

**THE BLACK EYE OF HURRICANE KATRINA'S
POST JIM CROW SYNDROME IS A BASIC HUMAN
DIGNITY CHALLENGE FOR AMERICA**

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I. INTRODUCTION

When Hurricane Katrina landed in New Orleans on its path of destruction in the early morning hours of August 29, 2005,¹ I immediately assumed that it was just another major natural disaster, and that public officials had an adequate plan to help anyone who needed help in New Orleans and the Gulf Coast region. My assumption was that the government's recovery plans would be race-neutral, similar to the destructive path of Katrina, and that the government's recovery efforts would soon help my fellow Americans in need in Alabama, Louisiana, and Mississippi. I had every reason to believe that America, as the self-proclaimed only remaining superpower in the world,² was unquestionably prepared to help any group of Americans suffering from a major natural disaster on American soil, regardless of their race. However, when the television pictures of Katrina's aftermath showed that most of those left behind in New Orleans were black and probably poor as well,³ I began to wonder whether race was a substantial factor in the lack of relief for Katrina survivors. The race card entered into my African-American frame of mind when needed governmental services for food, water, clothing and shelter were not provided to a predominantly black, economically

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¹ S. REP. NO. 109-322, at 21 (2006).

² See, e.g., Harold P. Southerland, *The Case for American History in the Law-School Curriculum*, 29 W. NEW. ENG. L. REV. 661, 720 (2007).

³ ALAN BERUBE & BRUCE KATZ, THE BROOKINGS INSTITUTION, *KATRINA'S WINDOW: CONFRONTING CONCENTRATED POVERTY ACROSS AMERICA 2* (Oct. 2005), http://www.brookings.edu/metro/pubs/20051012_Concentratedpoverty.pdf.

disadvantaged group in New Orleans during the initial response to Katrina survivors.⁴ Initially, as Hurricane Katrina approached New Orleans and the Gulf region, my African-American mindset did not engage in any thoughts about the racial impact of Katrina. I did not think of race because “natural disasters as a rule do not discriminate on the basis of race, color, gender, or wealth, and Katrina, in this regard, was no different from most natural disasters.”⁵ Although Katrina did not discriminate on the basis of race, the television pictures informed my African-American state of mind that the harmful and negative impact of Katrina would fall disproportionately on black people in New Orleans – primarily because they were disproportionately poor.

This article discusses in Part II how the images of Katrina’s failed rescue efforts in New Orleans had a Jim Crow Syndrome effect on many African Americans, and concludes that de facto Jim Crow racial stereotyping was probably very active in Katrina’s aftermath in New Orleans. Part III of this article asks whether the African-American Jim Crow media effect in Katrina was based on stereotypical public perception rather than facts. In Part IV, the article examines whether economic segregation in America has created a disadvantaged Jim Crow attitude toward the poor and other survivors.

⁴ Sherrie Armstrong Tomlinson, Note, *No New Orleanians Left Behind: An Examination of the Disparate Impact of Hurricane Katrina on Minorities*, 38 CONN. L. REV. 1153, 1167–68 (2006).

⁵ Maria Isabel Medina, *Confronting the Rights Deficit at Home: Is the Nation Prepared in the Aftermath of Katrina? Confronting the Myth of Efficiency*, 43 CAL. W. L. REV. 9, 11 (2006). Medina drafted her remarks primarily as a person who was affected by Katrina:

To an extent, I am going to take off my law professor hat, but only to an extent, because I must make clear at the outset that I am not the typical Katrina refugee—I am one of those with resources that most persons affected by Katrina lacked. I am also one of those whose house, for the most part, survived.

Id. at 9.

II. IMAGES OF KATRINA'S FAILED RESCUE EFFORTS IN NEW ORLEANS HAD A JIM CROW SYNDROME EFFECT ON MOST AFRICAN AMERICANS

Millions of Americans observed the satellite images of Hurricane Katrina traveling through the Gulf of Mexico, and pushing threatening amounts of water in the direction of the American coastline.⁶ Initially, “[w]e watched in sympathy as hundreds of thousands of lives were upended when the hurricane struck the coasts of Louisiana, Mississippi, and Alabama. We watched in horror as hundreds died in collapsed or flooded houses and nursing homes.”⁷ A collective American feeling of bewilderment and outrage emerged during this tragedy: “[W]e were horrified when the response to the Katrina catastrophe revealed—all too often, and for far too long—confusion, delay, misdirection, inactivity, poor coordination, and lack of leadership at all levels of government.”⁸

This lack of governmental leadership in the immediate aftermath of Katrina led thousands of people in America to suffer from heat in nasty conditions on concrete highways, “in darkened stadiums, in nursing homes, or on rooftops, while waiting for rescue.”⁹ All too often rescue came too late and the people needing help died while waiting.¹⁰ Hurricane Katrina rescue failures occurred four years after the terror attacks of September 11, 2001.¹¹ After 9/11, the federal government spent billions of dollars to reorganize its disaster response plans in an effort to improve America’s ability to react to a major calamity inside the United States.¹² According to a comment in a Special Senate Report, “[w]e knew Katrina was coming. How much worse would the nightmare have been if the disaster had been unannounced—an earthquake in San Francisco, a burst levee near St. Louis or Sacramento, a biological weapon smuggled into Boston Harbor, or a chemical weapon terror attack in Chicago?”¹³ Despite post-September 11

⁶ S. REP. NO. 109-322, at iii.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

disaster planning,¹⁴ the government's response to Katrina demonstrated that the United States was not prepared to effectively manage a new disaster.¹⁵

My initial view of Katrina as a storm with race-neutral destructive impact was challenged after the media featured predominantly African-American people in the New Orleans Superdome and New Orleans' Convention Center.¹⁶ These survivors lived in second-class and terribly inadequate conditions in the hurricane's aftermath.¹⁷ The media images created a fear in me that the nation was resurrecting Jim Crow history or, even worse, that de facto race-conscious Jim Crowism never really died.

Race-based Jim Crowism is defined as an American social and economic system created to subjugate African Americans to second-class citizenship.¹⁸ It is a set of customs and practices that maintain racial subordination.¹⁹ Jim Crow was a caricature of a black man produced first in 1828 by painting a white man's face black as a means to entertain whites.²⁰ Jim Crow eventually became a symbol of the systematic political, legal, and social repression of African Americans practiced throughout this country.²¹ According to Professor Linda Greene, Jim Crow is deeply rooted in American history and is alive and well today despite America's continuing denial of the existence of Jim Crowism.²² It is not a single institution, but rather a set of practices and codes designed to maintain an environment of racial superiority of whites over African Americans.²³ Jim Crow is designed to perpetuate the myth of black inferiority and primitiveness.²⁴

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ BERUBE & KATZ, *supra* note 3, at 2; Tomlinson, *supra* note 4, at 1153.

¹⁷ *See* S. REP. NO. 109-322, at 31.

¹⁸ CHARLES J. OGLETREE, JR., *ALL DELIBERATE SPEED: REFLECTIONS ON THE FIRST HALF CENTURY OF BROWN V. BOARD OF EDUCATION* 97 (2004).

¹⁹ *See id.*

²⁰ *Id.*

²¹ *Id.*

²² Linda Greene, *Jim Crowism in the Twenty-First Century*, 27 *CAP. U. L. REV.* 43, 45 (1998).

²³ *Id.*

²⁴ *See id.*

The inferior living conditions at the Superdome and the Convention Center demonstrate that, predominantly, African Americans were exposed to Jim Crow-like conditions in hastily-converted temporary living shelters.²⁵ The vast majority of those experiencing the impact of Jim Crow's continuing legacy in the aftermath of Hurricane Katrina were members of the African-American community.²⁶ I think it is an open question as to whether the majority of African Americans, who were trapped by the Katrina flood, experienced Jim Crow treatment because of their poverty or because of their race—although it may be contended by some that the African Americans in New Orleans suffered an impoverished condition largely due to their race: for example, unequal treatment and discrimination.

In today's America, Jim Crow hinders the respect society and the media give to African Americans because black people, as a group, are generally regarded as inferior Americans;²⁷ African Americans' disproportionate lack of wealth and under-education when compared to whites and other minorities²⁸ provide institutions with outlets to disrespect them. Many white Americans are generally very comfortable with African Americans they know personally. It appears that a critical mass of whites have recently discovered that college-educated blacks, with upper-middle-class incomes, typically endorse middle-class values.

However, many whites believe the majority of blacks possess negative traits associated with African-American stereotypes, including laziness, lack of morals, and lack of education.²⁹ Most white Americans are not inclined to accept systemic racial discrimination against a group of African Americans who, they believe, play by shared middle-class traditional values and just happen to be black by biological coincidence.³⁰ The

²⁵ See S. REP. NO. 109-322, at 31–32 (2006); Tomlinson, *supra* note 4, at 1153.

²⁶ BERUBE & KATZ, *supra* note 3, at 2.

²⁷ See Greene, *supra* note 22, at 43.

²⁸ See Paul Brest & Miranda Oshige, *Affirmative Action for Whom?*, 47 STAN. L. REV. 855, 877 (1995).

²⁹ See, e.g., Rebecca Leonard & Don C. Locke, *Communication Stereotypes: Is Interracial Communication Possible?*, 23 J. BLACK STUD. 332, 332 (1993); KNOWLEDGE NETWORKS, THE ASSOCIATED PRESS-YAHOO POLL: WAVE 6 20–22 (2008), http://surveys.ap.org/data/KnowledgeNetworks/AP_Election_Wave7_Topline_091508.pdf.

³⁰ Cf. Russell K. Robinson, *Perceptual Segregation*, 108 COLUM. L. REV. 1093, 1117 (2008) (“A critical racial difference is that blacks and whites are likely to differ on the very
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horrific distress and pain experienced by the African Americans left in New Orleans following Katrina did not fit an image of middle-class African Americans who had been victimized by the hurricane. The mass media images created messages of primarily poor and helpless blacks,³¹ who were not able to escape either Hurricane Katrina or the flooding waters which followed in New Orleans.³² When the public believed that the African Americans left behind in New Orleans were poor and innocent victims of Katrina's harsh aftereffects, it demanded that the government move quickly to help these less fortunate Americans.³³ The public assumed these victims probably would have left New Orleans, but just did not have enough money or reliable modes of transportation to get out of the city in time.³⁴

Many Americans assumed that federal, state, and local government would undoubtedly rescue the impoverished Katrina victims.³⁵ When the government failed to rescue Katrina's victims,³⁶ the American people aggressively communicated their dismay regarding the government's handling of the rescue operation, deeming it a colossal failure.³⁷ Since a majority of those trapped in New Orleans by the Katrina flood were black and poor,³⁸ Jim Crow de facto racism may have factored predominantly in

definition of racial discrimination. Because they are using different definitions, blacks may reasonably conclude that discrimination has occurred even as whites may reasonably disagree.”).

³¹ BERUBE & KATZ, *supra* note 3, at 2.

³² See, e.g., Tomlinson, *supra* note 4, at 1153–54; Rebecca Eaton, Note, *Escape Denied: The Gretna Bridge and the Government's Armed Blockade in the Wake of Katrina*, 13 TEX. WESLEYAN L. REV. 127, 132–33 (2006).

³³ See Cheryl I. Harris, *Whitewashing Race: Scapegoating Culture*, 94 CAL. L. REV. 907, 908–09 (2006) (reviewing MICHAEL K. BROWN ET AL., *WHITEWASHING RACE: THE MYTH OF A COLOR-BLIND SOCIETY* (2003)).

³⁴ See Tomlinson, *supra* note 4, at 1165–66 (discussing how officials anticipated needing a plan for a major storm to evacuate residents without access to personal transportation and how the plan implemented was not adequate).

³⁵ See S. REP. NO. 109-322, at 35 (2006) (finding that all levels of government needed to plan and prepare for the consequences of Katrina but failed to do so).

³⁶ See *id.*

³⁷ See, e.g., Todd S. Purdum, *Across U.S., Outrage at Response*, N.Y. TIMES, Sept. 3, 2005, at A1.

³⁸ BERUBE & KATZ, *supra* note 3, at 2.

the conduct of public officials. If one believes that race was a significant factor in the way the government responded to Katrina victims, then traditional Jim Crow principles, which have historically provided blacks with inadequate governmental service,³⁹ were again practiced by those public officials.

III. WAS THE AFRICAN AMERICAN JIM CROW MEDIA EFFECT IN KATRINA BASED ON STEREOTYPICAL PUBLIC PERCEPTION RATHER THAN FACTS?

Katrina uncovered significant gaps in America's social fabric between the African-American middle class and the African-American poor. Professor Cheryl Harris noted that "[t]he public seemed to perceive Black people as innocent victims deserving of help."⁴⁰ In response to this perception, "[s]easoned mainstream journalists wept and railed,"⁴¹ and "ordinary Americans flooded relief organizations with money."⁴²

I think the public was anxious to help the people stranded by Katrina because they believed the victims were poor, innocent people who happened to be black. Many Americans assumed that the typical victim in the New Orleans flood stayed there because he or she was poor and had no means of escape.⁴³ Katrina victims were viewed primarily as poor people rather than as a black people.⁴⁴ However, when the news media soon reported that a number of the black survivors of Katrina were looting stores

³⁹ See Greene, *supra* note 22, at 45.

⁴⁰ Harris, *supra* note 33, at 908–09.

⁴¹ *Id.* at 909 (citing Jack Shafer, *The Rebellion of the Talking Heads*, SLATE, Sept. 2, 2005, <http://www.slate.com/id/2125581> (providing examples of broadcasters becoming public advocates for Katrina victims to government officials)).

⁴² *Id.* at 909 n.6 (indicating that as of mid-November 2005, the Red Cross had received hurricane relief donations of over \$1.5 billion). Harris also documented that "[o]n the peak day of donations to aid Hurricane Katrina survivors, the Red Cross received 943,653 donations, compared to an average daily donation total of 1,000." *Id.* at 909 n.6 (citing Gretta Petrilla, *Putting Compassion in Action*, AM. RED CROSS, Nov. 4, 2005, http://www.redcross.org/article/0,1072,0_507_4844,00.html).

⁴³ See PEW RESEARCH CTR. FOR PEOPLE & PRESS, HUGE RACIAL DIVIDE OVER KATRINA AND ITS CONSEQUENCES 5 (2005), <http://people-press.org/reports/pdf/255.pdf> (describing poll results revealing seventy-seven percent of blacks and fifty-eight percent of whites polled believed that those who stayed behind did not have a way to leave the city).

⁴⁴ See *id.*

and engaging in other lawless behavior,⁴⁵ journalists implicitly invited the American public to view the black victims through the stereotypical lens of de facto Jim Crowism.

These invitations were extended through the different descriptions of black and white victims in New Orleans. Professor Harris confronts the issue of potential media bias in her discussion of two pictorial representations of three people in New Orleans, each walking in chest-deep floodwater a number of days after Katrina.⁴⁶ What messages do these pictures suggest? Picture A shows a young African American male hauling groceries and a large black bag;⁴⁷ picture B shows a white male and female, each carrying backpacks as one transports groceries.⁴⁸

However, the photos included more than straightforward descriptions. Taken by two different photographers, the descriptions that accompanied the photos articulated contrasting messages.⁴⁹ The description of picture A explained: “A young man walks through chest deep waters after looting a grocery store in New Orleans.”⁵⁰ The description for picture B noted: “Two residents wade through chest-deep waters after finding bread and soda from a local grocery store after Hurricane Katrina came through the area.”⁵¹ The description for picture A asserts that a crime was taking place, while the description for picture B advises the reader of a powerful struggle to survive.⁵² Nevertheless, this form of racial association is not new: “Strong associations between race and criminal behavior long predate Katrina and are the basis for an extremely resilient stereotype that strongly associates Blackness with criminality.”⁵³

⁴⁵ Harris, *supra* note 33, at 930.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 931–32 (citing Lawrence D. Bobo & Ryan A. Smith, *From Jim Crow Racism to Laissez-Faire Racism: The Transformation of Racial Attitudes*, in BEYOND PLURALISM 182, 199 (Wendy F. Katkin et al. eds., 1998)) (reporting a national survey in which whites rated blacks as more violence prone). According to Professor Harris:

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While the objective facts presented in pictures A and B are very similar, the interpretations of the social symbols represented in the two pictures are different because of the unfortunate American practice of racial stereotyping.⁵⁴ Picture A, which depicts an African American male, describes criminality;⁵⁵ picture B, which depicts a white male and female, shows us victims of Katrina.⁵⁶ Harris concludes her analysis of the two images with the only salient difference between them: “As it turns out, the race of the subjects is a crucial cue in reading and making sense of the photographs.”⁵⁷ Since America is a presumptively racist society,⁵⁸ it will

Social science research frequently reinforces the prototype of Blacks as criminals. As the authors of *WHITEWASHING RACE* report, a prevailing consensus emerged in the early 1990s that the substantially higher rate of Black incarceration compared to Whites is caused by substantially higher Black crime rates (136–38). Since then however, another wave of research has demonstrated several methodological flaws with that analysis. The first relates to the aggregation of data into national trends that obscures significant regional differences between arrest and incarceration rates (138–39). Second, both the rate and severity of sentencing for drug sentences is intensified for Blacks (139). Finally, controlling for additional factors discloses that the differential treatment of juvenile offenders by race results in “a pattern of cumulative overrepresentation” (140–41). This differential treatment relates to the application of a series of formally race-neutral factors, such as the availability of community resources or family support, in determining who is a poor and thus should be committed to custody. This in turn leads to decreased opportunities upon release and the creation of “another kind of self-fueling downward cycle.” (141). These results are particularly pronounced for young Black men (145).

Id. at 932 n.63 (citing MICHAEL K. BROWN ET AL., *WHITEWASHING RACE: THE MYTH OF A COLOR-BLIND SOCIETY* 136–41, 145 (2003)).

⁵⁴ Harris, *supra* note 33, at 931–32.

⁵⁵ *Id.* at 930.

⁵⁶ *Id.*

⁵⁷ *Id.* at 932.

⁵⁸ See Charles Babington, *Poll Shows Gap Between Blacks and Whites Over Racial Discrimination*, YAHOO! NEWS, <http://news.yahoo.com/page/election-2008-political-pulse-race-in-america> (last visited Oct. 6, 2008) (stating that a substantial portion of white Americans harbor negative feelings toward blacks).

not hesitate to initially believe negative, unsubstantiated media reports about blacks engaging in criminal activity.

Public opinion polls found that more than two-thirds of African Americans assumed that the federal government's response would have been faster if the victims in New Orleans were white,⁵⁹ although more than three-quarters of whites thought that federal officials' response time would not have changed.⁶⁰ By indicating that the government's response would have been faster if most of the victim's were white, the two thirds of blacks polled inferred that Jim Crow de facto racism was a controlling factor in the slow response of federal officials.⁶¹ In modern America, Jim Crow exists when race is a factor in the government's decision to provide inferior goods and services,⁶² but evidence that makes the government liable for its acts of discrimination is lacking because officials allege that they never intended to discriminate on the basis of race.⁶³ It follows that the seventy-seven percent of whites polled, who believed that the government's slow response time immediately following Katrina had nothing to do with race,⁶⁴ probably would characterize the inadequate response as an example of the federal government's incompetence rather than recognize the new racial implications of Jim Crowism.

Those who utilize Jim Crow logic apply it on a race-neutral basis⁶⁵ to any group perceived to be poor or otherwise disadvantaged and unworthy of equal treatment.⁶⁶ A key element of Jim Crowism is group-based inferiority.⁶⁷ Traditionally, the practice was based on racial inferiority;⁶⁸ modern Jim Crowism, however, is based on either racial or socioeconomic

⁵⁹ PEW RESEARCH CTR. FOR PEOPLE & PRESS, *supra* note 43, at 2.

⁶⁰ *Id.*

⁶¹ *See id.* Additionally, seventy-one percent of blacks polled still feel that racial inequality is a major problem. *Id.*

⁶² *See* Greene, *supra* note 22, at 45.

⁶³ Charles R. Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 319 (1987).

⁶⁴ PEW RESEARCH CTR. FOR PEOPLE & PRESS, *supra* note 43, at 2.

⁶⁵ Greene, *supra* note 22, at 52.

⁶⁶ *See* Jon Hanson & Kathleen Hanson, *The Blame Frame: Justifying (Racial) Injustice in America*, 41 HARV. C.R.-C.L. L. REV. 413, 415-16 (2006).

⁶⁷ *See* OGLETREE, *supra* note 18, at 97, 223.

⁶⁸ Greene, *supra* note 22, at 43.

status inferiority.⁶⁹ Did seventy-seven percent of polled whites believe that the federal response time would have been equally slow to a group that was predominantly white and poor? It is feasible that a majority of the whites polled believe that the federal government would respond as equally slow to any group of persons whom they viewed as socioeconomically inferior. It is also plausible the seventy-seven percent of whites who believed the government's response time would have been the same, regardless of race, also believe the government is dysfunctional. Many of the whites polled, then, likely believed that the slow response time was due to massive incompetence or inefficiency and their presumptions of group-based economic inferiority probably prevented them from asking larger questions about institutional inequality.

In my view, Katrina revealed how dysfunctional inadequate America's ability to protect its people from foreseeable harm has become, apart from any racial or economic considerations. America simply has not devoted enough of its resources to protect rank and file people from real harm of a substantial nature. When it comes to public safety, America's public officials at every level have dropped the ball by not implementing quality-control oversight of the money designated for public safety. In 2006, a bipartisan report released by the Senate Committee on Homeland Security and Governmental Affairs, which included Senators Susan M. Collins of Maine as Chairman and Joseph I. Lieberman of Connecticut as Ranking Member, advised readers that "Hurricane Katrina found us—still—a nation unprepared for catastrophe."⁷⁰

IV. ECONOMIC SEGREGATION IN AMERICA HAS CREATED A DISADVANTAGE JIM CROW ATTITUDE TOWARD THE POOR OR OTHER SURVIVORS OF ECONOMIC INEQUALITY

The poverty and inequality issues confronting America today have been highlighted by Hurricane Katrina.⁷¹ Katrina's aftermath revealed expanding economic segregation in America.⁷² I believe this segregation has renewed the Jim Crow attitude toward the poor and other survivors of

⁶⁹ See Harris, *supra* note 42, at 924–25; Hanson & Hanson, *supra* note 66, at 416.

⁷⁰ S. REP. NO. 109-322, at iii (2006).

⁷¹ John R. Edwards, *Katrina's Lessons: Moving Forward in the Fight Against Poverty*, 10 EMP. RTS. & EMP. POL'Y J. 151, 151 (2006).

⁷² *Id.* at 158 (quoting Ray Boshara, Director, Asset Building Program).

economic inequality. America has not abandoned its belief in the racial inferiority of specific groups. It has instead expanded its group-based inferiority practice to include the poor and other survivors of economic inequality. The public is somewhat uninformed about the class-based implications of the Jim Crow factor.⁷³ America has a moral and legal duty to avoid either the reality or the appearance that reasonable and necessary services for escape and survival are available only to those middle-class persons who can afford them during a disaster such as Katrina. This means that additional governmental action should have been taken for those who could not afford to own a car or did not have a reliable means to adhere to the city's order to leave New Orleans and the dangers created in the city by Hurricane Katrina.⁷⁴

The Senate Report created the distinct impression, in my mind, that America's dysfunctional response to huge disasters will be very problematic for any group of Americans who lack initial resources that might help them avoid the consequences of a disaster.⁷⁵ It is hard to believe that America is not adequately prepared for a major disaster more than seven years after September 11 and more than three years after Katrina. The Jim Crow mentality allows individuals and institutions to treat people in an inferior manner. Today, America's public policy makers treat its residents as inferior persons when they fail to develop and implement adequate plans to respond, protect and save lives, and service individuals' needs during a major disaster.

Unfortunately, New Orleans is not completely prepared for catastrophes nearly three years following Hurricane Katrina.⁷⁶ In response to the disaster of Katrina, "President Bush ordered the review of state and city emergency plans in a visit to New Orleans . . . weeks after Hurricane Katrina ravaged the city."⁷⁷ Following this mandate, the Department of

⁷³ *Id.*

⁷⁴ *Id.* at 173–74 (quoting Anna Burger, Chair, Change to Win Federation); *see also* Tomlinson, *supra* note 4, at 1153–54; Eaton, *supra* note 32, at 132–33.

⁷⁵ *See* S. REP. NO. 109-322, at 35.

⁷⁶ *See* John Schwartz, *Gustav Was No Katrina, but Next Time . . .*, N.Y. TIMES, Sept. 7, 2008, at WK3 (describing the weaknesses in New Orleans' defenses three years after Hurricane Katrina); Lara Jakes Jordan, *Feds: Major Cities Still Disaster-Prone*, PITTSBURGH POST-GAZETTE, June, 17, 2006, at A6 (discussing a federal security analysis report describing the majority of New Orleans' emergency plans as insufficient).

⁷⁷ Jordan, *supra* note 76.

Homeland Security released a report in June 2006 analyzing “response and evacuation procedures for all fifty states, the nation’s seventy-five largest cities and six U.S. Territories.”⁷⁸ In June 2006, New York and Washington, the cities targeted by the September 11 terrorist attacks,⁷⁹ as well as many other states, failed to meet the required guidelines for reacting to critical disasters.⁸⁰ In fact, Florida was the only state in compliance with all of the Homeland Security Department’s basic obligations for planning for catastrophes.⁸¹ In New Orleans, only four percent of emergency plans met minimum federal guidelines while fifty-eight percent were described as insufficient.⁸² While New Orleans’ officials maintain that progress has been made, they also admit that the city is “not there yet.”⁸³ Additional steps need to be taken before New Orleans will be prepared to face another disaster like Katrina.

One could argue, from a group perspective, that the most economically challenged African Americans in New Orleans would not possess this status but for America’s Jim Crow past. Since history demonstrates that African Americans suffer racial inequality in the city of New Orleans,⁸⁴ the State of Louisiana,⁸⁵ and the United States,⁸⁶ Katrina caused me to focus on

⁷⁸ *Id.*

⁷⁹ *Id.* (indicating how New York and Washington’s emergency plans were deemed only partially sufficient).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.* Since September 11, 2001, the government spent eighteen billion dollars in Homeland Security grants to increase local preparedness, but “very little of it has gone to planning, training and exercise,” according to Department of Homeland Security Undersecretary George Foresman. *Id.*

⁸³ Schwartz, *supra* note 76.

⁸⁴ *See, e.g.,* HARVEY FIRESIDE, SEPARATE AND UNEQUAL 230–31 (2004) (indicating that in the 1940s, there were New Orleans’ steamboats and trains that had “white only” sections).

⁸⁵ *See, e.g.,* Plessy v. Ferguson, 163 U.S. 537, 538–39 (1896), *overruled by* Brown v. Bd. of Educ., 347 U.S. 483 (1954); FIRESIDE, *supra* note 84, at 231 (discussing how the state of Louisiana accepted “the segregation system of the Deep South” by the turn of the twentieth century).

⁸⁶ *See, e.g.,* City of Mobile v. Bolden, 446 U.S. 55, 64–65 (1980) (finding that despite the long history of racially polarized voting leading to only whites being elected in the city’s at large election system, no equal protection violation existed because there was not

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America's current socioeconomic status discrimination rather than on the legally permissible racial discrimination suffered by black people for the last two centuries⁸⁷ as they resided in a predominantly white American nation.⁸⁸

Initially, it was difficult to concentrate on America's racial progress because those who directly suffered from America's mishandling of relief efforts in New Orleans were disproportionately poor African Americans.⁸⁹ That is to say, the black people who were left behind in New Orleans were not the African-American upper middle class.⁹⁰ By the time the buses arrived to transport the victims of Hurricane Katrina to Houston and other cities across America,⁹¹ the African-American upper middle class, along with upper and middle class whites, had already used their resources to flee New Orleans.⁹² Although racial discrimination still exists in America, the success of America's civil rights laws against racial discrimination allowed African Americans to create a significant black middle class which possessed the means to leave New Orleans.⁹³ Despite the advances made by these black middle-class citizens, the suffering experienced by primarily

sufficient evidence of a discriminatory purpose); *Washington v. Davis*, 426 U.S. 229, 248 (1976) (holding that law is not unconstitutional solely because it has a racially disproportionate impact regardless of whether it reflects a racially discriminatory purpose); *Palmer v. Thompson*, 403 U.S. 217, 220 (1970) (holding that the act of the city in closing public swimming pools rather than attempting to operate them on a desegregated basis did not deny blacks equal protection); *Brown*, 347 U.S. at 487–88 (describing the “separate but equal” doctrine); *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393, 404 (1857) (holding that blacks are not citizens of the United States).

⁸⁷ See, e.g., *Bolden*, 446 U.S. at 64–65; *Washington*, 426 U.S. at 245; *Palmer*, 403 U.S. at 220; *Brown*, 347 U.S. at 487–88; *Dred Scott*, 60 U.S. at 404.

⁸⁸ U.S. CENSUS BUREAU, UNITED STATES—RACE AND HISPANIC ORIGIN: 1790 TO 1990 1 (2002), <http://www.census.gov/population/www/documentation/twps0056/tab01.pdf>.

⁸⁹ BERUBE & KATZ, *supra* note 3, at 2.

⁹⁰ See *id.*

⁹¹ See S. REP. NO. 109-322, at 70 (2006) (indicating that bus evacuations at the Superdome did not begin until the morning of Thursday, September 1, 2005, three days after Katrina landed).

⁹² See BERUBE & KATZ, *supra* note 3, at 2 (stating that those left behind in New Orleans were overwhelmingly low-income African Americans).

⁹³ See David D. Troutt, *Katrina's Window: Localism, Resegregation, and Equitable Regionalism*, 55 BUFF. L. REV. 1109, 1131 (2008).

poor African Americans demonstrates the true expanding legacy of Jim Crow: the perpetual, systemic inferiority assigned to groups of American citizens based on a concept of social economic status supremacy.⁹⁴

The Katrina question, raised by Jim Crow's expanding race- and class-based mentalities, is whether a predominantly poor, white community living in New Orleans would have experienced inadequate recovery and relief efforts similar to the effects experienced by the predominantly poor, black citizens living in New Orleans' Ninth Ward. One could only imagine what the Federal Emergency Management Agency's response would have been to Katrina if New Orleans in the pre-Katrina era was known as a predominantly poor, white city rather than a predominantly poor, black city. If one concludes that federal, state and local officials would have responded to Katrina in a similar manner regardless of its residents' race, then it is plausible to accept my suggestion that Jim Crow's unequal, inferior citizenship status has been expanded to include poor or disadvantaged whites. I concede from a historical perspective that Jim Crow was designed to include all African Americans regardless of their socioeconomic status.⁹⁵ If poor whites in a predominantly poor white trailer park-New Orleans would receive significantly superior services to those received by a predominantly chocolate-city New Orleans, then my argument identifying class-based Jim Crowism is subject to attack under a traditional analysis of Jim Crow because under a traditional analysis, race always matters.⁹⁶ Disadvantaged white Americans are sometimes likewise visited by Jim Crow indifference, however, which traditional analyses fail to explain.⁹⁷

While watching the terrible social and economic conditions confronted by predominantly poor African Americans in New Orleans on television,⁹⁸ I could not help but feel a sense of betrayal of the basic human dignity of

⁹⁴ See Greene, *supra* note 22, at 43; Robinson, *supra* note 30, at 1117.

⁹⁵ Kenneth L. Karst, *Paths to Belonging: The Constitution and Cultural Identity*, 64 N.C. L. REV. 303, 321 (1986).

⁹⁶ See Greene, *supra* note 22, at 45.

⁹⁷ See Hayward D. Reynolds, *Deconstructing State Action: The Politics of State Action*, 20 OHIO N.U. L. REV. 847, 847 (1994) ("Racial discrimination and exploitation of socially and economically disadvantaged classes of people is perpetrated in the schools, the work place, the home, and in virtually all social settings.").

⁹⁸ Tomlinson, *supra* note 4, at 1153-54; 1167-68.

the African-American community by public officials at all levels. This betrayal was created by a general acceptance of a new second-class Jim Crow citizenship theory. Under this new separate but equal theory, it is constitutionally permissible for public officials to allow African Americans and other Americans to live as second class citizens so long as this unequal treatment is not supported by a policy of intentional race-based discrimination.⁹⁹

The Supreme Court has rejected¹⁰⁰ Professor Frank Michelman's call to recognize a fundamental constitutional protection to food and housing in the name of creating a more egalitarian society.¹⁰¹ Nevertheless, the Supreme Court should establish economic "egalitarian" interventions as a vindication of a state's duty to protect against the economic hazard of poverty in an unequal society.¹⁰² The state's affirmative duty to protect minorities from discrimination is well established.¹⁰³ Professor Michelman correctly asserts that the state also has an affirmative duty to protect individuals from a class of risks associated with poverty, a lack of income, or a lack of economic resources.¹⁰⁴

Since the discriminatory hazards associated with being poor in America are very similar to the hazards associated with racial discrimination against minorities,¹⁰⁵ the Supreme Court has an affirmative duty to protect individuals against the undue burden of either racial discrimination or economic discrimination, which deny an individual the ability to safeguard her minimum welfare.¹⁰⁶ A person meets the minimum

⁹⁹ See *Washington v. Davis*, 426 U.S. 229, 239–40 (1976). The Court in *Davis* held that governmental conduct will not result in a constitutional violation under the Equal Protection Clause despite a disproportionate impact on racial minorities. *Id.* In order to establish that a constitutional violation exists, one must show a discriminatory purpose. *Id.* at 240.

¹⁰⁰ See *Lindsey v. Normet*, 405 U.S. 56, 74 (1972) (refusing to recognize an individual right to housing under the Due Process and Equal Protection Clauses); *Dandridge v. Williams*, 397 U.S. 471, 485 (1970) (rejecting a fundamental right to access basic economic needs such as food through welfare).

¹⁰¹ Frank I. Michelman, *The Supreme Court, 1968 Term—Foreword: On Protecting the Poor Through The Fourteenth Amendment*, 83 HARV. L. REV. 7, 9, 11–12 (1969).

¹⁰² *Id.* at 9.

¹⁰³ *Id.* at 10 (citations omitted).

¹⁰⁴ *Id.* at 9.

¹⁰⁵ See *id.* at 10–11.

¹⁰⁶ See *id.* at 9.

welfare test when she lacks resources to purchase needed goods and services, or lacks access to the political process.¹⁰⁷ Hurricane Katrina revealed that thousands of Americans met the minimum welfare test because they did not have the money or social network to escape New Orleans in the first instance, or to buy needed goods and services in Katrina's aftermath.¹⁰⁸ Individuals who met the minimum welfare test in this disaster were given the Jim Crow treatment; they were often treated as second-class persons by public officials who recognized that Katrina's survivors did not have the money to pay for needed goods and services.¹⁰⁹

As a matter of fundamental equality, the Equal Protection Clause of the U.S. Constitution¹¹⁰ should create a duty of the state to ensure that all persons within its borders have reasonable access to those fundamental resources necessary to survive a major natural disaster. A person is entitled to reasonable safety during a natural disaster after the state has ordered an evacuation of the community because of an impending disaster. It is not rational to allow the state to order people in the community to leave town because of safety concerns when a substantial number of poor people in the community lack transportation. Poor persons should be similarly situated to rich persons under the Equal Protection Clause when it comes to the state's goal of protecting human life from natural disasters.

Just like criminal defendants must be provided access to the courts regardless of their economic status,¹¹¹ there can be no equal justice when people's ability to escape a deadly hurricane like Katrina depends on their wealth. It should go without saying that economic status should not prevent a person from participating in a state-sanctioned and mandatory evacuation during the course of a disaster. When the government either knows or should know that poor persons will be adversely affected, policy failing to provide poor persons with the means to escape a hurricane does

¹⁰⁷ *See id.*

¹⁰⁸ Tomlinson, *supra* note 4, at 1153–54; Eaton, *supra* note 32, at 132–33.

¹⁰⁹ *See* S. REP. NO. 109-322, at 35 (2006) (recognizing that all levels of government needed to plan and prepare to help the poor in a disaster like Katrina).

¹¹⁰ U.S. CONST. amend. XIV, § 1 (“No state shall make any law which shall . . . deny to any person within its jurisdiction the equal protection of the laws.”).

¹¹¹ *See* Griffin v. Illinois, 351 U.S. 12 (1956). The Court held that the state had to provide a poor criminal defendant with a free transcript appealing his conviction. *Id.* at 19. Without the transcript, the defendant would not have had access to adequate appellate review. *Id.*

not demonstrate a legitimate governmental purpose and therefore violates equal protection of the law.¹¹² If the constitutional theory of equal protection of the law represents a presumption, it must at the very least signify that a governmental policy that ignores the life-saving needs of a politically unpopular group, like the poor during a natural disaster the magnitude of Hurricane Katrina, cannot encompass a legitimate governmental interest.¹¹³ A governmental policy or action ignoring the reality that it is more difficult for a group of poor people to take advantage of government-assisted evacuation routes because they do not have the economic resources to leave town during a government sanctioned evacuation should be a plain violation of the Equal Protection Clause.¹¹⁴

In *Washington v. Glucksberg*,¹¹⁵ the Supreme Court held that the state of Washington may prohibit a person from committing suicide or receiving assistance in committing suicide without violating the Fourteenth Amendment of the U.S. Constitution.¹¹⁶ The court noted in particular:

The history of the law's treatment of assisted suicide in this country has been and continues to be one of . . . rejection of nearly all efforts to permit it. . . [O]ur decisions lead us to conclude that the asserted "right" to

¹¹² See *U.S. Dept. of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) ("If the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare congressional desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.").

¹¹³ See *id.* A lawsuit successfully challenged the enforcement of amendment to the Food Stamp Act, which made ineligible any household having a person unrelated to at least one member of the household. *Id.* at 529. The Supreme Court held that the amendment was not rationally related to the legitimate governmental interest in diminishing fraud and that intentional discrimination against "hippies" is not a permissible constitutional basis for the amendment because the amendment was based on an irrational classification in violation of the equal protection principle. *Id.* at 534–35, 537.

¹¹⁴ See *Romer v. Evans*, 517 U.S. 620 (1996). The Supreme Court held that Colorado's Amendment 2 violated the Equal Protection Clause because it classified homosexuals, not to advance any legitimate purpose but to make them unequal to everybody else. *Id.* at 635.

¹¹⁵ 521 U.S. 702 (1997).

¹¹⁶ *Id.* at 705–06.

assistance in committing suicide is not a fundamental liberty interest protected by the Due Process Clause.¹¹⁷

It is obvious that legislation prohibiting suicide is based on a traditional American preference for life over death.¹¹⁸ It follows that it would also violate this common law tradition to allow a state to explicitly endorse death over life by allowing people to die during a foreseeable disaster only because they did not have enough money to evacuate the area. I think the Due Process Clause concept of fairness¹¹⁹ creates an unqualified duty on the state to protect the human life of its poor persons who are too poverty-stricken to access safety evacuation routes during a natural disaster.¹²⁰ It is my contention that a state has an affirmative duty under the life component of the Due Process Clause¹²¹ to protect the life of the working poor, the elderly poor, and the disabled poor during a foreseeable hurricane by providing them reasonable access to routes of safety before the hurricane and reasonable food, clothing and shelter after the natural disaster. Those persons without the means to adequately escape the immediate impact of the Katrina disaster have a fundamental liberty interest in the right to protect their lives by requiring the government to provide an adequate means of access to comply with a government-issued evacuation order.

The ultimate Jim Crow insult exists today when American public officials show a reckless disregard for the lives of a group of individuals during a disaster because of their perceived inferior group status in the relevant community. I agree with Greene's assertion that "the rumors of Jim Crow's death have been historically and greatly exaggerated."¹²² Jim Crowism not only lives, but continues to thrive in the form of socioeconomic segregation as well as covert racial discrimination. For example, it can be argued that those who live in gated, guarded communities send a message of economic superiority to those who cannot afford to live in such a community. Gated communities might be

¹¹⁷ *Id.* at 728.

¹¹⁸ *See id.* at 710.

¹¹⁹ *See* U.S. CONST. amend. XIV, § 1.

¹²⁰ *See Glucksberg*, 521 U.S. at 728 (stating that states have an "unqualified interest in the preservation of human life" (quoting *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 282 (1990))).

¹²¹ *See* U.S. CONST. amend. XIV, § 1.

¹²² Greene, *supra* note 22, at 45.

established as either a reasonable security measure for residents or the gated community may signify the covert segregation that exists through socioeconomic status. I must, therefore, concur with Greene's assertion that "the *Jim Crow* which America once tolerated and embraced—of segregation statutes and ropes, crosses and torches—is rarely seen anymore. But *Jim Crow*, American racism, possesses an incredible resilience and ability to adapt to new circumstances and challenges—and to *survive*."¹²³

I think Jim Crowism has adapted to a new America by avoiding any overt support of white racial superiority while praising the economic superiority of some groups at the expense of others; these less superior groups are deemed as tainted or inferior mainly because of their lack of economic clout. In the twenty-first century, economic Jim Crowism is another contributor to the amalgamation of social customs that perpetuate the American economic and social divides. Although race mattered in 2005 during Katrina's aftermath in New Orleans, it was not an absolute marker of the status and stature of the Katrina survivors' fate.¹²⁴ Jim Crow made economic status a very reliable predictor of which person was most likely left behind in New Orleans in the Katrina flood.

My African-American state of mind cannot separate the continuing effect of race-based Jim Crowism from the inferior economic status of a disproportionate number of blacks during Katrina. Greene explained the entrenchment of Jim Crow: "*Jim Crow* is supported by a culture—now almost four hundred years old—which is also by now quite accustomed to racial caste. Moreover, this culture is by now extremely confident that caste reflects true merit, not undeserved oppressions."¹²⁵ Today Jim Crow has a new inclusive attitude, which does not mean that it does not also

¹²³ *Id.*

¹²⁴ *Id.* According to Professor Greene:

In the 19th and 20th centuries *Jim Crow* has not been a single institution, but a cluster of practices and rules which maintain our racial divide. . . . Each of these phenomena has its postmodern analogy in current events, and each contributes to the absolute role of race as a marker of status and stature in our current lives.

Id.

¹²⁵ *Id.* at 58.

encompass group-based racial inferiority.¹²⁶ Jim Crow remains a champion of economic segregation because this form of unequal treatment proves to be an excellent proxy for racial segregation. Katrina's aftermath in New Orleans revealed that money matters more than race in the city's evacuation, though this fact offers very little comfort to those who lack the resources to escape a predictable major natural disaster such as Katrina.

The United States has a complicated relationship with respect to race. Jon Hanson and Kathleen Hanson correctly observed that Americans have a lingering history of manifesting a "great confusion" on the issue of equality.¹²⁷ On the one hand, Americans are strong advocates of the ideals of equality and freedom, proclaiming a self-evident, inalienable right to a quality of life that promotes happiness.¹²⁸ However, history demonstrates that America has continually betrayed the principle of equality.¹²⁹ The Trail of Tears and the Tulsa Race Riots are examples of larger patterns of systemic injustice inflicted upon groups of persons living in America because the groups were deemed unworthy of equality.¹³⁰ Every minute of American history shows huge inequalities of wealth, power, and privilege between groups identified by race and gender.¹³¹ It should be beyond question that race-based Jim Crowism was a systematic legal and factual betrayal of America's constitutional commitment to the equal protection of the law for all persons.¹³² It is also a betrayal of the American principle of equality to allow Jim Crow's economic segregation to perpetuate the not so convenient truth that a collection of people in America may routinely receive inferior treatment because of their group status.

From a historical perspective, one might forward the argument that Jim Crow's inferior economic segregation is not new. A Jim Crow state of mind contributed to the less than endearing term "poor white trash." In Daniel R. Hundley's 1860 book, *Social Relations in Our Southern States*,

¹²⁶ See OGLETREE, *supra* note 18, at 97, 223.

¹²⁷ Hanson & Hanson, *supra* note 66, at 415.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² U.S. CONST. amend. XIV, § 1.

the author analyzed social relations in southern states¹³³ and identified eight types of southerners.¹³⁴ “Southern Gentlemen” were ranked number one while the “Middle Classes” were ranked number two, “Southern Yankees” received a number three ranking, “Cotton Snobs” were ranked four, “Southern Yeomen” ranked five, “Southern Bullies” ranked six, and “Poor White Trash” were ranked seven, one place ahead of the “Negro Slaves,” who were ranked number eight.¹³⁵ According to Professor Laurence Thomas: “[T]here are whites in the United States who have been the victims of grave injustice, and who are looked down upon by everyone. These whites sometimes are called ‘rednecks’ or, even less graciously, ‘poor white trash.’”¹³⁶ Some of the people referred to as poor white trash probably hold racist views toward blacks;¹³⁷ yet, “blacks have been racist toward Asians, and Arabs have been racist toward blacks. And so on.”¹³⁸

After being defeated in the Civil War, a majority of white southerners adopted laws and practices that legalized racial separation and racial inequality under the U.S. Constitution.¹³⁹ Jim Crow’s “separate but equal” practices provided the constitutional cover to protect southern white aristocrats.¹⁴⁰ One could contend that a Jim Crow state of mind has influenced every major racial or ethnic group that adopted a stereotypical view of superiority toward another group. When Americans of an ethnic or racial group fear socioeconomic competition from another group, it is easy for them to follow the Jim Crow model of classifying that group as inferior and deserving to suffer the evils of discrimination. For example: “Fearing socioeconomic competition from freed blacks and an upheaval in the southern social hierarchy, whites used lynching as the violent

¹³³ See Thomas D. Russell, *Articles Sell Best Singly: The Disruption of Slave Families at Court Sales*, 1996 UTAH L. REV. 1161, 1203 (citing DANIEL R. HUNDLEY, *SOCIAL RELATIONS IN OUR SOUTHERN STATES* (Arno Press 1973) (1860)).

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Laurence Thomas, *Equality and the Mantra of Diversity*, 72 U. CIN. L. REV. 931, 956 (2004).

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ Hanson & Hanson, *supra* note 66, at 437.

¹⁴⁰ *Id.*

counterpart to Jim Crow segregation and disfranchisement to preserve the antebellum state of power relations.”¹⁴¹

From a historical perspective, the Jim Crow approach preserved the lifestyle of the white southern aristocrat at the expense of both the black slaves and those dehumanized whites labeled as “poor white trash.”¹⁴² If the Jim Crow mentality can keep groups of Americans divided on the basis of race or class, then the substantial number of Americans experiencing economic inequality that causes them to place their health or safety at risk might not complain about a fundamental lack of economic justice.

What must occur to change our Jim Crow mentality? Professor Maria Isabel Medina, who described herself as a person affected by Katrina,¹⁴³ made it clear that she was not a typical Katrina refugee because she had resources that most people impacted by Katrina did not.¹⁴⁴ However, while speaking about Katrina, she asked the following simple, yet profound question: “Will we continue to ignore the plight of the poor and to deny them basic dignity?”¹⁴⁵ Like Professor Medina, I am of the opinion that we as Americans cannot continue to ignore these issues. Furthermore, she eloquently argues that “[s]torms don’t discriminate on the basis of race, color, gender, or wealth—but people and governments do.”¹⁴⁶ Only a change of heart in America to reject the Jim Crow philosophy, in which some groups are treated in an inferior manner in order to promote economic inequality for the advantage of a small but very privileged and very wealthy minority,¹⁴⁷ will help us in the next storm.

V. CONCLUSION

The flawed rescue efforts before and after the hurricane hit may have never occurred if America had truly repented the de facto Jim Crow treatment of its former black slaves. My conclusion is inspired by a talk delivered by Bryan Massingale, a priest of the Milwaukee Archdiocese and

¹⁴¹ See *id.* at 438 (citing STEWART E. TOLNAY & E.M. BECK, A FESTIVAL OF VIOLENCE: AN ANALYSIS OF SOUTHERN LYNCHINGS, 1882–1930 19 (1992)).

¹⁴² *Id.*

¹⁴³ Medina, *supra* note 5, at 9.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 20.

¹⁴⁶ *Id.*

¹⁴⁷ See Hanson & Hanson, *supra* note 66, at 438.

associate professor of moral theology at Marquette University,¹⁴⁸ as reported in a recent *National Catholic Reporter* article.¹⁴⁹ In 2004, a category five hurricane battered the island of Cuba with hurricane-force winds.¹⁵⁰ Approximately one and a half million Cubans were removed to safety;¹⁵¹ they were consequently unharmed by the disaster.¹⁵² The 2004 hurricane destroyed 20,000 homes in the Caribbean region and was responsible for extensive damage in western Cuba.¹⁵³

Compare the Cuban hurricane experience with the events that took place in New Orleans, where at least 1,000 are dead and many others still remain unaccounted for, meaning that the exact death toll may never be known.¹⁵⁴ The distinctions between Cuba and New Orleans are remarkable. According to Dr. Nelson Valdes, a sociology professor at the University of New Mexico and specialist in Latin America: “Merely sticking people in a stadium is unthinkable [in Cuba]. Shelters all have medical personnel, from the neighborhood. They have family doctors in Cuba, who evacuate together with the neighborhood, and already know, for example, who needs insulin.”¹⁵⁵ Dr. Valdes explained that the government evacuated animals, veterinarians, and other personal property so that people can leave without fear that someone might steal their possessions.¹⁵⁶

Major hurricanes do not have to result in the catastrophe and misery America experienced during Katrina in New Orleans. Massingale commented:

¹⁴⁸ Bryan Massingale, *About Katrina: Catastrophe Exposes U.S. Race Reality*, NAT’L CATHOLIC REP., March 2, 2007, at 13.

¹⁴⁹ *Id.* at 10.

¹⁵⁰ STACY R. STEWART, NAT’L HURRICANE CENTER, TROPICAL CYCLONE REPORT: HURRICANE IVAN 2 (2005), http://www.nhc.noaa.gov/pdf/TCR-AL092004_Ivan.pdf.

¹⁵¹ Gary Marx, *Cuba Awaits Pounding as Ivan Nears*, CHI. TRIB., Sept. 13, 2004, at 3.

¹⁵² STEWART, *supra* note 150, at 5 (indicating that no deaths resulted from Hurricane Ivan in Cuba).

¹⁵³ *Id.* at 5–7.

¹⁵⁴ RICHARD D. KNABB ET AL., NAT’L HURRICANE CENTER, TROPICAL CYCLONE REPORT: HURRICANE KATRINA 11 (2006), http://www.nhc.noaa.gov/pdf/TCR-AL122005_Katrina.pdf.

¹⁵⁵ Marjorie Cohn, *The Two Americas*, TRUTHOUT, Sept. 3, 2005, <http://www.truthout.org/article/the-two-americas>.

¹⁵⁶ *Id.*

The Cuban experience reveals that what unfolded in Katrina did not have to happen. What we witnessed was not solely or even primarily the result of natural forces. What occurred was the result of political decisions and social policies. That is, what happened occurred because of human decisions that have ethical significance and that demand moral scrutiny, analysis and reflection.¹⁵⁷

Accordingly, “natural catastrophes don’t have to result in the social catastrophe that we saw” during Katrina.¹⁵⁸

The next disaster might not result in the destruction and heartache of Katrina. Massingale explained:

Katrina as an act of nature was an act beyond human control. But Katrina as a cultural and social phenomenon is a human reality, and for that there is moral responsibility and moral accountability. By Katrina I don’t mean the hurricane, I mean the social context in which that hurricane occurred.¹⁵⁹

I join Massingale in asking all Americans to reflect upon “the deep interconnection among racism, poverty and war”¹⁶⁰ and relief efforts during Katrina. In my opinion, Katrina revealed that the Jim Crow state of mind is deeply interconnected and intertwined with racism, poverty and war. I do not want America to become another Cuba, but I acknowledge the fact that the Cuban civil defense team did not allow a Jim Crow state of mind to keep it from protecting lives during a category five hurricane.¹⁶¹ I hope God will bless America by taking Jim Crow away.

¹⁵⁷ Massingale, *supra* note 148, at 10.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *See id.*