

### WHY AMNESTY?

*Amnesty, or forgiveness of charges, is one of several possible remedies for, or responses to, human rights violations. It is often a key demand raised in response to the imprisonment of people by unjust government actions. The call for amnesty generally demands the immediate unconditional release of prisoners, primarily because of the illegitimacy of the arrest and imprisonment.*

#### **The Government Response to Hurricane Katrina is Perpetuating Human Rights Violations in New Orleans**

Critical Resistance is challenging the imprisonment and prosecution of people whose cases are impacted by Hurricane Katrina, and the treatment of those incarcerated during and in the wake of the storm. Thousands have been affected—over 6,000 people were seriously endangered in Orleans Parish Prison (OPP) when Katrina hit and flooding began, and hundreds more, arrested after the storm, were thrown into chaos. Take, for example, Melinda Beane who languished in Angola 48 days after she should have been released. Ms. Beane was held on a warrant that was ultimately dismissed, but had no access to courts. Or there is the plight of Pedro Parra-Sanchez, “lost” for 13 months after a post-Katrina arrest. Mr. Parra-Sanchez was not arraigned or tried. He did not see an attorney or the inside of a courtroom until he was finally released in November 2006.

Well-documented systemic failures in preparedness and a lack of evacuation plans played a major role in the disaster experienced disproportionately by African American and poorer residents of all races in New Orleans in the days following Katrina. There is growing recognition of the neglect and abandonment of African American and poor residents of New Orleans as a human rights violation and of those uprooted by the storm as internally displaced people due rights and remedies under the UN’s Guiding Principles on Internal Displacement.

The U.S. government has ratified three treaties with the United Nations that protect poor people from human rights violations: the International Covenant on Civil and Political Rights, the Convention on Elimination of Racial Discrimination, and the Convention against Torture. Nonetheless, Hurricane Katrina and its aftermath clearly illustrate the ways in which the U.S. ignores its treaty obligations to respect and protect the people of New Orleans.

Like the violations that characterize the storm’s effects more broadly, the treatment of the Prisoners of Katrina violates U.S.-ratified international treaties:

#### **The International Covenant on Civil and Political Rights, Articles 7, 9, and 10:**

- *Article 7 prohibits torture and cruel, inhuman or degrading punishment* — People left in OPP were subjected to horrendous environmental hazards, left without food and water, and many were abandoned in locked cells as waters rose. When prisoners were finally evacuated some were taken to state prisons where they were assaulted with racist slurs, beaten by guards, and subjected to routinized physical torture reminiscent of the infamous Abu Ghraib prison in Iraq. One man was badly beaten then forced to lick his own blood off the floor. Others were threatened by guards dressed in riot gear, made to kneel in one position perfectly still for hours on end and beaten if they moved.
- *Article 9 prohibits arbitrary arrest or detention and the deprivation of liberty except in accordance with the law and established procedure* — Many arrested just before and after Katrina did not see an attorney or judge for weeks or months after their arrest, effectively denying them due process and forcing them to spend time in prison they likely would not have otherwise. Many of those arrested directly after the storm, mostly Black residents, were picked up on arbitrary charges or for trying to help family and friends survive the floods. Others in OPP awaiting trial, but not convicted, were thrown into legal limbo, left inside when evidence in their cases was destroyed in the flooding. If there is no evidence to try these prisoners, due process requires that they must be released.
- *Article 10 requires that people deprived of their liberty be treated with humanity and respect* — Mayor Ray Nagin issued a mandatory evacuation order just before Katrina hit. He explicitly exempted all OPP prisoners and the staff to run the jail. Sheriff Gusman refused offers to help move prisoners, saying that they would “stay where they belong.” The mayor’s recognition that all residents should leave New Orleans,

and his choice to allow 6,000 of them to be left behind in danger simply because they were prisoners is in violation of Article 10. The conditions those prisoners were forced to endure further violated their human rights. They were left in toxic floodwater, with no outside communication (prisoners' phones were shut off two days before the storm even hit), while officials took over four days to evacuate and even then left prisoners on a highway overpass, bound and under armed guard, maced for standing to stretch or urinate, still with little food or water.

### **The Convention Against Torture (CAT), Articles 1 and 2 and The Convention of Elimination of Racial Discrimination (CERD), Articles 2 and 5:**

- *Article 1 of CAT prohibits the intentional infliction of severe pain and suffering for any reason based on discrimination of any kind. Article 2 forbids using exceptional circumstances, including natural disaster, as justification for torture. Articles 2 and 5 of CERD requires participating states not to sponsor, defend, or support racial discrimination and asserts the rights of people to bodily safety and security without regard to race* — The mostly Black and poor people in OPP were treated by the state as totally expendable when they were abandoned and subsequently abused at the hands of Sheriff's officers and state prison guards. Prisoners then faced explicit racial harassment and outrageous violence in the prisons to which they were evacuated.

### **Amnesty is one of the possible remedies for addressing Katrina-related human rights violations in New Orleans**

**The Prisoners of Katrina Amnesty Campaign seeks amnesty for people who were arrested for trying to take care of themselves and their families, people who were kept in custody after their release date, and people whose rights to due process were violated due to lost or damaged evidence.** The campaign demands that the records of prisoners of Katrina be permanently erased from all municipal, state, federal, credit, and employment agencies; that no one should be arrested, charged, tried, sentenced, fined, imprisoned, jailed, detained, involuntarily relocated, or deported as a result of Katrina-specific actions.

After Katrina, the bulk of government apathy was directed at the mostly African American residents of New Orleans, many of whom lacked the resources to evacuate when Mayor Nagin issued a mandatory order to do so. Daily reports from the flood ravaged city highlighted "looting" and rumors of violence in the streets, and at the Superdome and the Convention Center, where thousands of people took shelter and waited for help. For the most part, Black people were characterized as "thugs" and "hoodlums." After nearly 15,000 National Guard troops moved into New Orleans, Governor Blanco's well-reported warning that the troops were "locked and loaded" sent a message of terror and resulted in containment through curfews, checkpoints, and intimidation.

Critical Resistance recognizes the massive targeting and incarceration of people of color in the U.S. as a violation of the prohibitions in the Convention on Elimination of Racial Discrimination on state-fostered racial discrimination and seeks to apply the requirements of international human rights law to challenge the systemic root of punishment. Additionally, CR supports new remedies to redress the effects of racism and other human rights violations that do not rely on the very systems perpetuating those violations.

The call for amnesty is a call to address the injustices suffered by those stranded in a chaotic system, and ensures that those who have charges pending or convictions on their records for Katrina-specific "crimes" can move forward with their lives. Today, the frequent use of background checks, particularly for housing and employment, greatly jeopardizes displaced residents' right to return home. Individuals with a criminal conviction or a pending case, as well as their family members can be excluded from public housing and job opportunities. In a post-Katrina New Orleans, this is particularly egregious. Amnesty minimizes the long-term consequences—particularly as the city rebuilds—for people and communities most impacted by the prison industrial complex.

Further, amnesty can fundamentally change the ways in which we think about and approach notions of genuine public safety. The mobilization of tens of thousands of military and law enforcement personnel in the wake of Katrina and the abandonment, then systematic abuse, of prisoners highlights practices that are neither abnormal nor extreme. Rather, they represent the terrifyingly logical outcomes of the prison industrial complex and its justifications, even in the face of (ostensibly) natural disaster.