



**Senate Committee on Homeland Security and Governmental Affairs  
Ad Hoc Subcommittee on Disaster Recovery**

**Statement by Equity and Inclusion Campaign Housing Working Group**

***Restore the Gulf Coast and Protect Americans from Future Disasters***

**April 8, 2009**

Equity and Inclusion Campaign welcomes the findings of the Ad Hoc Subcommittee on Disaster Recovery of the Senate Committee on Homeland Security and Governmental Affairs in its report, *Far From Home: Deficiencies in Federal Disaster Housing Assistance after Hurricanes Katrina and Rita and Recommendations for Improvement*.

The Subcommittee's report presents a thorough and comprehensive investigation of one of the largest disasters in modern history: the displacement of over one million people and the death of over 1,500 during Hurricanes Katrina and Rita in August and September of 2005.

The recommendations put forth by the Subcommittee create an important step in reforming the Stafford Act to better anticipate and address post-disaster housing.

**Equity and Inclusion Campaign**

The Equity and Inclusion Campaign is a nonpartisan policy advocacy and public messaging campaign advocating for fulfillment of the federal commitment to confront persistent poverty and inequity during the Gulf Coast recovery and rebuilding process. The vision for the Equity and Inclusion Campaign is to establish sustainable Gulf Coast communities characterized by economic, social and environmental fairness. The Campaign is working to effect systemic change so that all people are included, valued and empowered.

## **The Robert T. Stafford Disaster Relief and Emergency Assistance Act**

The Stafford Act, which governs federal disaster response upon declaration by the President of a National Disaster, gives FEMA broad authority to coordinate all and provide post-disaster assistance, including directing, “any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law”<sup>1</sup>.

Among the many severe challenges associated with recovery from the hurricanes of 2005 were legal interpretations of the Stafford Act by federal authorities, such as expiration of Sec 403 emergency housing assistance and resulting successive extensions, which lent itself to an ad hoc, disjointed and damaging federal response, as well documented by the Subcommittee’s report.

However, it is also the spirit of the Stafford Act that fails to protect the lives of Americans. For example, while the U.S. Department of State issues foreign aid based on policies that detail a commitment by our government to protect human life through three phases of humanitarian assistance, transition and reintegration and long term development assistance<sup>2</sup>, the same rights are not afforded to Americans displaced within our own borders by national disasters as declared by the President and executed by the Stafford Act.

This mismatch in foreign and domestic policy facilitates the catastrophic errors and detriment to lives and communities as witnessed post-Katrina and documented in this report. Less than a year after Hurricane Katrina, the United Nations (U.N.) Human Rights Committee called on the U.S. government to,

“review its practices and policies to ensure the full implementation of its obligations to protect life and the prohibition of discrimination, whether direct or indirect, as well as the U.N. Guiding Principles on Internal Displacement, in the areas of disaster prevention and preparedness, emergency assistance, and relief measures. In the aftermath of Hurricane Katrina, it should increase its efforts to ensure the rights of poor people and in particular African Americans are fully taken into consideration in the reconstruction plans with regard to housing, education, and healthcare.”<sup>3</sup>

Furthermore, nearly three years after Hurricane Katrina first made landfall, U.N. treaty monitoring bodies again called on the U.S. to uphold the rights of those still displaced. The U.N. Committee on the Elimination of Racial Discrimination again urged the U.S. government to,

“ . . . increase its efforts in order to facilitate the return of persons displaced by

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<sup>1</sup> See the Robert T Stafford Disaster Relief and Emergency Assistance Act, (Pub. L. 93-288), 42 U.S.C. § 5170a (1)

<sup>2</sup> USAID Assistance to Internally Displaced Persons Policy, Oct. 2004, PD-ACA-558

<sup>3</sup> UN Human Rights Committee, Concluding Observations on United States of America, 87<sup>th</sup> Session, July 10-28, 2006

Hurricane Katrina to their homes, if feasible, or to guarantee access to adequate and affordable housing in their place of habitual residence. In particular the Committee calls on [the U.S. Government] to ensure that every effort is made to ensure genuine consultation and participation of persons displaced by Hurricane Katrina in the design and implementation of all decisions affecting them.<sup>4</sup>”

The disastrous and sometimes fatal response of the federal government during initial disaster response and long-term recovery of Hurricane Katrina demonstrates without a doubt that human rights standards, including the U.N. Guiding Principles on Internal Displacement, must be incorporated into U.S. domestic disaster relief and recovery in order to protect the dignity, lives and communities of Americans.

## **Recommendations**

Equity and Inclusion Campaign applauds the Subcommittee’s report, which makes vital recommendations and serves as an important step in reforming the Stafford Act and by extension U.S. domestic disaster response. The Subcommittee’s very thoughtful, thorough and comprehensive investigation is apparent in its product.

While Equity and Inclusion welcomes the findings and recommendations of the report, the following comments are offered to strengthen the report’s important recommendations and protect the lives of Americans during future disasters:

- ✓ *Designate a separate category for governmental response to a catastrophic national disaster that is defined as one that results in or contributes to displacing through mandatory evacuation orders at least 25% of a population in a local jurisdiction.*

Equity and Inclusion commends the Subcommittee for its recommended amendment to the Stafford Act, which calls for “Enhanced Assistance for Catastrophic Disaster with a Catastrophic Designation”<sup>5</sup>. However, it also urges the Subcommittee to establish criteria as described above to ensure that clear and accurate guidelines inform the President’s declaration and provide consistency across Administrations.

- ✓ *Return and Transition Assistance Program that includes, at minimum, the provision of transportation to return home, grants to rebuild homes and businesses, and ensuring public participation of displaced individuals in the planning and implementation of federal, state, and local governmental recovery efforts.*

Equity and Inclusion urges the Subcommittee to consider the full scope of human rights guaranteed under the U.N. Guiding Principles on Internal Displacement, including public

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<sup>4</sup> UN Committee on the Elimination of Racial Discrimination, 72<sup>nd</sup> Session, February 18-March 7, 2008

<sup>5</sup> *Far From Home: Deficiencies in Federal Disaster Housing Assistance after Hurricanes Katrina and Rita and Recommendations for Improvement*, pp. 278-279

participation of displaced individuals in their own return or reintegration process. It calls on the Subcommittee to consider recommendations that would establish provisions to explicitly and concretely advance participation of displaced persons in their own return process.

- ✓ *Displaced persons are able to access personal documentation which is typically needed to vote and to access public services, education, and healthcare.*

While the Subcommittee's report does make important recommendations in terms of "wrap-around" services such as access to case management services and healthcare<sup>6</sup>, and while this report's obvious focus is disaster housing assistance, Equity and Inclusion Campaign urges the Subcommittee to consider amendments to the Stafford Act that would facilitate access to services as set out by Sections 403 and 408 of the Act by mandating on-line access to personal documentation in the event of catastrophic disaster. This could be administered by FEMA, DHS or the Library of Congress. Any data tracking strategy should keep accurate track of displaced persons and can interface with the data systems of other federal, state and local agencies. Data systems should also be transparent and available for the use of nonprofits organizations as they plan coordinate response to disasters, while respecting all privacy requirements.

- ✓ *Displaced persons are able to fully and meaningfully participate in public affairs at all levels, including the right to vote, to stand for public office, and to participate in the planning and management of their return, resettlement, and reintegration.*
- ✓ *Displaced persons can voluntarily choose to return, resettle, or reintegrate that includes access to accurate information necessary for making an informed choice.*

The report goes a long way in supporting the voluntary return, resettlement or reintegration of families by addressing crucial operational aspects of disaster housing preparation and ongoing disaster recovery. Recommendations such as establishment of a standing rental repair program help to ensure that safer, more sustainable housing comes back on-line quicker in the future and is better able to reunite communities than travel trailers or hotels, while also contributing to the current stock of housing available to Disaster Housing Assistance Program (DHAP) assistance recipients.

Although the Subcommittee's report also makes important recommendations to improve communications between FEMA and individuals in need of assistance<sup>7</sup> so as to meaningfully impact access to information, this recommendation should go further to ensure that Americans can make informed decisions for themselves and their families during and after catastrophic disasters. Communications improvements such as an on-line database for FEMA applicants to check the status of their claim; on-line information about the condition of structures and services in neighborhoods; on-line information about government contracts and the status of government contracted work as well as more and better trained telephone helpline workers would help families to make important decisions.

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<sup>6</sup> *Far From Home: Deficiencies in Federal Disaster Housing Assistance after Hurricanes Katrina and Rita and Recommendations for Improvement*, p. 282

<sup>7</sup> *Far From Home: Deficiencies in Federal Disaster Housing Assistance after Hurricanes Katrina and Rita and Recommendations for Improvement*, Recommendation 5, Subset 3, p. 281

As duly noted by the report, a National Disaster Housing Strategy must be completed and implemented. The strategy submitted by FEMA in January 2009 should be reviewed to ensure that both long term and short term disaster housing strategies are in place. Any new plan must address the fundamental flaws in procedure and recovery approach that were revealed over the last three years. Furthermore, the plan must articulate clear structures for implementation, as devolution of disaster recovery resources to states and localities without sufficient guidance and technical support have meant inequitable treatment for victims of the same disaster, depending on their location and stance of inclusion or exclusion by their local and state governments. This has resulted in uneven recovery of individuals, neighborhoods and parishes.

Funding sources accompanying the plan should be structured to address the most vulnerable needs quickly. While CDBG funds were allocated as a 'flexible' source of federal funds to serve recovery needs of individual households and community infrastructure—these funds are intended to serve low and moderate income households. Yet bureaucratic rules stymied this purpose, hampering programs and making the most vulnerable households the slowest to be served. More affluent neighborhoods in Louisiana, Mississippi, Alabama and Texas have returned to a spectrum of services and occupancy, while lower and moderate income neighborhoods in those states are still hobbled by the pace of recovery funding.

- ✓ *Displaced persons have a right to governmental assistance and protection that does not intentionally discriminate or result in a discriminatory impact.*

The discriminatory impact of Hurricane Katrina during initial disaster response and long term disaster recovery is well-documented. While the Subcommittee's post-disaster housing recommendations, when taken in their entirety, will especially protect poor, elderly and other vulnerable populations, amendments to the Stafford Act should also explicitly protect the rights of people of color, people who are differently abled and women against discrimination or discriminatory impacts.

Women are an excellent example of a population at increased peril before, during, and after disasters due to heightened vulnerability in four areas: (1) decreased economic capacity both before and after disasters; (2) heightened exposure to violence and sexual assault in the immediate aftermath and during the protracted post-disaster recovery phase; (3) decreased mobility and increased resource needs due to care-giving responsibilities; and (4) policy practices that privilege the economic reintegration of men in post-disaster recovery efforts. Each of these levels of disadvantage reduces women's capacity to prepare for impending disaster and to rebound once disaster strikes.

The Stafford Act should be amended to explicitly protect all peoples from discrimination.

- ✓ *Define the category of "special needs/vulnerable populations" sufficiently broadly to include the unique needs of displaced women and girls given the alarming gender-specific deficiencies revealed by Hurricane Katrina.*

Equity and Inclusion Campaign welcomes the May 2006 bipartisan report from the Senate Committee on Homeland Security and Governmental Affairs, "Hurricane Katrina: A Nation Still Unprepared", which presents a frank account of inadequate governmental response and offers eighty-six detailed recommendations on ways to address the failure of government at all levels to plan, prepare for, and respond aggressively to disaster. Recommendations 45, 46, 49, 62 and 63 address the imperative of improving the

government's response to vulnerable populations and to those with special needs.

✓ *Durability of Solutions: There is explicit recognition that displaced status does not end until solutions have proven to be lasting, including*

*-Social reintegration: access to public services, including education, health services and pensions; family reunification; restoration of community links.*

*-Economic reintegration: access to employment; support for the rebuilding of permanent homes; assistance must meet the needs of the most acutely vulnerable.*

Equity and Inclusion Campaign welcomes the Subcommittee's recommendations to authorize extensions for Sections 403 and 408 assistance during catastrophic disasters. The Subcommittee's prospective amendments to the Stafford Act will ameliorate the need for repeated assistance extensions as well as the undue stress put on families facing successive deadlines for termination of assistance.

While the report reveals an intimate understanding of the many challenges associated with displacement on a catastrophic scale, Equity and Inclusion Campaign urges amendments to the Stafford Act that also establish criteria for when displacement ends, based on the social and economic reintegration of individuals and families. For example, indicators of the durability of solutions in regards to social and economic reintegration include family reunification, an adequate standard of living and revitalization of communities. Equity and Inclusion Campaign is particularly concerned that residents displaced from all HUD assisted housing will remain in limbo until all said housing is replaced on a one-for-one basis.

Finally and most importantly, the discretionary provisions of the Stafford Act must be amended.

Hurricanes Katrina and Rita demonstrated without a doubt that it is during times of catastrophic disaster that Americans need their federal government the most, and that states and municipalities are simply ill-equipped to respond to disaster of catastrophic scale. Congress must include language that makes catastrophic disaster response by the federal government obligatory and legally binding, to include a meaningful process for governmental accountability.

The U.S. has long upheld the U.N. Guiding Principles for Internally Displaced Persons as a useful framework for disaster response and relief abroad. The Equity and Inclusion Campaign strongly recommends that the Stafford Act is amended to comply with these international standards, specifically:

1) National governments have primary duty to prevent or mitigate conditions that cause displacement.

Hurricane Katrina demonstrated beyond a doubt that state authorities are simply ill-equipped to respond to disasters of catastrophic scale; 2) Displaced persons have a legal right to request and receive protection and humanitarian assistance from governmental authorities as well as voluntarily return or resettle with

safety and dignity. Discretionary functions of aid during catastrophic disasters must be eliminated; 3) Displaced persons receive assistance and protection that does not intentionally discriminate or result in discriminatory impact. Discrimination must be understood to extend beyond an intentional act of discrimination; 4) Housing assistance, educational and training facilities and medical services to include mental health care and social services must be afforded all persons displaced during a catastrophic disaster until displacement ends.

Again, Equity and Inclusion Campaign commends the Subcommittee for its in-depth and thorough investigation. We welcome recommended disaster housing amendments to the Stafford Act as put forth by the Subcommittee in its report. The U.S. government has the capacity and obligation to respond to the needs of citizens displaced within its own borders. We urge the Subcommittee to seek passage of these additional recommendations in order to secure the dignity and well-being of Americans still displaced from the current disaster and for generations to come.