

To: Members of the U.N. Human Rights Committee

From: Rev. Daniel Buford for the Meiklejohn Civil Liberties Institute, International Association of Democratic Lawyers, Peoples Institute, and Allen Temple

Date: May 31, 2006

Re: Update on Issue 16 cited in CCPR/C/USA/Q/3 related to Articles 2 and 26 (and issues 14, 18, and 19 related to articles 7, 6, 2, and 26) concerning facts about Katrina (and Rita) disaster victims not covered in the 2d/3d U.S. Report or the presentation by Rev. Buford at the 2006 March Committee meeting.

SUMMARY (with citations to paragraphs ¶¶ in attached Report)

1. The U.S. Report did not mention that U.S. Pres. Bush within 2 weeks of the Katrina hurricane made a strong pledge to deal with all of the problems created by Katrina, and mentioned specifically the additional effects of poverty and racial discrimination on the victims; he did not mention the underlying U.S. and UN laws requiring such affirmative action. Neither the President, FEMA, Corps of Engineers, Health and Human Services Department, National Guard, nor other federal agencies involved in Katrina have followed up on this pledge by holding conferences in their agencies to discuss relevant U.S. and UN human rights laws, or to listen to victims describe the discrimination they faced -- and continue to face -- based on race, social origin, or age. (¶¶ 1, 3).

Recommendation: ¶ 2

2. Officials and agents of the U.S. federal, state, parish, and city governments have not held conferences to discuss the revisions necessary in many regulations and practices to change the present discriminatory system, nor have they used affirmative action to deal with pending problems. (¶ 1)

Recommendation: ¶ 2

3. Congress member Barbara Lee reported to Congress that Congress members are unfamiliar with ICCPR and Human Rights Committee reporting rules. The federal government has done nothing effective to inform state, parish, and city officials of the law and reporting requirements in the ICCPR so that these bodies are not beginning to enforce many of the rights enunciated in the ICCPR or to file the required reports under the ICCPR. (¶ 4).

Recommendation: ¶ 5

4. Congress member Lee's report was issued as Katrina victims continue to need help in filling out forms for financial assistance to rebuild their homes, in obtaining copies of lost legal documents they need to apply for government assistance (e.g., in paying for rental housing far from their homes), even in obtaining copies of medical prescriptions lost in Katrina. (¶ 6).

Recommendation: ¶ 7

5. During evacuation, many victims suffered humiliation and threats of arrest and shooting, unwarranted arrest and detention, for which virtually no perpetrators have been arrested or tried, and no compensation has yet been paid. At the same time, many Afro-Americans, including juveniles, have been held for long periods without trial or appointment of public defenders. (¶¶ 8, 9, 11, 13).

Recommendations: ¶¶ 10, 12, 14

6. FEMA has yet to deal adequately with the families that were separated in the course of the evacuation. And only 26 of 117 public schools had reopened by May 2006, leaving the lives of many children empty, and multiplying the problems of their parents, who now must supervise their children 24 hours a day. (¶ 15)

Recommendation: ¶ 16

7. The federal and state governments have not issued press releases to the media condemning racial slurs and incitement to discriminatory actions published by private organizations or issued on the internet or other media. While they have issued press releases describing mistakes they have made, they have not issued any statements as to how or when these mistakes will be corrected in the future. (¶ 17).

Recommendation: ¶ 18

8. The total number of New Orleans registered voters able to vote in the spring 2006 elections was much smaller than ever before. Voters from African American and poor neighborhoods repeatedly expressed frustration at the difficulties they faced in voting by absentee ballots in distant states. (¶ 19).

Recommendation: ¶ 20

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1. The 2d/3d Report was filed six weeks after the disaster of Katrina, but it does not mention the human rights Issues raised by Katrina, although the President of the U.S. was quickly aware, by Sept. 15, 2005, of the need to "offer this pledge..." to deal with human rights issues: "Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes, to help citizens rebuild their communities and their lives. ... As all of us saw on television, there's also some deep, persistent poverty in this region ... That poverty has roots in a system of racial discrimination, which cut off generations from the opportunity of America. We have a duty to confront this poverty with bold action. So let us restore all that we have cherished from yesterday, and let us rise above the legacy of inequality."¹

2. Recommendation: That the U.S. immediately convene a training session for all federal and state officials dealing with the victims of Katrina and Rita to study: (a) the pledge by Pres. Bush on Sept. 15, 2005 to Katrina victims, (b) the history of "deep, persistent poverty" in the region hit by Katrina and later Rita and its "roots in a system of racial discrimination," described by Pres. Bush, and (c) all of the laws prohibiting racial discrimination and requiring affirmative action, including U.S. Constitution Amendments 13, 14, and 15, ICCPR Arts. 2 and 26, as well as the Convention on Elimination of all forms of Racial Discrimination.

3. Hundreds of reports in the media and on the internet, and in NGO newsletters cited below, and in conversations with victims of Katrina and Rita hurricanes, make three points:

(1) Everyone in Government -- from the President of the United States and the national heads of agencies (including Federal Emergency Management Agency, FEMA, and Corps of Engineers) down to the federal agents working in the disaster area with state and parish civil servants -- was aware that the areas hardest hit were the homes and businesses of Afro-Americans and poor people, and hospitals/nursing homes of the elderly;

(2) Many policies and practices were continued or instituted that clearly discriminated against Afro-Americans and poor whites and women and the elderly, and, even when complaints of discrimination were made, no steps were taken to stop discrimination and to ensure equal treatment;²

¹ Pres. George W. Bush in Jackson Square, New Orleans, September 15, 2006, reported in "The Mardi Gras Index: The State of New Orleans by Numbers Six Months After Hurricane Katrina," Feb. 28, 2006, a Special Report by Gulf Coast Reconstruction Watch, a Project of the Institute for Southern Studies.

² Ari Kelman, "In the Shadow of Disaster – Rebuilding In Harm’s Way," *The Nation*, Jan. 2, 2006.

(3) These policies and practices are being continued to this date, as to victims of Katrina and Rita, with federal agencies stopping the funding of rent for displaced families³ and taking no effective steps to ensure the voting rights of displaced residents.⁴ (and see ¶ 19).

4. California Congresswoman Barbara Lee in February 2006 recommended that her fellow Congress members study the tardy 2d/3d Report and the pending Issues to be addressed by the Committee at its July meeting and also recommended that Congress members read and understand the necessity for the U.S. Government to comply with the provisions of the ICCPR.⁵ Most state and local government officials and citizens have never heard of the International Covenant on Civil and Political Rights or the UN Human Rights Committee. The media is not reporting on them. A web check of media mention of ICCPR or the UN Human Rights Committee indicates that the statement in the 2d/3d U.S. Report is false when it says that "There is extensive awareness at the state and federal levels" of the ICCPR and Committee work.⁶

5. Recommendation: Refining Recommendation ¶ 294 in 1995, and incorporating the pledge by the President of the U.S. to take all necessary steps for the Katrina victims in order to establish appropriate inter-federal institutional mechanisms for the review of existing as well as proposed legislation and other measures with a view to achieving familiarity with and implementation of all of the provisions of the Covenant, including the reporting obligations of federal, state and local government officials.

6. As Pres. Bush stated a week after Katrina hit, the U.S. Government had not taken sufficient steps to inform and insure the rights recognized in Article 2.3, especially the right not to discriminate on the basis of race, sex, social origin or property.⁷ Months after Katrina hit this problem continues:

- (1) dead bodies are being discovered in poor and Afro-American sections of New Orleans;⁸
- (2) in these poor neighborhoods today, Afro Americans: (a) are being told they cannot rebuild their homes⁹, or (b) they have not been getting help in filing all of the forms required to seek funding, or (c) help in getting copies of birth certificates and other personal identification documents lost in the hurricane, or (d) funding they have applied for and been granted has not actually been delivered to them, and
- (3) the U.S., state and parish governments are appropriating insufficient money to rebuild the levees needed to protect these areas from another disaster,¹⁰ whereas in some upscale

³ Prof. William P. Quigley, J.D., Loyola University Law School, "Six Months After Katrina, Who Was Left Behind Then? Who Is Being Left Behind Now," Feb. 21, 2006, <http://www.counterpunch.org/quigley02212006.html> (accessed May 23, 2006).

⁴ David Billings, "New Orleans: A Choice Between Destruction and Reparations," Nov./Dec. 2005, *Fellowship*, (Fellowship of Reconciliation); Paul Reynolds, "Multiple Failures Caused Relief Crisis," *BBC News*, April 19, 2006.

⁵ Congressional Record, Feb. 28, 2006, p. E224.

⁶ 2d/3d Report Para 490.

⁷ Susan Straight, "Katrina Lives: The Country Has Moved On But Black Americans Have Not Finished with Her," *The Nation*, Jan. 2, 2006.

⁸ Elaine Shields, "Hurricane Prompts Awkward Questions," *BBC News*, April 19, 2006; "Powell Criticizes Storm Response," *BBC News*, April 19, 2006; Bill Quigley, "Eight Months After Katrina," April 26, 2006, <http://www.reconstructionwatch.org/modules.php?name=News&file=article&sid=123> (accessed May 23, 2006).

⁹ "Mardi Gras Index," p. 11.

¹⁰ "Levee Upkeep Undermined By Budget Cuts," *San Francisco Chronicle*, 10/19/05; "Officials Say Levees Worse Than Thought," *Contra Costa Times*, 9/13/05; Geoffrey Lean, "Warnings Went Ignored As Bush Slashed Flood Budget To Pay For Wars," *London Independent* 9/4/05)

neighborhoods hit by Katrina, Government officials and corporations are helping residents make needed repairs.¹¹

7. Recommendation: That the State Department officials working on reporting to this Committee notify the Department of Housing and Urban Development and the Department of Health and Human Services and the Army Corps of Engineers, and all other affected federal agencies about the terms of the ICCPR and the urgent need to act to stop all discriminatory practices as to Katrina victims and to take affirmative action to ensure no discrimination in the treatment of Katrina victims.

8. No U.S. Government agency has conducted an investigation of the fact that in Gretna, LA, government officials encouraged some white citizens to threaten Afro American New Orleans residents who were peacefully assembled seeking to evacuate the area via the bridge in Gretna, LA, and permitted the police department of Gretna to block their evacuation and threaten them at gun point.¹² (Also a violation of Article 12.)

9. The government bodies studying the Katrina disaster have so far not dealt with the fact that U.S. and state agents forced New Orleans residents from Afro-American and poor neighborhoods to abandon their homes at gunpoint, and confined them, at gunpoint, in athletic stadiums with inadequate water, food, toilet facilities.¹³ (Also violations of Art. 7)

10. Recommendation: (a) That the U.S. establish a federal commission to study these charges and, on completion of their work, take appropriate steps to compensate the victims, prosecute the offenders, and hold education sessions for all parish officials in Gretna, LA on the laws against discriminatory treatment based on race or social origin.

11. Race, sex, and social origin discrimination occurred in the aftermath of Katrina with officials at the Orleans Parish Prison subjecting women prisoners to degrading and sexually offensive comments, and the loss of human dignity,¹⁴ and during the worst days, juvenile prisoners were trapped in sewage water in their cells for days, with only sewage water to drink.¹⁵ There is no indication that the U.S. Government has begun to establish a system that, in a later emergency, will not violate the right to human dignity of federal, state and parish women and juvenile prisoners without regard to social origin.

12. Recommendation: That U.S. Government officials immediately meet with state and parish prison officials to establish procedures to ensure that there is no denigration of the right to life and human dignity of each prisoner, particularly female and juvenile prisoners.

¹¹ Patrick Jonsson, "Tent Cities Spur Frustration on Gulf Coast," *Christian Science Monitor*, April 11, 2006.

¹² Mark Potok, "Racists Spew Hate in Katrina's Wake," SPLC Report, 9/5/05; Wade Hampton, "Blacks' Ride From Dome Kin to Slave Ships," Stormfrontwhitenationalists.org 9/13/05; Nicholas Riccardi, "After Blocking the Bridge, Gretna Circles the Wagons," *Los Angeles Times*, 9/16/05; Shaun Waterman, "Cops Trapped Survivors In New Orleans," UPI, 9/9/05; Andrew Buncombe, "Evacuees Blocked At Gunpoint By Racist Policemen," *London Independent*, 9/11/05.

¹³ *Ibid.*

¹⁴ "Men and Women at Orleans Parish Prison Detail Chaos Following Katrina," *aclu.org*, Nov. 17, 2005, <http://www.aclu.org/prison/conditions/21620prs20051117.html> (accessed May, 23, 2006).

¹⁵ Adam Nossiter, "Teenage Prisoners Describe Hurricane Horrors," *New York Times*, May 16, 2006.

13. During the evacuation, government officers arbitrarily arrested and detained many people of color, evidencing racial profiling in arrest procedures.¹⁶ (Also violation of Art. 9) From September 2005 to date, the U.S. Government has not provided speedy trials for prisoners¹⁷ required under ICCPR and U.S. law. The U.S. and state governments have not provided enough public defenders to represent indigent defendants in court proceedings in and around New Orleans,¹⁸ and lost court records have led to delays and longer periods of incarceration than necessary.¹⁹ (Also violation of Art. 10)

14. Recommendation: That the U.S. Government immediately provide emergency disaster relief funding: (a) for public defenders to provide legal representation to indigent men and women and juveniles arrested by state, parish and federal officials and detained since Katrina and Rita, (b) for federal, state, and parish officials to restore all criminal court records possible as soon as possible.

15. FEMA's original evacuation scheme has resulted in: (1) families being separated by hundreds of miles in different states; (2) children from poor communities not being protected so that over 5,000 children were reported missing after evacuation of the region after September 2005, some for as long as seven months;²⁰ (3) FEMA has yet to deal adequately with the families that were separated in the course of the evacuation. And only 25 of 117 public schools had reopened by April 2006,²¹ leaving the lives of many children empty, and multiplying the problems of their parents, who now must supervise their children 24 hours a day; (4) FEMA's confusing and contradictory regulations (requiring ID papers often lost in the flood) led hundreds of displaced persons to lose access to FEMA and other benefits²². (Also a violation of Art. 16 and 23.)

16. Recommendation: (a) that the U.S. Government, after holding the training sessions recommended in paragraph 1, authorize and fund a Conference to be attended by all FEMA and other officials responsible for writing regulations concerning forms and procedures required of disaster victims, the Conference to be organized by concerned Professors and NGOs working with Katrina victims, to discuss and plan how to rewrite regulations that may seem fair on their face but that, in fact, resulted in discrimination against Afro Americans and Native Americans and poor people and elders not familiar with government forms, and Workshops to be organized by concerned Katrina victims and NGOs working with them, to be attended by FEMA and other employees who work with victims of disasters, to hear exactly how their

¹⁶ Quigley, "Six Months After Katrina, Who Was Left Behind Then? Who Is Being Left Behind Now."

¹⁷ Mary Foster, "Group Slams New Orleans' Juvenile Prison," *Yahoo News*, May 9, 2006, http://news.yahoo.com/s/ap/20060510/ap_on_re_us/katrina_young_prisoners (accessed May 23, 2006); Billy Southern, "Left to Die – How New Orleans Abandoned its Citizens in a Flooded Jail and a Flawed System," *The Nation*, Jan. 2, 2006.

¹⁸ Laura Parker, "People Arrested Before Katrina Still Await Trial," *USA Today*, Feb. 27, 2006

¹⁹ *Ibid.*; "Testimonies of Evacuees," *Human Rights Watch*, Oct. 13, 2005.

²⁰ "Last Missing Child Separated by Hurricane Katrina and Rita Reunited," National Center for Missing & Exploited Children, March 17, 2006, http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&PageId=2317 (accessed May 19, 2006).

²¹ "United States House of Representatives Committee on Education and the Workforce," *tulane.edu*, April 26, 2006, http://www2.tulane.edu/president_testimony1_2006.cfm (accessed May 23, 2006).

²² Talise D. Moorer, "Homeland Security Is Far Reach for Katrina Victims," *Amsterdam News*, New York, January 11, 2006.

actions affect the victims, and to begin to figure out what the human rights laws require of them and what they could do to help the victims in their moment of stress.

17. To date the Federal Communications Commission has done nothing to respond to the many racial hate broadcasts and website messages that incited hate group activity against African Americans, although there is no First Amendment or ICCPR protection for false statements (also a violation of Art. 20).²³ While some officials have issued press releases describing mistakes they have made, they have not issued any statements as to how or when these mistakes will be corrected in the future.

18. Recommendation: The State and Justice Departments prepare press releases for the media quoting the pledge of Pres. Bush in Sept., 2005 to stay the course with the Katrina victims and work against the racial discrimination evident in New Orleans that began with the slave system in the Southern states that was legal until the Civil War (1861-1865) and continues to today, and that the statement specifically include references to the law in the ICCPR Art. 2.3.

19. The voting rights of African Americans were violated in the recent spring 2006 elections that did not insure full participation of displaced persons from all fifty states.²⁴ Louisiana is covered by the Voting Rights Act of 1965. (Also a violation of Art. 25.)

20. Recommendation: That the U.S. State Department work with the U.S. Department of Justice Civil Rights Division Voting Rights Section to instruct parish and state voting officials in Louisiana on the nondiscrimination provisions of the Voting Rights Act of 1965, the 14th and 15th Amendments, and the ICCPR Art. 2.3 and 25.

CONCLUSION

The common current that runs through these human rights violations is a refusal by the U.S. Government to recognize the inherent human dignity of all persons displaced by Hurricane Katrina and their right to preserve and enjoy their unique culture, that blends African, European, and Native American histories.

The ICCPR right to human dignity continues to be denied to internally displaced Katrina victims, including the right to medical care, (trauma care and therapy, reproductive health care), information about health, safety and their homes; and their right to participate in democracy, that is, in the planning and management of their return, resettlement, and reintegration into their communities.²⁵

The Hurricane Katrina catastrophe reveals that the United States has not fulfilled its obligations to guarantee human rights to poor people and minority groups with large numbers of

²³ Mark Potok, "Racists Spew Hate in Katrina's Wake," SPLC Report, 9/5/05; Wade Hampton, "Blacks' Ride From Dome Kin to Slave Ships," Stormfrontwhitenationalists.org 9/13/05; Nicholas Riccardi, "After Blocking the Bridge, Gretna Circles the Wagons," *Los Angeles Times*, 9/16/05; Shaun Waterman, "Cops Trapped Survivors In New Orleans," UPI, 9/9/05; Andrew Buncombe, "Evacuees Blocked At Gunpoint By Racist Policemen," *London Independent*, 9/11/05.

²⁴ Conversation with Prof. William P. Quigley, April 15, 2006.

²⁵ See "HOLD THE U.S. ACCOUNTABLE: Internationally Displaced Persons Human Rights Campaign Petition," The U.S. Human Rights Network, www.ushrnetwork.org (accessed May 23, 2006)

poor people. The ideal of free human beings enjoying civil and political freedom and freedom from fear can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights as well as his economic, social, and cultural rights.