On August 29, 2005 at 6:10am, Hurricane Katrina, likely to be the most costly and destructive storms in U.S. history, violently crashed into the city of New Orleans with 145 mph winds. The daily scenes broadcast into homes across the nation were devastating and provoked a spectrum of emotions from disbelief to outrage at authorities for inexcusable delay and inadequacy of aid and assistance to Hurricane Katrina victims. In a now infamous live broadcast on NBC, rap artist Kanye West epitomized the frustrated voice of many when he said, “I’ve tried to turn away from the TV because it’s hard to watch… Bush doesn’t care about black people.” The international community also witnessed the plight of storm victims. The UK newspaper, The Guardian, reported “[t]housands of African-Americans being told to be patient even as they died; their children wailing as they stood stranded and dehydrated on highways; their old perishing as they festered in filthy homes full of feces; their dead left to rot in the street.”

The Language Wars

Responding to these graphic images of human despair, media outlets soon began to refer to New Orleans citizens now being dispersed throughout the south and beyond as “refugees.” But, naming or categorizing these individuals quickly became a polemic issue. Civil rights activist Reverend Al Sharpton argued that they are “citizens of the United States,” “they are not refugees wandering somewhere looking for charity. They are victims of neglect and a situation they should have never been put in in the first place.” However, NPR (National Public Radio) correspondent, Mike Pesca defended “refugee” as an apt term:

They're refugees because circumstance is turning them into refugees… Thousands of people were standing in mud… [t]here was little psychological aid, including even such basic information as what state they'd be bused to… If you watched this situation on television, you might not realize how dirty and foul-smelling these people were.

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If you looked at the armed men in fatigues on one side of metal barricades, and thousands of grieving people in tattered clothes on the other, you couldn't help but think of Haiti or Kosovo. Pesca also pointed out that even the term “evacuee,” commonly used by the U.S. Department of Homeland Security’s Federal Emergency Management Agency (FEMA), is a misnomer, “The people who heeded warnings and had the wherewithal to leave town before Katrina hit were evacuees. These beleaguered people who had lost everything were something else.”

Pesca was correct when he said, “This is about more than semantics.” The “language war” represents the struggle to apply a particular analysis and has far reaching legal ramifications that will implicate individual rights and governmental responsibilities during the process of rebuilding. Sharpton’s response rejects a notion of Louisiana citizens as in need of mere charity, but also in need of justice, thereby invoking a human rights analysis. Seen from within this framework, response to Katrina does not just call for governmental charity, but is also a human rights issue. “The disaster in New Orleans was as much due to the ingrained marginalization of certain social groups as to a whim of nature.” Recognizing economic and social rights as basic human rights is essential to empowering New Orleans recovery.

From God-Made to Man-Made: Applying a Human Rights Framework

The question is how do we initiate conversations about Louisiana citizens and analyze proposed and current recovery efforts within a human rights framework? The United States need only look as far as the United Nations who in 1998 introduced the UN Guiding Principles on Internal Displacement [“Guiding Principles”]. The Guiding Principles provide international standards for persons forcibly uprooted from their homes by conflict or natural disaster and who remain within their own countries. Internally displaced persons [“IDP’s”] are distinguishable from refugees who flee across internationally.

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3 Id.
4 Id.
5 Id.
recognized borders because of persecution.\textsuperscript{9}

Once over the border, refugees benefit from a well-established international system of protection and assistance.\textsuperscript{10} However, for those displaced internally, their national governments and local authorities have the main responsibility to assure their well-being and security.\textsuperscript{11} While the number of refugees in the world has been reduced to 11.5 million, the over twenty-five million IDP’s “are often the most forgotten and neglected people in the many forgotten and neglected emergencies around the world.”\textsuperscript{12} UN Secretary General Kofi Annan has stated, “Internal displacement is the great tragedy of our times.” To address this crisis, the UN system developed the Guiding Principles as a critical tool providing an advocacy, monitoring and normative framework for the assistance and protection needs of the internally displaced.\textsuperscript{13}

**United Nations Guiding Principles on Internal Displacement**

The Guiding Principles identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement or reintegration.\textsuperscript{14} These principles are consistent with international human rights law and international humanitarian law.\textsuperscript{15} They provide guidance to: (a) states when faced with the phenomenon on internal displacement; (b) all other authorities, groups and persons; and (c) intergovernmental and non-governmental organization when addressing internal displacement.\textsuperscript{16} The Guiding Principles is not a binding treaty, but UN resolutions regularly call them a “standard” and the U.S. Agency for International Development has referred to them as, “a useful tool and framework.”\textsuperscript{17}

Moreover, several countries throughout the globe have incorporated the Guiding Principles in to national legislation; the African Union is drafting a binding instrument which incorporates the principles;

\textsuperscript{9} Id.
\textsuperscript{10} Id.
\textsuperscript{11} Id.
\textsuperscript{13} Id.
\textsuperscript{14} Id.
\textsuperscript{15} Id.
\textsuperscript{16} Id.
and the Council of Europe is seeking ways to strengthen their implementation. Once a sufficient number of countries have developed domestic policies, a binding instrument could follow, leading to ratification and formal accountability.

The U.S. government has called people removed from New Orleans “evacuees,” a term that has no legal basis in international law. Former Director of the National Center for Human Rights Education in Atlanta, Loretta J. Ross asserts that, “[t]hey are, in fact, internally displaced persons, a status that affords them legal rights and protections.” Louisiana citizens were forcibly uprooted from their homes by a natural disaster which left an estimated 80% of their city under water. They have been displaced to southern states and beyond to live in hastily erected camps resembling detention centers, they are unable to return to homes that have been condemned and demolished, and have been evicted from government paid hotels. Under the Guiding Principles, people from New Orleans are recognized as internally displaced persons and their status as such would trigger U.S. obligations to protect human rights norms, such as the protection of recovery of property and the right to liberty and security.

Critically relevant to post-Katrina recovery efforts and the rebuilding of New Orleans is the right encompassed in Guiding Principle 22(d) of internally displaced persons, “[t]o vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right.” Furthermore, UN Guiding Principles “shall be applied without discrimination of any kind,”

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19 Id.
21 Id.
22 Loretta Ross, A Feminist Response to Hurricane Katrina, Sistersong, October 10, 2005.
25 Principle 29-2 reads, “Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their properties and possessions which they left behind or were dispossessed of upon their displacement. The Guiding Principles on Internal Displacement, (1998), http://www.brookings.edu/fp/projecys/idp/resources/GPsEnglish.pdf.
26 Principle 12-2 reads, “To give effect to this right [liberty and security of persons], they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.” Id.
27 Id.
including on the grounds of race, sex and color. On April 22, the city of New Orleans will hold their primary elections, even though more than half of the city’s residents\textsuperscript{28} have been displaced throughout the “Katrina Diaspora.”\textsuperscript{29} Compounding loss of homes, livelihood and family members, displaced Katrina survivors are now at risk of being denied their constitutional right to vote and to participate in a representative government.

**Adding Insult to Injury**

New Orleans has long been the heart and pulse of African-American political power in Louisiana.\textsuperscript{30} African-Americans represented more than 67\% or roughly half a million of the City’s pre-Katrina population, forming the state’s single majority African-American district.\textsuperscript{31} New Orleans’ black population is now under 200,000 and face future redistricting, which will further dissolve Black political power. U.S. District Courts have refused to delay elections in spite concerns that displaced Black voters will not be able to participate in the election.\textsuperscript{32} Absentee voting has been extended, but to what addresses will ballots for thousands of displaced, homeless and transient constituents be sent?\textsuperscript{33} In a dramatic display of their disappointment, members of the Black Legislative Caucus walked out of the Louisiana House after members voted against Bill 14. Bill 14 would have allowed displaced New Orleans constituents to vote for a new mayor, City Council and other offices in satellite locations throughout the country. Black lawmakers contend that the majority vote amounted to “a blatant act of racism.”\textsuperscript{34}

Internal displaced minorities already disproportionately impacted by Katrina due to economic

\textsuperscript{30} Id.
\textsuperscript{31} Id.
\textsuperscript{33} Displaced residents who wish to vote absentee by mail ballot must complete and return a ‘Displaced Voter Request for Absentee Ballot by Mail’ [and possibly a ‘Displaced Voter Affidavit’] to the Louisiana Secretary of State’s Election Division, who then in turn mails the absentee ballot to the displaced voter. With the exclusion of picking up the ballot in person, ballots are not otherwise available to displaced voters. Telephone Conversation with Louisiana Secretary of State’s Election Division (March 21, 2006).
and social inequalities, will be further disenfranchised through exclusion from the political process. New Orleans constituents must have the right to cast ballots and choose their representatives;\textsuperscript{35} and to influence the rebuilding process by electing those who will shape New Orleans future. Little recourse is available as the state and federal courts have consistently failed to protect access to the means necessary to exercise the right of displaced minorities to vote and to participate in governmental and public affairs. The U.S. government must be held accountable for safeguarding the human rights of internally displaced persons pursuant to international law.

**Conclusion**

In order to protect the human rights of Americans displaced by natural disaster, the UN Guiding Principles on Internal Displacement should be incorporated into national legislation to implement an effective recovery plan that addresses issues of race, justice and equality. Moreover, displaced persons and their advocates need to be educated on rights and responsibilities under international law. Francis Deng, Representative of the UN Secretary-General on IDP’s reports, “Guiding Principles are being introduced to the local displaced population … so they are aware of their rights [and] not seen as simply people begging for humanitarian assistance, but people who have their rights as citizens and therefore demand a response as a matter of right.”\textsuperscript{36} Human rights education will contribute to a community-driven initiative and the recovery process in New Orleans must be community-focused.


\textsuperscript{36} IRIN Interview with Francis Deng, IRIN, 2001, http://www.irinnews.org/webspecials/idp/intFrancisDengCont.asp.