

Proposal for The Katrina Workshop: Redeveloping a Region After a Mega Disaster

*People and Place Matter -
Rebuilding Community and Preserving Identity*

by

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Introduction

This paper begins from the premise that all decisions about rebuilding after Hurricane Katrina and the breach of the levees be evaluated from the perspective of whether and to what degree the proposed action furthers the goal of rebuilding community and preserving identity, culture and history in the devastated areas. The focus is on New Orleans because this is where the rebuilding issues have generated tremendous controversy. While many areas of New Orleans were severely damaged by flooding after the levees broke, people living in predominantly African-American neighborhoods have faced the greatest obstacles to returning to their property and to rebuilding their homes and lives. The fate of this population is critical to the future of this country and rebuilding proposals that do not recognize this are likely to have long-lasting negative effects on the people directly affected and on the entire nation, much like the enduring negative effects of the governmental failures following the Emancipation of the slaves. The theoretical basis for the United States property system failed the freed slaves then and risks failing the survivors of Katrina and the breached levees now. While many evacuees may have begun to establish ties to other neighborhoods and communities, the vast majority of them are still adrift, waiting for an opportunity to return to a place that has been their home, history, community and identity.

In addition to outlining the critiques of traditional property theory and how it has not been applied consistently when powerless groups are involved, this paper's assertion for recognition and protection of identity, culture, heritage and community is based on several theoretical insights. Margaret Radin's theory of property and personhood provides a basis for evaluating the interests of the evacuated residents and how respect for these interests is essential to "human flourishing." The writings of theorists who focus on social relations, such as Martha Minow and Jennifer Nedelsky, serve as a foundation for examining the importance of community to individual autonomy and for critiquing current rebuilding proposals that purport to give each individual evacuee a choice either to rebuild, or to take a cash buyout.

Property Interests in Culture, Identity, Heritage and Community

The traditional definition of property rights as "relations among people regarding control of valued resources,"¹ though certainly useful as a framework for studying the law of property, places the definition of property in oppositional terms of two or more people fighting over the right to control a particular resource and may fail to take into account the non-fungible values individuals might place on an object or the place that has been the "scene of one's history."² This section explores theoretical bases for appreciating and protecting interests in culture, identity, heritage and community of those displaced in the aftermath of Katrina and the flooding. These interests are compared to protections provided for intellectual property, protections for cultural objects and

¹ Joseph William Singer, *PROPERTY LAW: RULES, POLICIES, AND PRACTICES* xxxix (4th ed., 2006).

² Margaret Jane Radin, *REINTERPRETING PROPERTY* 57 (1993).

artifacts, and protections for historic structures, among others. These types of protections are founded on the idea that individuals and society as a whole benefit. Similarly, rebuilding plans must appreciate individual and societal interests in reestablishing the devastated communities.

Community in New Orleans

This section discusses the history of African-Americans in New Orleans from Emancipation to pre-Katrina, and describes the demographics of the communities in East New Orleans and the Ninth Ward. In addition, this portion includes residents' descriptions of the close-knit community in these areas and other significant cultural aspects from the music and food to the architecture. Historic neglect of these communities resulted in devastating poverty, on the one hand, and grass-roots political action on the other. The rebuilding efforts can take advantage of these deep community roots and loyalties by including the affected people in the discussion of plans to reestablish the broken communities.

The African-American Diaspora

This section briefly describes the forced relocation of people from Africa to be pressed into slavery, the constructive relocation, known as the "Great Migration North" caused by danger and lack of opportunity in the South after Emancipation, and the "Katrina Diaspora" as a result of evacuation before the storm and rescue and relocation after it. Each of these relocations resulted in the tragic separation of families and the breakup and destruction of communities. The Katrina Diaspora is likely to have lasting effects on the individuals and families directly involved and on the nation as a whole. Plans for reviving the devastated communities have the potential to temper the negative affects by providing practical, moral and real support for those who want to return.

The Fate of Powerless Groups After Disasters

This section incorporates some of the controversy about how to construct a "New" New Orleans into a discussion of other attempts to relocate powerless and disfavored communities. This will include discussions of attempts to relocate Chinatown in San Francisco before and after the 1906 earthquake and fires, the fate of poor immigrants after the Chicago fire of 1871, the resettlement of the Japanese-Americans after closing World War II internment camps, and the relocation of Africville, Nova Scotia in the 1960s. Each of these examples raises issues about preserving community, heritage and identity. These examples also illustrate how the failure to protect these groups can cause deep and lasting damage. In addition, this section will distill from these examples lessons about which strategies may be more successful for reestablishing community and preserving identity, and how to avoid placing obstacles before people who seek to return and to reestablish their community.

Conclusion

The goal of this paper is to establish a theoretical and practical basis for recognizing property interests in heritage, community and identity in the aftermath of the broken levees in New Orleans. In addition, this paper seeks to establish an historical basis for the dire need for this protection to avoid further oppression, alienation and harm to the African-American community. Ultimately, rebuilding must provide evacuees with real choices by ensuring, for example, that those who wish to return are able to do so because the levees will be redesigned to guarantee their security. This is just one of many aspects of rebuilding that would afford residents a realistic opportunity to reestablish their communities, and preserve their identities.