempt to draw attention to the nature of the assistance model of state reconstruction and its significance for the UN system. Traditional international legal doctrine identifies valid state consent with an effective domestic government. Moreover, effective control remains the means for applying the legal right of self-determination for the population of a state.
as a whole. Nonetheless, a frequently adopted paradigm for large-scale international involvement in the reconstruction of an ineffective state operates through the consent of an ineffective government. The assistance model is found in the recent past of Haiti (1994-1997; 2004-), Sierra Leone (1998-2005), Liberia (2003-), Afghanistan (2001-), in Iraq following the formal end of the belligerent occupation (2004-), and there are signs that it could soon be pursued in Somalia. To reveal how the assistance model of state reconstruction in fact relates to the political independence of the target state and its people, the key features of the assistance model and related legal issues are addressed. The main argument is that while the assistance model appears unremarkable, in fact it offers little protection for political independence and as a consequence puts at risk the core values of the UN system of self-determination of peoples and international peace.


The Dominican Republic and Haiti share the island of Hispaniola and are broadly similar in terms of geography and historical institutions, yet their growth performance has diverged remarkably. The countries had the same per capita real GDP in 1960 but, by 2005, the Dominican Republic's per capita real GDP had tripled whereas that of Haiti had halved. Drawing on the growth literature, the paper explains this divergence through a combined approach that includes a panel regression to study growth determinants across a broad group of countries, and a case study framework to better understand the specific policy decisions and external conditions that have shaped economic outcomes in the Dominican Republic and Haiti.


Preparing inner-city communities for catastrophic emergencies requires careful planning, coordination, and implementation. Inner-city communities, i.e., residents living in the core areas of the nation's largest cities, often include low-income individuals, the elderly, individuals with disabilities, and a high proportion of children. Many of these individuals do not have the resources that emergency planners often assume are available in the event of a natural or man-made disaster, i.e., surplus food, water, and medical supplies; accessible medical care; adequate private and/or public transportation for evacuation; understandable and appropriate instructions for emergency response; or nearby safe shelter.


Initial awareness about disaster management is certainly observed after facing number of disasters. Education department, government and non-government departments have also attempted seriously to follow. It is the only objective to fight out bravely the disasters in the future and minimize consequal damages. For that, the only easy way is preparation and preparedness against disasters. A disaster mostly affects children and students. Students usually
lose their lives due to absence of proper guidance. The numbers of accidents are also increasing day by day. Students will not be afraid of fighting disasters and they will be helpful to the society, if the concepts of disaster management and preparedness are conveyed to them during primary education. As Gujarat comes under earth quake prone zone-II to IV, I have selected 100 government primary schools of Mahuva block, Bhavnagar districts of Gujarat keeping in mind the objectives of this study stated initially. It is clearly seen that basic amenities (physical needs) are not met with into the school campus. Even than, safety of schools play most important role at the time of a disaster. Most of schools are under natural or manually caused disaster prone area, while the preparedness is not at desired level.


Hurricane Katrina was one of the worst natural disasters ever to strike the United States, in terms of casualties, suffering, and financial cost. Often overlooked among Katrina's victims are the 8,000 inmates who were incarcerated at Orleans Parish Prison (OPP) when Katrina struck. Despite a mandatory evacuation of New Orleans, these men and women, some of whom had been held on charges as insignificant as public intoxication, remained in the jail as the hurricane hit, and endured days of rising, toxic waters, a lack of food and drinking water, and a complete breakdown of order within OPP. When the inmates were finally evacuated from OPP, they suffered further harm, waiting for days on a highway overpass before being placed in other correctional institutions, where prisoners withstood exposure to the late-summer Louisiana heat and beatings at the hands of guards and other inmates. Finally, even as the prison situation settled down, inmates from the New Orleans criminal justice system were marooned in correctional institutions throughout the state, as the judicial system in New Orleans ceased to function.


Disaster planning for health care providers following the September 11, 2001, terrorist attacks and, more recently, Hurricane Katrina, focuses on preparing hospitals and other emergency services to respond to victims' medical needs. But little attention has been paid to the challenges that providers would face resuming normal operations after responding to the catastrophe. A large-scale catastrophe could create unprecedented demand for health care and emergency services. Hospitals already struggle to fulfill the high demand for and high costs of emergency care. Following a major disaster, hospitals would face additional financial challenges. Strained capacity and financial reserves, may force hospitals to close, just as occurred with the two largest public hospitals in New Orleans, following Katrina. To prevent the initial crisis of a terrorist-related or natural disaster from spiraling into a lasting crisis in access to medical care, this Article proposes a three-part federal disaster relief program for hospitals to be implemented before the next catastrophe.

14. Salkin, Patricia, Sustainability at the Edge: The Opportunity and Responsibility of Local Governments to Most Effectively Plan for Natural Disaster Mitigation (July, 08
The traditional link between disaster mitigation and local land use planning was highlighted by the Disaster Mitigation Act (DMA) of 2000, which emphasizes the need for mitigation coordination among state and local entities. This article looks at the role of local governments in natural disaster mitigation, specifically, how local governments may use traditional land use powers, such as the police power, to protect against disasters. The paper cites DMA provisions that offer financial incentives to states that work with local governments to plan for growth and disasters; and sets forth case studies to illustrate how states can create vertical links among federal, state, and local entities to coordinate disaster mitigation strategies.


This Article discusses the dynamics of shared political accountability and provides a supply- and demand-side analysis of disaster management. Because multiple levels of government share political accountability in national scale disasters, disaster management is subject to a collective action problem. Introducing the concept of horizontal political externalities, this Article explains the shortcomings of disaster management in terms of asymmetric political accountability costs for ex ante preparedness and ex post relief. In the presence of shared accountability, investments in prevention and relief by one government actor confer positive externalities upon other government actors by reducing the overall chance of being held responsible in ensuing disasters. In contrast, ex post disaster relief involves negative externalities when action by one agency makes other agencies or representatives look worse. Because positive externalities are undersupplied and negative externalities are oversupplied, political externalities distort disaster management policy. When political accountability is shared, no single actor bears the full brunt of accountability. In addition, uncertainty and finger pointing reduce the total sum of political accountability. The different effects of ex ante and ex post disaster management on political accountability may shed light on events before and after Hurricane Katrina. I provide suggestions for further avenues of empirical and theoretical research on this new positive political theory of horizontal political externalities and political accountability losses.


The state of Orissa is one of the most disaster prone states in the Indian Union. Orissa's six coastal districts are often subjected to tropical storm systems like cyclones as well as storm induced flooding and surges. With the burgeoning population, the threat of the coastal vulnerability risk has increased manifold. Severe flooding caused by storm surges during the 1999 super cyclone caused massive damage to life and property. Although it is not possible to completely wish away the risk posed by such disasters yet much of the damage could be prevented by efficient preparedness plans at different levels of civil society. The need for better access to vital information through a scientific disaster preparedness and response system is long felt. The need of the hour is effective risk mapping and assessment.

This article probes the warning-response failures that left the city of New Orleans vulnerable to catastrophic hurricanes and the inability of local, state, and federal authorities to mount an adequate response to the consequences unleashed by Hurricane Katrina. Through an empirical exploration with the help of three broad explanatory ‘cuts’ derived from the relevant interdisciplinary literature – psychological, bureau-organizational, and agenda-political – the authors seek to shed light on the sources of failure that contributed to the various levels of governments' lack of preparedness and the inadequate collective response to a long-predicted, upper-category hurricane. The article concludes by addressing the question of whether the vulnerabilities and problems that contributed to the Katrina failure are amenable to reform.


Recent events such as Hurricane Katrina and the global SARS outbreak underscore the importance of having public health and medical systems that are prepared to increase surge capacity in a variety of emergency scenarios. A core component to increasing surge capacity is the availability of skilled health professionals to supplement the existing health workforce. This article examines the legal context volunteer health professionals find themselves in during public health emergencies and disasters. In addition, the article makes several recommendations about how to refine the law to increase the availability of volunteer health professionals during public health emergencies and disasters.


Disasters have always been a challenge to the legal systems however advanced they may be. A fully developed, clear and flexible legal framework at both national and international arena is an indispensable weapon in the efforts disaster prevention, mitigation, preparedness and relief operations. In these efforts it is also important that the feelings of the victim community has to be cared. With this background, this article seeks to analyse the various domestic, regional as well as international legal measures in detail to examine their effectiveness. This article also advocates for the development of a model disaster response law in which the amorphous body of international, regional and national rules and regulations can be effectively used.

Hurricane Katrina, which struck the Gulf Coast on August 29, 2005 and took 1,000 lives or more, was the third deadliest storm to hit the United States, falling behind only the Galveston Hurricane of 1900 and the 1928 Okeechobee Hurricane. It is New Orleans' worst natural disaster in its nearly 300-year history. The storm left hundreds of thousands without access to shelter, food, water, clothing and basic sanitation. The human suffering and health consequences are immeasurable. Dissatisfaction with the federal, national and local governments' planning and response is widespread. Many believe that the system discriminated cruelly by race and class against those in greatest need. The storm revealed serious flaws in disaster relief and preparedness structures, which require major reform. As an alternative, this article proposes a social risk management system to provide both universal risk protection and an efficient, more equitable approach to managing and reducing disparities in vulnerability. While one must realize that incremental rather than comprehensive reform of the system is most likely and most politically feasible, Katrina's horrific consequences and revealed inequities necessitate an alternative model.


Governmental responses to Hurricane Katrina are generally cited as policy failures. Media and popular analyses focus on the federal government's policy failures in hazard preparedness, response, and recovery. Meanwhile, disaster experts realize that disaster response is a shared intergovernmental responsibility. We examine the federal nature of natural disaster policy in the US to consider whether federalism, or other factors, had the greatest influence on the failures in Katrina. We find that some policy failures are related to policy design considerations based in federalism, but that the national focus on “homeland security” and the concomitant reduction in attention to natural hazards and disasters, are equally, if not more complicit, in the erosion of government disaster management capacity that was revealed in Hurricane Katrina.


This review defines crisis risk communication, traces its origins to a number of applied fields, and then shows how basic principles have become incorporated into emergency preparedness and risk communication for public health. Literature from four different disciplines that inform crisis risk communications are reviewed. These are (a) environmental risk communication, (b) disaster management, (c) health promotion and communication, and (d) media and communication studies. Current curricula and training materials are briefly reviewed. Although this literature review suggests much progress has been made to incorporate and disseminate crisis risk communication principles into public health practice, and case studies suggest that public health workers have gained skills and experience, this emerging field still lacks in-depth evaluation of the effectiveness of event-specific crisis risk communication efforts.

This paper discusses the impact of foreign aid on the recipient country's preparedness against natural disasters. The theoretical model shows that foreign aid can have two opposing effects on a country's level of mitigating activities. In order to test the theoretical propositions, the authors analyze the effect of foreign aid dependence on ex-ante risk-management activity proxied by the death toll from major storms, floods and earthquakes occurring worldwide between 1980 and 2002. They find evidence that the crowding-out effect of foreign aid outweighs the preventive effect in the case of storms, while there is mixed evidence in the case of floods and earthquakes.


This paper identifies institutional failure as the root cause for underdevelopment and susceptibility to disasters and explores their interdependent relationship. It is demonstrated that only if a country's governance structure enables the implementation and enforcement of public policies conducive to a country's economic and social development can sustainable livelihoods be achieved and susceptibility to disasters be reduced. Accountability, participation, predictability and transparency are identified as the key features of a governance structure that fosters development and supports risk reduction.


Every year, around 60,000 people die worldwide in natural disasters. The majority of the deaths are caused by building collapse in earthquakes, and the great majority occurs in the developing world. This is despite the fact that engineering solutions exist that can almost completely eliminate the risk of such deaths. Why is this? The engineering solutions are both expensive and technically demanding, so that the benefit-cost ratio of such solutions is often unfavorable compared with other interventions designed to save lives in developing countries. Nonetheless, a range of public disaster risk-reduction interventions (including construction activities) are highly cost effective. The fact that such interventions often remain unimplemented or ineffectively executed points to a role for issues of political economy. Building regulations in developing countries appear to have limited impact in many cases, perhaps because of limited capacity and the impact of corruption. Public construction is often of low quality - perhaps for similar reasons. This suggests approaches that emphasize simple and limited disaster risk regulation covering only the most at-risk structures and that (preferably) can be monitored by non-experts. It also suggests a range of transparency and oversight mechanisms for public construction projects.

Natural disaster risk is emerging as an increasingly important constraint on economic development and poverty reduction. This paper first sets out the key stylized facts in the area - that the costs of disaster have been increasing, seem set to continue to increase, and bear especially heavily on the poorest. It then reviews the key economic issues at stake, focusing in particular on the actual and prospective roles of, and interaction between, market instruments and public interventions in dealing with disaster risk. Key sources of market failure include the difficulty of risk spreading and, perhaps even more fundamental, the Samaritan's dilemma: the underinvestment in protective measures associated with the rational expectation that others will provide support if disaster occurs. Innovations addressing each of these are discussed.


This essay inquires into the political economy and system of governance that have made catastrophes more frequent and severe. The system of governance that is designed to mitigate risk and respond to catastrophes can be ineffective, or worse, increase the risk of harm through unintended consequences. Human influence must be considered a source of collateral risk, the kind that leads to a systemic crisis or exacerbates one. This essay concludes with some brief proposals, discussion topics more than completed ideas, which may facilitate further academic and political dialogue on effective governance and public risk management. They include a catastrophe tax, the elimination of subsidies for bad risks, reduction of coordination costs, and a clearer understanding of a public-private partnership.


This paper discusses some methodological and organizational issues characterizing local policies for industrial risk prevention in Italy. These include both emergency preparedness and land use control as strategic activities aimed at risk reduction in areas where Seveso facilities are located. The article discusses an Italian case study in the Lombardia region. It covers the development of a so-called Local Operating Manual for external industrial emergency management as well as a so-called Technical Study for land use control around hazardous plants. After these documents were revised, a real accident occurred, showing the limitations of planning. The lessons learnt from this experience suggested some multi-organizational directions and methodological procedures for further research on risk management and communication.


Quality improvement (QI) methods have been used in many industries to improve performance and outcomes. This chapter reviews key QI concepts and their application to public health emergency preparedness (PHEP). We conclude that for QI to flourish and become standard
practice, changes to the status quo are necessary. In particular, public health should build its capabilities in QI, enhance implementation, and align incentives to facilitate use of QI.


Policymakers are increasingly seeking to determine whether the federal government's recent investments in public health preparedness have left the public health system better prepared to respond to large-scale public health emergencies. Yet, there remain questions about how to define "public health emergency preparedness," how much preparedness is enough, and how preparedness can be measured and assessed. This chapter identifies the key challenges associated with measuring public health preparedness and reviews approaches currently in use. We also identify some emerging measurement techniques that might help address some of these challenges.


Significant public health emergencies and disasters in the beginning of the twenty-first century initiated an emergency preparedness movement. The devastation wrought by the 2005 hurricane season, accompanied by the threat of a biological attack or an influenza pandemic, prompted the passage of model laws to facilitate rapid and effective responses to emergencies. In 2007, the National Conference of Commissioners on Uniform State Laws passed the Uniform Emergency Volunteer Health Practitioners Act (UEVHPA). The UEVHPA is a piece of model legislation designed to unify the disparate state procedures used to authorize and regulate the deployment of volunteer health practitioners (VHPs) in response to public health emergencies and disasters. In order to encourage volunteerism among health practitioners, Section 11 of the UEVHPA protects VHPs from civil liability arising from their negligence. In so doing, it eliminates negligently-injured victims' means of recovery. Accordingly, Section 11 conflicts with open courts provisions found in many state constitutions. These provisions typically guarantee that injured persons have a right to seek redress through the state's legal system.


In much of the recent thought devoted to the role of states in responding to catastrophic public health emergencies, as most clearly evidenced by the commentary surrounding the Centers for Disease Control and Prevention - sponsored Model State Emergency Health Powers Act (Model Act), there is a focus on state governments being viewed as the exclusive controlling governmental agent supervising the governmental response. Much of that thinking is premised on a view of limitations placed on Congress' power to act in public health emergencies emanating from Commerce Clause restrictions in the Supreme Court decisions of U.S. v. Lopez, 514 U.S. 549 (1995) and U.S. v. Morrison, 529 U.S. 598 (2000).
Legal preparedness is an essential component of emergency response. One of the most significant and under-appreciated challenges of legal preparedness is the ability of legal practitioners and others to assess in real time the changing legal environment during declared emergencies that threaten the public's health. While knowledge of existing emergency laws and effective planning within the public health workforce are critical to emergency preparedness, neither can fully anticipate the legal changes that will occur during health-related crises. The flexibility and additional powers authorized via emergency statutes are designed to facilitate responses, but can also create uncertainties on questions of authority, public health powers, and leadership. This article presents the concept of legal triage as a means for understanding and responding to the legal challenges that invariably arise during declared emergencies. After illustrating the need and scope of legal triage, the article discusses legal triage in three specific challenges that have featured prominently during recent public health emergencies: allocation of scarce resources, liability protection for volunteer health practitioners, and inter-jurisdictional coordination of military personnel. The goal of the Article is to emphasize that extemporaneous legal assessment is a necessary challenge during emergencies and one which - when skillfully met - can facilitate public and private sector responses to improve morbidity and mortality.

Many experts predict the advent of a public health emergency resulting from a flu pandemic or bioterrorism attack in the foreseeable future. At the same time, many health care providers express significant concern about liability arising from emergency response activities, because it is unlikely that they would be able to provide optimal care in crisis conditions. They also state that this concern will likely influence their willingness to be involved in response activities. This article addresses issues that have received little attention in the legal literature: liability and immunity in public health emergencies. The article provides a first-of-its-kind comprehensive analysis of the different theories of liability that might be used by plaintiffs and the sources of immunity that are currently available to public health emergency responders.

Post-9/11, preparedness planning has catalyzed intrastate regionalization of local public health resources throughout the United States. Investigating this trend unveils several regionalization themes, relevant in other sectors of government, which are applicable to local public health. In this review article, we begin by briefly examining the lessons learned from regionalization for police and fire services, drawing comparisons to public health. Then we provide a brief history of the accelerating regionalization of local public health services sparked by the current attention to emergency preparedness. In particular, we offer case studies from Massachusetts and the
National Capital Region to highlight examples of regionalization outcomes related to networking, coordination, standardization, and centralization of public health services. The impact of social capital on preparedness is also explored. Finally, we summarize research needs for the future.


Public health ethics require individuals who are inherently at risk for transmitting communicable disease to be subjected, oftentimes, to isolation, quarantine, or compulsory vaccination - all undertaken, as such, to protect the common good and thereby secure the public-at-law for exposure to the spread of an infectious disease. This article tests the extent to which public health emergencies necessitate a reinterpretation or reshaping of the common good and proceeds to analyze the extent to which the medical principle of triage is a relevant construct for allocating scarce medical resources during contemporary public health emergencies. The article proceeds to test the efficacy or codification of this construct by applying it to The National Strategy for Pandemic Influenza. The efforts to advance law reform in dealing with public health emergencies and bioterrorism through the Model State Emergency Health Powers Act and the Turning Point Medical State Public Health Act are analyzed. The conclusion drawn from the analysis is that national emergencies force disequilibrium in the system of liberties and constitutional rights which, in turn, have the effect of placing public safety concerns above what, heretofore, were seen as unassailable fundamental values of autonomy and privacy. Pragmatic courts and pragmatic social orders, then, must respond accordingly to these changed circumstances by recalibrating what has been a point of balance or equilibrium by restricting previously validated civil liberties in favor of safety and maintenance of the common good.


Hurricane Katrina renewed an old debate concerning which level of government should lead the response effort to catastrophic disasters. Traditionally, emergency response is handled at the most local level possible. Hurricane Katrina, however, and other catastrophes that may be labeled Incidents of National Significance, are examples of emergencies of such magnitude that federal assets must be brought to bear to respond adequately to the situation. As such Incidents will almost always affect interstate commerce, Congress’ commerce powers justify federal intervention in, and if necessary, supervision of the response. In such situations, the National Response Plan provides for extensive coordination between the federal government and states and localities, thus respecting the tradition of states and localities as first responders to incidents, while ensuring that federal resources may be utilized.
Recent legal scholarship has grappled with how states and communities can best balance risk management and liberty in their responses to catastrophic events such as pandemics, bioterrorist attacks, and other public health emergencies. However, this scholarship lacks a historical perspective. This Article helps to fill that gap by examining the worst epidemic in American history - the 1918 influenza outbreak. The Article introduces a framework that links local responses to the catastrophe with corresponding public health and political theories. This historical analysis suggests that public health officials are best situated to assess in the first instance the risks of a disease or health emergency; however, as citizens have more time to consider the crisis and its consequences, they may prove to have the best vantage point from which to deliberate and balance between their health and their freedoms. Methodologically, the Article draws from a range of disciplines, including social history, legal history, political theory, and cognitive psychology.

Current discussions of pandemic influenza and emergency preparedness would do well to heed the lessons of US Airways flight 1549, which landed in the Hudson River in January 2009. This article examines what past emergencies teach us about how to prevent or control epidemics and argues that it is time for a return to the rule of law in pandemic preparedness. The most important resource in emergency preparedness is a healthy, resilient population, which depends importantly on sustainable systems of medical care and public health. Preparedness thus requires more money than law. After September 11, 2001, however, federal emergency preparedness policies shifted much of their focus from public health to national security, bioterrorism and personal responsibility. A critique of this approach concludes that it is ineffective, frightening the public without providing the resources that people need to protect themselves. Laws embodying this approach can distort the rule of law more generally. Responding to bioterrorism and pandemics is essentially the same as responding to naturally occurring disease outbreaks, so special laws intended for bioterrorism inevitably apply to ordinary public health problems. With renewed attention to health system reform, the country has an opportunity for a fresh approach to pandemic preparedness - one that is governed by the same principles that guide a more enlightened overall health policy.

Disaster planning for health care providers following the September 11, 2001, terrorist attacks and, more recently, Hurricane Katrina, focuses on preparing hospitals and other emergency services to respond to victims' medical needs. But little attention has been paid to the challenges that providers would face resuming normal operations after responding to the catastrophe. A large-scale catastrophe could create unprecedented demand for health care and emergency
services. Hospitals already struggle to fulfill the high demand for and high costs of emergency care. Following a major disaster, hospitals would face additional financial challenges. Strained capacity and financial reserves, may force hospitals to close, just as occurred with the two largest public hospitals in New Orleans, following Katrina. To prevent the initial crisis of a terrorist-related or natural disaster from spiraling into a lasting crisis in access to medical care, this Article proposes a three-part federal disaster relief program for hospitals to be implemented before the next catastrophe.


Millions of children are victims of trafficking and commercial sexual exploitation each year. Governments have responded with a range of measures, focusing primarily on seeking to prosecute perpetrators of these abuses and offering assistance to select victims. These efforts, while important, have done little to reduce the incidence of these forms of child exploitation. This Article asserts that a central reason why efforts to date may not be as effective as hoped is that governments have not oriented their approaches properly toward prioritizing prevention - the ultimate goal - and addressing these problems in a comprehensive and systematic manner. Instead, efforts to date have been piecemeal and oriented toward dealing with exploitation of children after the harm occurs. This Article argues for refocusing efforts toward the development of a comprehensive, prevention-oriented strategy that addresses the root causes of these problems. The Article discusses how certain critical issues - (1) research/data; (2) program design; (3) the dominant principle guiding state responses; (4) stakeholder coordination; and (5) the interrelationship among rights - have been largely ignored in developing responses to child trafficking and commercial sexual exploitation. The Article suggests that, by focusing greater attention on these issues, governments and child advocates can develop more effective responses to the trafficking and commercial sexual exploitation of children and increase the likelihood that responses to these problems will help prevent such abuse of children.


Why should we focus on human rights in the aftermath of a natural disaster? Governments and the international community are obligated - legally, politically, and morally - to undertake recovery efforts in ways that are consistent with the human rights of those most affected by disaster.

The December 26, 2004, Indian Ocean tsunami took the lives of more than 200,000 children, women, and men. Hundreds of thousands more were injured and millions displaced. Recognized as one of the worst natural disasters in recorded human history, the Indian Ocean tsunami remains a global issue. People in fourteen countries were directly affected as well as thousands of tourists from other parts of Asia, and from the European Union, Australia, the United States, and Canada. Like the 2005 Katrina disaster in our own country, the Indian Ocean tsunami marked a turning point for some in the human rights movement. The world is beginning to
recognize that human rights protections must be an integral part of disaster prevention and planning, humanitarian assistance, and rebuilding efforts.


This essay reflects on the international human rights implications of Hurricane Katrina; it is published as Chapter 11 of the collection Environmental Justice in the New Millennium: Global Perspectives on Race, Ethnicity, and Human Rights (Filomina Chioma Steady, ed., Palgrave-MacMillan 2009).

For those of us in the human rights movement, it seemed natural to see Katrina and its aftermath as both a massive international humanitarian disaster and a human rights crisis. This was not just the awful result of a huge storm having hit a densely populated area and thereby necessitating the marshalling of public and private humanitarian aid. It also revealed government inaction and affirmatively abusive actions before, during, and after the storm hit that implicate international human rights standards. We know that Katrina was not the last disaster of such devastating proportions. The impact of global climate change, illegal dumping of toxic waste in poor neighborhoods and in the Global South, inequitable agricultural policies and high food prices, the privatization of water, and inadequate building standards, all play roles in causing natural and man-made disasters. As this chapter was going to press, the new U.S. administration under President Obama was also facing an economic crisis of global proportions. These events also teach us that such disasters need not be accompanied by the unnatural human rights disasters of abuse, neglect, and racial injustice.


This Statement was submitted to the UN Independent Expert on Human Rights and Extreme Poverty, Dr. Arjun Sengupta in the aftermath of the Hurricane Katrina disaster on the Gulf Coast of the United States in 2005. The authors are international legal scholars and human rights advocates Jeanne M. Woods, Henry F. Bonura Professor of Law (Loyola School of Law (New Orleans) and Hope Lewis, Professor of Law (Northeastern University School of Law). The Statement, submitted during the Independent Expert's fact-finding visit, expresses concern about the extensive and alarming human rights implications of United States federal, state and local government policy and activities before, during, and after Hurricane Katrina. The Statement argues that the inadequate response of government officials at all levels reflects the impact of "globalization in miniature" on the poor and other vulnerable and subordinated groups. The panoply of human rights implicated in the aftermath of the disaster includes classic civil and political rights, as well as so-called "second generation" rights (e.g. the rights to food, housing
and education, the right to health, the right to work for a decent wage, and the right to enjoy the unique cultural legacy of the region.)