

# Advisory Group on Forced Evictions Mission Report to New Orleans, U.S.

*Final Draft for Review by AGFE Secretariat*



**26-31 July 2009**

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## ACKNOWLEDGEMENTS

This report was drafted and edited by Leilani Farha and Leticia Marques Osorio, members of the Advisory Group on Forced Evictions (AGFE), and by Tiffany Gardner, Eric Tars and Sam L. Jackson, members of AGFE Pool of Experts.

The AGFE mission team to New Orleans acknowledges the work of the many individuals and organizations that made this visit possible. While too many to name completely, a number of special thanks are appropriate. In no particular order, these include:

Tracie Washington, of the Louisiana Justice Institute, for taking the lead in local organizing of the town hall meeting, and Monique Harden of Advocates of Environmental Human Rights, Reilly Morse of the Mississippi Center for Justice, Davida Finger of Loyola University Law School, Sharon Hanshaw of Coastal Women for Change, Simone Washington of Center for Fair Housing, Brad Ott of Committee to Re-Open Charity Hospital, and Sam Jackson of Mayday New Orleans, for participating in the community panel at the town hall meeting. Sharon Jasper and Kawana Jasper of Mayday New Orleans, Stephanie Mingo of Survivors Village, Zack Carter of Alabama ARISE, and Mike Howell of C3/Hands Off Iberville for organizing turnout at the town hall meeting.

Martha Kegel, Shamus Rohn, Michael Miller and clients of UNITY of Greater New Orleans, Brad Ott, Jonah Evans and the members of the Lower Mid-City Community, Sharon Jasper, Kawana Jasper, and Sam Jackson of Mayday New Orleans and Stephanie Mingo of Survivors Village, who led us through their homes and communities to show us the reality of the forced evictions taking place in New Orleans.

Bill Quigley and Sunita Patel of the Center for Constitutional Rights for providing important background information to the mission; and Jon Stuyvesant of Rada Film Group for video and photo documentation of the visit.

Rasmus Precht, Claudio Acioly, and Helen Musoke at UN-Habitat and members of AGFE for their support in seeing this mission come to fruition.

The AGFE New Orleans mission would also like to acknowledge the volunteers and staff that greatly assisted the team. In particular, Narmeen Hashim at Centre on Equality Rights in Accommodation, Madeline Milan, Meredith Vacek, and Phil Wider at the National Economic & Social Rights Initiative, and Jessica Gustin at the National Law Center on Homelessness & Poverty.

Finally, we would to thank the residents of New Orleans for opening their homes and sharing their stories with us.

Background information on the AGFE New Orleans team members is provided in Appendix 1.

## EXECUTIVE SUMMARY

During the fact-finding mission to New Orleans, the AGFE team was both impressed and inspired by the resilience of the entire New Orleans community. Community members from diverse neighborhoods and socio-economic backgrounds are determined to rebuild their city. We met community members from all walks of life that were proud to call New Orleans home and could think of no better place to live. It was this strong commitment to their city – expressed by community members, advocates and local officials alike – that left an indelible impression on the AGFE mission members.

We also recognize the enormous task facing New Orleans. Hurricane Katrina was unprecedented in many ways and since the storm local, state and federal officials have been grappling to create adequate responses. In meetings with officials, particularly federal officials, it was evident that the U.S. government is thinking critically and deeply about its post-Katrina recovery process. As the Obama administration continues its review of past policy decisions and determines its path forward, we strongly urge the U.S. government to consider the observations, analyses and recommendations in this report. We believe that in incorporating a human rights framework into to all post-Katrina housing recovery the U.S. will not only meet the needs of hurricane survivors but provide a framework for disaster recovery around the world. What follows is an overview of the mission, our main findings, lessons learned and recommendations to UN-HABITAT and the U.S. government.

### 1. Introduction

In late August of 2005, Hurricane Katrina left a path of destruction and devastation in its wake. The hurricane displaced over 2,000,000 people in the Gulf Coast region. Immediately after Hurricane Katrina, the entire city of New Orleans was placed under mandatory evacuation. Many former residents have since relocated to other areas in Louisiana and other states, the most popular being Texas and Georgia. Return to the city of New Orleans has lagged. Yet, many are desperate to return home.

Although there has yet to be an official governmental review or assessment of the post-Katrina economic and social conditions facing New Orleans, news reports and academic studies highlight the lack of support to homeowners seeking to rebuild, lack of affordable housing options for renters, particularly the poorest segments of the population, and lack of quality education and health services as prime concerns preventing the return of many.

New Orleans is currently facing pressing housing problems that are at crisis levels for its most vulnerable residents. In particular, post-Katrina New Orleans lacks adequate affordable housing for those who desperately need it.

### 2. Methodology of the Mission

The AGFE New Orleans mission used a variety of methodologies in its investigation of forced evictions in New Orleans, including: (i) a town hall meeting with residents of New

Orleans, (ii) several in-situ visits with individuals and communities who have experienced eviction(s) or are facing eviction(s), (iii) discussions with advocacy groups and legal experts working on housing issues in the city, and (iv) meetings with government officials at both the city and federal level.

### **3. Advisory Group Findings**

Hurricane Katrina survivors are entitled to the human rights protections defined by a number of international human rights principles and laws, such as the right to adequate housing, the right to security of tenure, the right to be free from forced eviction, the right to life, the right to property restitution and once displaced, the right to return to their homes in safety and with dignity. These rights are found in a number of international treaties and conventions, some of which the U.S. is a party, as well as in the UN Guiding Principles on the Rights of Internally Displaced People, the UN Basic Principles and Guidelines on Development-Based Evictions And Displacement, and the UN Principles on Housing and Property Restitution. The AGFE mission exposed very clearly that a number of government acts and omissions at the local and federal level had the effect of discouraging and in some instances preventing communities from enjoying these rights and returning home.

#### **3.1. Instances of Forced Evictions**

##### **A. Destruction of Public Housing**

At the end of 2007 the New Orleans City Council approved the demolition of the “Big Four” public housing complexes constituting nearly 4,500 units. The units are being replaced with private, mixed-income housing. Demolitions have been financed by federal funds, and in fact were required as a condition for the city to receive other federal funding. Re-development plans include only 750 units of public housing in new “mixed-income developments,” meaning a total loss of 3,750 units of public housing.

This has contributed to the huge increase in homelessness post Katrina. The New Orleans homeless population is estimated at 12,000 people, double the number before Hurricane Katrina and four times higher than most American cities. In a survey conducted in 2008, 60% of homeless individuals said they became homeless after Hurricane Katrina.

##### **B. Inadequate Supply of Section 8 Vouchers and Private Market Units**

Section 8 vouchers are provided to low income tenants allowing them to find a unit on the private market where they will only be required to pay 30% of their income on rent with the federal government subsidizing the rest. Housing vouchers are generally attached to a tenant, and can therefore be transferred with the tenant as they move, however some are project-based.

Prior to Hurricane Katrina, New Orleans had roughly 4,800 project-based Section 8 apartments. Prior to the storm, these apartments represented about 5% of the city’s total rental stock, even more significant; they represented 40% of the city’s affordable housing units that were available to extremely low-income residents. Since the storm, about two-

thirds have not reopened. With the severe lack of affordable rental units in New Orleans, finding an apartment has been extremely difficult at best. This has left New Orleans' most vulnerable residents in a very precarious situation and has increased the numbers of homeless.

### **C. Threatened Eviction of Homeowners and Seizure of Private Property**

A large portion of Lower Mid-City has been identified as the site for a new state of the art medical complex. If these re-development plans are implemented, New Orleans will demolish a significant portion of the Lower Mid-City community, as a result, 25 square blocks and 165 historic homes will be destroyed. Residents have offered a professionally commissioned alternative plan, but the City has largely ignored it.

### **D. Unequal Distribution of Recovery Resources**

Forced displacement has also been caused by the unequal pace and distribution of recovery resources which privileged the more economically 'valuable' areas of New Orleans, such as the French Quarter, and which neglected less favored neighborhoods.

Governments have also failed to provide assistance to enable the displaced to re-establish previous livelihoods and communities, restitution of housing and/or appropriate compensation for the loss of adequate housing, leading also to homelessness for many.

## **3.2. Violations of Human Rights**

The AGFE mission reiterates the widely accepted position of the international community regarding forced evictions and displacement which recognizes these practices as human rights violations resulting in disproportionate suffering by women, female headed households, children, youth, older persons, racial and ethnic minorities and other vulnerable individuals and groups.

The AGFE mission uncovered five instances of forced evictions and displacement in violation of human rights:

### **A. Forced Evictions and Displacement: Violations of the Right to Adequate Housing**

The UN Committee on Economic, Social and Cultural Rights (CESCR), in its General Comment No. 4 identifies legal security of tenure including legal protection against forced evictions as a core element of "adequate" housing. Also, according to international law, evictions should not result in rendering individuals homeless or vulnerable to violation of other human rights. General Comment No. 7 on Forced Evictions adopted by the CESCR obliges State parties to guarantee that people who are evicted – whether illegally or in accordance with the law – have access to some form of alternative housing and a measure of security of tenure. Governments are required to explore all possible alternatives to eviction.

It is apparent that the U.S. government, and the state and municipal governments have failed to uphold the right to be free from forced evictions for Katrina survivors. The homeless

population has more than doubled post Katrina; Lower Mid-City residents may very well be evicted from their homes to make way for new medical institutions, though they have a viable alternative plan; and public housing tenants are not being provided with options for resettlement, forcing many into homelessness.

## **B. Forced Evictions and Displacement: Rights of Internally Displaced Persons**

Protecting the rights of internally displaced persons (IDPs) to land, property and housing is a critical human rights concern. For many IDPs, the loss of their housing and property is a major obstacle to return. Indeed, the right of IDPs to return, resettlement and reintegration cannot be ensured without first protecting their right to land, property and housing, including restitution of housing and property. Under the UN Guiding Principles on Internal Displacement, the Government of the United States is obligated to protect the property, possessions and housing of the internally displaced persons. Clearly low income residents of New Orleans have largely been denied these protections.

## **C. Forced Evictions and Displacement: Discrimination**

Housing policies that allow only 40% of private market rental units to be replaced, or that allow rents in the private market to escalate astronomically beyond affordability for poor people, or that permit the demolition of architecturally sound and unique public housing with the replacement of only 1/3 of public housing units, or that rely on an inadequate supply of Section 8 vouchers to be used in inaccessible private market units of which there are too few to meet demand, all have discriminatory effects and are contrary to human rights law. Though most of these policies do not directly target groups protected by human rights legislation, they do have a disproportionate impact on these groups. These policies ensure that particular groups – namely, low income, African American, and single mother tenants – are precluded from enjoying the right to adequate housing.

## **D. Forced Evictions and Displacement: Violations of the Right to Health and to Dignity Interests**

A study conducted by the Kaiser Foundation a year after Katrina confirmed an increase in the rates of poor health in the New Orleans area. After Hurricane Katrina, four out of ten adults reported being told by a doctor that they suffer from hypertension, asthma, diabetes, and other respiratory problems or chronic conditions, with low-income and Black residents disproportionately affected. Overall, low-income and Black residents were more likely to report worse health status after the hurricane than Whites or those “not economically disadvantaged.”

Those who are homeless and squatting in abandoned buildings are living in intolerable conditions, especially in light of the relative resources and wealth in the U.S. They are suffering multiple ailments and have little hope of becoming well without permanent, adequate housing.

## **E. Forced Evictions and the Right to Participation**

It is a general principle in international human rights law that those affected by forced eviction have a right to full information, consultation and participation in all aspects of the process of forced eviction. The lack of engagement by all levels of government with low-income residents of New Orleans regarding the future of their housing was one of the most striking features of this mission. The AGFE team was shocked that most residents with whom we met felt that at no time had they or their community been consulted in a meaningful way by any level of government regarding re-development or housing resettlement plans.

## **F. Forced Evictions and Displacement: Violations of the Right to Life**

The governments' failure to prevent and address homelessness constitutes a violation of the right to life in the New Orleans context. The AGFE mission learned that at least 16 homeless people have died in New Orleans waiting for housing vouchers. This is a clear violation of the right to life.

### **3.3. LESSONS LEARNED**

1. Forced evictions and displacement are most often associated with mass evictions of villages or communities in developing countries. Forced evictions or mass displacement is less often recognized or understood as a phenomenon that also takes place in developed, democratic, resource rich, western countries like the U.S. This mission highlights that deep poverty is very much part of the U.S. landscape and that forced evictions and displacement – as severe as anywhere else in the world – can and do take place even in the “land of plenty”.
2. Perhaps because of the privileged status of the U.S. on the world stage, we found that the residents of New Orleans themselves were surprised by how vulnerable Katrina had made them. They had assumed their governments would do everything in their power to assist their return home, but they were proven wrong. As a result, they have had to learn about their human rights and how to claim them.
3. In a developed society like the U.S., with sophisticated housing policies and programs, discrimination occurs and can be either direct and indirect, overt or more subtle.
4. Even in the U.S., elected officials and senior bureaucrats responsible for designing and implementing housing policies had little understanding of international human rights principles and norms and how these principles can be implemented through policy and programs.
5. As in other missions, the AGFE team learned that the principle of participation and inclusion of those affected by eviction in every aspect of eviction and resettlement is fundamental.
6. It is only through meaningful consultations with and participation of those affected that resettlement policies will meet their actual needs. This type of inclusion is the best pathway



to help a traumatized people heal, regain their strength and find new forms of ongoing support.

7. The AGFE team was particularly impressed with the services to homeless people being provided by UNITY. We believe others could learn and benefit from UNITY's programs post Katrina.

8. If all levels of government adopted a human rights approach to housing post-Katrina, the policies and programs developed and implemented would have been very different and at a minimum would have ensured adequate housing for the most vulnerable.

### **3.4. ADVICE TO THE EXECUTIVE DIRECTOR OF UN-HABITAT**

1. The AGFE mission suggests that the Executive Director of UN-Habitat undertake an assessment of the Master Plan for the city of New Orleans from a human rights perspective.

2. AGFE recommends the Executive Director to urge local, state and federal officials to engage in meaningful consultation with and provide venues, fora, or public hearings for residents to discuss their housing issues, to grieve their losses, and to strategize with public officials to address the concerns and issues raised.

3. AGFE recommends to UN-HABITAT to continue working with representatives from local, community-based groups in New Orleans to monitor whether progress is being made on the housing issues raised in this report.

4. AGFE recommends that UN-HABITAT encourage the government of the United States to ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol and the American Convention on Human Rights.

#### **A. Advice to be delivered by UN-HABITAT to the Government of the United States and to the Municipal Government of New Orleans**

1. Resident Participation: New Orleans residents want to live in safe, productive communities, and they understand first-hand the challenges and work it will take to get there. Residents should therefore be regarded as essential partners working alongside the government in rebuilding the city.

2. A Rights-Based Approach to Housing: All housing policies and programs developed for New Orleans must be based in the right to adequate housing and must be implemented in a manner that respects the right to adequate housing. At a minimum, the government must ensure adequate shelter is available to all who require it, and that persons without housing are not criminalized for the lack of private space to conduct their daily living activities.

3. A Rights-based Approach to Recovery: The lack of a comprehensive, rights-based disaster recovery strategy has been widely noted in official and non-governmental reports. Consequently, the U.S. should adopt the UN Guiding Principles on Internal Displacement and the Pinheiro Principles as the underlying framework in creating a new disaster recovery strategy for natural disasters where there is significant internal displacement.

## AGFE MISSION REPORT TO NEW ORLEANS, USA



A youth stands outside the abandoned and partially-demolished C.J. Peete public housing development.

### I. INTRODUCTION AND BACKGROUND

In late August of 2005, Hurricane Katrina left a path of destruction and devastation in its wake. The hurricane<sup>1</sup> displaced over 2,000,000 people in the Gulf Coast region. Immediately after Hurricane Katrina, the entire city of New Orleans was placed under mandatory evacuation. Many former residents have since relocated to other areas in Louisiana and other states, the most popular being Texas and Georgia.<sup>2</sup> Return to the city of New Orleans has lagged. Yet, many are desperate to return home.

Although there has yet to be an official governmental review or assessment of the post-Katrina economic and social conditions facing New Orleans, news reports and academic studies highlight the lack of support to homeowners seeking to rebuild, lack of affordable housing options for renters, particularly the poorest segments of the population, and lack of quality education and health services as prime concerns preventing the return of many.<sup>3</sup> The report recently issued by the Institute of Southern Studies states that out of the one million U.S. residents displaced by Hurricane Katrina, 100,000 are still living in Houston and that almost 66,000 of residential addresses across New Orleans remain abandoned.<sup>4</sup>

New Orleans, with a pre-storm population of 496,938 (1990 census), is the largest city in Louisiana and one of the principal cities of the southern portion of the U.S.<sup>5</sup> As of the U.S. Census Report in 2000, roughly 67% of the New Orleans population was African American, 28% White, 3% Hispanic and 2% Asian American. The 2000 census identified Louisiana as the poorest state in the nation.<sup>6</sup> Prior to Katrina the infant mortality rate in Louisiana was at 9.8 deaths per 1,000 live births, significantly higher than the national rate of 6.8. In inner city New Orleans, in 2000, rates of high school and college attainment were as low as 66% and

<sup>1</sup> The Gulf Coast region of the United States was devastated by both Hurricanes Katrina and Rita in the summer of 2005. However, Katrina constituted the vast amount of the damage to New Orleans whereas Rita had little impact on the city. Therefore, this report will focus on Hurricane Katrina and its aftermath.

<sup>2</sup> *New York Times*, "Katrina Diaspora"; [http://www.nytimes.com/imagepages/2006/08/23/us/24katrina\\_graphic.html](http://www.nytimes.com/imagepages/2006/08/23/us/24katrina_graphic.html).

<sup>3</sup> National Public Radio; "Katrina Victims Face Hurdles in Return Home"; <http://www.npr.org/templates/story/story.php?storyId=12750721>. *USA Today* "In New Orleans Schools, It's Like Starting Over"; [http://www.usatoday.com/news/education/2007-06-06-new-orleans-schools\\_N.htm](http://www.usatoday.com/news/education/2007-06-06-new-orleans-schools_N.htm). *The Times Picayune*; "So Far Road Home's Money Trail Doesn't Lead to Flood Victims"; <http://www.nola.com/news/t-p/frontpage/index.ssf?base/news-7/116271231871780.xml&coll=1>.

<sup>4</sup> Chris Kromm, *Grading the Katrina Recovery*, Institute for Southern Studies, August/September 2009. See [www.Southernstudies.org](http://www.Southernstudies.org)

<sup>5</sup> The latest U.S. Census reports the population is 311,853, a loss of over 170,000 people.

<sup>6</sup> Katz, Bruce; "Concentrated Poverty in New Orleans and Other American Cities"; Brookings Institution at [http://www.brookings.edu/opinions/2006/0804cities\\_katz.aspx](http://www.brookings.edu/opinions/2006/0804cities_katz.aspx).

17%, respectively. The unemployment rate at the time of the 2000 U.S. Census was at 13% and median household income was at \$19,900. By one calculation, 42% of those in Orleans Parish were “not in the labor force”, meaning that they were either unemployed or had simply stopped seeking employment. Of those living in the poorest areas in New Orleans, 85% were minorities. According to the Brookings Institution, in 2000, all of the residents in public housing in New Orleans were Black.

At the time Katrina hit the Gulf Coast, 22% of Louisiana residents and 23% of New Orleans residents were living in poverty. As a result, many of the residents most affected by the hurricane were those who were already experiencing difficult socio-economic conditions. The preexisting socio-economic conditions in New Orleans and the new vulnerabilities created by Katrina necessitated a strong government response to ensure that the basic human rights of the survivors of the storm were met. By and large this appears to have not occurred.

New Orleans is currently facing pressing housing problems that are at crisis levels for its most vulnerable residents. In particular, post-Katrina New Orleans lacks adequate affordable housing for those who desperately need it. Furthermore, government approaches to the rebuilding process, which has not included meaningful consultations with the affected will continue to effectively displace tens of thousands of residents and former residents without offering adequate resettlement or compensation plans for this loss of housing. If this approach continues in an unchecked manner, the result will be an unrecognizable city that has rid itself of the poor and low-income communities that have called New Orleans home for generations. These sentiments are reflected in the comments of Louisiana State Representative Richard H. Baker who declared shortly after the storms: “We finally cleaned up public housing in New Orleans. We couldn't do it, but God did.”<sup>7</sup>

The impact of the city's rebuilding plans has not been limited to public housing residents and buildings. Different forms of eviction are occurring throughout the city affecting a range of communities: White and Black, low-income and middle-income, renters and homeowners. A key characteristic of all of these evictions has been a lack of consultation or engagement with communities. Below are several key examples of the evictions occurring throughout New Orleans.

### **Affordability Crisis:**

- The storm damaged 51,000 rental houses, the majority of which were single or double family units.<sup>8</sup>
- Average rents in New Orleans are now 52% higher than pre-Katrina figures.<sup>9</sup>

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<sup>7</sup> *The Washington Post*, “Some GOP Legislators Hit Jarring Notes in Addressing Katrina”; <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/09/AR2005090901930.html>.

<sup>8</sup> Office of Policy Development & Research, U.S. Dept. Of Housing and Urban Development (HUD), *The Impact of Hurricanes Katrina, Rita and Wilma on the Gulf Coast Housing Stock*, U.S. Housing Market Conditions 9 (May 2006), quoted from Center for Constitutional Rights and the Loyola University New Orleans College of Law, *International Human Rights Obligations and Post-katrina Housing Policies, Briefing Paper to the Technical Experts for the Advisory Group on Forced Evictions— United States Mission July 26-31, 2009*, p.15.

<sup>9</sup> GNOCDC, Metro New Orleans Fair Market Rent History, [http://www.gnocdc.org/fair\\_market\\_rents.html](http://www.gnocdc.org/fair_market_rents.html)

- 80% more portable Housing Vouchers were handed out as rental assistance immediately after Katrina than in all of 2005, but there is a scarcity of units where these vouchers can be used.
- Only 40% of rental units damaged by the storm are to be replaced or rebuilt according to re-development plans.<sup>10</sup>
- In 2007, over 70% of households earning under \$35,000 lived in unaffordable housing, for example they spent more than 30% of their income on housing.<sup>11</sup>
- Many renters were sent eviction notices to their New Orleans addresses during their displacement. If these tenants actually managed to receive these notices, many were unable to return to their units to retrieve possessions, as significant parts of the city remained closed.<sup>12</sup>
- Once they could return, many residences were found inaccessible.<sup>13</sup>

### **Threatened Eviction of Homeowners and Seizure of Private Property:**

- New Orleans will demolish a significant portion of the Lower Mid-City community, which is largely homeowners, to make way for a new state-of-the-art medical corridor. If the construction of the hospital corridor proceeds, 25 square blocks and 165 historic homes will be destroyed.<sup>14</sup>
- A resident of Colden, Alabama is being threatened with arrest and displacement due to a zoning ordinance that bans trailers – including federally-issued disaster relief trailers – from being used as permanent residences, even on that homeowners' own property.

### **Destruction of Public Housing:**

- On 20 December 2007 the New Orleans City Council approved the demolition of the “Big Four” public housing complexes: B.W. Cooper, C.J. Peete, Lafitte, and St. Bernard, constituting nearly 4,500 units. The units are being replaced with private, mixed-income housing. Demolitions have been financed by federal funds, and in fact were required as a condition for the city to receive other federal funding.
- Re-development plans include only 750 units of public housing in new “mixed-income developments,” meaning a total loss of 3,750 units of public housing.
- Prior to Katrina, about 14,000 families, or 49,000 individuals, lived in public housing and subsidized voucher apartments. Even at that time the supply was insufficient to

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<sup>10</sup> Kalima Rose et al, *A Long Way Home: The State of Housing Recovery in Louisiana*, PolicyLink, at 6 (2008), available at <http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/EQUITYATLAS.PDF>

<sup>11</sup> Allison Plyer, Joy Bonaguro, Elaine Ortiz, and Kathy Pettit, *Changes in New Orleans Metro Area Housing Affordability*, Greater New Orleans Community Data Center (GNOCDC), June 23, 2009.

<sup>12</sup> Center for Constitutional Rights and the Loyola University New Orleans College of Law, *International Human Rights Obligations and Post-katrina Housing Policies*, Briefing Paper to the Technical Experts for the Advisory Group on Forced Evictions – United States Mission July 26-31, 2009, p.15.

<sup>13</sup> *Ibid.*

<sup>14</sup> National Trust for Historic Preservation, *Lawsuit by National Trust for Historic Preservation Claims VA and FEMA failed to follow federal environmental requirements for New Orleans hospitals*, May 1, 2009.

meet the demand; there were 17,000 individuals and families on the waiting list for public housing in 2005.<sup>15</sup>

- Experts found that the “Big Four” sustained minimal damage from the storm. As a result, the cost of demolition and re-development far exceeds the costs associated with renovations to improve the adequacy of the developments. Estimates are that it would have cost \$10,000 per unit to repair and modernize them whereas it will cost \$450 million more to demolish rather than repair them and \$174 million more to demolish them rather than modernize the units.<sup>16</sup>

### **Increased Homelessness:**

- The New Orleans homeless population is estimated at 12,000 people, double the number before Hurricane Katrina and four times higher than most American cities.<sup>17</sup>
- An estimated 5,000-10,000 individuals are squatting in abandoned residential and commercial buildings, in most cases living without electricity or potable water.
- In a survey conducted in 2008, 60% of homeless individuals said they became homeless after Hurricane Katrina and 30% said they had received rental assistance at some point from FEMA, but no longer.<sup>18</sup>
- All of New Orleans’ 818 permanent supportive housing units, 719 transitional housing units, and 254 shelter beds are always filled to capacity.<sup>19</sup>
- A February 2008 study of persons living under a bridge showed that 31% of that group became homeless as a direct result of losing FEMA or HUD rental assistance post-Katrina.<sup>20</sup>

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<sup>15</sup> Housing Authority of New Orleans (HANO), Post-Katrina Frequently Asked Questions 1-2, [www.hano.org/FAQ.pdf](http://www.hano.org/FAQ.pdf), quoted from Center for Constitutional Rights and the Loyola University New Orleans College of Law, *International Human Rights Obligations and Post-katrina Housing Policies, Briefing Paper to the Technical Experts for the Advisory Group on Forced Evictions – United States Mission July 26-31, 2009*, p.18.

<sup>16</sup> Cris Kromm and Sue Sturgis, *Hurricane Katrina and the Guiding Principles on Internal Displacement*, Intitution for Southern Studies 23 (January 2008), available at [www.southernstudies.org/ISSKatrinaHumanRights.Jan.08.pdf](http://www.southernstudies.org/ISSKatrinaHumanRights.Jan.08.pdf), quoted from Center for Constitutional Rights and the Loyola University New Orleans College of Law, *International Human Rights Obligations and Post-katrina Housing Policies, Briefing Paper to the Technical Experts for the Advisory Group on Forced Evictions – United States Mission July 26-31, 2009*, p.18.

<sup>17</sup> Unity of Greater New Orleans, *Post-Katrina Homeless Camps in New Orleans powerpoint* (July 29, 2009), on file with authors, slide 3.

<sup>18</sup> *Post-Katrina Homeless Camps, supra*, at 12, 14.

<sup>19</sup> Unity of Greater New Orleans, *Testimony to New Orleans City Council, Housing and Human Needs Committee powerpoint*, August 20, 2007, on file with author, slides 19-20.

<sup>20</sup> *Post-Katrina Homeless Camps, supra*, at 14.

## II. METHODOLOGY

The following two overarching principles informed the methodology for the AGFE mission to New Orleans:

- Housing, which includes principles of non-discrimination, substantive equality, and security of tenure, and freedom from forced evictions (as defined in international law) are human rights;
- A valid assessment of the situation of forced evictions in New Orleans required meetings and interviews with people and communities who have experienced eviction(s) or are facing eviction(s) in New Orleans as a result of Katrina and its aftermath, as well as with government officials at the local and federal levels, and where possible third parties such as those involved in housing re-development.

The AGFE New Orleans mission used a variety of methodologies in its investigation of forced evictions in New Orleans, including: (i) a town hall meeting with residents of New Orleans, (ii) several in-situ visits with individuals and communities who have experienced eviction(s) or are facing eviction(s), (iii) discussions with advocacy groups and legal experts working on housing issues in the city, and (iv) meetings with government officials at both the city and federal level. A complete list of the individuals with whom we met is provided in [Appendix 2](#).



Tracie Washington, of the Louisiana Justice Institute, testifies at the town hall meeting.

The town hall meeting was held at McDonogh 42 Elementary School, a local elementary school in New Orleans, and was attended by approximately 200 residents. 30 people provided testimony regarding their personal experiences of forced eviction during and post-Katrina. The in-situ visits, which included low-income and middle-income communities, were thematically and racially diverse. The following communities were visited by the AGFE team:

- An abandoned, partially destroyed building in Mid-City with no potable water or electricity, where a number of homeless people are squatting;
- The Gert Town community where many homeless people are squatting in abandoned, partially destroyed homes also without potable water and electricity;
- Lower Mid-City where homeowners are fighting displacement to make way for private development;
- The site of the former St. Bernard public housing development, where the new Columbia Residential, mixed-income project is being developed;
- The site of the former Lafitte public housing development, including the remaining structures of the development;
- The site of the former C.J. Peete public housing development; and



- The Iberville public housing development, the last remaining, large-scale public housing development in New Orleans.

Throughout the in-situ visits we interviewed close to 20 residents.

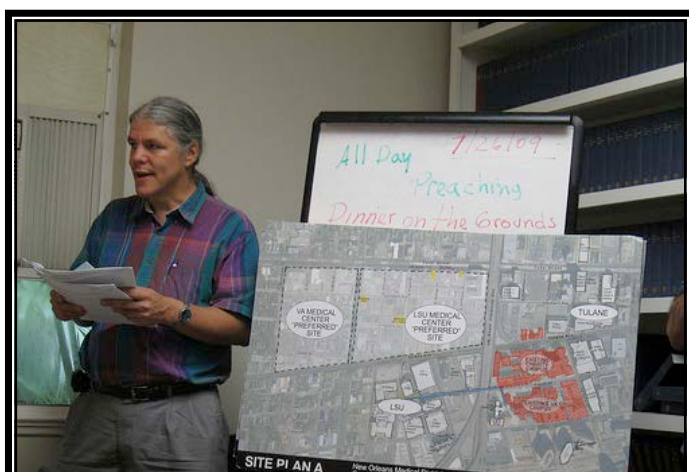
The AGFE fact-finding team used the following methods and sources to carry out this mission:

## 2.1. Verify and map instances of forced evictions and provide evidence of findings

In-situ visits were used to verify the housing situations and conditions that are illustrative of the types of evictions and displacements alleged to be occurring in the city. These included: a) public housing developments that have been or are being demolished by the Housing Authority of New Orleans (HANO) under the direction of the Department of Housing and Urban Development (HUD), in particular, B.W. Cooper, C.J. Peete, Lafitte and St. Bernard housing projects; b) city ordinances prohibiting the reconstruction and renovation of homes in the Lower Mid-City community, and the planned demolition of these homes for private development; and c) rent increases and lack of affordable housing which has led to forced displacements and evictions resulting in increased homelessness throughout the city.

Evidence related to all of these evictions was collected from the in-situ visits in communities across the city, interviews with community leaders, advocates and residents, and meetings with city council and federal government officials.

Secondary sources, such as relevant literature, videos, documentaries, governmental and community reports, and media articles were also consulted.



Brad Ott, of the Committee to Save Charity Hospital, presents a picture of pending forced evictions in Lower Mid-City.

## 2.2. Assess government policies and procedures post-Hurricane Katrina to determine their impact on forced evictions and displacement, assess efforts made to resettle any evictees, and consider viable solutions that may improve the housing conditions of those who have suffered forced evictions and displacement

The AGFE mission met with city council and federal government officials in both New Orleans and Washington D.C. To prepare for these meetings and to inform our final report, team members reviewed relevant governmental reports, policies and procedures and analyzed current rebuilding plans and processes with respect to housing in particular. This preparatory work, along with the in-situ visits, was used to inform our discussions with government

officials which focused on the impact of these policies, procedures and plans in terms of forced evictions and displacement in New Orleans.

We assessed the government's approaches and policies using the following criteria:

- Does the policy, program or approach provide adequate restitution and protection and/or alternative resettlement in instances where housing is demolished or made unavailable;
- Does the policy, program or approach provide sufficient safeguards to house the increasing homeless populations;
- Does the policy, program or approach offer subsidies to persons who cannot afford renting or buying a house in the private market; and
- Does the policy, program or approach meet the obligations imposed by a human right to housing framework by guaranteeing security of tenure and adequate housing without discrimination to low-income and other vulnerable populations?

### **2.3 Identify the duty-bearers responsible for implementing policies that lead to forced evictions as well as the rights and obligations of all parts involved**

The AGFE mission to New Orleans adopted an international human rights framework in its assessment of the situation of forced evictions and displacement in New Orleans. The mission used the norms and standards contained in international human rights treaties and documents which entail rights and obligations that must be respected, protected and fulfilled by the State, the right holders and third parties. We identified the duty-bearers, and analyzed and evaluated the effects of policy decisions using this framework.

### **2.4. Generate lessons learned (normative objective): identification of positive actions taken so far to prevent and halt forced evictions and encourage constructive dialogue between the stakeholders of current or planned evictions with a view to promoting alternative solutions.**

AGFE mission members identified how local and federal authorities are implementing re-development plans and assessed whether other solutions exist that might be preferred under a human rights framework for addressing the housing crisis. The AGFE mission members discussed with government authorities alternative approaches to rebuilding and development that would decrease the numbers of forced evictions and displacements in New Orleans, while ensuring the ongoing rebuilding and resettling of those who lost their homes or whose homes were destroyed during Katrina.

In light of this methodology and background, and the mandate of AGFE, the mission focused its investigation on the following issues:

1. The city's growing homelessness problem as a result of forced evictions and displacement;
2. Forced evictions and displacement as a result of the demolition of public housing; and
3. The pending forced eviction and displacement of homeowners and renters in the Lower Mid-City community (*see Appendix 3* for the full schedule)



The Advisory Group Mission to New Orleans is part of continued international concern regarding post- Katrina rebuilding and development. The following United Nations human rights monitoring bodies have assessed the U.S. government's response to the hardships facing Katrina survivors in light of the government's human rights obligations, including the right to adequate housing, security of tenure, and protection against forced evictions and displacement:

- In March 2006, the **Independent Expert on Human Rights and Extreme Poverty**, Arjun Sengupta, published a report based on his October 24th through November 4th, 2005 mission to the United States, which included New Orleans, describing the difficulties faced by survivors in returning to their homes and making their voices heard in reconstruction decisions.<sup>21</sup>
- **The UN Human Rights Committee (HRC)**. In December 2006, the HRC expressed concern “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 called on the Government of the United States to “increase efforts to ensure that the rights of the poor, and in particular African-Americans, are fully taken into consideration in the reconstruction plans with regard to access to housing, education and healthcare.”<sup>22</sup>
- In February 2008, the then **UN Special Rapporteur on the Right to Adequate Housing**, Miloon Kothari, and the **UN Independent Expert on Minority Issues**, Gay McDougall, issued a joint press statement expressing serious concern over the process leading to the demolition of thousands of units of public housing in New Orleans and calling for a halt to the ongoing demolitions. The statement expressed the UN experts' dismay over reports of violations of international human rights law in connection with these demolitions, including the right to participation and the right to adequate housing for former public housing residents. They further called on the U.S. government to halt ongoing demolitions to ensure that re-development plans include participation by former



Kali Akuno, of the People's Hurricane Relief Fund; Monique Harden of Advocates for Environmental Human Rights; Miloon Kothari, Special Rapporteur on the Right to Adequate Housing; and Eric Tars of the National Law Center on Homelessness & Poverty, meeting in Geneva, February 2008.

<sup>21</sup> Independent Expert on the question of human rights and extreme poverty, Report on Mission to the United States, 49–52, delivered to Commission on Human Rights, U.N. Doc. E/CN.4/2006/43/Add.1 (Mar. 27, 2006).

<sup>22</sup> UN Human Rights Committee, Concluding Observations of the Human Rights Committee on the Report Submitted by the United States of America, UN Doc. CCPR/C/USA/CO/3/Rev.1 (December 18, 2006), para. 26.

public housing tenants and respect their right to return. The joint statement followed a private communication on December 17, 2007 by the UN Independent Experts to the U.S. government.<sup>23</sup>

- **The UN Committee on the Elimination of Racial Discrimination (CERD)**, in February 2008, also expressed concern about the “disparate impact that this natural disaster continues to have on low-income African American residents, many of whom continue to be displaced after more than two years after the hurricane”. The CERD called upon the U.S. government to aid displaced survivors of Katrina and asked it to report back on its efforts to follow up on the Committee’s recommendations within one year.<sup>24</sup>
- In March 2009, the **Representative of the Secretary-General on the Human Rights of Internally Displaced Persons**, Walter Kälin, criticized post-Katrina re-development efforts for prioritizing economic viability over residents’ needs.<sup>25</sup> He conducted a working visit to the Gulf Coast from January 14th through 18th in 2008.
- **The UN Special Rapporteur on Racism, Racial Discrimination, Xenophobia, and Related Intolerance**, Doudou Diène, in May 2009, expressed concern that the federal government was not ensuring the return of displaced persons to New Orleans and denounced the demolition of public housing there.
- **The UN Special Rapporteur on the Right to Adequate Housing**, Raquel Rolnik visited New Orleans in late October, 2009 as part of her official U.S. mission. She followed-up on the items AGFE uncovered during its mission and will issue a report in 2010 on her mission. Her preliminary findings indicated that new housing should be made available for displaced residents before any unit is demolished and following demolition or rehabilitation residents’ right to return must be ensured to the area where new developments are located.<sup>26</sup>

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<sup>23</sup> A/HRC/10/7/Add.1, 17 February 2009

<sup>24</sup> UN Committee on Elimination of All Forms of Racial Discrimination, Concluding Observations on the Report Submitted by the United States of America, UN Doc. CERD/C/USA/CO/6 (February 2008), para. 31, 45.

<sup>25</sup> Representative of the Secretary-General, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, Protection of Internally Displaced Persons in Situations of Natural Disaster, delivered to the Human Rights Council, U.N. Doc. A/HRC/10/13/Add.1 (Mar. 5, 2009).

<sup>26</sup> Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, *Preliminary Findings and Recommendations, Mission to the United States of America*, (Nov. 7, 2009).

### III. NATIONAL HOUSING POLICY

The U.S. government has long recognized that access to adequate housing is a basic tenet to living a productive and healthy life. From the *U.S. Housing Act* of 1937 to the 1968 *Fair Housing Act*, these legislative mandates and government programs had at their core the premise that housing is so integral a need that the federal government must play a role in ensuring that everyone has access to a decent place to live. Even as recently as 1990, the U.S. Congress passed the Cranston-Gonzalez National Affordable Housing Act. The Act states that “the objective of national housing policy shall be to affirm the long-established national commitment to decent, safe and sanitary housing for every American.”<sup>27</sup>



AGFE Members meet with Rep. Maxine Waters, Chair of the Housing & Community Opportunity Subcommittee.

Despite this acknowledged commitment to adequate housing, the displacement and forced evictions that followed Hurricane Katrina took place within an existing legislative and policy framework of overlapping federal, state, and local housing and disaster programs, some of which were pre-existing, and others that were created subsequent to the storms. This section provides a brief overview of the relevant legislative and policy structures.

#### 3.1. Pre-existing Legislative and Policy Framework

Hurricane Katrina served as a catalyst for forced evictions and displacement in New Orleans and throughout the greater Gulf Coast region, but the legislative and policy framework which facilitated the forced evictions and displacement preceded the storm. From the Stafford Disaster Relief Act, legislation which makes all federal disaster aid discretionary, to various under-resourced housing programs, the situation in New Orleans for low-income persons and others in need of support after a disaster was never ideal, and provided fertile ground for widespread evictions after the storm hit.

#### A. Robert T. Stafford Disaster Relief and Emergency Act

*The Robert T. Stafford Disaster Relief and Emergency Act* (Stafford Act) is the controlling federal law on national disasters and emergencies. While controlling, the Stafford Act’s protections are entirely discretionary and at the whim of the President. Under the Stafford Act, there is **no** federal right to any specific disaster relief or aid before, during, or after displacement, and all acts are immune from lawsuit.<sup>28</sup> Although the Stafford Act was, in many cases, sufficient in providing basic

“It’s not FEMA. It’s not the state. It’s not the city. It’s the Stafford Act. The system sucks.”

Mark Smith, Louisiana Homeland Security Office, quoted in *State Offers to Turn Over FEMA Aid*, *The Times-Picayune*, 1/27/07, p. A-1.

<sup>27</sup> Pub. L. No. 101-625, 104 Stat. 4079 (1990).

needs under previous disasters, it allowed various federal, state, and local government agencies to evade accountability for recovery and prevented a rights-based recovery in the Gulf Coast following Hurricanes Katrina and Rita. The Stafford Act contains no right of return, no right to housing or other vital social services and no requirement to consult with those affected by the disaster during their displacement. It also provides no clear authority structure to determine accountability in carrying out disaster relief.

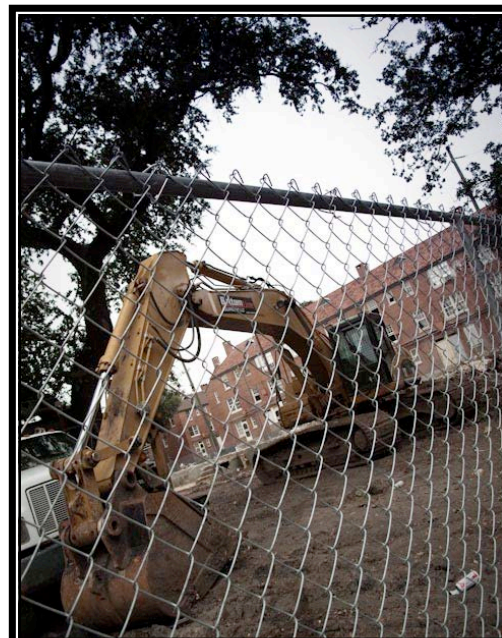
## **B. Social Housing**

Social housing in the U.S. is comprised of dozens of different programs funded by the federal, state, and local governments. The two major forms of social housing, public housing and Section 8 vouchers are funded by the federal government but administered by a network of over 3,000 local housing agencies. Funding for public housing in the U.S. has been under constant threat since the early 1980s.

Public housing serves the poorest members of society – 31% of public housing tenants are elderly, 32% have disabilities, and 41% are families with children. This resource serves those at less than 80% of the area median income (AMI), with 40% of new admissions in any year targeted at those with less than 30% AMI. Residents of public housing usually pay 30% of their monthly adjusted income for rent.<sup>29</sup> From 1978 to 1983 the Department of Housing and Urban Development's (HUD) budget went from \$83 billion to \$18 billion – a 78% reduction.

This starved public housing communities of vital resources and necessary upkeep, leading to a slow deterioration of the buildings, the infrastructure and the overall effectiveness of the program. Moreover, in 1992 Congress authorized the Housing Opportunities for People Everywhere (H.O.P.E. VI) program, which had as its stated goal the improvement of public housing communities. Through H.O.P.E. VI, public housing was demolished across the country and replaced with mixed-income developments. In 1996 Congress removed the H.O.P.E. VI requirement that demolished public housing be replaced on a one-for-one unit basis, and as a result the number of public housing units has dramatically declined by almost 100,000 nationally out of 1.1 million total units (close to 10%).

Section 8 vouchers are the other major federally-funded, locally administered housing assistance program. Section 8 vouchers, formally called Housing Choice Vouchers, are targeted to very low-income families – 75% must be assigned to those making less than 30% AMI, while the remainder can be assigned to families at up to 80% AMI. The vouchers



The site of a destroyed building in the Iberville Public Housing Complex.

<sup>28</sup> 42 USC §5170b, 5148).

<sup>29</sup> Department of Housing and Urban Development website; <http://www.hud.gov/offices/pih/programs/ph/>.

allow tenants to find a unit on the private market where they will only be required to pay 30% of their income on rent, and the federal government subsidizes the rest. Housing vouchers are generally attached to a tenant, and can therefore be transferred with the tenant as they move, however some are project-based. There is no federal law prohibiting discrimination against Section 8 tenants, and many landlords refuse to accept tenants with Section 8 vouchers.<sup>30</sup> Often this means families with vouchers are concentrated into high poverty areas.

Prior to Hurricane Katrina there were 7,379 public housing units in New Orleans that were occupied almost entirely by African-Americans, particularly female-headed households with children. The need for public housing in the city prior to Hurricane Katrina far outstripped the supply. There were 6,573 families on the public housing waiting list before the storm, and the list had been closed to new applicants since 2002.<sup>31</sup> After the storm, barely half of the public housing units – 3,343 – are to be re-opened.<sup>32</sup>

The inability of HANO and HUD to function effectively in New Orleans has exacerbated the impact of the post-Katrina policies on public housing communities. In New Orleans, due to extensive corruption and mismanagement within HANO, HUD took over local administration in 2002.<sup>33</sup> However, even with federal oversight, corruption and mismanagement have persisted as found in a recent report by the Office of Inspector General.<sup>34</sup>

Before Katrina HANO had 9,400 Section 8 vouchers, 95% (8,981) of which were in use,<sup>35</sup> and still had a waiting list of 10,873 families (the waiting list had been closed since 2001 when almost 20,000 families were on it.)<sup>36</sup> In September 2009, the waiting list was re-opened though there have been problems with outreach to eligible communities. Given the socio-economic conditions and outlook of New Orleans it is obvious that New Orleans city officials were dealing with an extraordinary affordable housing crisis well before Hurricane Katrina hit. The programs put into place to address the lack of affordable housing never fully addressed this crisis but instead served as stop-gap measures to benefit the few that were lucky enough to access them. Hence, Hurricane Katrina demanded government action that addressed the preexisting needs of vulnerable communities and those that were newly impacted by the storm. It failed to do so.

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<sup>30</sup> See, e.g. NY ACORN, *Housing for Everyone: New York City, Section 8, and Source of Income Discrimination* (2007).

<sup>31</sup> Laura Tuggle, Testimony to Joint Hearing of the Committee on Financial Services Subcommittee on Housing & Community Opportunity and Committee on Homeland Security Subcommittee on Emergency Communications, Preparedness, and Response, U.S. House of Representatives, June 4, 2008, (hereinafter Tuggle 2008 Testimony) at 2.

<sup>32</sup> Rachel Luft and Shana Griffin, Status Report on Housing in New Orleans after Katrina: an Intersectional Analysis in *Katrina and the Women of New Orleans*, Newcomb College Centre For Research on Women, December 2008, Tulane University.

<sup>33</sup> Fewer than 10 out of 3,200 local public housing authorities nationwide are currently in HUD receivership. Fact Sheet: New Housing to Benefit New Orleans, <http://www.hud.gov/news/neworleansfact.cfm>.

<sup>34</sup> HUD Could Not Demonstrate That Its Receivership Improved the Housing Authority of New Orleans' Performance, Office of Inspector General, Department of Housing & Urban Development, Audit Report No. 2009-AO-0003, April 8, 2009.

<sup>35</sup> Housing Authority of New Orleans, Frequently Asked Questions, <http://www.hano.org/FAQ.pdf>.

<sup>36</sup> Tuggle 2008 Testimony, *supra*, at 2.

## C. Other Housing Assistance

The Community Development Block Grant (CDBG) Program is another source of federal funding for housing (and another type of community development program), though significantly smaller (\$3.6 billion in 2008). The program allows jurisdictions broad flexibility in designing projects that include housing and other public services, targeted at benefiting those making less than 80% AMI.<sup>37</sup> CDBG funds can be used for housing rehabilitation (including payments to landlords or non-profits), down payment assistance, constructing facilities such as homeless shelters, or making buildings accessible to persons with disabilities. CDBG funding often comes in the form of tax credits, which developers can sell to raise capital for projects, but because of the weak economic markets, it has been difficult to raise capital in this way.<sup>38</sup>

### 3.2. Post-Katrina Policy Framework

Despite the broad scope of the agencies and authorities in place, after Katrina the federal approach to housing was to create an amalgam of temporary programs from scratch. No master housing plan, policy or program guided by core principles such as human rights was put into place by any level of government. Instead, a piecemeal approach was adopted. This had the effect of delaying and confusing the distribution of aid and prevented residents from fully understanding what programs were available to them and from feeling entitled to any specific form of assistance.

#### A. Rental Assistance

In the aftermath of Katrina, the Federal Emergency Management Agency (FEMA) took initial responsibility for administering housing assistance rather than supporting and

Madeline S. has a monthly income of \$1,750 working at a local hotel, with a family of 5. She needs a 3 bedroom unit for her family. An affordable rate (30% of income) would be \$525/month. A market rate unit would be \$1,271, a GO Zone unit would be \$933, and a Road Home unit would be \$680. Her current DHAP unit is \$1700, which will be unaffordable when the program ends.

From Tuggle 2008 Testimony, *supra*, at 12.

expanding HUD's capacity to administer vouchers and other housing assistance and providing funds for developing additional affordable housing such as public housing developments. According to the government's own review, "Before Hurricane Katrina, FEMA did not have plans that clearly defined roles, responsibilities, and processes to address housing needs. After Hurricane Katrina, FEMA did not (1) coordinate housing needs among state and local governments; (2) provide adequate contract management and monitoring; or (3) provide oversight of contractors' performance."<sup>39</sup>

<sup>37</sup> Linda Couch, *Housing Choice Vouchers*, in 2009 Advocates Guide to Housing and Community Development Policy, National Low Income Housing Coalition (2009), 46.

<sup>38</sup> Kalima Rose et al, *A Long Way Home: The State of Housing Recovery in Louisiana*, PolicyLink, at 6 (2008), available at <http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/EQUITYATLAS.PDF>

<sup>39</sup> Department of Homeland Security, Office of Inspector General, FEMA's Sheltering and Transitional Housing Activities After Hurricane Katrina, 1, OIG 08-93, Sept. 2008.



FEMA initially provided hotel and motel rental assistance vouchers under the Stafford Act to close to 50,000 households, but said this assistance would end by December 1, 2005. Families were not given adequate time to transition to other housing programs, and with close to 40,000 families still in motels at the beginning of December, a court ordered the extension of hotel assistance through February 2006. FEMA issued guidance for transition to longer term housing aid in February. Eventually, FEMA acknowledged it could not provide the longer term housing assistance needed by those internally displaced and transitioned its authority to HUD to provide vouchers. The extent of aid distributed through HUD was limited to three programs: (i) the Katrina Disaster Housing Assistance Program (KDHAP), (ii) the Disaster Voucher Program (DVP), and (iii) the Disaster Housing Assistance Program (DHAP). KDHAP and DVP were only available for pre-Katrina HUD clients, mostly those who had lived in public housing. DHAP, instated in December 2007, served the 45,000 households not assisted through the other two rental assistance programs. These, however, were only temporary forms of aid. KDHAP was terminated and replaced with the DVP at the end of January 2006. DVP aid was originally scheduled to terminate at the end of September 2007 but was extended until the end of June 2008, and then to the end of February 2009, and finally to at least the end of that year. These constant program transitions, the complicated application processes, and shifting deadlines all point to the government's failure to provide a clear plan and commitment to ensuring the right to housing throughout the duration of need.

The final phase of transition from the DVP and DHAP vouchers to regular Section 8 vouchers has been fraught with problems due to short staffing and delays at the HANO office. In order to move recipients off assistance, the DHAP program was scheduled to increase recipients' rental burden by \$50 per month starting in March until they graduated out of the program.<sup>40</sup> However, at the time of the AGFE mission, of the approximately 4,000 DHAP voucher recipients who qualified for Section 8, only 1,500 had received their new vouchers.<sup>41</sup> In the meantime, the AGFE mission heard that residents who had not yet received their new vouchers were struggling to maintain their housing costs while others were being forced into homelessness.

Moreover, because of the programs' reliance on vouchers, which in turn depend on available affordable rental housing stock, a large number of those displaced by Katrina have been unable to return to New Orleans. Only 33% of damaged rental properties were scheduled to be rebuilt using hurricane recovery funds.<sup>42</sup> A study conducted by the Greater New Orleans Fair Housing Action Center reported that 82% of landlords either outright refused to accept DHAP vouchers or added insurmountable requirements for voucher holders making it impossible for voucher holders to rent units.<sup>43</sup> 3,314 of more than 6,000 units of Project-

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<sup>40</sup> Landlords Frequently Asked Questions, DHAP Greater New Orleans, *available at* <http://www.dhapneworleans.org/landlordsfaq.html>.

<sup>41</sup> See Katy Reckdahl, Rents Rise as HANO trudges through transition, Times-Picayune, July 14, 2009, *available at* <http://www.nola.com/news/t-p/allstories.ssf?/base/news-2/1247548900260380.xml&coll=1>.

<sup>42</sup> Rose, *A Long Way Home*, *supra* note 35

<sup>43</sup> Greater New Orleans Fair Housing Action Center, Housing Choice in Crisis: An Audit Report on Discrimination Against Housing Choice Vouchers in the Greater New Orleans Rental Market, Sept. 2009, *at* 7.

Based Section 8 units (permanently subsidized private units) have not been reopened since Katrina.<sup>44</sup>

Even with all federal resources brought to bear, only about 45% or 23,000 of the 52,000 affordable rental units damaged by Katrina are currently funded for re-development, and many of those will be “affordable in name only”, as the text box indicates. Additionally, due to the economic downturn, it has become difficult for many developers to raise funds using these credits. Thus developers have not been able to rehabilitate the rental units.

## **B. Public Housing**

New Orleans’ affordable housing crisis is compounded by the destruction of public housing, detailed in Part III of this report. Because close to half the units will be permanently unavailable, and a vast majority of units were demolished before residents could return, families formerly housed in public housing are now competing in the same overburdened voucher/affordable housing rental market with other voucher holders. Moreover, public housing is now being redeveloped into mixed-income communities by private developers and these developers are imposing additional barriers to re-entry for previous public housing tenants with inadequate public oversight.

## **C. Homeowners**

Under the broad CDBG authority, Congress created a number of programs to aid in the re-development of the Gulf Coast, including the Gulf Opportunity (GO) Zone and the Road Home programs. These allocated tax credit programs were designed to be used for the development of affordable housing or in other housing development projects. Additionally, homeowners could seek rebuilding assistance through the “Road Home” program created under the CDBG. However, the application process for homeowners was difficult for many, and even when assistance was granted, it was often inadequate. In fact, 81% of New Orleans homeowners who received Road Home funding did not receive sufficient resources to cover the costs of repairing their damaged homes, falling on average \$35,000 short.<sup>45</sup> The most damaged areas were low-income neighborhoods with high African American populations, such as the Lower Ninth Ward, and these areas had higher average gaps between damages and assistance received, leading to foreclosure and other difficulty in maintaining housing.<sup>46</sup> Conflicting zoning restrictions and threatened use of “eminent domain” to claim homeowners land have also hindered the ability to rebuild.

## **D. Trailers**

To house the massive numbers of internally displaced persons (IDPs) following Katrina, FEMA purchased and made available tens of thousands of mobile homes and trailers for use by over 140,000 families. As with the other forms of FEMA rental assistance, obtaining a trailer required families to navigate complex and contradictory procedures and shifting

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<sup>44</sup> Laura Tuggle, Testimony to the Committee on Financial Services Subcommittee on Housing & Community Opportunity, U.S. House of Representatives, August 21, 2009, (hereinafter Tuggle 2009 Testimony).

<sup>45</sup> Rose, *A Long Way Home*, *supra* note 35, at 7 (2008).

<sup>46</sup> *Id.*, at 51.



deadlines. As a result of missing deadlines or failing to file appropriate paperwork, many families were evicted from the trailers into homelessness. A final resolution occurred in June of 2009, when the Obama Administration authorized the sale (for a nominal amount of money) of the trailers to their inhabitants. However, at the present time, local zoning boards are passing ordinances requiring the removal of these trailers from homeowners' land. We met one such resident facing this challenge, which is further described below.

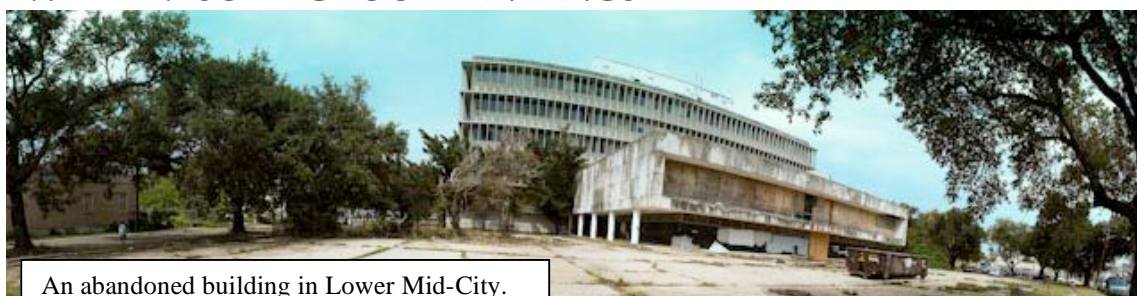
In addition to the ordinances barring trailers on private land, many survivors are still dealing with the health implications of toxic trailers. In 2006, independent tests conducted by the Sierra Club, an environmental advocacy organization, revealed dangerously high levels of formaldehyde in some of the FEMA trailers provided to survivors. However, FEMA failed to take the matter seriously at first. The agency downplayed and denied the problem for two years before testing occupied

trailers, informing residents of the extent of formaldehyde problems and potential health threats, and finally confirming the high levels and moving people out of the trailers. By that time, the health impacts were apparent with many survivors developing chronic health conditions, such as asthma and other respiratory illnesses, and cancer.



A Katrina trailer, modified for advocacy.

## IV. ADVISORY GROUP FINDINGS



An abandoned building in Lower Mid-City.

As survivors of natural disasters, Hurricane Katrina survivors are entitled to the human rights protections defined by a number of international human rights principles and laws, such as the right to adequate housing, the right to security of tenure, the right to be free from forced eviction, the right to life, the right to property restitution and once displaced, the right to return to their homes in safety and with dignity. These rights are found in a number of international treaties and conventions, some of which the U.S. is a party, as well as in the UN Guiding Principles on the Rights of Internally Displaced People, the UN Basic Principles and Guidelines On Development-Based Evictions And Displacement, and the UN Principles on Housing and Property Restitution. The AGFE mission exposed very clearly that a number of government acts and omissions at the local and federal level had the effect of discouraging and in some instances preventing communities from enjoying these rights and returning home.

The mission began with a town hall meeting at a local elementary school. Close to 200 residents attended and many testified to the myriad ways the city's rebuilding approach has affected them. The town hall meeting provided an excellent overview of the various ways in which residents in New Orleans experienced forced evictions. Participants spoke of insufficient housing assistance for poor communities leading to homelessness, lack of support to homeowners trying to rebuild their homes and communities post-Katrina, and the disorienting feeling that they had been abandoned by their government.

Homeowners, renters, and public housing residents alike expressed concern that government policies had been implemented to ensure that they would not want to or would not be able to return, thereby making it easier for the demographics of New Orleans to be fundamentally altered such that it would become a city for the rich and well-established.

The remainder of our time in New Orleans focused on in situ visits and meetings with officials.

### 4.1. Instances, Causes and Effects on Residents of Forced Evictions and Related Human Rights Violations

The AGFE mission documented a number of instances of forced eviction in post-Katrina New Orleans. Some are the direct result of government policies and programs, while others are the necessary outcome of government decisions, policies and programs. What follows is a summary of the various instances of forced evictions and displacement documented by the AGFE mission:

1. Forced evictions have occurred as a direct result of State action in the execution of housing policies related to public housing. Thousands of well-structured public housing units have been demolished without the provision of alternative, adequate shelter for low-income residents and without carrying out prior and consultations with them. Reconstruction plans and recovery assistance aimed at repairing or replacing affordable rental units in New Orleans are inadequate: nearly 70% of public housing or affordable rental units will be lost as New Orleans is rebuilt, leaving the most vulnerable population with few housing options.<sup>47</sup>
2. The unequal pace and distribution of recovery resources which privileged the more economically 'valuable' areas of New Orleans, such as the French Quarter, and which neglected less favored neighborhoods, such as public housing communities, combined with a series of decisions made at the municipal level which had an impact on the ability of residents to rebuild in areas like the Lower Ninth Ward and New Orleans East has resulted in the perpetration of forced internal displacement.<sup>48</sup> This inequity in recovery assistance has been linked to disparities in financial resources and historical disinvestment<sup>49</sup>.
3. The State's failure to provide human rights protections for survivors of Katrina through all phases of displacement, such as the provision of assistance to enable the displaced to re-establish previous livelihoods and communities, restitution of housing and/or appropriate compensation for the loss of adequate housing has resulted in forced internal displacement. Displaced residents were also subject to the federal government's substandard, temporary disaster housing (e.g. toxic trailers) and the mismanagement of federal rebuilding funds.
4. Many of the most disadvantaged residents of New Orleans who survived Katrina, particularly those who are poor and Black, have suffered deeply on a personal and community level. They have endured ongoing indignities including the disgrace of being forcibly evicted from their homes (sometimes twice: as a result of Katrina and as a result of post-Katrina housing policies) and thus prevented from providing adequate housing for their families; they have suffered anguish at the loss of family members who did not survive Katrina; and, they have endured the overall destruction of their everyday lives. On top of this, these residents of New Orleans have felt

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<sup>47</sup> Kalima Rose et al, *A Long Way Home : The State of Housing Recovery in Louisiana*, PolicyLink, at 6 (2008), quoted from Center for Constitutional Rights and the Loyola University New Orleans College of Law, *International Human Rights Obligations and Post-katrina Housing Policies, Briefing Paper to the Technical Experts for the Advisory Group on Forced Evictions – United States Mission July 26-31, 2009*, p.13.

<sup>48</sup> The Lower Ninth Ward is a downriver neighbourhood occupying approximately 2 square miles, separated from the 'central city' by the man-made Industrial Canal. Its population pre-Katrina was, according to the 2000US Census, 2.8% of the city total, 98.3% African-American, medium-income families, and proportionally high in elderly residents. Delia Duong Wendel, Imaginability and Justice in Contemporary New Orleans, *Journal of Urban Design*, Vol. 14, No. 3, 345-374, August, 2009, p. 352.

<sup>49</sup> The Mayor Nagin acknowledged that "The Lower 9th Ward will probably be the last area. That's just the way citizen investment has gone." He declared 'market forces' would drive the prioritization of recovery efforts, thereby shifting financial responsibility for recovery to corporations, private institutions and residents with means (New Orleans Mayor's Office of Communications, 2006).

completely abandoned by all levels of government, a failure of the government which is a violation of the right to the basic security of the person.

5. A large portion of Lower Mid-City has been identified as the site for a new state of the art medical complex. If these re-development plans are implemented, thousands of residents will be forcibly evicted from their homes through eminent domain and buildings of historical value will be demolished. This process is now underway. The City Council approved an ordinance which prohibits thousands of residents who had returned to Lower Mid-City from re-constructing, renewing or repairing their homes. The effect of the destruction of these homes will result in the loss, not only of material possessions, but also of community. Some of the families in Lower Mid-City have lived there for several generations. The eviction of Lower Mid-City residents also constitutes double jeopardy: they were forcibly displaced because of Katrina, and now are facing a second displacement.
6. The federal policies and municipal laws that were enacted which led to the forced displacement of the population and the destruction of housing were implemented without adequate consultation and participation in decision-making processes by residents.

Provided below is a detailed analysis of each of the findings as they impact renters, homeless persons and homeowners in New Orleans.

#### **4.1.1. Renters**

##### **A. Public Housing Residents**

In December 2007, New Orleans City Council approved the demolition of the public housing developments: B.W. Copper, C.J. Peete, Lafitte and St. Bernard, impacting a total of 14,000 families or close to 49,000 individuals. In approving the demolitions, the city council urged HUD to develop one-for-one replacement of public housing in New Orleans. Yet, as of early March 2008, the mayor of New Orleans, Ray Nagin, still had not received these assurances from HUD. Rather, when the New Orleans City Council voted to block the demolition of the Lafitte Development, the previous Secretary of HUD, Alphonso Jackson, sent a letter to Mayor Nagin, threatening to withhold all the city's re-development funding unless demolition was approved, including previously allocated GO-Zone funding, housing vouchers, and funding dedicated to the rehabilitation of some of the units at Lafitte.<sup>50</sup>

The failure of all levels of government to protect the rights of the residents of public housing to not be rendered homeless as a result of the demolitions of existing public housing have amounted to instances of forced evictions of tens of thousands of residents. The failure of the federal government to assure one-for-one replacement resulted in the forced eviction of those residents who tried to return to their public housing communities after having been displaced by Hurricane Katrina. Not only were these communities destroyed but there was no viable, alternative housing for many former public housing residents. Furthermore, government inaction to protect public housing neighbourhoods and to ensure their right to

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<sup>50</sup> Alphonso Jackson, Letter to Mayor Ray Nagin, December 13, 2007.

return and rebuild their lives has resulted in their internal displacement within the city, throughout the country and has rendered some homeless.

During the in situ visits we visited the former St. Bernard, former Lafitte, former C.J. Peete and Iberville public housing developments, among other communities. Below are the key findings of these site visits.

### (i) Re-development of the former St. Bernard Public Housing Development



Former residents of the St. Bernard Community and members of May Day New Orleans, Kawana and Sharon Jasper, discuss their displacement outside their former home with AGFE members.

As part of our fact-finding mission, we visited the former St. Bernard public housing community. St. Bernard was one of the “Big Four” public housing communities that was demolished and is currently being redeveloped as a mixed-income development by private developer Columbia Residential.

During the visit, organized by former residents, we had a chance opportunity to meet with Mr. Noel Khalil, Chairman and CEO of Columbia Residential who was visiting the development site at the same time. We had a brief discussion with him regarding some of our most

pressing concerns. In particular we discussed the company’s efforts to contact former public housing residents of St. Bernard to inform them about the rebuilding process, the screening process for re-entry and tenancy requirements for former public housing residents. We were concerned by several aspects of our conversation with Mr. Khalil:

- **Outreach to Former Residents.** In describing Columbia Residential’s outreach process, Mr. Khalil stated that the company attempted to contact former residents by email and in some instances advertisements in local newspapers where a significant number of Hurricane Katrina survivors were believed to be living. He then explained that the outcome of this process was that of the approximately 900 residents of St. Bernard, roughly 280 had expressed interest in returning home. We found this number – less than one-third of former residents – to be shockingly low and somewhat unbelievable. Why would so few former residents, representing the poorest and most disadvantaged households in New Orleans, not want to return home? We then questioned the strategy of relying on email messages for individuals of limited economic means who would likely not have access to a computer. Mr. Khalil acknowledged the shortcomings of this approach and attempted to assure us that those who did not receive the email communication would have access to the newspaper advertisement. We found this response insufficient.

Columbia Residential’s outreach process is especially troubling as it is the artificially small number of households “expressing interest” that is used to justify the greatly reduced number of public housing units being constructed in the new mixed-income

community. Only one-third the original numbers of public housing units will be available. This appears insufficient given not only the number of former residents who might actually want to return but have been inadequately contacted or informed of their rights, but also because of the estimated 12,000 homeless persons living in abandoned buildings and on the streets of New Orleans due to lack of affordable housing.

Unfortunately, Mr. Khalil did not respond to our request for a follow-up meeting to further discuss these and other issues that arose during our visit to the former St. Bernard. As re-development unfolds, we are concerned about the outreach process not just for former residents of St. Bernard but the entire community of New Orleans' "Big Four" public housing developments.

- **Requirements for Public Housing Tenants.** In speaking with residents of the former St. Bernard, we were told that Columbia Residential was imposing screening criteria and residency requirements upon the former public housing residents that were stricter than HUD's own requirements, thus limiting access to units for the most disadvantaged households.

Specifically, we were informed that in order to qualify to return to the new developments, former residents would be subject to credit checks and criminal background checks, among other screening components. Residents informed us that, for example, if one has received a single past-due notice from the electric company, this minor occurrence could be used as justification for not allowing the resident to return to the redeveloped St. Bernard. Regarding criminal background checks, we were informed that if a resident (which is defined as anyone on the lease, including minor children) is merely arrested – not even convicted – this too could be justification for denying access to the redeveloped units.

If former residents manage to qualify to return, we were informed that Columbia Residential would impose the following conditions on former public housing residents that move into the new development:

1. a curfew of 10PM;
2. the requirement to put a visitor on the lease if they visit more than four times in the month;
3. a loud noise prohibition; and
4. a prohibition on family parties and events in one's home (residents would have to register to use a public space that will be designated for such events).

These are just a few of the rules that if violated could lead to eviction. We were told that these rules are stricter than HUD's requirements and more importantly they represent normal, everyday occurrences. Mr. Khalil did not deny the existence of these rigid tenancy rules. He indicated that rules for residents are listed on the company's website. However, the AGFE mission members could not find a posting with these rules on the Columbia website.

It is our assessment that Columbia Residential's punitive screening criteria and residency requirements are based on stereotypical assumptions about public housing tenants and are designed to screen out the vast majority of former public housing residents and, for those lucky enough to make it past the first screening, ensure their eventual eviction.

## **(ii) Continued Closure of Lafitte Public Housing**

During our visit to the former Lafitte public housing development, the AGFE mission noted that overall the remaining units are in good condition. The mission team learned that the Housing Authority of New Orleans (HANO) had refurbished the units several months prior to the mission's visit. During our site visit, which residents organized, AGFE was informed that the Lafitte sustained limited storm damage during and post-Katrina. We were informed that just prior to the mission residents had been living in the units but were then evicted to allow the re-development to commence. Roughly 90 households were evicted and forced to either move to Iberville (the last remaining, large-scale public housing development in New Orleans which is generally in a state of disrepair) or accept a Section 8 voucher and try to find housing on the private market.

During the town hall meeting at the commencement of the mission, many New Orleans residents recounted their desperate attempts to secure affordable housing. Later, Anthony Faciane, City of New Orleans Housing Director, spoke to the AGFE mission directly about the dire need for more affordable housing as did staff at UNITY of Greater New Orleans who arranged for the AGFE team to visit two locations in New Orleans where homeless residents are squatting. In light of the obvious need for adequate public housing it is incomprehensible to the AGFE mission as to why this valuable source of adequate affordable housing is being kept out of reach for low-income tenants who are homeless and in desperate need of adequate housing.

The mission learned that shortly after our visit HANO demolished these remaining units.

## **(iii) Future of Iberville Public Housing**

During the visit to Iberville public housing, residents repeatedly expressed grave concern over the possible demolition of the complex. They provided us with evidence that suggested that the housing authority intends to demolish the complex.

- **Demolition of Buildings.** HANO has already demolished two buildings in the complex. Residents were unaware of the rationale behind the demolitions and from their perspective HANO has not been forthcoming with its reasons for the demolitions.
- **Evictions and Abandoned Units.** The AGFE mission saw many abandoned units in Iberville – we estimate that in fact roughly 45% of the development is unoccupied. Iberville received little storm damage and was promptly reopened after Hurricane Katrina. Mission members were told by residents that the unoccupied units were the



result of evictions. From conversations with residents, the mission learned that once households are evicted the units are left unoccupied, and new families are not being granted access. Given the crisis in affordable housing facing the city, this decision is illogical, exacerbates the crisis and has naturally led residents to believe that HANO is leaving the units unoccupied to facilitate demolition.



Stephanie Mingo, Iberville resident and member of Survivors Village, guides Leticia Osorio, and the rest of the AGFE team on a tour of the Iberville complex. Note the numerous covered windows of vacant apartments.

- **Lack of repairs.** Several residents showed AGFE damages to their homes they had requested HANO to repair, ranging from sewage systems that frequently back up, to mold on the walls, to exposed electrical wiring. Many of the damages were minor and could be easily fixed. However, residents told the mission that HANO has not repaired many of the units despite repeated requests. Many residents believe this is part of a strategy to allow the development to fall into such disrepair so that demolition would be the most obvious solution. In the meantime, this lack of repair forces the residents to live in inhumane and unsafe conditions and has resulted in many residents falling ill or becoming more ill, particularly with respiratory conditions.

The AGFE team was assured by federal officials at HUD that there are no plans at the present time to demolish Iberville.<sup>51</sup> Following the AGFE mission, the community was notified of this by HANO's Chairperson Diane Johnson and Executive Administrator Karen Cato-Turner. (See [Appendix 5](#)) While this information is welcome, the appalling conditions in Iberville and the refusal to ensure empty units are occupied remain significant concerns.

## B. Section 8 Residents

Prior to Hurricane Katrina, New Orleans had roughly 4,800 project-based Section 8 apartments. Prior to the storm, these apartments represented about 5% of the city's total rental stock, even more significant; they represented 40% of the city's affordable housing units that were available to extremely low-income residents. Since the storm, about two-thirds have not reopened. This has left New Orleans' most vulnerable residents in a very precarious situation.

Almost four years after the storm, HUD began offering residents of these units "portable" Section 8 vouchers that would allow them to rent in the private market. Yet, with the severe lack of affordable rental units in New Orleans, finding an apartment has been extremely difficult at best. Moreover, many former residents of the units never received word of the

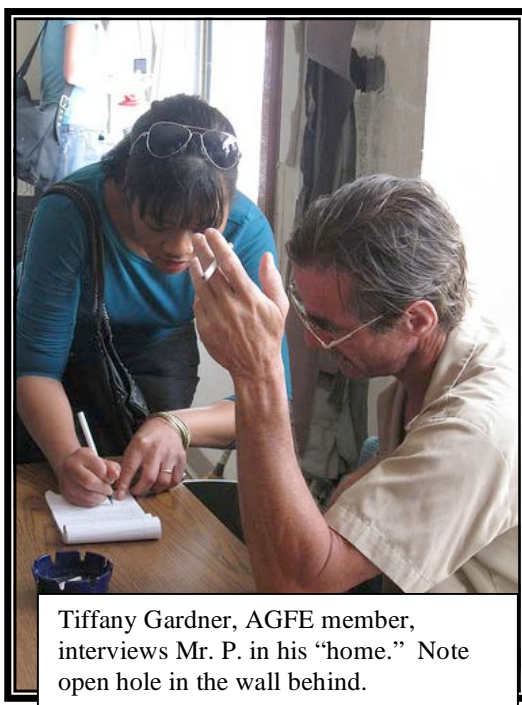
<sup>51</sup> See *Appendix IV, infra*.



vouchers because notification letters went to outdated mailing addresses and were not forwarded. The fate of many Section 8 apartment buildings remains unclear, leaving these residents in desperate situations.

#### 4.1.2. Homelessness

The population of homeless persons in New Orleans doubled after the storm and is now estimated at 12,000 people.<sup>52</sup> The 818 permanent supportive housing units, 719 transitional housing units, and 254 shelter beds in the city are always at capacity. At a recently cleared homeless encampment of about 250 people, the population surveyed was 82% male, and 80% with at least one disability. However, those on the streets represent just the tip of the iceberg – an estimated 5,000 -10,000 individuals, families, and elderly residents who have been forced from their homes due to skyrocketing rents, are now squatting in abandoned buildings that lack potable water and electricity. In some instances the city has taken a fairly progressive approach to some of the larger tent/squatters villages by acquiring vouchers and allowing local service providers to transition homeless persons into permanent or transitional housing. In other cases, however, police continue to harass homeless individuals throughout the city.



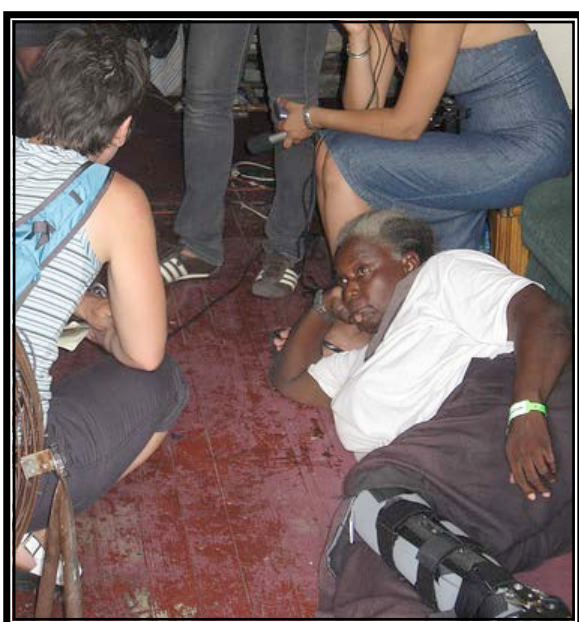
Tiffany Gardner, AGFE member, interviews Mr. P. in his “home.” Note open hole in the wall behind.

The AGFE team visited two areas where squatters currently reside. During the first in situ visit, the AGFE team met with Mr. P., who had traveled the world for 20 years as a merchant seaman shipping out of the port of New Orleans. The AGFE team visited him in his “home,” an abandoned commercial building, with no electricity or running water, scattered

with hurricane debris. Before Katrina, Mr. P., a handyman, rented a one bedroom apartment nearby for \$450 a month (the average rent in 2009 for a one bedroom apartment is now \$881). During the storm, floodwaters swallowed up his uninsured possessions, including a truck filled with tools. As a result, Mr. P. lost his means for gainful employment. With no source of income, with average market rents having doubled in cost, and with no public housing units available, Mr. P. quickly became homeless. He doubled up for short periods with other family members but eventually was forced into absolute homelessness and resorted to squatting in an abandoned building with no clean running water or electricity. Mr. P. works when he can find opportunities, but cannot save enough to afford an apartment. As a result of his circumstances, Mr. P. suffers depression and is uncertain as to how he will ever turn his life around and be restored to the position he was in before Katrina hit.

<sup>52</sup> Rose, *A Long Way Home*, *supra* note 35, at 6.

During the visit, Mr. P. indicated that "this is a good place to squat, because the building has many rooms that the police are reluctant to search." While police have collaborated with homeless outreach workers to link homeless persons in large encampments to available resources, many homeless persons living alone or in smaller groups fear the police will arrest them or evict them and they will have nowhere else to go. Mr. P. indicated that to his knowledge, the police profile and harasses homeless persons. For example they recently charged Mr. P. with public drunkenness, although he had not had a drink in months. Although an overnight stay in jail and accompanying court costs are more than the cost of a shelter bed, New Orleans, like many cities in the U.S., is choosing to criminalize homelessness rather than address the underlying causes in the lack of affordable housing. Because homeless persons often cannot pay fines, many charges often turn into arrests, creating additional barriers to accessing housing and jobs in the future.



Leilani Farha, AGFE Member interviews Ms. B. in her squatting home, where she has to crawl up the front steps due to her injury and lack of a ramp.

The AGFE team also visited two older women who were squatting in an abandoned house. Both had been renting on the private market prior to Katrina. In order to enter the house, one of the women, who required the use of a wheelchair due to a leg injury suffered during Katrina, had to drag herself up the front steps as there was no accessible ramp. The house itself was in a state of complete disrepair, unsanitary, with no clean, running water or electricity. It was infested with mosquitoes and lacked floorboards. It was barely four walls and a roof.

Outreach workers from UNITY of Greater New Orleans have been scouring the city's more than 65,000 abandoned properties looking for homeless persons. The people they find are generally older, with higher rates of disability and illness than the overall homeless population. More than 70% of the homeless persons reached by UNITY show signs of

psychiatric disorders, and 42% show signs of disabling medical illnesses and problems. UNITY receives federal funding for housing vouchers to connect the people they find with services, but the need far outstrips the supply – many homeless persons they find must wait months for a voucher to become available. 16 homeless persons have died while waiting to rise to the top of the voucher list.

#### 4.1.3. Homeowners

Homeowners have not been spared the experience of forced eviction. The AGFE team visited a community of homeowners in Lower Mid-City, which is struggling to keep their neighborhood intact in the face of development plans that would displace their neighborhood with a state of the art medical corridor.

In November 2008, the U.S. Department of Veterans Affairs and Louisiana State University announced the selection of the Lower Mid-City community for the site of their new hospital system. If built, the new hospitals would destroy the historic neighborhood around Charity Hospital, where residents have been rebuilding and restoring their homes and community since Hurricane Katrina.<sup>53</sup> During the tour of Lower Mid-City, AGFE mission members met with several homeowners who had spent their life savings restoring their houses after the storm. These residents are now facing displacement through eminent domain as the city moves forward with plans to destroy their homes and turn their community into a medical corridor. The residents, along with a majority of New Orleans citizens, have been urging city officials to reopen the pre-existing Charity Hospital instead. The community hired an independent architecture firm, RMJM, to evaluate their proposal to reopen Charity, which the firm hailed as a viable option. The city has yet to meaningfully engage the community on this issue.



“I was willing to die for my country [during my time in the U.S. Army]. But now the way the government is trying to take my home from me – it makes me feel just awful.”

U.S. Army Veteran Mr. T. Lower Mid-City resident facing displacement, to Eric Tars, AGFE member.

The AGFE team attempted to discuss the decision-making process around the displacement of the Lower Mid-City community and continued closure of Charity Hospital with city officials. A representative from the New Orleans City Council refused to discuss the matter with AGFE and instead had the City Council attorney provide us with a formal email that provided the team with no information on this matter (see [Appendix 4](#))

## 4.2. Forced Evictions and Displacement Violate Human Rights

The AGFE mission reiterates the widely accepted position of the international community regarding forced evictions and displacement which recognizes these practices as human rights violations resulting in disproportionate suffering by women, female headed households, children, youth, older persons, racial and ethnic minorities and other vulnerable individuals and groups.

The practice of forced evictions and displacement constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing, the right to return and remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the person, the right to security of the home, the right to security of tenure, the right to family and the right to equality of treatment, among others. The UN Commission on Human Rights has affirmed “that the practice of forced eviction constitutes a gross violation of human rights, in particular the

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<sup>53</sup> See Tables & Graphs, *infra*.

right to adequate housing”.<sup>54</sup> The Committee on Economic, Social and Cultural Rights has also asserted that “instances of forced evictions are *prima facie* incompatible with the requirements of the International Covenant on Economic Social and Cultural Rights (ICESCR) and can only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law.”<sup>55</sup> Under article IX of the American Declaration of the Rights and Duties of Man (1948), every person has the right to the inviolability of his home. Further, according to article XXIII of the Declaration “every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.”

The U.S. government has signed the Universal Declaration of Human Rights (UDHR) and ratified the International Covenant on Civil and Political Rights (ICCPR)<sup>56</sup> and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)<sup>57</sup> – all of which impose human rights obligations on the U.S. Government. Although the U.S. has not ratified a range of international human rights instruments that deal specifically with the

right to adequate housing and the right to be protected against forced evictions, the UDHR, ICCPR and ICERD codify housing rights or aspects thereof. The UDHR articulates the right to an adequate standard of living including adequate housing (Art. 25); the ICERD codifies the right to adequate housing in the context of racial discrimination (Art. 5(e)(iii)) and the ICCPR includes rights that are indivisible with the right to adequate housing and the right to be free from forced eviction such as: the freedom to choose one’s residence (Art. 12), the right to life, to privacy of the home, and to non-discrimination in all realms – civil and political as well as economic, social and cultural.

#### **Eviction: A Gulf Coast Phenomenon**

Although the AGFE mission was focused on New Orleans, the town hall meeting attracted Becky B., of Coden Alabama. Mrs. B. and her late husband Tommy B. lived in Coden for 32 years before Katrina struck. Having lost everything in the storm, the couple purchased a FEMA trailer, which they placed on the land where their house once stood. Due to formaldehyde vapors in the trailer, Mr. B. developed a terminal lung condition and died. Mrs. B. has not been able to rebuild her former home. She works when she can find available jobs but has not been able to make anywhere near enough money to rebuild and she has been denied government assistance to do so. With no other choice, she has continued to live in the trailer on her property. Officials in Bayou Le Batre passed an ordinance banning the use of trailers as permanent residences. Since that decision Mrs. B. has received numerous communications from the City Inspector’s office threatening her with fines, arrest, and eviction from her home. She cannot afford rent or a mortgage elsewhere. Neighbors and other community members believe that public officials are trying to evict Mrs. B. because her property is near a prized and lucrative waterfront location. Many believe the city is interested in developing the area for high income residents.

<sup>54</sup> UN Commission on Human Rights, *Forced evictions*, Commission on Human Rights resolution 1993/77, UN Doc. E/CN.4/RES/1993/77 (10 Mar.1993). See also UN Commission on Human Rights, *Prohibition of forced evictions*, Commission on Human Rights resolution 2004/28, UN Doc. E/CN.4/RES/2004/28 (16 Apr. 2004).

<sup>55</sup> General Comment n. 4 (1991) of the UN Committee on Economic, Social and Cultural Rights, para. 18.

<sup>56</sup> Ratified on 08 September 1992.

<sup>57</sup> Ratified on 20 November 1994.

The AGFE mission adopted a human rights based approach to analyze the impacts of forced displacement and evictions upon the survivors of Hurricane Katrina.<sup>58</sup> AGFE believes that the U.S. Government's ratification of the ICCPR, and the ICERD combined with the fact that the UDHR is widely considered customary law, and the U.S. is subject to review for its compliance with international law by the Human Rights Council, is sufficient to warrant such an approach. According to the UN Rapporteur on the Right to Adequate Housing, "natural disasters result in displacement, loss of housing and livelihood thereby impacting on peoples' rights to adequate housing and its congruent rights. Recent natural disasters and their aftermath, have demonstrated the need to integrate human rights standards into prevention, relief and rehabilitation efforts. In many of these situations, concerns raised include discrimination, gender insensitivity, lack of participation, and corruption and delay in distribution of aid, compensation and reconstruction work".<sup>59</sup>

The adoption of a human rights based approach is relevant to the present case because it provides a concrete framework to guide the re-development process of New Orleans. This framework is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It encompasses principles such as equality and non-discrimination, accountability, empowerment, participation, and a focus on vulnerable groups. In adopting a rights-based approach, accountability and transparency are enhanced by the identification of specific obligations on the part of duty-bearers in the re-development process. The AGFE mission recognizes that human rights instruments offer a framework for developing an approach to resettlement and reconstruction of New Orleans that is capable of meeting the needs of all impacted communities.

The empowerment of and participation by survivors are fundamental to guarantee that the improvements resulting from the re-development process will be sustainable. A comprehensive human rights framework provides guidance on all areas of post-disaster recovery, including health, education, and housing, work with dignity, personal security, and political participation. Essentially, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes to be adopted in post-disaster development.

The United States has ratified both the ICCPR and the ICERD, which create legal obligations under international and domestic law. Although it has only signed – and not ratified – the International Covenant on Economic, Social and Cultural Rights (ICESCR), customary international law obligates the States, as a signatory, not to act in contravention of the objectives of the Covenant.<sup>60</sup> Both documents enshrine rights that have to be promoted

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<sup>58</sup> International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and signed by the United States on October 5, 1977 (Treaty Doc.: Ex. D, 95<sup>th</sup> Cong., 2<sup>nd</sup> Sess.); submitted to Senate February 23, 1978.

<sup>59</sup> Report of the UN Rapporteur on Adequate Housing, A/HRC/7/16, February 2008, para. 81. See at <http://daccessdds.un.org/doc/UNDOC/GEN/G08/105/45/PDF/G0810545.pdf?OpenElement>

<sup>60</sup> According to the Vienna Convention on the Law of Treaties, art. 18(a), "a State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty". The United States signed the treaty on April 24, 1970. The U.S. Senate has not given its advice and consent to the treaty. The United States considers many of the provisions of the Vienna Convention on the Law of Treaties to constitute customary international law on the law of treaties. Vienna Convention on the Law of Treaties, done at Vienna May 23, 1969, and signed by the



and protected by the U.S. government in the process of returning and resettlement of those affected by Katrina.<sup>61</sup>

The AGFE mission uncovered five instances of forced evictions and displacement in violation of human rights:

#### **4.3. Forced evictions and Displacement: Violations of the Right to Adequate Housing**

The right to adequate housing is enshrined in many international human rights instruments, such as the Universal Declaration of Human Rights, which assures the right to a standard of living adequate for health and well-being of an individual and of his family, including the right to housing (art. 25); the ICCPR, which obligates the States to respect the freedom to choose one's residence (art. 12); the ICESCR, which recognizes the right to an adequate standard of living, including adequate housing (art. 11); CEDAW (art. 14(2)(h) which recognizes the right of rural women to be free from discrimination in housing; and the ICERD, which determines the States to guarantee equality before the law in the right to housing (art. 5(e)(iii)).

The UN Guiding Principles on Internal Displacement (UN Guiding Principles) and the Pinheiro Principles also set out the rights of IDPs to adequate housing. The former establishes that authorities have to “provide and ensure safe access to essential food and potable water; basic shelter and housing; appropriate clothing; essential medical services and sanitation” (Principle 17), and the latter provides that “States shall adopt positive measures aimed at alleviating the situation of refugees and displaced persons living in adequate housing” (Principle 8). (For more on these Principles see below).

The UN Committee on Economic, Social and Cultural Rights, in its General Comment No. 4 identifies legal security of tenure including legal protection against forced evictions as a core element of “adequate” housing, together with availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility for disadvantaged groups; location; and cultural adequacy. According to the Committee “notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats”, including persons living in emergency housing or informal settlements. It is further stated that “States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups”.

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United States on April 24, 1970 (Treaty Doc.: Ex. L, 92<sup>nd</sup> Cong., 1<sup>st</sup> Sess.); submitted to Senate November 22, 1971.

<sup>61</sup> The Center for Constitutional Rights and the Loyola University New Orleans College of Law presented a briefing paper to AGFE team which contains a comprehensive analysis on the international human rights obligations of the U.S. Government towards the internally displaced and the vulnerable groups affected by Katrina. AGFE team endorses such document. See Center for Constitutional Rights and the Loyola University New Orleans College of Law, *International Human Rights Obligations and Post-katrina Housing Policies, Briefing Paper to the Technical Experts for the Advisory Group on Forced Evictions – United States Mission July 26-31, 2009*.

Furthermore, according to international law, evictions should not result in rendering individuals homeless or vulnerable to violation of other human rights. General Comment No. 7 of the UN Committee on ESC Rights obliges State parties to guarantee that people who are evicted – whether illegally or in accordance with the law – have access to some form of alternative housing and a measure of security of tenure.<sup>62</sup>

The Special Rapporteur on the Right to Adequate Housing's *Basic Principles and Guidelines on Development-Based Evictions and Displacement*<sup>63</sup> provides further details on States' obligations prior to, during and after an eviction. Both General Comment No. 7 and the Basic Principles and Guidelines stress that governments are required to explore all possible alternatives to eviction.<sup>64</sup>

In applying these standards to the situation in New Orleans, it is apparent that the U.S. government, and the state and municipal governments have failed to uphold the right to be free from forced evictions for Katrina survivors. For example, it is clear that as a direct result of Katrina and post-Katrina housing policies, the homeless population in New Orleans has doubled and many low-income former residents of New Orleans have been unable to return the city and are now living doubled-up with friends and family members. The Lower Mid-City residents complained that the alternative plan they had professionally commissioned for the medical corridor that would avoid forced evictions was completely ignored by the state and municipal governments.

#### **4.4. Forced Evictions and Displacement: Rights of Internally Displaced Persons**

Central in the analysis of the impact of forced evictions and displacement on the hurricane survivors is the evolving recognition of the status and rights of Internally Displaced Persons (IDPs) and evictees by a range of international human rights instruments.

The loss of land, property and housing is an all too common reality in situations of internal displacement all over the world. Protecting the rights of internally displaced persons to land, property and housing is a critical human rights concern. For many IDPs, the loss of their housing and property is a major obstacle to return. Indeed, the right of IDPs to return, resettlement and reintegration cannot be ensured without first protecting their right to land, property and housing, including restitution of housing and property.

In the context of internally displaced persons, the right to housing and to be protected against forced evictions are best articulated within the UN Guiding Principles. Such principles have been integrated into a range of treaty bodies' interpretations of State's parties' obligations. In the case of the U.S., it has embraced the Guiding Principles in its policy

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<sup>62</sup> General Comment n. 7 states that "... the State Party must take all appropriate measures, to the maximum of its available resources, to ensure adequate alternative housing, resettlement of access to land, as the case may be, is available" (para. 17).

<sup>63</sup> Basic Principles And Guidelines On Development-Based Evictions And Displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18

<sup>64</sup> See for example : Basic Principles, para. 37 and 38 ; General Comment No. 7, para. 13.

toward other nations.<sup>65</sup> As such, the U.S. has recognized the UN Guiding Principles as “an important tool for dealing with situations of internal displacement”.<sup>66</sup>

The UN Guiding Principles define IDPs as “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 ... natural or human-made disasters, and who have not crossed an internationally recognized State border”.<sup>67</sup>



Sharon Jasper, former St. Bernard resident and member of Mayday New Orleans, sits on the steps of the Iberville complex.

Under the UN Guiding Principles on Internal Displacement, the Government of the United States is obligated to protect the property, possessions and housing of the internally displaced persons. In particular, Principle 21 states that: “(1) no one shall be arbitrarily deprived of property and possessions; (2) the property and possessions of internally displaced persons shall in all circumstances be protected ... and (3) property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.”

The right to be protected from displacement is also enshrined in the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles). Principle 2.2 enhances the scope of the concept of internally displaced persons when defining those who the Principles are design to assist: “the principles apply equally to all refugees, internally displaced persons and to other similarly situated displaced persons who fled across national borders but who may not meet the legal definition of refugee (hereinafter “refugees and displaced persons”) who were arbitrarily or unlawfully deprived of their former homes, lands, properties or places of habitual residence, regardless of the nature or circumstances by which displacement originally occurred”. Considering such scope, it is clear that the Pinheiro Principles can also be applied to the survivors of forced evictions who seek restitution of the housing or property lost as a result of Hurricane Katrina.

According to the Special Rapporteur on Right to Adequate Housing, “for the immediate victim of forced eviction and demolition [the impacts and losses] would include: the house structure, plot, contents, infrastructure, mortgage or other debt penalties, interim housing, bureaucratic and legal fees, alternative housing, resettlement and transportation costs,

<sup>65</sup> See USAID Assistance on Internally Displaced Persons Policy, U.S. Agency for International Development, October 2004 (encouraging the use of the Guiding Principles), quoted from Center for Constitutional Rights and the Loyola University New Orleans College of Law, *International Human Rights Obligations and Post-katrina Housing Policies, Briefing Paper to the Technical Experts for the Advisory Group on Forced Evictions – United States Mission July 26-31, 2009*, p. 1.

<sup>66</sup> Ibid.

<sup>67</sup> Representative of the Secretary-General, *Report on the Guiding Principles on Internal Displacement, delivered to the Commission on Human Rights*. UN Doc. E/CN.4/1998/53/Add.2 (February 1998).



especially in the case of location far from the source of livelihood. The victims' non-material effects nonetheless represents values lost such as health, living space, reconstruction-licensing red tape, psychological harm, family disintegration, distance/estrangement from community, inheritance, environment/ecology, social standing/seniority, political and social marginalization and further vulnerabilities to future violations. The typical eviction, confiscation or demolition victim is a low-income family already scrambling to make a living. Comparing the values lost in one day's violation to the total annual income of the affected family can produce a staggering statistic, demonstrating to the most sceptical that housing is a human right whose violation invariably deepens poverty".<sup>68</sup>

Despite the obvious obligations of governments to ensure protections for IDPs, by and large, it appears that many of these protections have not been provided by the U.S. government for Katrina survivors.

#### **4.5. Forced Evictions and Displacement: Discrimination**

Protections against discrimination for particular groups are found in every United Nations treaty. Equality and non-discrimination are fundamental, cross-cutting principles in international human rights law. The Office of the UN Special Rapporteur on the Right to Adequate Housing has continuously brought attention to various forms of discrimination and segregation in housing and access to essential services, not only on the grounds of race, class or gender, but also because of economic status.<sup>69</sup> Discrimination also plays a critical role in cases of forced eviction and displacement. Women – particularly single mothers – ethnic, religious, racial and other minorities as well as indigenous people are far more likely than others to be evicted. The impact of forced eviction on such groups is manifested before, during and after the event, as the practical and psychological impact of such actions may be of particular importance for certain groups, such as children, women and indigenous peoples. Discrimination that is common in times of stability can escalate into violation of the most fundamental of human rights during times of forced evictions and displacement, and subsequent flight and displacement, despite States' commitments and legal obligations to the contrary.<sup>70</sup>

In considering the communities most impacted by post-Katrina rebuilding policies – the economically vulnerable, the elderly, female-headed households with children and African Americans – it becomes apparent that while the policies put in place post-Katrina may not always have discriminatory intent, often their effects are discriminatory, impacting disadvantaged or vulnerable communities more than others. For example, housing policies that allow only 40% of private market rental units to be replaced, or that allow rents in the private market to escalate astronomically beyond affordability for poor people, or that permit the demolition of architecturally sound and unique public housing with the replacement of only 1/3 of public housing units, or that rely on an inadequate supply of Section 8 vouchers to be used in inaccessible private market units of which there are too few to meet demand, all have discriminatory effects and are contrary to human rights law. Though most of these policies do not directly target groups protected by human rights

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<sup>68</sup> E/CN.4/2004/48, 8 March 2004, para. 68.

<sup>69</sup> The Special Rapporteur's report, UN Doc. E/CN.4/2002/59, paras. 37-48.

<sup>70</sup> UN Special Rapporteur on Adequate Housing, UN Doc. E/CN.4/2004/48 8 March 2004, para. 39.

legislation, they do have a disproportionate impact on these groups. These policies ensure that particular groups – namely, low income, African American, and single mother tenants – are precluded from enjoying the right to adequate housing including security of tenure, the right to life, liberty and security of the person, the right of return post displacement, and that only those with significant amounts of money will have relatively unfettered access to the expensive private market units.

#### 4.6. Impact of Forced Evictions and Displacement on the Right to Health and Dignity Interests

A study conducted by the Kaiser Foundation a year after Katrina confirmed an increase in the rates of poor health in the New Orleans area.<sup>71</sup> After Hurricane Katrina, four out of ten adults reported being told by a doctor that they suffer from hypertension, asthma, diabetes, and other respiratory problems or chronic conditions, with low-income and Black residents disproportionately affected.<sup>72</sup> Overall, low-income and Black residents were more likely to report worse health status after the hurricane than Whites or those “not economically disadvantaged.”<sup>73</sup>



Mrs. G., a squatting resident with a broken jaw, who has received inadequate care, outside her home.

During one of our in situ visits, we met Mrs. B. and Mrs. G., two older women who now live in an abandoned home. They told us about their jobs and lives prior to the storm. Both had been gainfully employed but lost their jobs as a result of Katrina. The women have chronic health problems and the dilapidated home where they are squatting has only exacerbated their conditions. Ms. B. uses a wheelchair because of a leg injury that hasn't properly healed, though the house where she is squatting is not wheelchair accessible. Her roommate had her jaw broken in an attack a few months ago, leaving her with a steel plate in her face and an oozing facial infection. Additionally, the continued closing of Charity Hospital, the city's only public housing that took patients regardless of inability to pay, has had severe health impacts.

Hospital administrators blame the permanent closing on the extensive damage done to the hospital during the hurricane. Yet, they simultaneously tout a re-development plan that turns Charity Hospital from a public hospital serving the health care needs of the city's most vulnerable to a new medical corridor, based on a state/federal partnership with the Veterans Administration, that will not be complete by their estimates until the year 2012. The new hospital will focus on academic training and teaching, and displace the Lower Mid-City community. Many former Charity Hospital patients now turn to University Hospital for their

<sup>71</sup> See generally, “Health Challenges for the People of New Orleans: The Kaiser Post-Katrina Baseline Survey”; The Henry J. Kaiser Family Foundation; <http://www.kff.org/kaiserpolls/upload/7659.pdf>

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

health care needs. University Hospital reopened for trauma care and limited inpatient services in November 2006, more than a year following Hurricane Katrina.

Yet, University Hospital has just one-fourth of Charity Hospital's capacity. This forces many uninsured, underinsured and poor residents of New Orleans to travel long distances to receive treatment at one of Louisiana's other public hospitals. In fact, many residents simply forego needed medical care. More than one in three New Orleans residents postpone needed medical care and one in four report that they had no doctor, clinic, or pharmacy to turn to for needed care.<sup>74</sup>

Re-development approaches to housing and its impact on health are clear violations of the right to health and dignity.

#### 4.7. Forced evictions and the Right to Participation

It is a general principle in international human rights law that those affected by forced eviction have a right to full information, consultation and participation in all aspects of the process of forced eviction. For example, the CESCR's General Comment No. 7 states:

*15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; ... (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.*

The lack of engagement by all levels of government with low-income residents of New Orleans regarding the future of their housing was one of the most striking features of this mission. The AGFE team was shocked that most residents with whom we met felt that at no time had they or their community been consulted in a meaningful way by any level of government regarding re-development or housing resettlement plans. For example, at no time were town hall meetings or roundtables hosted by HANO or HUD to discuss the rebuilding of New Orleans and a city housing strategy. Residents have no complaint mechanism, no institution or



At Mr. T's home in Lower Mid-City.

<sup>74</sup> Ibid.

body they can go to and assert that their right to adequate housing is being violated. Public housing tenants told us that at no time were they consulted about the demolition of their housing and its subsequent re-development on a less than one-for-one ratio, nor were they consulted about the move away from the provision of public housing units toward the provision of Section 8 vouchers to be used in the private rental market. The residents of Lower Mid-City object that not only were they excluded from consultations regarding the development of the medical corridor, their attempts at participation have been largely ignored. We heard from many of the Lower Mid-City residents that they first learned their neighborhood was slated for destruction from the front page of the local newspaper. Despite the immensity and importance of the hospital project, the mayor has never held public hearings which are required by the City Charter, a complaint that has elicited a lawsuit by several Lower Mid-City residents.

#### 4.8. Forced Evictions and the Right to Life

The governments' failure to prevent and address homelessness constitutes a violation of the right to life. The UN Human Rights Committee made this link directly in the context of Canada. In its 1999 review of Canada's compliance with the International Covenant on Civil and Political Rights – to which the USA is also a party – the UN Human Rights Committee underscored the direct link between governments' failures to address homelessness and the right to life,

protected in art 6 of the ICCPR. In the Canadian case, the Committee was informed of deaths resulting from hypothermia on the streets of Canadian cities in the winter. The HRC made it clear for the first time in its Concluding

Observations on Canada that 'positive measures' to address homelessness are required to comply with the right to life under the ICCPR.<sup>75</sup> The AGFE mission learned that at least 16 homeless people have died in New Orleans waiting for housing vouchers. As in the Canadian case, this is a clear violation of the right to life.

Although the serious threat posed by forced evictions and displacement to the survival and cultural vitality of communities, particularly the public housing communities in New Orleans, might not at first glance be considered a direct violation of the right to life, another important link does exist. This link is best seen in terms of the concept of 'proyecto de vida'



Mr. P shares his story with AGFE member Sam Jackson (foreground) and workers with UNITY for the Homeless in his room in an abandoned building, where his friend had died a few weeks prior.

<sup>75</sup> Human Rights Committee, Concluding Observations of the Human Rights Committee: Canada, CCPR/C/CAN/CO/5, 20 April 2006 at para.20. The HRC expressed similar concerns in the context of the U.S. review in 2006, unfortunately these concerns were not reflected in the Concluding Observations.

first developed by the Inter-American Court in context of a case pertaining to street children (Villagran Morales and Others v Guatemala, Inter-American Court of Human Rights, 19 November 1999). In this case, the Court emphasized that a violation of the right of the child would emerge when a State Party “applied or tolerated a systematic practice of violence against at risk children in its territory” (para. 191). The Court then opined that: “when States violate the rights of at-risk children, such as ‘street children’, in this way, it makes them victims of a double aggression. First, such States do not prevent them from living in misery, thus depriving them of the minimum conditions for a dignified life and preventing them from the ‘full and harmonious development of their personality’, even though every child has the right to harbor a project of life that should be tended and encouraged by the public authorities so that it may develop this project for its personal benefit and that of the society to which it belongs. Second, they violate their physical, mental and moral integrity and even their lives” (para 191).

Drawing upon these principles, particularly in view of the strong sense of community present in New Orleans public housing developments, one may conclude by analogy that the demolitions of these communities have significantly undermined the “minimum conditions for a dignified life”. The demolitions could also easily constitute a “double aggression”, particularly in light of the failure of upholding the principles of prior informed consent, not to mention the severe trauma suffered by the community during and in the aftermath of the hurricane and their struggle to preserve their communities. Many of these residents have become homeless as a result of the demolitions and A violation of the principles analogous to those arising in the case of Villagran Morales stem in large part from the fact that both groups are characterized by a high degree of vulnerability. In this regard, the duty upon the State to protect them is even great, and by consequence, failure to do so amounts to a violation of the right to life.



## V. LESSONS LEARNED

When we think of forced evictions and displacement we often think of developing countries, not western developed countries, let alone the U.S. However, through this mission, we have learned that forced eviction does happen in a developed country – it often just dressed-up differently. Forced evictions and displacement do not always come with bulldozers and authoritarian officials to demolish one's home. In fact, in New Orleans, we witnessed bulldozers building homes that low-income people cannot afford on land where they used to live. Surprised by the conditions in New Orleans, we have learned the following lessons through this mission:



The Lower 9<sup>th</sup> Ward, with fields where homes used to be. A new levee rises in the background.

1. Forced evictions and displacement are most often associated with mass evictions of villages or communities in developing countries to make way for development initiatives like massive water dams or hydroelectric projects. Internal displacement commonly conjures images of civilians who lost their homes because of civil war or armed conflict. Forced evictions or mass displacement is less often recognized or understood as a phenomenon that also takes place in developed, democratic, resource rich, western countries like the U.S. On the world stage, residents of the U.S., the richest democratic country in the world, are rarely seen as victims of human rights violations or as people whose housing rights and security of tenure need protection. The findings of the AGFE mission to New Orleans challenges some of these assumptions around who is affected by forced evictions and where. This mission highlights that deep poverty is very much part of the U.S. landscape and that forced evictions and displacement – as severe as anywhere else in the world – can and do take place even in the “land of plenty”.
2. Perhaps because of the privileged status of the U.S. on the world stage, we found that the residents of New Orleans themselves were surprised by how vulnerable Katrina had made them. In the face of Katrina and its aftermath, they assumed that their government (federal, state and local) would do everything in its power to assist their return home. This first-world assumption was erroneous, as this report exposes. So, upon realizing that this assumption was wrong, the low-income, mostly Black residents of New Orleans have realized that in order to keep their homes or get their homes back they would have to learn about their rights, organize, and then collectively claim their rights. This has proved a steep learning curve, and residents and community groups that have emerged require ongoing support and assistance as they try to piece together their lives, and rebuild their communities.
3. In a developed society like the U.S., with sophisticated housing policies and programs, discrimination can be direct and indirect, overt and subtle. The mission

exposed many instances of direct discrimination with regards to race and class. For example, in the new St. Bernard development, tenants in public housing units will be required to live by a set of strict and punitive rules (night time curfew, limits on frequency and number of guests) whereas tenants living in the same complex but in private market units will not be governed by these rules. At the same time, a number of policies and programs have emerged that have discriminatory effects. That is, where the discriminatory harm of a policy or program is best understood when the effect of the policy or program on the most disadvantaged groups is examined. For example, the government's decision to demolish public housing which predominantly houses African-Americans and women led households; the government's subsequent decision to replace public housing units on a 1-to-3 ratio rather than on a 1-to-1 ratio, or their failure to regulate rent increases for private market units. Each of these policy decisions has a disproportionate and negative impact on African Americans and women led households.

4. As in many other countries, the AGFE mission learned that even in the U.S., it cannot be assumed that elected officials or senior bureaucrats responsible for designing and implementing housing policies understand international human rights principles and norms, or that they have the requisite interest in ensuring housing policies and programs are in keeping with those principles.
5. As in other missions, the AGFE team learned that the principle of participation and inclusion of those affected by eviction in every aspect of eviction and resettlement is a fundamental requirement. Without this type of meaningful engagement, residents of New Orleans feel abandoned and lost. The AGFE mission was amazed at the response and turn-out for our town hall meeting. Residents indicated this was one of the few events they had where they could simply tell their story to people who care and are there to offer support and assistance. Thus, it is through meaningful consultations and participation of those affected that resettlement policies will meet their actual needs, and moreover, this type of inclusion is the best pathway to help a traumatized people heal, regain their strength and find new forms of ongoing support.
6. Though the AGFE mission found the housing policies and programs offered by the federal government to be inadequate, we were impressed with the services to homeless people being provided by UNITY. UNITY offers targeted services that the AGFE team found to be effective and creative. For example, they developed a vulnerability indicator to identify which homeless are at greatest risk of mortality should they remain homeless. This allowed them to target re-housing services according to acute need. Though the indicator did not necessarily take into consideration other threats to life beyond medical conditions, overall it is an approach that is respectful of the right to life, and in keeping with a human rights approach to re-settlement which targets the most vulnerable. UNITY also developed a program whereby teams of social workers are scouring the 65,000 abandoned buildings looking for homeless squatters. Once found, UNITY would work with the individual/family to ensure they had the support services needed and would begin the process of re-housing them.



7. There is a significant difference between the approach taken by the federal, state and municipal governments post-Katrina to address forced evictions and displacement and a human rights approach to forced evictions and displacement. To date, the government approach appears to have focused on how New Orleans could become a "better" or more affluent, prettier, cleaner city. It appears to have been based in stereotypes about public housing tenants, and in an assumption that Black residents are not likely to struggle to maintain residency in the city - create a few barriers, and they will decide not to return. The human rights approach, based in principles of dignity, the right to adequate housing, and the indivisibility of all human rights, is fairly straight-forward and markedly different: no one – regardless of their source or level of income or their racial or ethnic identity – shall be rendered homeless as a result of Katrina and the resettlement policies implemented to address Katrina.

## **5.1. ADVICE TO THE EXECUTIVE DIRECTOR OF UN-HABITAT**

### **5.1.1. Recommendations to UN-HABITAT**

At the time of the mission, the AGFE team was struck by the lack of a master housing plan or strategy to ensure that all residents of New Orleans were able to access adequate housing and security of tenure upon returning to the city. Since then, a Master Plan for the city of New Orleans has been drafted which includes a chapter and general action plan on housing. As this plan is relatively new and still in draft form, the AGFE team did not have an opportunity to review the plan in light of the findings of our mission. We have heard from civil society that though some public hearings were held in the drafting of the plan, those whose housing was most affected by Katrina, such as the homeless and poor public housing residents, were not given adequate opportunity to be heard. AGFE also understands that the bulk of the recommendations made by residents of Lower Mid-City to prevent the forcible eviction of their community to make way for the medical corridor, were largely ignored.

In light of this, the AGFE mission suggests that the Executive Director of UN-Habitat undertake an assessment of the Master Plan for the city of New Orleans from a human rights perspective. We further encourage the Executive Director of UN-Habitat to immediately engage in dialogue with municipal officials of New Orleans to encourage the inclusion of the following in the plan:

- (i) human rights principles;
- (ii) a specific and detailed timetable and action plan for re-housing all homeless, public housing and low-income tenants;
- (iii) access to affordable housing for those most in need, particularly vulnerable groups;
- (iv) assurances that Lower Mid-City residents will not be evicted from their historic homes to make way for the medical corridor and that every alternative in this regard is pursued;

- (v) the development of indicators and benchmarks to assess whether the right to adequate housing is being enjoyed;
- (vi) legal or other mechanisms that can be used by rights bearers to ensure government accountability; and
- (vii) the inclusion of all stakeholders in every aspect of implementation of the plan.

A. The AGFE mission was deeply concerned by the lack of consultation with residents in resettlement and re-development plans. We were also surprised by the lack of opportunities provided to residents to grieve collectively over the loss of their housing and their communities. AGFE recommends the Executive Director to urge local, state and federal officials to engage in meaningful consultation with and provide venues, fora, or public hearings for residents to discuss their housing issues, to grieve their losses, and to strategize with public officials to address the concerns and issues raised.

B. AGFE recommends to UN-HABITAT to continue working with representatives from local, community-based groups in New Orleans, such as Mayday New Orleans and UNITY, to monitor whether progress is being made on the housing issues raised in this report and whether the right to adequate housing, to security of tenure and to be free from forced eviction is being fulfilled.

C. AGFE recommends that UN-HABITAT encourage the government of the United States to ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol and the American Convention on Human Rights.

### **5.1.2. Advice to be delivered by UN-HABITAT to the Government of the United States and to the Municipal Government of New Orleans**

Our meetings with officials in New Orleans reminded us of the awesome challenges facing the city. We also unfortunately witnessed first-hand the lack of meaningful participation and consultation with residents. As discussed *infra*, during our conversation with the chief staff of a city council member, the staffer refused to disclose the process whereby the council voted to construct the medical corridor and thereby displace the Lower Mid-City community. After finally relenting to send the procedures electronically we afterwards received an email once again refusing to release what should be public documents (*see Appendix 4*)

Additionally, despite repeated requests to meet with the local HUD and HANO offices we were refused. These actions are symbolic of the culture of disregard for residents, lack of transparency and minimal participation plaguing the New Orleans rebuilding process.

Our meetings in Washington, DC proved more effective. We met with the top officials in President Barack Obama's administration, including the Federal Emergency Management Agency (FEMA), the Office of Management and Budget and HUD. We also met directly with Representative Maxine Waters, chair of the Congressional Subcommittee on Housing and Community Opportunity. These meetings reflected the new culture in Washington with the change of administration. We were able to speak openly, directly, and honestly about our

concerns with the rebuilding process and alert officials to challenges they didn't know exist. For instance, during our meetings with both the Undersecretary of HUD Sandra Henriquez and Representative Maxine Waters we discussed the harsh applications and residency requirements for former public housing residents wishing to live in the new developments.

Although officials in Washington DC were more open with engaging civil society than their predecessors, we left concerned that national policy-makers maintain the underlining ethos of previous administrations – an over-reliance on market-based mechanisms to provide basic needs, including housing. Policy solutions must adapt holistic, rights-based approaches, which include some of the following key recommendations.

#### **A. Resident Participation**

New Orleans residents want to live in safe, productive communities, and they understand first-hand the challenges and work it will take to get there. Residents should therefore be regarded as essential partners working alongside the government in rebuilding the city. Unfortunately, too often in re-development projects the government treats the private sector as its only partner and discounts the vital role residents should have in decision-making. Efforts should be made to ensure that residents are engaged at the start of any re-development planning and continue to be actively engaged throughout the process. In particular, federal officials directly involved in the rebuilding process, such as HUD, should make efforts to meet directly with residents that are impacted by their policies. We were told that too often HUD visits New Orleans and meets with officials and private developers but never residents. This should change. As we received vital information through our town hall meeting, we suggest that HUD arranges similar meetings with residents and community groups of New Orleans, particularly public housing residents, to hear directly from them.

#### **B. A Rights-Based Approach to Housing**

All housing policies and programs developed for New Orleans must be based in the right to adequate housing and must be implemented in a manner that respects the right to adequate housing. Over the past several years there has been increased private sector investment in urban centers. Private sector speculation has contributed to the rise in private/public partnerships in urban development projects. The social goal of providing decent housing to everyone should not be subordinated to corporate interests. We must caution against adopting strict free market models to communities, especially those that have been shut out of the market system. The government must be responsible to its obligations under the right to housing to ensuring affordability in the private marketplace. This includes through the administration of public housing, vouchers, and other market regulation such as rent stabilization and inclusionary zoning to ensure affordability and security of tenure. At a minimum, the government must ensure adequate shelter is available to all who require it, and that persons without housing are not criminalized for the lack of private space to conduct their daily living activities. Additionally, security of tenure must be assured to those rehoused, restituted or resettled to avoid new instances of forced evictions.

### **C. A Rights-based Approach to Recovery**

The lack of a comprehensive, rights-based disaster recovery strategy has been widely noted in official and non-governmental reports. Consequently, the U.S. should adopt the UN Guiding Principles on Internal Displacement and the Pinheiro Principles as the underlying framework in creating a new disaster recovery strategy for natural disasters where there is significant internal displacement. This includes, crucially, a concrete right to adequate housing throughout the duration of displacement so individuals will not feel threatened with eviction. Additionally, the right to return to their former houses and/or property must be ensured through the provision of transportation assistance and adequate rental or rebuilding assistance for those seeking to return. The Gulf Coast Civic Works Act, H.R. 2269, should be passed and signed into law as a first step toward creating the conditions for a rights-based recovery in the Gulf Coast.

## ANNEXES

We are pleased to note some positive changes since our fact-finding mission. They are listed below and demonstrate that the new administration is seeking ways to correct some of the missteps of past policy and is working towards ensuring the human right to housing for all Katrina survivors. We believe the AGFE mission played a role in achieving these results.

- On August 18, 2009, HANO sent letters to Iberville residents ensuring them that the development will not be demolished. The AGFE mission discussed concern around reports of Iberville's pending demolition with HUD officials (*See [Appendix 5](#) to read the letter.*)
- On August 26, 2009, Representative Maxine Waters' held congressional hearings in New Orleans. The hearings focused on the Road Home Program and the Status of the "Big Four" public housing developments. Representative Waters discussed the need for one-for-one replacement on demolished units and questioned developers around the status of rebuilding. The AGFE mission directly discussed these issues with Representative Waters during its official meeting with her.
- On October 9, 2009, HUD announced a new team that would oversee HANO. The advisory board, which once constituted a one-person board, now includes members of civil society and advocacy groups. During the HUD meeting, the AGFE mission discussed concerned around lack of participation in decision-making at HANO.
- On November 9, 2009, HANO moved Ms. W. from her toxic apartment in the Iberville. During the fact-finding mission, the AGFE team visited Ms. W.'s apartment and expressed concern with the condition of the apartment and the impact on her health.
- On January 20, 2009, HUD held meetings in Washington DC with public housing residents across the country to discuss and get their input on the future of public housing. During our conversations with federal HUD officials we discussed the importance of community engagement and participation.

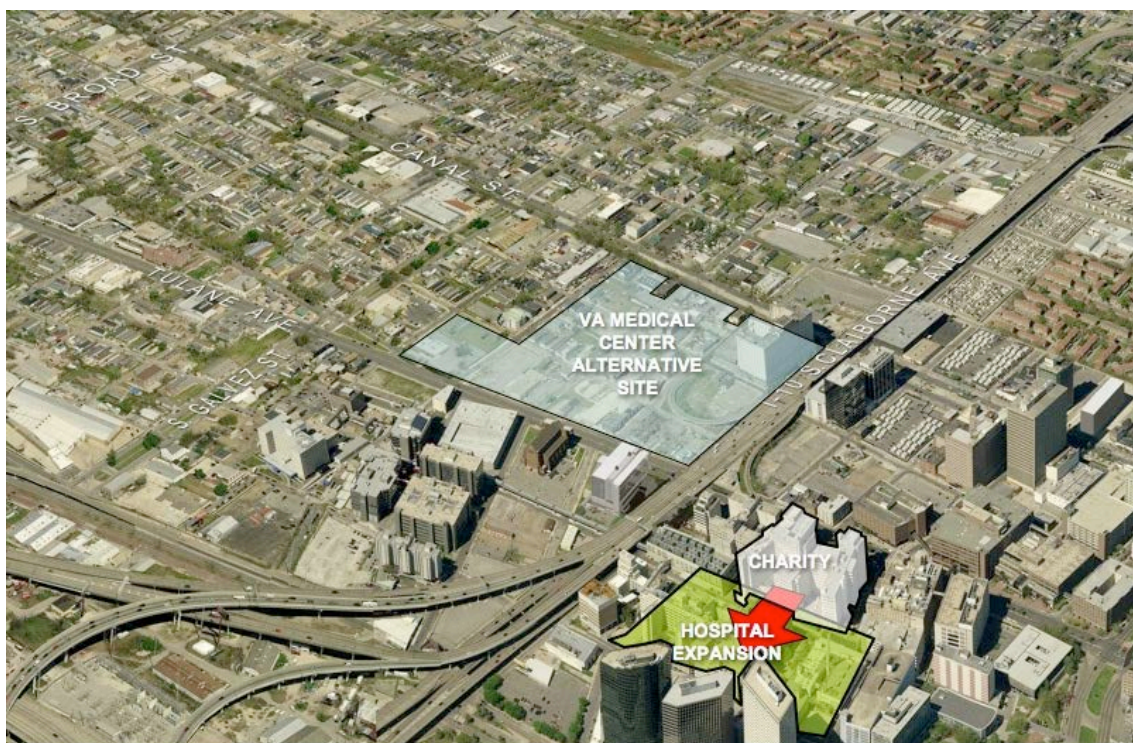


## Graphs and Tables

LSU/VA vs. RMJM Proposed site of Charity Hospital Expansion



LSU/VA Preferred site



RMJM Hillier Proposal to rebuild Charity Hospital



## Appendix 1

### AGFE New Orleans Mission Team



AGFE Team Members: Eric Tars, Tiffany Gardner, Sam Jackson, Leilani Farha, Leticia Osorio

Leilani Farha (AGFE Member), Head of mission

*Executive Director, Centre for Equality Rights in Accommodation, Ottawa, Ontario*

Leilani is a leading advocate, researcher and lawyer in the area of economic and social rights, particularly the right to adequate housing.

Contact:

Centre for Equality Rights in Accommodation

200 Maclaren St.

Ottawa Ontario

K2P 0L6

Tel. (613) 233-8618

Fax. (416) 352-5507

Email: [leilani@equalityrights.org](mailto:leilani@equalityrights.org)

Leticia Marques Osorio (AGFE Member)

*Senior Legal Officer, Centre on Housing Rights and Evictions (COHRE), London, England*

Leticia is both a lawyer and urban planner. She is currently completing a PhD at the School of Law, Essex University. Leticia has been working globally with land and housing rights for the urban poor and minorities/indigenous peoples, urban governance and participation, especially in Latin American countries.

Contact:

32 Bobbits Way, Wivenhoe

Colchester, Essex, UK

Tel: +44 7733021801

[losori@essex.ac.uk](mailto:losori@essex.ac.uk)



Tiffany M. Gardner (AGFE Pool of Experts)

*Director Human Right to Housing Program, National Economic and Social Rights Initiative, New York, NY*

Tiffany has worked on human rights issues and grassroots organizing throughout Africa, Southeast Asia and the United States. She has published several articles on issues of social justice and global inclusion. Tiffany is a former associate at the New York law firm Skadden, Arps, Slate, Meagher & Flom LLP. She received a BA from Yale University, a JD from New York University School of Law and a LL.M. in human rights law from Columbia University Law School.

Contact:

Tiffany M. Gardner

National Economic & Social Rights Initiative

90 John Street - Suite 308

New York, NY 10038

Tel: (212) 253.1710 ext. 304 / Fax: (212) 385.6124

tiffany@nesri.org

Sam Jackson (AGFE Pool of Experts)

*Co-Founder Mayday New Orleans, New Orleans, LA*

Sam is a resident of B.W. Copper Public Housing Development. He has been actively advocating for poor and low-income residents of New Orleans public housing since Hurricane Katrina. As a resident of B.W. Cooper Housing Complex, Sam has been instrumental in voicing the plight facing public housing residents to local, national and even international audiences.

Contact:

Sam Jackson

Co-Founder

Mayday New Orleans

3328 Earhart Blvd.

New Orleans, LA 70125

(504) 319-3300

jackson-action@hotmail.com

Eric Tars (AGFE Pool of Experts)

*Human Rights Program Director/Children & Youth Attorney, National Law Center on Homelessness and Poverty, Washington, DC*

Eric works with homeless and housing advocacy organizations to train and strategically utilize human rights as a component of their work. In his youth rights capacity, he works to protect homeless students' rights to education and advocates for homeless youth and families through trainings, litigation, and policy advocacy at the national and local levels. Eric received his JD as a Global Law Scholar at Georgetown University Law Center and his BA from Haverford College.

Contact:

Eric Tars

Human Rights Staff Attorney

National Law Center on Homelessness & Poverty

1411 K St., N.W., Suite 1400  
Washington, D.C. 20005  
(202) 638-2535 (main office)  
(215) 392-0298 (home office)  
(202) 628-2737 (fax)  
[etars@nlchp.org](mailto:etars@nlchp.org)

## Appendix 2

### List of Meetings New Orleans and Washington DC

#### New Orleans

<b>Sun, 26 July</b>		Orientation to Mission
	17:00	Panel discussion and town hall meeting
		Mission Team daily wrap-up meeting
<b>Mon, 27 July</b>	am	Mr. Michael P., Homeless Person Martha Kegel, Shamus Rohn, Michael Miller, UNITY of Greater New Orleans Ms. Naomi B., Ms. Grace B., Homeless Persons
	pm	Tour of Mid City led by Committee to Reopen Charity Hospital
		Mission Team daily wrap-up meeting
<b>Tues, 28 July</b>		Visits to demolished public housing sites and other locations to meet with displaced former residents, guided by members of Mayday New Orleans and Survivors Village
<b>Wed, 29 July</b>		Meeting with New Orleans officials
	10:00	Anthony Faciane, Deputy Chief for Development, Mayor's Office
	11:30	Deborah Langhoff, Chief of Staff, New Orleans City Council Chair Fielkow,

#### Washington, DC

<b>Thu, 30 July</b>		Meeting with federal officials in Washington, DC
	11:20	Rep. Joseph Cao (LA)
	12:00	Janet Woodka, Fed. Coordinator for Gulf Coast Recovery
	13:00	Sen. Landrieu (LA) Homeland Security Staff
	14:15	House Financial Services Committee Staff
	15:15	Rep. Waters (CA) & Charla Oueratani, Housing Staff
	16:00	Rep. Artur Davis (AL)
	16:00	HUD Asst. Sec. Sandra Henriquez, Fred Tumbar,
<b>Fri, 31 July</b>		Meetings with federal officials in Washington, DC
	13:00	White House Office of Management & Budget Director Xavier de Souza Briggs

### **Appendix 3**

#### **Schedule for New Orleans Mission July 26th– July 31st 2009**

##### **July 26th – panel discussion and town hall meeting**

Advisory Group members, local community groups and local residents participate in a panel discussion looking at instances of forced eviction post-Katrina. Groups from across the Gulf Coast, including the Louisiana Justice Institute, Advocates for Environmental Human Rights and Mayday New Orleans will be represented on the panel. A town hall meeting after the panel session will allow residents to speak directly to the AGFE mission on their experiences with forced eviction. The event will take place at McDonogh 42 Elementary School ·1651 North Tonti Street · New Orleans, LA.

##### **July 27th – site visits**

A.M.: AGFE mission tours abandoned buildings and meets New Orleans residents made homeless by Hurricane Katrina who have been squatting in the buildings since the storm. Visit to be led by local homelessness advocacy group UNITY of Greater New Orleans.

P.M.: Committee to Reopen Charity Hospital leads the delegation on a tour of Mid City where there are plans to displace the current community to build the new Louisiana State University hospital. The delegation will speak to Mid City residents concerning their pending displacement.

##### **July 28th – site visits**

Members of Mayday New Orleans and Survivors Village take the AGFE mission on a tour of demolished public housing sites and other locations to meet with displaced former residents.

##### **July 29th – meetings with New Orleans officials**

The AGFE mission meets with NOLA officials, including the mayor's office and Housing Authority of New Orleans, to discuss their findings.

##### **July 30th – meetings with federal officials**

AGFE mission travels to Washington, D.C. to meet with federal officials involved in disaster recovery.

##### **July 31st – meetings with federal officials**

Further meetings with federal officials in Washington, D.C.

## Appendix 4

### Email correspondence from New Orleans City Council President's Office

**Date:** Fri, 31 Jul 2009 11:36:43 -0500 [07/31/2009 12:36:43 PM EDT]  
**From:** Penya M. Moses-Fields <pmfields@cityofno.com>  
**To:** leticia@cohre.org, Deborah J. Langhoff <djlanghoff@cityofno.com>,  
tiffany@nesri.org  
**Cc:** leilani@equalityrights.org, jackson-action@hotmail.com, etars@nlchp.org, Arnie Fielkow <AFielkow@cityofno.com>, Eric Granderson <egranderson@cityofno.com>, Brenda M. Breaux <bbreaux@cityofno.com>  
**Subject:** Re: RES: International Advisors Request for Meeting

Show this HTML in a new window?

The substantive issues you raise in your questions are the subject of litigation brought in civil district court in Wallace Thurman, et al vs. C. Ray Nagin and the City of New Orleans No. 09-7244. Therefore, any responses to your inquiries will be addressed in the context of that case. Any separate sidebar conversation on the City Attorney's Office's part would be inappropriate.

Penya M. Moses-Fields, J.D., LL.M.  
 City Attorney  
 City of New Orleans  
 1300 Perdido St., Ste 5EO3, New Orleans, LA 70112  
 Phone: 504-658-9910 Facsimile: 504-658-9869  
 Email: pmfields@cityofno.com  
 Margaret Johnson, Executive Legal Assistant, majohnson@cityofno.com

This message is confidential and governed under attorney-client privilege and/or attorney work product. This message is in anticipation of litigation.

----- Original Message -----

From: Leticia Osorio <leticia@cohre.org>  
 To: Penya M. Moses-Fields; Deborah J. Langhoff; tiffany@nesri.org <tiffany@nesri.org>  
 Cc: leilani@equalityrights.org <leilani@equalityrights.org>; jackson-action@hotmail.com <jackson-action@hotmail.com>; etars@nlchp.org <etars@nlchp.org>; Arnie Fielkow; Eric Granderson  
 Sent: Fri Jul 31 00:49:26 2009  
 Subject: RES: International Advisors Request for Meeting

Dear Mrs. Penya,

Thanks very much for your email and response. However, I am afraid you have not devoted the necessary attention to the questions being made by AGFE. As you can see from the email below, they do not refer to any specific aspect of the ongoing litigation process regarding VA in both civil and federal courts. On the contrary, they refer to issues related to

urban planning and public processes which shall be made available for the knowledge and information of any citizen/organization. We cannot see how such questions relate to the abovementioned litigation process; could you please be more specific?

Thanks in advance,  
Best regards, Leticia

What is the usual municipal planning process governing large development?  
What are the organizational roles and relationships in municipal planning and zoning?  
What is the history of the process to locate the hospitals at the current proposed site?  
What role did the City Council play in the MOU?  
What role does the City Council play in approval?

-----  
Leticia Osorio  
AGFE member  
COHRE Litigation Programme  
www.cohre.org

---

De: Penya M. Moses-Fields [<mailto:pmfields@cityofno.com>]  
Enviada em: quinta-feira, 30 de julho de 2009 22:58  
Para: Deborah J. Langhoff; [tiffany@nesri.org](mailto:tiffany@nesri.org)  
Cc: [leticia@cohre.org](mailto:leticia@cohre.org); [leilani@equalityrights.org](mailto:leilani@equalityrights.org); [jackson-action@hotmail.com](mailto:jackson-action@hotmail.com); [etars@nlchp.org](mailto:etars@nlchp.org); Arnie Fielkow; Eric Granderson  
Assunto: Re: International Advisors Request for Meeting

As this is ongoing litigation regarding the VA in both Civil and Federal Court, I would not recommend a meeting to discuss said litigation with either the Mayor or the Council.

Penya M. Moses-Fields, J.D., LL.M.  
City Attorney  
City of New Orleans  
1300 Perdido St., Ste 5EO3, New Orleans, LA 70112  
Phone: 504-658-9910 Facsimile: 504-658-9869  
Email: [pmfields@cityofno.com](mailto:pmfields@cityofno.com)  
Margaret Johnson, Executive Legal Assistant, [majohnson@cityofno.com](mailto:majohnson@cityofno.com)

This message is confidential and governed under attorney-client privilege and/or attorney work product. This message is in anticipation of litigation.

----- Original Message -----

From: Deborah J. Langhoff  
To: Tiffany M. Gardner <[tiffany@nesri.org](mailto:tiffany@nesri.org)>  
Cc: [leticia@cohre.org](mailto:leticia@cohre.org) <[leticia@cohre.org](mailto:leticia@cohre.org)>; [leilani@equalityrights.org](mailto:leilani@equalityrights.org) <[leilani@equalityrights.org](mailto:leilani@equalityrights.org)>; [jackson-action@hotmail.com](mailto:jackson-action@hotmail.com) <[jackson-action@hotmail.com](mailto:jackson-action@hotmail.com)>; [etars@nlchp.org](mailto:etars@nlchp.org) <[etars@nlchp.org](mailto:etars@nlchp.org)>; Arnie Fielkow; Eric

Granderson; Penya M. Moses-Fields  
Sent: Thu Jul 30 12:56:56 2009  
Subject: RE: International Advisors Request for Meeting

Dear Tiffany,

I appreciate your visit to the City and the good questions that you asked which are summarized below. However due to the filed litigation, I must refer you to the City Attorney, Penya Moses-Fields, for answers.

What is the usual municipal planning process governing large development?  
What are the organizational roles and relationships in municipal planning and zoning?  
What is the history of the process to locate the hospitals at the current proposed site?  
What role did the City Council play in the MOU?  
What role does the City Council play in approval?

Deborah Langhoff  
Director of Community Development  
New Orleans City Council President Arnie Fielkow  
City Hall, 1300 Perdido Street, Room 2W40  
New Orleans, Louisiana 70112  
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Fax: 504-658-1068  
Direct: 504-658-1065  
Mobile: 504-914-2315

Communications to and from this e-mail address may be subject to provisions of the State of Louisiana Public Records Act.



## Appendix 5



August 18, 2009

To the Residents of the Iberville Community,

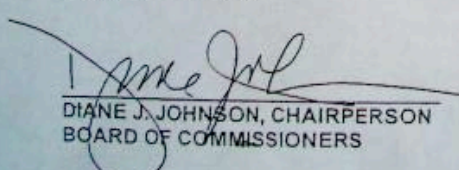
As no doubt as you have seen, there is quite a bit of activity going on at the Iberville community. After listening to your concerns and in consultation with your resident leadership, the Housing Authority of New Orleans has embarked on an effort to improve the quality of life for our residents at the Iberville Community. We have begun work to improve the physical condition of the site. As the exterior work is being done we are preparing to begin work on the interior of units. In addition, in order to create a safer community, we have increased security patrols and begun the installation of crime cameras throughout the site.

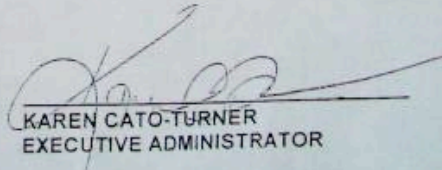
Please note that our efforts at the Iberville Community are just the beginning. These are not just cosmetic repairs, these repairs fit into our overall strategy of maintaining our commitment to the residents of the Iberville Community.

An unfortunate consequence of the repairs that we are making at the site is the continuing swirl of rumors regarding our long range plan. Let us be specific and direct – **HANO HAS NO PLANS AT THIS TIME TO DEMOLISH OR MOVE THE IBERVILLE COMMUNITY.** Anyone who tells you any differently is uninformed. They have either heard unsubstantiated rumors or have made up their own rumors to divide us.

The Housing Authority of New Orleans is committed to working with our residents to develop a long term vision for Iberville. Your voices will be heard. We will count on you to work just as hard as we do to help better your community. We encourage you to get involved in your community. We also urge you to attend any and all public meetings sponsored by the Iberville Advisory Committee (IAC). The IAC is composed of residents, faith-based members and other community stakeholders who are committed to working with you to advise HANO on the future of Iberville. HANO will await the IAC's recommendations before making any decisions about Iberville. Therefore it is important for you to be involved now so that your vision for the Iberville community is taken into account.

We look forward to working with you as we collectively build a vision for the Iberville Community.

  
DIANE J. JOHNSON, CHAIRPERSON  
BOARD OF COMMISSIONERS

  
KAREN CATO-TURNER  
EXECUTIVE ADMINISTRATOR

## Appendix 6

### **Press from AGFE Visit**

#### **Daily Video Blog from the Mission**

**<<http://hub.witness.org/NewOrleansForcedEvictionsMission>>**

Together with media partners WITNESS, we are hosting daily video updates from the road on the mission to New Orleans and DC.

### **The San Francisco Bay View: UN advisors host town hall on forced evictions in New Orleans <<http://www.sfbayview.com/2009/u-n-advisors-host-town-hall-on-forced-evictions-in-new-orleans/>>, 7/30/09**

A group of advisors who will report to the director of the U.N. Habitat agency held a town hall meeting in New Orleans on Sunday, July 26, to hear from resident experts and other community members about housing rights violations along the Gulf Coast since Hurricane Katrina...

### **The Times-Picayune: New Orleans situation is grim, experts say**

**<[http://www.nola.com/news/index.ssf/2009/07/no\\_housing\\_situation\\_grim\\_un\\_e.html](http://www.nola.com/news/index.ssf/2009/07/no_housing_situation_grim_un_e.html)>, 7/30/09**

A United Nations advisory group leader said Wednesday that the panel had met many New Orleanians discouraged by squalid or tenuous housing situations.

"They feel like they've been abandoned by their government," said Leilani Farha, director of a low-income-housing advocacy group in Ontario, Canada, who led a five-member entourage to New Orleans this week to interview people who have lost affordable housing...

### **The Institute for Southern Studies: UN group examines post-Katrina housing crisis in New Orleans <<http://www.southernstudies.org/2009/07/post-58.html>>, 7/30/09**

Activists in New Orleans have used the international human rights framework as a way to address the lingering issues in post-Katrina rebuilding, such as the right to housing. In 2008 UN experts on housing and minority rights took up the call, urging the United States to stop the demolition of public housing and protect the human rights of African-Americans disproportionately affected by Hurricane Katrina....

### **The Times-Picayune: United Nations group gets a look at post-Katrina housing woes <[http://www.nola.com/news/index.ssf/2009/07/united\\_nations\\_group\\_gets\\_a\\_lo.h.html](http://www.nola.com/news/index.ssf/2009/07/united_nations_group_gets_a_lo.h.html)>, 7/28/09**

Mickey Palmer, who traveled the world for 20 years as a merchant seaman shipping out of the Port of New Orleans, welcomed international visitors on Monday morning to his home, an abandoned building scattered with Katrina-era debris.

As a cool wind blew through a large open window, Palmer, 57, puffed on a cigarette and tried to stay positive.

"This is a good place to squat, as we call it," he told international housing expert Leilani Farha, who led a small entourage to New Orleans this week to interview people who have lost affordable housing and others who may lose their homes...

### **NOLA Indymedia: Advisory Group Hosts Town Hall on Forced Evictions**

**<<http://neworleans.indymedia.org/news/2009/07/14145.php>>, 7/26/09**

Sunday, July 26 - A group of advisors who will report to the director of the UN Habitat agency held a town hall meeting in New Orleans today to hear from resident experts and

other community members about housing rights violations along the Gulf Coast since Hurricane Katrina.

The Advisory Group on Forced Evictions (AGFE) is made up of leading NGO experts who gather information on housing and urban development issues internationally. As advisers to the UN they investigate instances of human rights violations and communicate with the UN Habitat agency, the official United Nations organization chartered with advancing housing justice across the globe...

**WDSU New Orleans' Channel 6 News: Advisory Group Listens to Housing Issues**  
<<http://www.wdsu.com/video/20185930/index.html>>, 7/26/09 (video clip)

**ABC26 News: Forced Evictions: Glynn Boyd Reports**  
<<http://www.abc26.com/videobeta/watch/?watch=48c4fee0-2a01-49c2-b18b-9bee392afca5&src=front>>, 7/26/09 (video clip)

**The Times-Picayune: UN Group to Examine New Orleans Housing Issues**  
<[http://www.nola.com/news/index.ssf/2009/07/united\\_nations\\_group\\_to\\_examin.html](http://www.nola.com/news/index.ssf/2009/07/united_nations_group_to_examin.html)>, 7/25/09

A United Nations advisory group is scheduled to arrive in New Orleans on Sunday to interview New Orleanians who have lost affordable housing and others who face the loss of their homes...

**Change.org: UN to Investigate forced Evictions in Post-Katrina NOLA**  
<[http://uspoverty.change.org/blog/view/un\\_to\\_investigate\\_forced\\_evictions\\_in\\_post-katrina\\_nola](http://uspoverty.change.org/blog/view/un_to_investigate_forced_evictions_in_post-katrina_nola)>, 7/22/09

Courtesy of the domestic economic human rights organization NESRI, I see that the Advisory Group on Forced Evictions will spend next week in New Orleans, investigating three key eviction issues: "the demolition of public housing; the displacement of Mid City residents to make way for the Louisiana State University hospital; and growing homelessness." It is the UN's third visit to the city in 3 years; the tour will begin with testimony from displaced residents, including their visions for rebuilding the city...

**New Orleans CityBusiness: U.N. advisers to investigate New Orleans housing problems**  
<<http://www.neworleanscitybusiness.com/UpToTheMinute.cfm?recID=25873>>, 7/22/09

"We hope to create space for dialogue between city officials and community members," Tiffany Gardner said. "Whenever I go to New Orleans and bring people with me there is always this shock of 'Wow, so little has been done...'"