

REBUILDING AFTER KATRINA

A Population-Based Study of Labor
and Human Rights in New Orleans

JUNE 2006



International Human Rights Law Clinic, Boalt Hall School of Law, University of California, Berkeley
Human Rights Center, University of California, Berkeley
Payson Center for International Development and Technology Transfer, Tulane University



INTERNATIONAL HUMAN RIGHTS LAW CLINIC
BOALT HALL SCHOOL OF LAW
UNIVERSITY OF CALIFORNIA, BERKELEY

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Photographs by Gilles Peress. The telephone number on billboard photo has been altered for privacy protection.

REBUILDING AFTER KATRINA

A POPULATION-BASED STUDY OF LABOR AND
HUMAN RIGHTS IN NEW ORLEANS

JUNE 2006

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EXECUTIVE SUMMARY

Hurricane Katrina made landfall just east of New Orleans, Louisiana early in the morning of August 29, 2005.¹ For the next five hours, the Category 3 storm ravaged the city and its neighboring communities. A twenty-foot storm surge broke through the city's three levees flooding entire neighborhoods. High winds and rising waters ripped down power lines and destroyed buildings. By late morning, Katrina had moved northward displacing hundreds of thousands.² In the weeks that followed, over a thousand bodies were recovered from the floodwaters.³

Local and out-of-state contractors, aware that federal reconstruction grants would be forthcoming, soon moved into areas affected by the hurricane to begin the massive clean up operation.⁴ But labor was scarce. The number of workers employed in construction and related industries had dropped by nearly half.⁵ On September 6, the Department of Homeland Security announced that it was suspending certain labor regulations for a 45-day period to accommodate survivors who had lost identity documents in the storm. During that time, employers would not be required to confirm employee identity and eligibility documents to federal authorities.⁶ Two days later, the Department of Labor lifted wage restrictions for a period of two months. Contractors working on federally-funded construction projects could now pay their employees below prevailing federal wage standards.⁷

Word of the need for labor in New Orleans spread quickly throughout the United States and the city was soon flooded again, this time with thousands of men and women eager to find work.⁸

As clean up efforts got underway, the media reported that some employers in the Gulf Coast area had failed to pay their workers or to provide them with adequate safety equipment and housing.⁹ The Southern Poverty Law Center filed lawsuits against two large contractors for failure to pay wages to migrant workers who were removing toxic mold from hospitals and schools in order to restore public services to New Orleans. Workers alleged their employers paid them so poorly that they could not afford to buy food.¹⁰ Reports of abuse—coupled with the easing of labor regulations, virtually no monitoring of construction sites, and the city's lack of adequate housing and healthcare—suggested that unscrupulous contractors could easily be exploiting their workers.

Against this background, the International Human Rights Law Clinic and the Human Rights Center at the University of California, Berkeley collaborated with the Payson Center for International Development and Technology Transfer at Tulane University to conduct a study of the situation of construction workers in New Orleans. The study took place in March 2006 and examined both *documented* and *undocumented* workers. Documented workers include U.S. citizens, permanent residents, work visa holders, and those workers with temporary immigration status, while undocumented workers are immigrants who are considered to be living in the United States illegally, although some may be eligible for legal status but have not obtained it.

The study used three research methods: key informant interviews, targeted sampling, and random sampling. (These methods are described in greater detail in the Introduction.) Researchers interviewed 25 key informants including legal advocates; social service providers; community activists; health care providers; business leaders; policymakers; representatives of minority and immigrant groups; and representatives of federal, state, and local government agencies in Louisiana and Mississippi. Researchers also used targeted sampling to interview 148 Latino

workers in different sites in New Orleans and Kenner.¹¹ The goal was to determine the needs of Latino workers as they represent the largest group of undocumented workers. The third technique involved the random sampling of 212 workers of all origins working in Orleans parish. The random sampling was conducted to provide quantitative information on workers' experiences. The sample size was designed to be representative of all construction workers in New Orleans.¹²

The specific objectives of the study were:

1. To collect demographic information about laborers employed in the construction and related industries in New Orleans and its environs;
2. To assess the needs and experiences of workers in the construction industry including job security, safety, fair pay, discrimination, and access to adequate housing and health care; and
3. To study the overall impact of the changing workforce demographics in the Gulf Coast region.

These are some of the main conclusions of the research:

- ◆ ***Nearly half of the reconstruction workforce in New Orleans is Latino, of which 54 percent is undocumented.*** Most of these workers have arrived since the storm and are performing tasks critical to the rebuilding of New Orleans and its neighboring communities. By virtue of their racial minority, language, and legal status, they constitute a vulnerable group and under international human rights standards are afforded appropriate protections. International instruments oblige public authorities to adopt measures that will effectively *protect* individuals from violations of human rights, *monitor* compliance with these protections, and, if rights are violated, provide victims with access to appropriate *remedies*.
- ◆ ***Documented and undocumented workers are vulnerable to exploitation by their employers because of inadequate legal protection and the failure on the part of federal and local authorities to monitor construction sites.*** Workers interviewed in the random survey report working with harmful substances (29 percent) and in dangerous conditions (27 percent). In the wake of the hurricane, the federal agency responsible for workplace safety suspended its enforcement actions and focused on providing employers with technical assistance. However, the data suggest these efforts fell short: 19 percent of the workers said they are not provided with any protective equipment. These problems are further compounded by the city's lack of adequate health and medical services.
- ◆ ***Undocumented workers are especially at risk of exploitation.*** Thirty-four percent of undocumented workers report that they receive less money than they expected when paid, compared to 16 percent for documented workers. Twenty-eight percent of undocumented workers said they had problems obtaining payment, compared to 13 percent of documented workers. The average hourly wage among documented workers is \$16.50 compared to \$10.00 for undocumented workers.

- ◆ ***Few workers have medical insurance or seek medical care.*** Less than half (43 percent) of construction workers have medical insurance. More than half (55 percent) of documented workers have medical insurance, compared to nine percent of undocumented workers. Among construction workers who report health problems, a little more than one-quarter (27 percent) sought medical treatment. All workers report health concerns but undocumented workers are far less likely to seek medical treatment. Eighty-three percent of documented workers reported receiving medications when needed, compared to 38 percent of undocumented workers.
- ◆ ***Few workers report harassment by police.*** Very few (five percent) of workers report they had been harassed by police. Documented workers report police harassment at a higher frequency (six percent) than undocumented workers (two percent). The frequencies reported by participants are lower than suggested by newspaper reports and key informants.
- ◆ ***U.S. immigration laws are at odds with national and international labor standards.*** U.S. immigration laws prohibit employment of workers who do not have legal permission to work. Yet federal labor, health, and safety protections are—at least, in theory—supposed to be afforded to workers without regard to their legal status. Our data show that employers have hired a significant number of undocumented workers, but many of them are not complying with workplace regulations. We cannot have it both ways. Either we enforce immigration laws effectively and prevent illegal immigrants from working or we allow them to work and provide them with the same labor, safety, and health protections afforded documented workers.

In an effort to ameliorate these disparities, this study offers the following recommendations:

- 1. The federal government should create an expedited process of issuing work authorizations in federally-declared disaster zones.** By enabling undocumented workers already residing in the United States to obtain legal permission to work in disaster areas, federal authorities will be able to meet the demand for labor and expedite the reconstruction process. However, such work authorizations must be accompanied by measures that provide workers with full labor, health, and safety protections. Procedures should be established to monitor construction sites and sanction those employers who violate these protections.
- 2. Federal, state, and local authorities should strengthen employer accountability for labor violations. Enforcement of worker health and safety regulations, including mandatory workers' compensation coverage, should be improved for all laborers.** Effective, accessible mechanisms to resolve wage disputes and remedy violations of wage laws must be available to workers regardless of legal status. These mechanisms should contain provisions that allow for judicial review. Regulation and administration of workers' compensation programs should be reformed to improve employer compliance. Additional resources need to be allocated to increase access to legal services for workers and to deter unscrupulous employers.
- 3. Federal immigration enforcement must be separate from enforcement of labor protections.** Employers should be held accountable for violations of immigration laws. At the same time, laws must be revised to eliminate gaps that allow employers to hire

undocumented workers and subsequently evade their obligations to respect the rights of these employees. Laws and policies that link worker protections to legal status must be eliminated. Undocumented workers should have effective access to workers' compensation coverage, safety training, and other programs designed to promote worker health and well-being. Outreach programs informing workers of their rights and responsibilities should be developed and implemented. Immigration enforcement should not involve health care providers or other institutions engaged in provision of social services or implementation of worker protections.

- 4. Public authorities in those areas affected by Hurricane Katrina should increase access to healthcare, with particular attention to the needs of undocumented Latino workers.** The healthcare system throughout the hurricane-affected areas needs to be rebuilt as quickly as feasible. Access to public and private healthcare must not be conditioned on legal status. Affordable health insurance should be made available to the working poor without regard to legal status to improve equal access to health care for workers.
- 5. Further study of working conditions and treatment of laborers in the Gulf Coast region should be conducted.** The demographic composition of the workforce in New Orleans has changed dramatically since Hurricane Katrina and is likely to evolve further as residents return to the region. Economic conditions could change dramatically depending on the timing and amount of federal aid that is directed to fund reconstruction. Further study of the treatment and needs of workers, particularly undocumented Latino workers, is needed and should be repeated over time to document and respond to changing trends.

INTRODUCTION

Hurricane Katrina made landfall just east of New Orleans, Louisiana early in the morning of August 29, 2005.¹³ For the next five hours, the Category 3 storm ravaged the city and its neighboring communities. A twenty-foot storm surge broke through the city's three levees flooding entire neighborhoods. High winds and rising waters ripped down power lines and destroyed buildings. By late morning, Katrina had moved northward displacing hundreds of thousands.¹⁴ In the weeks that followed, over a thousand bodies were recovered from the floodwaters.¹⁵

Local and out-of-state contractors, aware that federal reconstruction grants would be forthcoming, soon moved into areas affected by the hurricane to begin the massive clean up operation.¹⁶ But labor was scarce. The number of workers employed in construction and related industries had dropped by nearly half.¹⁷ On September 6, the Department of Homeland Security announced that it was suspending certain labor regulations for a 45-day period to accommodate survivors who had lost identity documents in the storm. During that time, employers would not be required to confirm employee identity and eligibility documents to federal authorities.¹⁸ Two days later, the Department of Labor lifted wage restrictions for a period of two months. Contractors working on federally-funded construction projects could now pay their employees below prevailing federal wage standards.¹⁹

Word of the need for labor in New Orleans spread quickly throughout the United States and the city was soon flooded again, this time with thousands of men and women eager to find work.²⁰

As clean up efforts got underway, the media reported that some employers in the Gulf Coast area had failed to pay their workers or to provide them with adequate safety equipment and housing.²¹ The Southern Poverty Law Center filed lawsuits against two large contractors for failure to pay wages to migrant workers who were removing toxic mold from hospitals and schools in order to restore public services to New Orleans. Workers alleged their employers paid them so poorly that they could not afford to buy food.²² Reports of abuse—coupled with the easing of labor regulations, virtually no monitoring of construction sites, and the city's lack of adequate housing and healthcare—suggested that unscrupulous contractors could easily be exploiting their workers.

The Study

Against this background, the International Human Rights Law Clinic and the Human Rights Center at the University of California, Berkeley collaborated with the Payson Center for International Development and Technology Transfer of Tulane University to conduct a study of the situation of construction workers in New Orleans.

The specific objectives of the study were:

1. To collect demographic information about laborers employed in the construction and related industries in New Orleans and its environs;
2. To assess the needs and experiences of workers in the construction industry including job security; safety; fair pay; discrimination; and access to adequate housing and health care; and
3. To study the overall impact of the changing workforce demographics in the Gulf Coast region.

The study was conducted in March 2006 and examined both *documented* and *undocumented* workers. Documented workers include U.S. citizens, permanent residents, work visa holders, and those workers with temporary immigration status, while undocumented workers are immigrants that are considered to be living in the United States illegally, although some may be eligible for legal status but have not obtained it. All the undocumented workers interviewed in our study were Latino.

Research Design and Instruments

The study used qualitative and quantitative methods to assess the needs and priorities of workers engaged in reconstruction activities in New Orleans. These methods included key informant interviews, targeted sampling of Latino workers, and random sampling of construction workers. All participants were 18 years old or older. Participation in the random survey was strictly voluntary with informed consent. No financial compensation was provided for participation in the study. All interviews, including the survey interviews, were anonymous. Key informants working on labor issues were interviewed in New Orleans as well as along the Gulf Coast of Mississippi, while targeted and random surveys were administered in New Orleans.

Researchers used a structured questionnaire to conduct the interviews for the targeted and random survey (see Appendix A). The questionnaire contained 130 questions on demographics, employment, health, and potential violations of human rights. Researchers first developed the questionnaire in English and then translated it into Spanish. The questionnaire was translated back into English and then reviewed by native and fluent Spanish speakers from Central and South America to ensure the quality of the translation. In addition, a modified version of the Johns Hopkins Depression Symptom Checklist was used to assess potential symptoms of depression among interviewees.

Key Informant Interviews

During March 2006 researchers interviewed 25 key informants including legal advocates, social service providers, community activists, health care providers, business leaders, policymakers, representatives of minority and immigrant groups, and representatives of federal, state, and local government agencies in Louisiana and Mississippi. Each interview lasted one to two hours. Key informants were selected based on in-depth discussion with a representative sample of service providers, community organizations, as well as minority and immigrant group representatives.

Targeted Sampling of Latino Workers

The study used targeted sampling to interview 148 Latino workers in different sites in New Orleans and Kenner.²³ The goal was to determine the needs of the Latino community, and especially the needs of undocumented workers. To locate the Latino workers, researchers consulted with local organizations that monitor labor activities in New Orleans. A map was prepared noting locations of residential areas, worker pick-up sites, and social gathering places such as restaurants, churches, laundry mats, and parks. Survey teams of two to three trained graduate students from the University of California, Berkeley and Tulane University were sent to the identified locations. Eighteen researchers randomly selected and interviewed up to 10 individuals at each site. The survey teams approached a total of 256 individuals, of whom 148 consented to be interviewed, resulting in a refusal rate of 42 percent. During the data analysis, we eliminated three interviews as they failed to meet the selection criteria (not of Latino origin).

Researchers used a structured questionnaire to conduct the interviews (see Research Design and Instruments, above and Appendix A).

Random Sampling of Workers

The third technique involved the random sampling of 212 workers of all origins working in Orleans parish. The random sampling was conducted to provide unbiased quantitative information on workers' experiences. The sample size was designed to represent all construction workers in New Orleans.²⁴

Hurricane Katrina: Damage and Reconstruction

- ❖ FLOODING OR STORM DAMAGE HAS AFFECTED MORE THAN A THIRD OF THE REGION'S 1.7 MILLION RESIDENTS.ⁱ
- ❖ OVER 1,300 RESIDENTS OF LOUISIANA HAVE DIEDⁱⁱ AND 597 ARE STILL MISSING AS A RESULT OF THE HURRICANE.ⁱⁱⁱ
- ❖ THE TOTAL COST OF THE STORM'S DAMAGE IS ESTIMATED AT \$96 BILLION.
- ❖ 250,000 HOUSING UNITS IN NEW ORLEANS ALONE WERE DAMAGED OR DESTROYED.^{iv} ONLY A FRACTION OF THE HOUSING UNITS IN NEW ORLEANS HAVE BEEN REBUILT.
- ❖ 38.1 MILLION CUBIC YARDS OF DEBRIS (60 PERCENT OF THE TOTAL) HAVE BEEN REMOVED FROM THE CITY.^v
- ❖ ELECTRICITY AND GAS SERVICES ARE NOW RESTORED IN MOST AREAS OF THE CITY, BUT STREETS REMAIN LARGELY UNLIGHTED.^{vi}
- ❖ PUBLIC SERVICES AND CRITICAL ECONOMIC SECTORS LIKE TOURISM CONTINUE TO OPERATE AT SUBSTANTIALLY DIMINISHED LEVELS.^{vii}
- ❖ THE U.S. CONGRESS HAS NOT PASSED A PROPOSED \$29.8 BILLION RECOVERY PACKAGE THAT WOULD HELP FUND RESIDENTIAL REBUILDING THROUGH A COMMUNITY DEVELOPMENT FUND.^{viii}
- ❖ MANY RESIDENTS HAVE NOT RETURNED TO NEW ORLEANS, AND RECONSTRUCTION IS PROGRESSING SLOWLY.

Anticipating that researchers would not be able to interview construction workers at some selected sample points, a random sampling of 296 housing unit addresses was conducted using a comprehensive address database for the City of New Orleans proportionate to the number of housing units within each census tract (see Flood Map). Researchers created the database by merging the New Orleans Sewage and Water Board dataset of the addresses with water meters at residential and commercial properties with data from the Census Bureau and the Geographic Information Systems (GIS) Department of New Orleans. This provided researchers with a database of all the addresses in the City of New Orleans with geographic reference points and links to pre-Katrina demographic information. The sampling procedure was conducted with the support of the Emergency Operations Center (EOC) of New Orleans.

Trained graduate students were assigned to the 296 housing units. Once the surveyors arrived at a designated point (sampled housing unit), they were instructed to select a construction worker. If the selected address had construction workers, the survey team would

ask the closest person standing to the left to participate in the study. If the selected address had no construction workers, then the closest house within a 10 block radius was selected.

Of the 296 selected points, the survey teams failed to locate workers within the 10 block radius for 84 of the points due to little or no construction work under way in the selected area. This

is either because the area was largely unaffected by the hurricane or, inversely, because little reconstruction was taking place in heavily damaged areas. These areas included the neighborhoods of Lake View, Gentilly, Mid-City, and the Lower Ninth Ward. In total, the survey teams approached 351 construction workers and completed 212 interviews, resulting in a refusal rate of 40 percent. Four interviews were incomplete. The survey instrument used for the random survey was the same as that described above for the targeted sample (See Appendix A).

Limitations to the Study

The combined three techniques of key informant interviews, targeted survey, and random survey provide a triangulated view of workers' experience and concurring evidence that increase the validity of the findings. Researchers designed the methodology and questionnaire to reduce any potential bias or threat to the reliability and validity of the findings. Nevertheless, possible limitations to this study must be acknowledged.

First, the survey components of the study were administered only in New Orleans and therefore may not reflect the situation in the broader Gulf Coast region affected by Hurricane Katrina. However, based on the labor conditions described by key informants outside of New Orleans as well as review of available documentation, there should be no significant difference in conditions affecting the employment and living conditions of reconstruction workers in New Orleans and those in other areas of the Gulf Coast.

Second, the survey instrument covered sensitive subjects including discrimination, labor abuses, violations of human rights, trauma, and immigration status. It is possible that respondents did not answer truthfully because they feared being reported to immigration authorities. However, confidentiality was stressed in the consent form, names were never asked or recorded, and the concurrence of evidence through the three approaches reduced the risk of systematic error. In some cases, workers refused or contractors did not allow workers to participate in the survey. This may have contributed to under-reporting on sensitive issues such as human rights abuses and illegal status. In addition, a relatively high refusal rate to be interviewed could have further contributed to under-reporting. However, the relatively high refusal rate (42% for the targeted sample and 40% for the random sample) is to be expected in light of the demanding working conditions and little availability of time to participate in the survey.

The sensitivity of the questions also may have placed the respondent at additional risk (e.g. employer dissatisfaction if the worker participated in survey) or reminded respondents of traumatic experiences. Ensuring confidentiality as discussed above may have minimized the risk. Additionally, survey teams gave respondents information sheets and contact information for non-governmental organizations active on the ground that could provide support on human rights issues and address any question or issue respondents might have. In addition, the study protocol was carefully reviewed and approved by the Committee for the Protection of Human Subjects at the University of California, Berkeley and the Institutional Review Board of Tulane University.

Third, only the random survey provides unbiased quantitative estimates on workers' experience. Key informant interviews and targeted sampling that used convenient sampling typically can be biased due to non-random selection. Figures provided in the discussion of the results are always derived from the analysis of the random survey component unless otherwise specified. Results from the targeted sampling of Latinos will be presented where appropriate.

BACKGROUND

History teaches us that those most affected by natural disasters tend to be the poor and socially marginalized. Natural disasters, like armed conflicts, disrupt local economies and place vulnerable groups at risk of exploitation. Women and children, especially if they are widowed or orphaned, may suffer higher rates of mortality and morbidity. Natural disasters can also exacerbate systemic weaknesses and abuses in government bureaucracies, especially if such systems are poorly managed or lack accountability mechanisms. Over time, natural disasters can radically alter the physical geography, demographic profile, and power relations of the impacted area.²⁵

While a growing body of literature examines the long-term impact of natural disasters on survivors, little, if anything, is known about the vulnerabilities of groups of workers that migrate to post-disaster areas. Even less is known about how the presence of migrant laborers in these settings can affect the social and economic dynamics of post-disaster communities.

U.S. history provides at least two examples where large numbers of migrants have faced widespread discrimination after arriving rapidly in new areas of the country. Between 1916 and 1919, hundreds of thousands of African-Americans left the southern United States in search of greater social and economic opportunities in the North. Known as “The Great Migration,” a substantial number of these internal migrants settled in the south side of Chicago where employers hoped their presence would solve labor shortages and diminish union demands. Yet, many city residents, particularly recently-arrived white immigrants, feared their new neighbors would drive down property values, increase competition for jobs, and threaten their political power.²⁶ Racial tensions increased, culminating in a spate of bombings and a race riot that lasted for several days and left 23 blacks and 15 whites dead.²⁷

In the 1930s, poor “Dust Bowl” farmers faced similar problems when they left their drought-ravaged farms on the southern plains in search of work in the Central Valley of California.²⁸ While large growers generally welcomed the new workers, they often paid them wages well below subsistence level. Thousands of migrants failed to find work and lived by the side of the road in camps called “Little Oklahomas.”²⁹ Locals derogatorily called the migrants “Okies,” and a sign in at least one theater read: “Negroes and Okies Upstairs.”³⁰

Reports indicate that many—if not most—of the men and women who have traveled to New Orleans in search of work are Latino.³¹ By virtue of their racial minority, language, and legal status, they constitute a vulnerable group and under international human rights standards are afforded appropriate protections. International instruments direct public authorities to adopt measures that will effectively *protect* individuals from violations of human rights, *monitor* compliance with these protections, and, if rights are violated, *provide* victims with access to appropriate *remedies* (See Appendix B).

The Demographics of New Orleans

The population of greater New Orleans reflects the diversity of multiple migrations since the arrival of the Spanish colonizers in 1500.³² French trappers also settled in the area, as did Acadians (French colonists) after the British forced them out of Canada beginning in 1764. By 1785, 165,000 slaves had been brought to Louisiana. German immigrants began arriving in the

mid-1800s and were later joined by Irish refugees fleeing the potato famine.³³ Jewish migrants, though officially excluded from the area in 1724, also settled in New Orleans. At the end of the 19th century, Italian labor was recruited to the Gulf Coast to replace newly-emancipated slaves.³⁴

During most of the last century, migration into the Gulf Coast remained relatively low due to lack of economic growth in the South.³⁵ However, beginning in the 1990's, foreign-born migrants from Mexico, Vietnam, China, and India began to settle in cities and towns along the coast.³⁶ Yet the absolute number of foreign-born residents remains small. In the three Gulf Coast states of Mississippi, Alabama, and Louisiana, the 2000 census reflects less than a total of 200,000 foreign-born residents.³⁷

Despite the proximity of the Gulf Coast to Mexico and Central America, prior to Hurricane Katrina, Louisiana had a relatively small Latino population, 2.4% (compared to 12.5% nationally).³⁸ Latinos and Caribbean migrants comprise less than 40 percent of foreign-born residents of Louisiana, Mississippi, and Alabama compared with 64 percent throughout the South. In New Orleans, the largest foreign-born Latino population is Honduran, most of whom have legal status.³⁹ By 2000, Latinos comprised approximately 4 percent of the greater New Orleans population.⁴⁰

Emerging Tensions/Community Debates

So far, there have been no reports of targeted violence or systematic exclusion aimed at Latinos in New Orleans. Yet many key informants told us that tensions could easily surface between the new Latino arrivals and residents as reconstruction begins and the character of the “new” New Orleans becomes visible. Our key informants pointed to three factors that could increase tensions between residents and the Latino population: *uncertainty, personal loss and deprivation, and race and reconstruction.*

Uncertainty. Virtually every key informant told us that the ability of individuals to invest in rebuilding New Orleans was contingent on decisions by public authorities—local, state, and federal—that were not forthcoming. At the time of the interviews, the Federal Emergency Management Agency had not issued new flood maps to designate the required elevation level for rebuilt homes.⁴¹ Although the City of New Orleans had announced that homeowners were allowed to rebuild, the municipal authorities had not committed to providing city services to all areas. Homeowners face the prospect of rebuilding in areas where there may be no police protection, sewage, or sanitation services. The result is a sense of protracted uncertainty about fundamental conditions of public and private life. Public officials, private service providers, and business leaders said that the lack of certainty regarding the rules that would govern reconstruction colored virtually every aspect of their work and prevented progress toward rebuilding. Against this background, it is not surprising that there is no coordinated public planning effort to identify and address the needs of the Latino population that has migrated to the region in search of work.

Personal Loss and Deprivation. Hurricane Katrina affected virtually everyone in New Orleans. The vast majority of the key informants told us they had suffered damage to or complete loss of their homes. Almost all had experienced displacement for some period of time or had close friends or relatives who had lost homes or suffered damage to property. As a result, expectations and standards regarding acceptable housing, hospital care, and employment opportunities have

diminished. In a climate of deprivation, residents who have remained in the city express a sense of entitlement to have their needs attended to before those of ‘outsiders.’ Indeed, several key informants who work with Latino workers told us they consciously temper their advocacy efforts for fear that they will anger permanent residents.

Race and Reconstruction. The subject of race and rebuilding is an extremely sensitive topic and most key informants declined to address the issue directly. Rather the subject emerged in discussions about the potential impact of a permanent increase in the number of Latino residents or in response to questions about who would supply the labor necessary to rebuild. At a meeting with business leaders a month after the hurricane, Mayor Ray Nagin reportedly asked: “How do I ensure that New Orleans is not overrun by Mexican workers?”⁴² He quickly disavowed the remark after pressure from civil rights groups, but the comment and reactions to it highlight the tensions between residents and newcomers.

Many key informants told us that employers had a bias in favor of hiring Latino immigrants over African-Americans. Some employers reportedly express the opinion that Latinos have a reputation for industriousness and a willingness to tolerate the difficult and uncomfortable working conditions involved in debris removal and demolition work. Several key informants expressed concern that, in the absence of state interventions to promote job opportunities for African-Americans, competition for construction jobs could pit Latinos against the city’s historically excluded, poor, and underserved African-Americans residents.

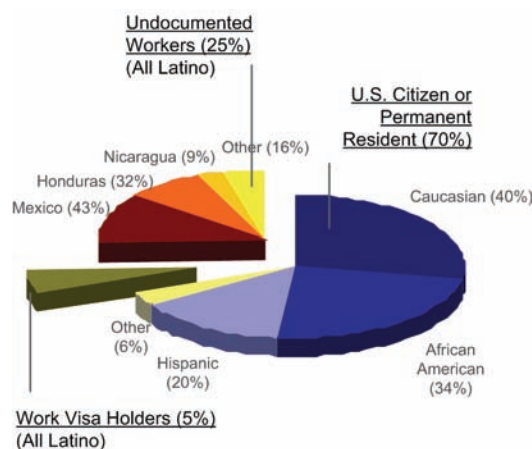
FINDINGS

Composition of the Construction Workforce in New Orleans

As the previous section underscores, race and immigration are sensitive but important issues that will continue to affect the reconstruction effort and the future social fabric of the Gulf Coast region. One of the first objectives of the study was to obtain demographic information on both documented and undocumented workers.

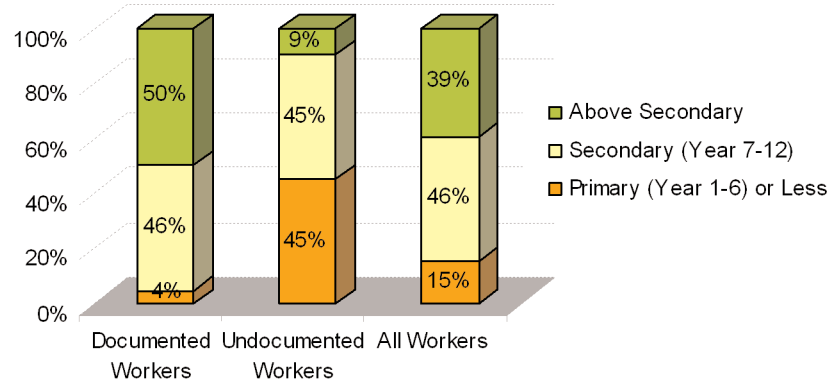
- ❖ **Undocumented workers constitute 25% of the workforce in New Orleans.** Seventy percent of the workers in New Orleans are U.S. citizens or permanent residents. Five percent are foreigners with a work visa. Twenty-five percent are undocumented workers.
- ❖ **Forty-five percent of construction workers are Latino, of whom 54 percent are undocumented.** Among U.S. citizens and permanent residents, 40 percent are Caucasian, 34 percent African-American, 20 percent Latino, and six percent are of another race or declined to answer. All work visa holders are Latino. Similarly, all undocumented workers are Latino. The main countries of origin among undocumented construction workers are Mexico (43 percent), Honduras (32 percent), Nicaragua (nine percent), El Salvador (eight percent) or other countries (eight percent).

Figure 1: Immigration Status and National Origin of Construction Workers in New Orleans⁴³



- ❖ **Undocumented workers are younger than documented workers.** According to the analysis of the random survey of construction workers, the majority of the construction workers are male (93 percent). Their average age is 38 years old. However, undocumented workers are significantly younger than documented workers (p-value <0.001), with respective mean ages of 30 and 41 years old.
- ❖ **Undocumented workers are generally less educated than documented workers.** Education status, a predictor of earning potential, greatly differs among the groups. Only 55 percent of the undocumented workers have completed more than primary education, compared to 96 percent of the U.S. citizens and permanent residents.

Figure 2: Educational Status of Construction Workers in New Orleans



❖ **Workers’ family ties are disrupted, especially among undocumented workers.** Fifty-nine percent of construction workers are married or in a marital relationship, and 69 percent have children. Figures for documented workers and undocumented workers are very similar. However, among married workers, the spouses of 29 percent of the undocumented workers accompanied them to the hurricane-affected area, compared to 62 percent among documented workers. Forty-three percent of the documented workers have plans to bring their spouses to join them within the next 12 months, compared to only 10 percent of the undocumented workers. Comparable statistics were found in the targeted sample of Latino workers.

Table 1: Household Dynamic

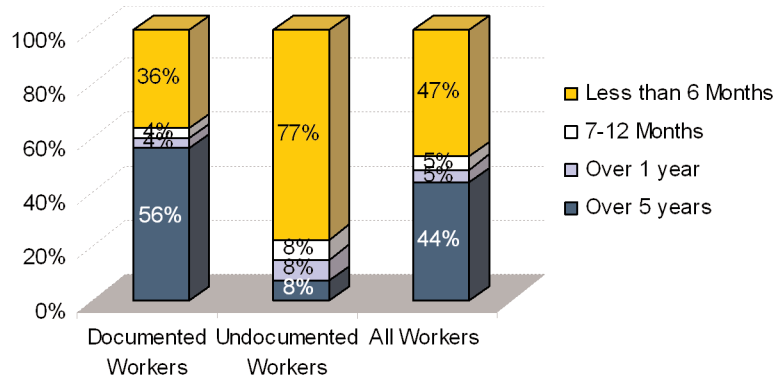
	Documented Workers (n=155)	Undocumented Workers (n=53)	All Workers (n=208)
Married or long term partner? (% yes)	59%	58%	59%
If yes, is partner present? (% yes)	62%	29%	53%
If not, will partner come within 12 months? (% yes)	43%	10%	29%
Have children? (% yes)	68%	69%	69%

Current and Planned Length of Stay

Critical to planning for reconstruction is information about whether Latino workers are likely to remain. We assessed recent and future workforce trends by asking construction workers how long they had lived in New Orleans and how long they planned to stay.

❖ **About half of the construction workers (three quarters among undocumented workers) came to New Orleans six months ago or less.** Forty-seven percent of the workers came to New Orleans within the last six months. The majority (60 percent) of the documented workers have lived in the hurricane-affected area for over one year, while the figure for undocumented workers is 15 percent. The data suggest that the majority of the undocumented workers (77 percent) did not live in New Orleans or its environs before the hurricane struck.

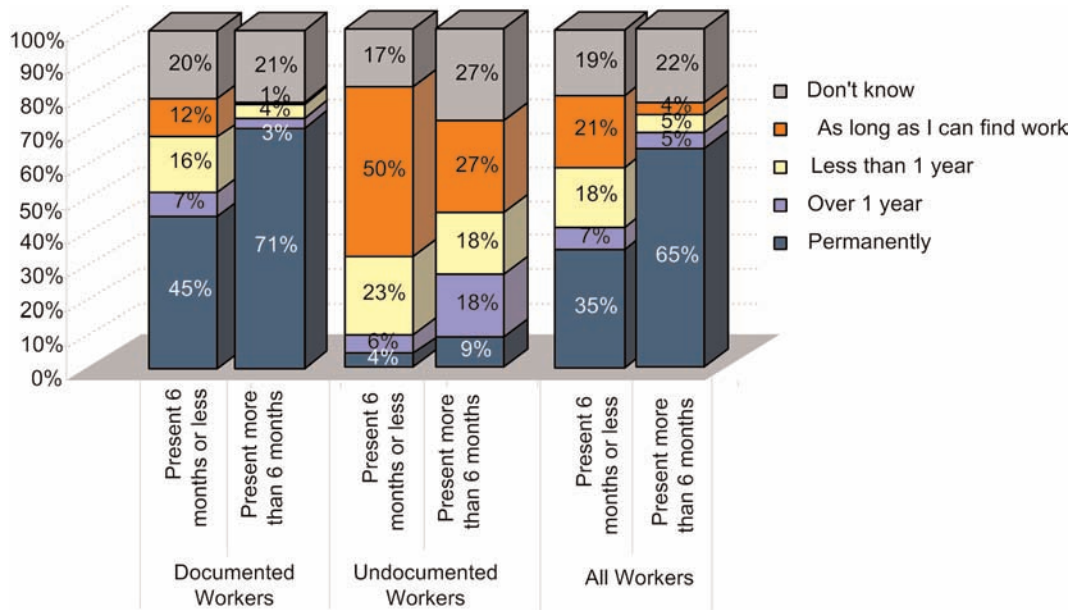
Figure 3: Duration of Presence of Construction Workers in Hurricane- Affected Areas



- ❖ ***Two-thirds of the Latino construction workers have been in New Orleans six months or less.*** According to the random survey data, only 33 percent of the Latino workers have lived more than six months in the hurricane-affected areas, compared to 68 percent among non-Latino workers. This is further confirmed by the targeted survey of Latino workers: 70 percent of the 140 respondents moved to New Orleans within six months prior to the study. Among Latino undocumented workers, the figure was even higher, with 88 percent of the targeted sample of respondents residing in New Orleans for six months or less.
- ❖ ***Most of the undocumented workers who came to New Orleans within the last six months were already residing in the United States.*** The reconstruction effort in New Orleans and the Gulf Coast cannot be directly associated with a wave of illegal immigration into the United States. The majority (87 percent) of the undocumented workers had lived in the United States before moving to areas affected by Hurricane Katrina to work. They come predominantly from Texas (41 percent) and Florida (10 percent).
- ❖ ***Media and social networks are driving factors to attract construction workers.*** Nearly half of the construction workers (47 percent) who came to New Orleans after the hurricane heard about the availability of work⁴⁴ primarily through friends (34 percent) and family (15 percent). Television (28 percent) was also a driving factor, especially among undocumented workers (39 percent) compared to documented workers (19 percent). Thirteen percent of the Latino workers were recruited by general contractors outside of the hurricane-affected area.
- ❖ ***Documented workers are more likely to stay permanently in the areas affected by Hurricane Katrina than undocumented workers. Workers that have been in the area for more than six months are more likely to stay permanently than those who arrived after the hurricane.*** When asked how long they plan to stay in the hurricane-affected areas, responses varied greatly among documented and undocumented workers and depended on how long they had lived in the hurricane-affected areas. The results of the analysis of the random survey are illustrated in Figure 4. Documented workers frequently responded that they would stay permanently or over a year in the region, especially if they had lived in the area for over six months: 70 percent said they would stay perma-

nently. Even those documented workers who came to hurricane-affected areas after Katrina hit frequently said that they would stay permanently (45 percent). Among undocumented workers, few workers reported that they wanted to relocate permanently to New Orleans: nine percent among those who lived in hurricane-affected areas for over six months, and four percent among those who arrived six months ago or less. For the most part, undocumented workers said they planned to stay as long as they could find work: 27 percent among those present more than six months and 50 percent among those who arrived within the last six months. These numbers are similar to those found in the targeted sample of Latino workers.

Figure 4: Intended Length of Stay of Construction Workers in Hurricane-Affected Areas



- ❖ ***New Orleans is still a good place to live.*** Despite the relatively low figures on workers planning to stay permanently, 65 percent of the construction workers (68 percent among documented workers and 55 percent among undocumented workers) said New Orleans was a good place for themselves and their family.

Housing Conditions

A key goal of the study was to investigate reports of substandard housing conditions for workers. We posed a series of questions to survey participants to gain a better understanding of the living situation of construction workers.

- ❖ ***Most construction workers reside in the city near construction sites.*** The analysis of the random survey data indicates, perhaps not surprisingly, that most construction workers reside near construction sites. It is therefore a relatively good proxy indicator of where work is taking place. The majority of workers live in Orleans parish (46 percent) and across the Mississippi river on the West Bank (17 percent). The geographic distribution of documented and undocumented workers does not show much variation.

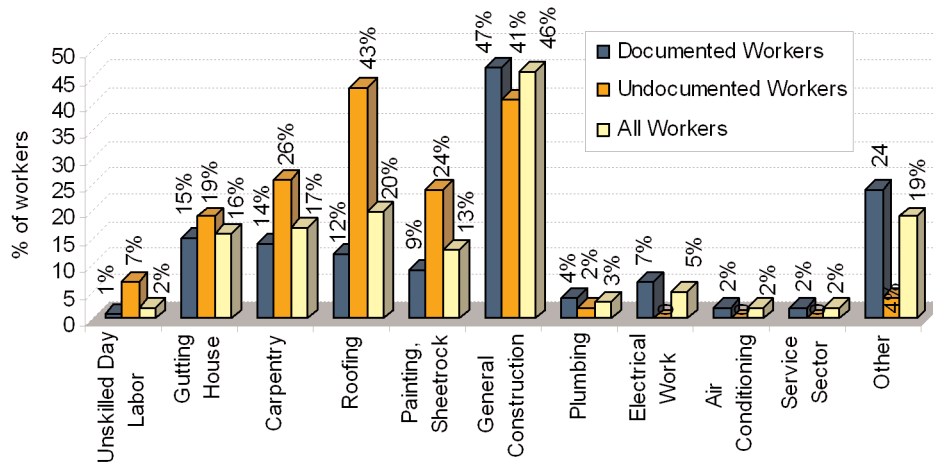
- ❖ ***General type of housing differs among documented and undocumented workers.*** Most workers live in houses (50 percent), both among documented (52 percent) and undocumented workers (42 percent). However, nearly twice as many undocumented workers (45 percent) live in apartments compared to documented workers (23 percent). Few workers reported living in cars or at the construction site (two percent of the undocumented workers).
- ❖ ***Construction workers share housing with 5 people on average.*** Both documented and undocumented workers share housing with about the same number of people (average of five people per housing unit).
- ❖ ***Access to amenities is worse among undocumented workers.*** When asked about specific amenities, the situation of undocumented workers proves to be more precarious than that of documented workers: 10 percent of undocumented workers said they did not have access to a bathroom with a shower at either work or home, compared to one percent for documented workers. Ten percent of the undocumented workers also said that they did not have access to a kitchen, running water or electricity, compared, respectively, to seven percent, one percent, and three percent for documented workers.

Labor Conditions

Several questions probed allegations of possible work-related abuses to provide a better understanding of work conditions experienced by construction workers.

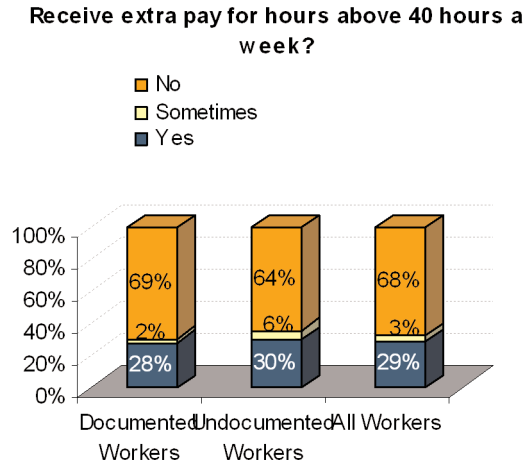
- ❖ ***Most construction workers are currently employed and most were employed before coming to New Orleans.*** According to the random sampling survey, most workers (72 percent) were employed before coming to the hurricane-affected areas and 93 percent are currently employed. However, fewer undocumented workers (58 percent) reported being employed before moving to the hurricane-affected areas compared to documented workers (79 percent). The difference was statistically significant ($p\text{-value} < 0.005$). With regard to the current employment rate it should be noted that the sampling strategy may have led to an overestimation of the level of employment among construction workers.
- ❖ ***Undocumented workers perform general construction work with some level of specialization while documented workers more frequently specialize in skilled labor.*** We asked respondents what type of construction work they usually perform. They were given the option of providing multiple answers. Low-skilled work is the most frequent answer: general construction (46 percent) is most common although some level of specialization is found concentrated in specific tasks: roofing (20 percent), carpentry (17 percent), gutting houses (16 percent) and painting and sheetrock work (13 percent). However, as illustrated in Figure 5, documented workers more frequently report work activities requiring more advanced skills, such as electrical work (seven percent) and plumbing (four percent). The data suggest differentiation in the type of construction work performed by documented and undocumented workers, with undocumented workers performing work with higher associated risk such as roofing and debris removal. About three times as many undocumented workers (43 percent) perform roofing work compared to documented workers (12 percent). Approximately twice as many undocumented workers (24 percent) paint and install sheet-rock compared to documented workers (nine percent).

Figure 5: Construction Jobs of Workers in New Orleans



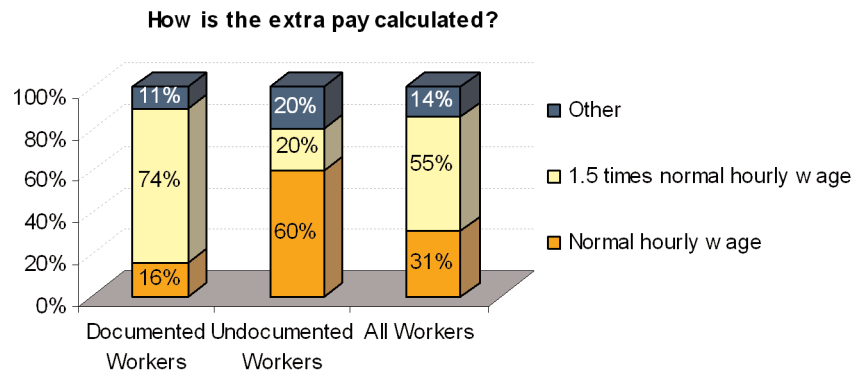
- ❖ **Construction workers work an average of 9.5 hours a day six days a week.** Based on self-reported information on number of hours worked and salary, the random survey of construction workers indicates that they labor on average 9.5 hours a day and about six days a week. There is no significant difference between the number of hours and numbers of days a week worked among documented and undocumented workers.
- ❖ **Wages for undocumented workers are below those of documented workers.** Hourly wages vary significantly (p -value <0.001) between the two groups. The average hourly wage among documented workers is \$16.50 compared to \$10.00 for undocumented workers. Even when adjusted for the type of work performed, the data suggest that the hourly wage of undocumented workers is below that of documented workers (p -value $<.05$). Among those who reported to be carpenters, the difference is roughly \$ 3.00 between the two groups. The same difference is found among roofers. Those differences, however, are not statistically significant possibly because of the small sample size in each work group.
- ❖ **Construction workers generally receive pay on a weekly basis.** Employers of undocumented workers generally pay them on a weekly (66 percent) or daily (19 percent) basis. Documented workers receive pay on a weekly basis (64 percent) or upon completion of the work (22 percent compared to 11 percent for undocumented workers).
- ❖ **Construction workers frequently report experiencing problems receiving wages owed, especially undocumented workers.** Thirty-four percent of undocumented workers reported that they received less money than they expected when paid, compared to 16 percent for documented workers. Twenty-eight percent of undocumented workers said they had problems being paid, as compared to 13 percent of documented workers.
- ❖ **Hours above 40 hours a week frequently are not paid.** Despite the large number of hours worked, few workers report receiving extra pay for hours worked above 40 a week (29 percent).

Figure 6: Extra Pay for Workers in New Orleans



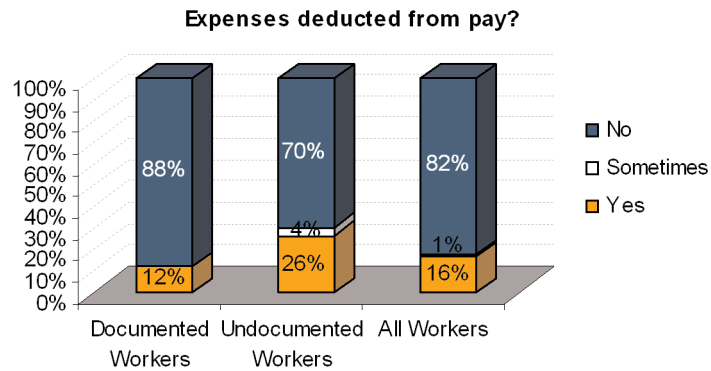
- ❖ *When paid extra hours, undocumented workers generally receive their normal hourly wage, while documented workers frequently receive 1.5 times their normal hourly wage.* Seventy-four percent of documented workers received pay for extra hours at one and half time the normal hourly wage, compared to 20 percent for undocumented workers.

Figure 7: Calculation of Extra Pay for Workers in New Orleans (2)



- ❖ *Employers deduct expenses frequently from pay among undocumented workers.* Employers deduct expenses from salaries more frequently from undocumented workers (27 percent) than documented workers (12 percent). Among undocumented workers, those expenses are for housing (43 percent), transportation (43 percent), and food (25 percent). Among documented workers, employers deducted expenses for food (30 percent) most frequently from workers' salary.

Figure 8: Expenses Deducted from Pay of Workers in New Orleans



❖ **Protective equipment generally is available but insufficient, especially for undocumented workers.** We asked workers about the protective equipment available to them at work. The random survey data indicate that 19 percent of construction workers do not have any type of protective equipment. Undocumented workers possess equipment less frequently (72 percent) than documented workers (84 percent). The most widely available protective equipment is gloves (46 percent), goggles (46 percent) and face masks (45 percent). Few workers have multiple protective articles: Only 16 percent of them have gloves *and* goggles *and* a face mask. Documented workers are more likely to have goggles (51 percent) than undocumented workers (32 percent). Undocumented workers, however, more frequently report having a harness than documented workers. This possibly results from the fact that they more frequently work on roofs, as discussed above. The following table provides detailed results (respondents have the option to provide several answers; therefore the percentages of responses do not add up to 100 percent).

Table 2: Equipment of Workers in New Orleans

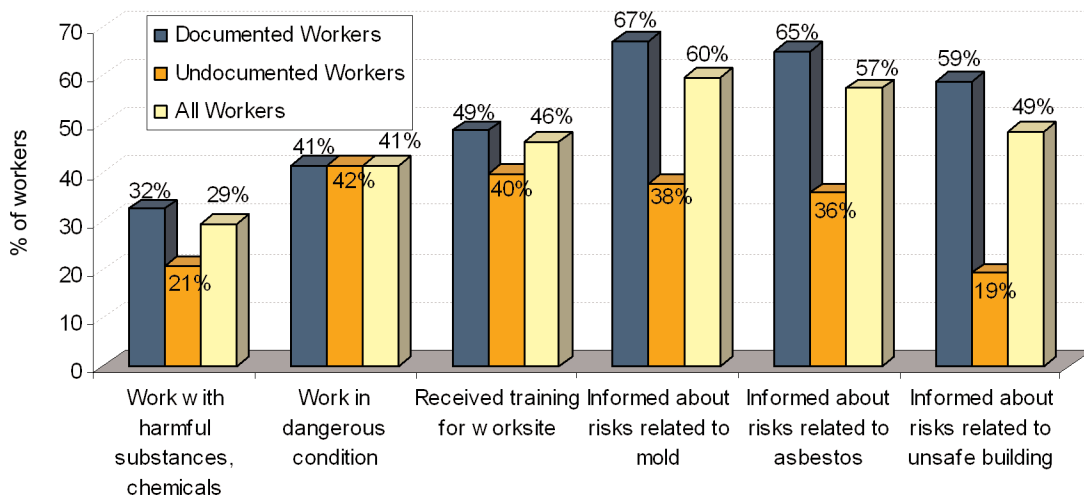
	Documented Workers (n=155)	Undocumented Workers (n=53)	All Workers (n=208)
Any Type	84%	72%	81%
Gloves	46%	43%	46%
Hard Hat	25%	13%	22%
Steel-Toed Boots	22%	19%	21%
Goggle	51%	32%	46%
Face Mask	46%	42%	45%
Respirator	18%	17%	18%
Hearing Protection	6%	6%	6%
Vest	7%	0%	5%
Overalls	12%	4%	10%
Harness	4%	15%	7%
Other	10%	8%	10%

❖ **Most workers who have access to protective equipment use it.** The availability and use of protective equipment are critical given the high exposure to unsafe material and conditions among workers. Among those who have protective equipment, the employer pro-

vided the equipment for 64 percent of the construction workers. Sixty-one percent of the workers said their employers required that they use the gear. Overall, 86 percent of the workers who have protective equipment report using it. More undocumented workers report doing so (97 percent) compared to documented workers (82 percent), which is possibly due to the nature of their work. Those who do not use their protective equipment reported they believe it does not provide additional protection (32 percent) or is uncomfortable (23 percent).

- ❖ **Documented and undocumented workers labor in dangerous conditions but documented workers generally are better prepared to work in such situations.** Workers interviewed in the random survey reported working with harmful substances (29 percent) and in dangerous conditions (27 percent). Undocumented workers report working with harmful substances less frequently (21 percent) than documented workers (32 percent) although this may be due to the lack of awareness of what harmful substances are. More importantly, undocumented workers are less prepared for work conditions than documented workers: Only 40 percent received any type of training for the workplace compared to 49 percent among documented workers. Awareness of risk related to mold (38 percent), asbestos (36 percent) and unsafe building (19 percent) is significantly lower among undocumented workers than among documented workers with respectively 67 percent (mold), 65 percent (asbestos) and 59 percent (unsafe building) reporting receipt of such information.

Figure 9: Worker Risk Exposure and Information (% of Workers)



Health Concerns

Post-disaster clean up and construction work often exposes laborers to health risks due to working in unsanitary and dangerous conditions (e.g. polluted water, spilled chemicals, downed electrical lines, mold-infested buildings, asbestos, etc.). To evaluate the health impacts of rebuilding we asked participants about their general health and access to health services.

- ❖ **Workers frequently report health problems including, coughs, colds, cuts and bruises, recurring headaches, and eye infections.** During the random survey, we asked participants whether they experienced any of the 15 health problems listed on Table 3, and if yes, how much of a problem it was. Since very few respondents (less than 1%) reported

serious problems, we combined serious and minor problems into one single category. For symptoms of depression we used a modified version of the Johns Hopkins Depression Symptom Checklist containing 15 assessment items and scoring system. The top five most commonly reported health symptoms among the workers are cold/flu (39 percent), cough (34 percent), cuts/bruises (33 percent), recurring headaches (24 percent), and eye infections including red and watery eyes (21 percent). Documented workers significantly report more cuts and bruises than undocumented workers. On the other hand, undocumented workers significantly report more nose bleeds and recurring headaches than documented workers. In addition, undocumented workers (17 percent) are also more likely to report symptoms of depression than documented workers (9 percent); however, the difference was not statistically significant. This may be due to low statistical power because we also found a higher percentage (24 percent) of surveyed undocumented workers reporting symptoms of depression in the Latino targeted sample.

Table 3: Reported Health Problems Among Workers in New Orleans

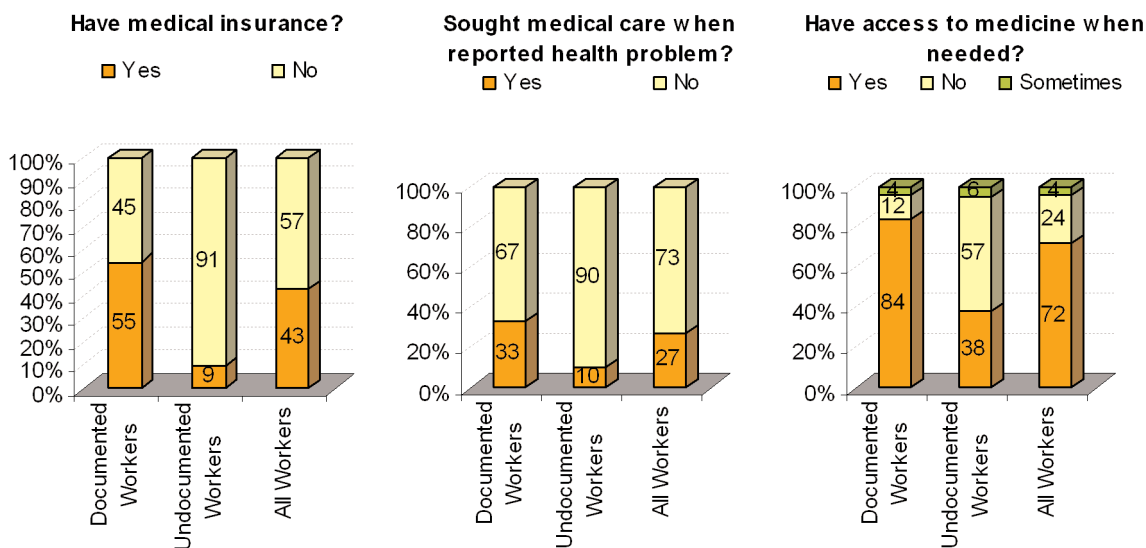
	Documented Workers (n=155)	Undocumented Workers (n=53)	All Workers (n=208)
Cold/Flu	36%	49%	39%
Cough	34%	32%	34%
Cuts/Bruises*	38%	17%	33%
Recurring headache*	17%	42%	24%
Eye Infections (Red/Watery)	20%	25%	21%
Difficulty breathing	17%	9%	15%
Hypertension	13%	4%	11%
Depression	9%	17%	11%
Skin rashes, swelling	10%	8%	9%
Difficulty remembering	9%	8%	9%
Broken/Sprained Limbs	8%	6%	7%
Nose Bleeds*	4%	15%	7%
Diarrhea	7%	0%	5%
Head Injuries	5%	2%	4%
Diabetes	5%	0%	3%
Asthma attack	4%	2%	3%
Burns	2%	0%	1%

* indicates health symptoms for which there is a statistically significant difference among documented and undocumented workers (p-value <0.05)

- ❖ **Few workers have medical insurance, even among documented workers.** Less than half (43 percent) of the construction workers have medical insurance. More than half (55 percent) of the documented workers report that they have medical insurance and nine percent of the undocumented workers report having medical insurance. We did not expect any undocumented workers to have medical insurance; however, data from the targeted Latino workers also indicate that a small number of interviewed undocumented workers have medical insurance. How and where they obtain such insurance is not assessed.
- ❖ **Documented workers are more likely to have access to medicine and treatment when needed than undocumented workers.** The random survey data further indicate that

among the documented workers, 83 percent report having medicine when needed while only 38 percent of the undocumented workers have access to medicine when needed. Among the construction workers who report health problems, a little more than one-quarter (27 percent) had sought medical treatment. Documented workers (33 percent) were four times more likely to seek medical treatment than undocumented workers (10 percent) ($p\text{-value} < .005$). The documented workers mostly seek treatment at Charity Hospital (temporarily located at the convention center), Oschner Hospital, and through private physicians.

Figure 10: Insurance and Health Care for Workers in New Orleans



- ❖ **Undocumented workers have access only to free health services, while documented workers are more frequently covered or can pay for the treatment.** Seventeen percent of documented workers who sought medical care said that their treatment costs were covered by the insurance provided by their employer. Twenty percent of documented workers who sought medical treatment reported that they were covered by personal health insurance, 29 percent paid for it out-of-pocket, and 20 percent received free medical treatment. All undocumented workers who report having sought medical treatment did so at mobile clinics and health services provided by charity organizations such as the American Red Cross.

Human Rights and Legal Issues

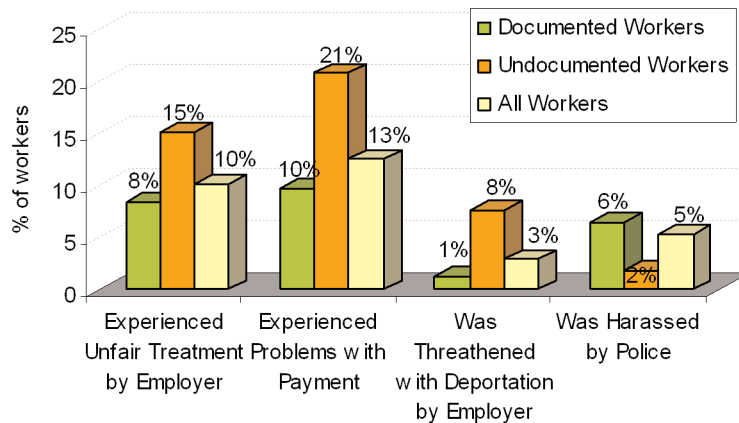
There have been numerous media reports of police or contractors abusing workers.⁴⁵ To move beyond the anecdotal aspect of those reports and evaluate the scope and gravity of such events, we asked workers selected for the random survey a series of questions on possible human rights abuses.

- ❖ **The main problems faced by workers involve unfair treatment by employers and lack of payment of wages, especially among undocumented workers.** The analysis of the random survey data indicate that the main problem faced by workers is payment of wages rather than abuses by the police or immigration authorities. Thirteen percent

of the construction workers report having experienced problems collecting wages and 11 percent knew of co-workers, friends or relatives who experienced similar problems. Undocumented workers report more difficulties with payment than do documented workers. Twenty-one percent of undocumented workers said they had problems being paid compared to 10 percent of documented workers. Construction workers report unfair treatment by employers relatively frequently (10 percent) as a direct experience. Again, undocumented workers report the problem more frequently than documented workers, with respectively 15 percent and eight percent as a direct experience. Not surprisingly, the majority (89 percent) of the construction workers who report having received threats of deportation from their employers were undocumented workers. Eight percent of the undocumented workers report that problem. The results are presented in Figure 11.

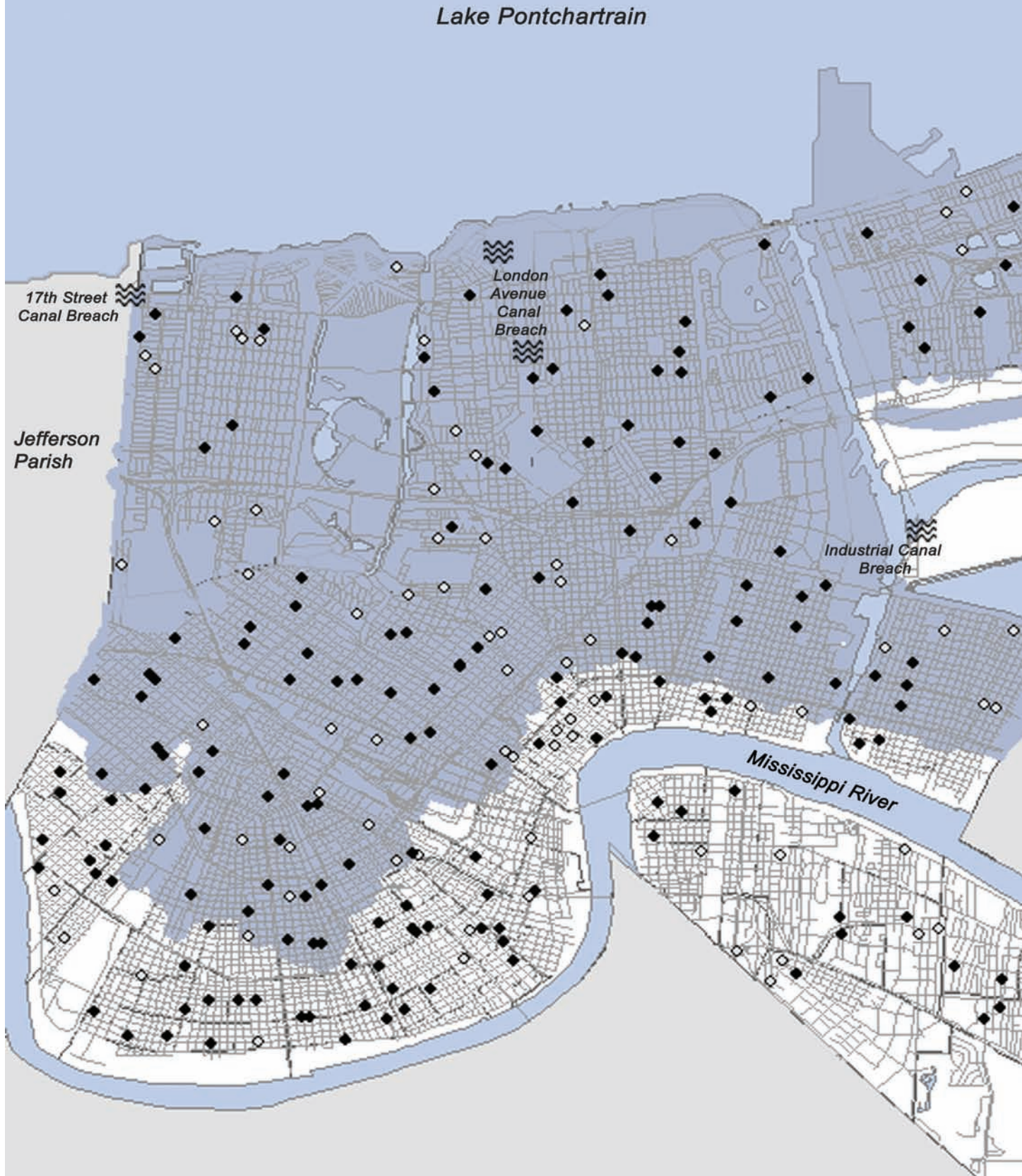
- ❖ **Harassment by police is relatively infrequent compared to problems with employers.** Police harassment is not frequently reported among workers (five percent) and is more frequently cited among documented workers (six percent) compared to two percent among undocumented workers. This is possibly due to the fact that undocumented workers typically try to avoid interactions with the police.

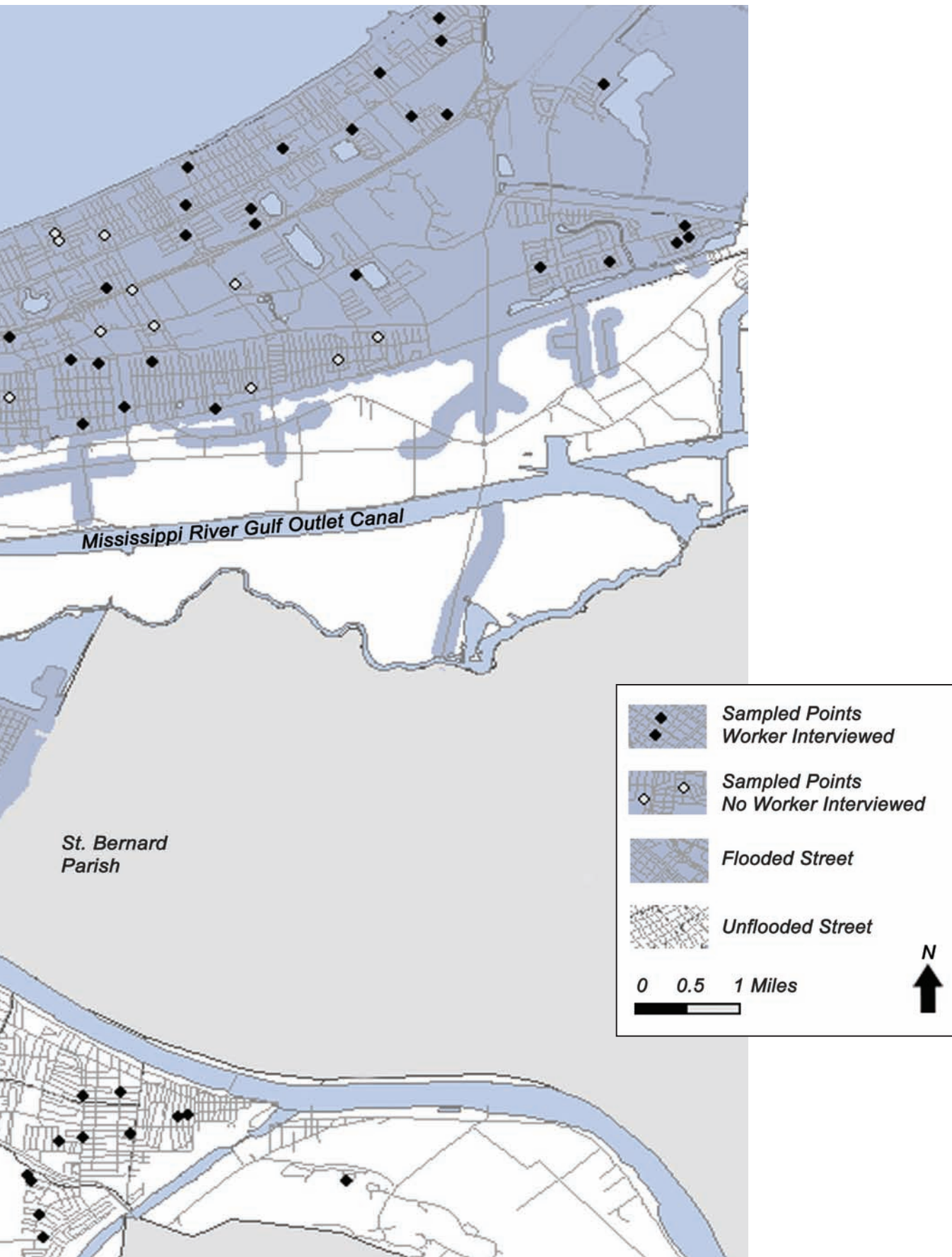
Figure 11: Experience of Abuses by Workers in New Orleans



- ❖ **Encounters and problems with immigration officers are not frequently reported among undocumented workers.** Undocumented workers in the random survey were asked a series of questions about their experiences with immigration services. Thirteen percent of the undocumented workers report encountering immigration personnel who generally only checked the worker’s identification. In three cases respondents report that immigration officials took away people. Ten percent of the undocumented workers report having experienced themselves or being aware of co-workers who experienced unfair treatment by immigration officers. Those relatively low figures are supported by the findings from the targeted survey of Latino workers that shows that 18 percent of the undocumented workers report being approached by immigration authorities and 16 percent report unfair treatment by these officials. No definition was provided to respondents as to what constitutes “unfair” treatment; however it likely includes harassment, arrest and possibly deportation.

Flood Map with Study Participant Sampled Points





Current Concerns

A comprehensive picture of the experience of workers will provide insight into some of the challenges that must be faced as reconstruction policies are developed.

- ❖ ***Legal status (work, residential) is a concern among undocumented workers.*** Among documented workers, their main concerns are access to insurance, education for children, and financial problems. Sixteen percent identify politics (concerns about corruption and government leadership) and the rebuilding of the city as concerns. One-quarter of the documented workers state that they have no concerns, compared to 20 percent among undocumented workers. Among undocumented workers, their main concerns are lack of work (27 percent), obtaining a work permit (25 percent), obtaining residential status (20 percent), the absence of their family (14 percent), poor pay (12 percent) and poor housing (12 percent).

Table 4: Concerns of Workers in New Orleans

	Documented Workers (n=155)	Undocumented Workers (n=53)	All Workers (n=208)
None	25%	20%	24%
Health	13%	2%	10%
Politic and Rebuilding	16%	0%	12%
Hurricanes, Flood, and Levees	9%	0%	7%
Housing Problem	8%	12%	9%
Lack of work	7%	27%	13%
Poor Working Condition	6%	4%	6%
I don't belong here	3%	4%	3%
Poor Pay	3%	12%	6%
Obtaining Working Permit	1%	25%	7%
Obtaining Residential Status	1%	20%	6%
Family not here	3%	14%	6%
Immigration	1%	6%	2%
Other	22%	14%	20%

CONCLUSIONS AND RECOMMENDATIONS

This report is based on a population-based study of conditions of workers rebuilding New Orleans and its neighboring communities. Our findings raise serious concerns about working conditions and workers' rights. Undocumented workers are especially vulnerable. They are at risk of exploitation and are poorly informed about the inherent dangers in their work. They lack knowledge of services available to them and lack basic safety equipment. Furthermore, the current laws regulating their work environment and access to basic services are weak and must be reformed. Measures—from improving services to increasing accountability and reforming the legal framework—must be taken to address these shortcomings.

Latinos comprise nearly half (45%) of the reconstruction workforce in New Orleans. Most of these workers arrived since Hurricane Katrina, confirming reports of a large Latino migration to the Gulf Coast. These workers are performing tasks critical to the rebuilding of New Orleans. Key informants across a variety of professions report that Latino workers are making a positive contribution to New Orleans. As one business leader remarked: “But for Latinos willing to live where others have not, we’d be in worse shape.” That said, so far, local and national authorities have failed so far to comprehend the *human costs* that are being borne by Latino workers. Continued lack of attention to this growing undocumented population could result in an underclass of exploited workers.

U.S. immigration laws are at odds with national and international labor standards. The Inter-American Court of Human Rights, the highest human rights tribunal in the Americas, recently held that labor rights must be extended to all workers regardless of status because “the migratory status of a person can never be a justification for depriving him of the enjoyment and exercise of his human rights, including those related to employment.”⁴⁶ United States immigration laws prohibit employment of workers who do not have legal permission to work. However, employers continue to hire undocumented workers. Labor, health, and safety protections are—at least, in theory—supposed to be afforded to workers without regard to their legal status. Federal minimum wage and overtime regulations as well as health and safety provisions apply to workers, regardless of their immigration status (See Appendix B). In practice, undocumented workers enjoy lesser protections. We cannot have it both ways. Either we enforce immigration laws effectively and prevent illegal immigrants from working or we allow them to work and provide them with the same labor, safety, and health protections afforded documented workers.

This study found that the inconsistency between immigration laws and workplace regulation is harmful to undocumented workers. We found that this group experiences problems similar to those of documented workers but of a greater magnitude, particularly in the areas of wages, health and safety, and access to healthcare. Our data are consistent with research on natural disasters that finds minorities and migrants have greater difficulties accessing and enforcing their rights.⁴⁷ Moreover, undocumented workers are paid significantly less than those with legal status for the same type of work performed. Undocumented workers receive overtime compensation at less than one-third the frequency as documented workers. Of further concern is the finding that undocumented workers report greater problems than documented workers with employers in a number of areas, including receipt of wages owed, threats of deportation, and other types of perceived unfair treatment.

Similarly, the data on safety equipment and preparedness suggest that significant disparities exist between documented and undocumented workers. It is possible that language barriers inhibit training and dissemination of information about risk. It is also possible that some employers lack a commitment to workplace safety or that they are cutting corners with undocumented workers simply because they can get away with it and increase their profit margins. A range of explanations is possible. What is clear is that documented and undocumented workers enjoy different levels of protection—a warning sign that could result in adverse health effects to the undocumented.

The data on health concerns and access to medical care suggest that undocumented workers are far less able to access healthcare than documented workers. All workers reported health concerns (with documented workers reporting greater frequency of cuts and bruises while undocumented workers listed more nose bleeds and recurring headaches). However, the data suggest that undocumented workers are far less likely to *seek medical treatment* and have less *access to health care when needed*. Such disparities indicate that legal status operates to prevent undocumented workers from accessing needed healthcare.

The health problems reported by workers are consistent with on-the-job injuries in construction, but few workers—documented or undocumented—reported that the costs of their medical care were covered by their employer. Survey data for Louisiana suggest that six percent of adult workers have private health insurance.⁴⁸ The number of workers in this study who reported they were self-insured (20%) may be high because it is possible that respondents confused “personal insurance” with insurance coverage which they purchased through their employer or believe they are covered through workers’ compensation insurance. Workers’ compensation schemes are designed to ensure that injured workers receive treatment and compensation for their injuries. The data on lack of health coverage even among documented workers suggest violations of the workers’ compensation requirements. This is further supported by key informant interviews. While the public hospital system is the last resort for the indigent and undocumented, the city’s public health system is severely compromised, which leaves the undocumented with few options. This hypothesis is supported by the finding that undocumented workers access medical care, if at all, through free clinics.

While this study provides important information about the experience of workers, it does not tell the whole story. We do not know the personal motivations or structural impediments that affect the desire and ability of employers to comply with the letter and spirit of the law. Key informants report that inexperienced or “fly-by-night” contractors have opened up shop in the area and that these employers may be taking advantage of the lack of regulations and enforcement simply to ignore relevant laws. It also may be true that rising insurance premiums and other costs of doing business in the disaster zone hinder the ability of well-intentioned employers to maintain standards. It is also possible that undocumented workers are more willing than documented workers to accept low wages, poor safety protections, and substandard housing because they have no other choice or because even these conditions are better than their other options. Whatever the reason, it is critical that regulations are put into place to protect undocumented workers. What the data show are that the most vulnerable workers—the undocumented—are bearing the brunt of a weakened regulatory regime.

Hurricane Katrina stripped bare the physical and social infrastructure of New Orleans, exposed and exacerbated pre-existing social problems including disparities in distribution of resources, and placed a heavy burden on the city's public health system. An open and public discussion is urgently needed about the social values that will define the future of New Orleans. That discussion should include ways of protecting the human dignity, safety, and well-being of all workers regardless of their legal status.

With this goal in mind, we make the following recommendations:

- 1. The federal government should create an expedited process of issuing work authorizations in federally-declared disaster zones.** By enabling undocumented workers already residing in the United States to obtain legal permission to work in disaster areas, federal authorities will be able to meet the demand for labor and expedite the reconstruction process. However, such work authorizations must be accompanied by measures that provide workers with full labor, health, and safety protections. Procedures should be established to monitor construction sites and sanction those employers who violate these protections.
- 2. Federal, state, and local authorities should strengthen employer accountability for labor violations. Enforcement of worker health and safety regulations, including mandatory workers' compensation coverage, should be improved for all laborers.** Effective, accessible mechanisms to resolve wage disputes and remedy violations of wage laws must be available to workers regardless of legal status. These mechanisms should contain provisions that allow for judicial review. Regulation and administration of workers' compensation programs should be reformed to improve employer compliance. Additional resources need to be allocated to increase access to legal services for workers and to deter unscrupulous employers.
- 3. Federal immigration enforcement must be separate from enforcement of labor protections.** Employers should be held accountable for violations of immigration laws. At the same time, laws must be revised to eliminate gaps that allow employers to hire undocumented workers and subsequently evade their obligations to respect the rights of these employees. Laws and policies that link protections for workers to legal status must be eliminated. Undocumented workers should have access to workers' compensation coverage, safety training, and other programs designed to promote worker health and well-being. Outreach programs informing workers of their rights and responsibilities should be developed and implemented. Immigration enforcement should not involve health care providers or other professionals engaged in provision of social services or implementation of worker protections.
- 4. Public authorities in those areas affected by Hurricane Katrina should increase access to healthcare, with particular attention to the needs of undocumented Latino workers.** The healthcare system throughout the hurricane-affected areas needs to be rebuilt as quickly as feasible. Access to public and private healthcare must not be conditioned on legal status. Affordable health insurance should be made available to the working poor without regard to legal status to improve equal access to health care for workers.

- 5. Further study of working conditions and treatment of laborers in the Gulf Coast region should be conducted.** The demographic composition of the workforce in New Orleans has changed dramatically since Hurricane Katrina and is likely to evolve further as residents return to the region. Economic conditions could change dramatically depending on the timing and amount of federal aid that is directed to fund reconstruction. Further study of the treatment and needs of workers, particularly undocumented Latino workers, is needed and should be repeated over time to document and respond to changing trends.

AUTHORS AND ACKNOWLEDGEMENTS

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APPENDIX A: KATRINA WORK AND HEALTH SURVEY

TO BE COMPLETED BEFORE INTERVIEW	
NAME: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	DATE <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<small>NAME OF THE INTERVIEWER</small>	<small>MONTH DAY YEAR</small>
NUMBER OF PERSON APPROACHED BEFORE CONDUCTING THIS INTERVIEW	<input type="text"/> <input type="text"/>
PLACE OF THE INTERVIEW:	1 WORKPLACE 2 HOME 3 PICK-UP SITE 4 SOCIAL GATHERING , SPECIFY _____ 5 FEEDING PLACE 6 CLINIC, HOSPITAL
NEIGHBORHOOD:	
SIGN HERE IF YOU HAVE READ AND OBTAINED CONSENT:	

1.	WHAT IS THE GENDER (SEX) OF THE RESPONDENT?	1 MALE	2 FEMALE
2.	WHAT YEAR WERE YOU BORN?	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> OR <input type="text"/> <input type="text"/> YEARS OLD	
3.	WHAT IS YOUR COUNTRY OF ORIGIN?	1 MEXICO 2 HONDURAS 3 COSTA RICA 4 EL SALVADOR 5 NICARAGUA 6 BRAZIL 7 VIETNAM 8 U.S. (AFRICAN AMERICAN) → SKIP TO 5 9 U.S. (CAUCASIAN) → SKIP TO 5 10 U.S. (HISPANIC) → SKIP TO 5 11 U.S. (ASIAN) → SKIP TO 5 12 OTHER, SPECIFY _____	
4.	IN YOUR COUNTRY OF ORIGIN, ARE YOU FROM A URBAN OR RURAL AREA? (ASK ONLY FOR FOREIGN PARTICIPANTS)	1 URBAN	2 RURAL
5.	WHAT IS YOUR HIGHEST LEVEL OF EDUCATION? (HOW MANY YEARS OF EDUCATION HAVE YOU HAD?)	0 NONE 1 PRIMARY (YEAR 1-6) 2 SECONDARY (YEAR 7-12) 3 COLLEGE / UNIVERSITY 4 TECHNICAL SCHOOL 5 GRADUATE	
6.	WHERE DO YOU CURRENTLY LIVE?	1 CHALMETTE 2 KENNER 3 LAPLACE 4 METAIRIE 5 ORLEANS PARISH 6 SLIDELL 7 ST. BERNARD PARISH 8 WESTBANK 9 BATON ROUGE 10 MISSISSIPPI 11 ALABAMA 12 OTHER, SPECIFY _____	
7.	HOW LONG HAVE YOU LIVED IN THE HURRICANE AFFECTED AREA?	1 LESS THAN 1 MONTH 2 1 - 6 MONTH 3 7 - 12 MONTHS 4 OVER 1 YEAR → SKIP TO 10 5 OVER 5 YEARS → SKIP TO 10	
8.	BEFORE COMING HERE, DID YOU LIVE IN THE U.S.?	1 YES	2 No → SKIP TO 10

9.	IF YES, WHERE IN THE U.S.? (SPECIFY STATE – FULL OR CODE)	_ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _			
10.	HOW LONG DO YOU PLAN TO STAY IN THE HURRICANE AFFECTED AREA?	1	AS LONG AS I CAN FIND WORK		
		2	LESS THAN 1 MONTH		
		3	1 – 6 MONTHS		
		4	7 – 12 MONTHS		
		5	OVER 1 YEAR		
		6	OVER 5 YEARS		
		7	PERMANENTLY		
		8	DON'T KNOW		
11.	DO YOU HAVE A SPOUSE OR LONG TERM PARTNER?	1	YES	2	No → SKIP TO 14
12.	IS YOUR SPOUSE/PARTNER HERE WITH YOU?	1	YES → SKIP TO 14	2	No
13.	IS YOUR SPOUSE/PARTNER PLANNING TO LIVE HERE WITH YOU WITHIN THE NEXT 12 MONTHS?	1	YES	2	No
14.	DO YOU HAVE CHILDREN?	1	YES	2	No → SKIP TO 17
15.	ARE YOUR CHILDREN HERE WITH YOU?	1	YES → SKIP TO 17	2	No
16.	ARE YOUR CHILDREN PLANNING TO LIVE HERE WITH YOU WITHIN THE NEXT 12 MONTHS?	1	YES	2	No
17.	WHAT TYPE OF PLACE DO YOU LIVE IN?	1	TENT		
		2	TRAILER, RV		
		3	CAR		
		4	APARTMENT		
		5	HOTEL		
		6	HOUSE		
		7	CONSTRUCTION SITE		
		8	OTHER, SPECIFY _____		
18.	HOW MANY PEOPLE SHARE THAT PLACE WITH YOU?	_ _ _ _ PEOPLE			
19.	HOW LONG DO YOU PLAN ON STAYING AT YOUR CURRENT RESIDENCE?	1	LESS THAN 1 MONTH		
		2	1 – 6 MONTHS		
		3	7 – 12 MONTHS		
		4	OVER 1 YEAR		
		5	DON'T KNOW		
20.	ARE YOU CURRENTLY EMPLOYED?	1	YES	2	No
21.	WHAT TYPE OF WORK DO YOU USUALLY DO? (CHECK ALL THAT APPLY)	1	DAY LABOR		
		2	GUTTING HOUSE – DEBRIS REMOVAL		
		3	CARPENTRY		
		4	PLUMBING		
		5	ELECTRICAL		
		6	A.C. (HVAC)		
		7	GENERAL CONSTRUCTION		
		8	SERVICE SECTOR (HOTEL, RESTAURANT)		
		9	OTHER, SPECIFY _____		
22.	DID YOU ALREADY HAVE A JOB BEFORE YOU CAME HERE?	1	YES	2	No
23.	HOW DID YOU HEAR ABOUT WORK AVAILABLE HERE? (CHECK ALL THAT APPLY)	1	RECRUITED BY A CONTRACTOR		
		2	RECRUITED BY A JOB BROKER		
		3	FRIENDS		
		4	FAMILY		
		5	RADIO		
		6	TV		
		7	NEWSPAPER		
		8	INTERNET		
		9	OTHER, SPECIFY _____		
24.	WHEN EMPLOYED, HOW MANY HOURS A DAY DO YOU WORK?	_ _ HOURS (ON AVERAGE)			
25.	WHEN EMPLOYED, HOW MANY DAYS A WEEK DO YOU WORK?	_ _ DAYS (ON AVERAGE)			

26.	WHEN WORKING, HOW OFTEN ARE YOU PAID?	1	EVERY DAY (HOW MUCH? _____)		
		2	ONCE A WEEK (HOW MUCH? _____)		
		3	ONE EVERY FEW WEEKS (HOW MUCH? _____)		
		4	ONCE A MONTH (HOW MUCH? _____)		
		5	UPON COMPLETION OF WORK (CONTRACT) (HOW MUCH? _____)		
27.	IF YOU WORK OVER 40 HOURS A WEEK, DO YOU GET EXTRA PAY?	1	YES	2	SOMETIMES
		3	NO	→ SKIP TO 29	
28.	IF YES, HOW IS THAT EXTRA PAY CALCULATED?	1	BY HOUR, AT THE NORMAL HOURLY WAGE		
		2	ONE AND HALF TIMES THE NORMAL HOURLY WAGE		
		3	OTHER, SPECIFY _____		
29.	WHEN PAID, DO YOU RECEIVE LESS MONEY THAN YOU WERE PROMISED?	1	YES	2	SOMETIMES
		3	NO		
30.	DOES YOUR EMPLOYER DEDUCT MONEY FROM YOUR PAY FOR ANY EXPENSES?	1	YES	2	SOMETIMES
		3	NO	→ SKIP TO 32	
31.	WHAT EXPENSES DOES YOUR EMPLOYER DEDUCT FROM YOUR SALARY?	1	FOR HOUSING		
		2	FOR TRANSPORTATION		
		3	FOR FOOD		
		4	OTHER, SPECIFY _____		
32.	HAVE YOU EXPERIENCED PROBLEMS BEING PAID FOR YOUR WORK?	1	YES	2	SOMETIMES
		3	NO	→ SKIP TO 34	
33.	IF YES, WHAT WAS THE PROBLEM?				
34.	WHAT PROTECTIVE EQUIPMENT DO YOU HAVE FOR WORK? (CHECK ALL THAT APPLY)	1	NONE →SKIP TO 39		
		2	GLOVES		
		3	HARD HAT		
		4	STEEL-TOED BOOTS		
		5	PROTECTIVE GOGGLES/FACE SHIELD		
		6	FACE MASK (DUST FILTER)		
		7	RESPIRATOR (FULL-FACE OR HALF-FACE – CHEMICAL FILTER)		
		8	HEARING PROTECTION (EAR PLUGS OR EAR MUFFS)		
		9	OVERALLS		
		10	OTHER, SPECIFY _____		
35.	IS IT PROVIDED BY YOUR EMPLOYER?	1	YES	2	NO
		3	NA		
36.	IS IT REQUIRED BY YOUR EMPLOYER?	1	YES	2	NO
		3	NA		
37.	DO YOU WEAR THOSE SPECIAL PROTECTIVE CLOTHES OR EQUIPMENT?	1	YES →SKIP TO 39	2	SOMETIMES
		3	NO		
38.	IF NO OR SOMETIMES, WHY NOT?	1	BECAUSE IT IS UNCOMFORTABLE		
		2	FORGET TO BRING IT TO WORKSITE		
		3	DO NOT LIKE WEARING IT		
		4	DO NOT THINK IT PROVIDES ADDITIONAL PROTECTION		
		5	OTHER, SPECIFY _____		
39.	WHAT ARE YOUR CURRENT CONCERNS ? (CHECK ALL THAT APPLY)	1	LACK OF WORK		
		2	POOR WORKING CONDITIONS		
		3	OBTAINING WORKING PERMIT		
		4	OBTAINING RESIDENTIAL STATUS		
		5	POOR PAY		
		6	POOR HOUSING		
		7	I DON'T FEEL I BELONG HERE.		
		8	OTHER, SPECIFY _____		

40.	DO YOU THINK NEW ORLEANS IS/WOULD BE A GOOD PLACE FOR YOU AND YOUR FAMILY?	1	YES → SKIP TO 42	2	No				
41.	IF NO, WHY NOT?								
42.	WHAT DO YOU DO FOR ENTERTAINMENT?								
IN RELATION TO YOUR WORK IN THE HURRICANE AFFECTED AREA, FOR EACH OF THE FOLLOWING, PLEASE TELL ME IF YOU, YOUR CO-WORKERS, AND/OR FAMILY/FRIENDS HAVE EXPERIENCED ANY OF THE FOLLOWING (CIRCLE ALL THAT APPLY)									
43.	WORK WITH HARMFUL SUBSTANCES/CHEMICALS	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
44.	WORK IN DANGEROUS CONDITIONS	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
45.	RECEIVED TRAINING FOR THE WORK SITE	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
46.	WAS INFORMED ABOUT THE RISK RELATED TO MOLD	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
47.	WAS INFORMED ABOUT THE RISK RELATED TO ASBESTOS	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
48.	WAS INFORMED ABOUT RISK RELATED TO UNSAFE BUILDINGS	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
49.	HAD AN ACCIDENT RESULTING IN INJURY/ILLNESS AT WORK	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
50.	HAVE BEEN INJURED WHILE WORKING	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
51.	HAVE BEEN TREATED UNFAIRLY BY EMPLOYER	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
52.	HAVE PROBLEMS WITH PAYMENT FROM EMPLOYER	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
53.	HAVE BEEN THREATENED WITH DEPORTATION FOR COMPLAINING TO THE BOSS REGARDING WORK CONDITIONS	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
54.	HAVE BEEN PHYSICALLY ABUSED AT WORK	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
55.	HAVE BEEN SEXUALLY ABUSED/HARASSED AT WORK	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
56.	HAVE BEEN HARASSED BY THE POLICE	0	No ONE	1	MYSELF	2	CO-WORKER	3	FAMILY/FRIEND
DO YOU HAVE ACCESS TO ANY OF THE FOLLOWING?									
57.	VEHICLE (CAR)	1	YES	2	No				
58.	BATHROOM WITH SHOWER AT WORK OR HOME	1	YES	2	No				
59.	KITCHEN AT HOME	1	YES	2	No				
60.	RUNNING WATER AT HOME	1	YES	2	No				
61.	ELECTRICITY AT HOME	1	YES	2	No				
62.	PHONE (CELL OR LAND)	1	YES	2	No				
63.	RADIO AT HOME	1	YES	2	No				
64.	TV AT HOME	1	YES	2	No				
65.	ENOUGH FOOD	1	YES	2	No				
66.	FOOD STAMPS/EBT CARD	1	YES	2	No				
67.	HEALTH INSURANCE	1	YES	2	No				
68.	MEDICARE*	1	YES	2	No				
69.	MEDICINE WHEN NEEDED	1	YES	2	No	3	NA		
		WHAT SERVICES HAVE YOU USED OR ACCESSED SINCE YOU ARRIVED IN THE HURRICANE AFFECTED AREA? (CHECK IF YES)	ASK ONLY FOR SERVICES THAT WERE USED. ARE YOU SATISFIED WITH [SERVICE] 1. Very Unsatisfied 2. Unsatisfied 3. Neutral 4. Satisfied 5. Very Satisfied					WHAT SERVICES THAT YOU HAVE NOT ACCESSED OR USED DO YOU NEED? (CHECK)	
70.	MEDICAL SERVICES	YES	1	2	3	4	5	YES	
71.	FAMILY PLANNING SERVICES	YES	1	2	3	4	5	YES	
72.	DENTAL SERVICES	YES	1	2	3	4	5	YES	
73.	LEGAL SERVICES	YES	1	2	3	4	5	YES	
74.	IMMIGRATION SERVICES	YES	1	2	3	4	5	YES	
75.	EMPLOYMENT/JOB PLACEMENT	YES	1	2	3	4	5	YES	
76.	FINANCIAL ASSISTANCE	YES	1	2	3	4	5	YES	
77.	COUNSELING/PSYCHO-SOCIAL SERVICES	YES	1	2	3	4	5	YES	
78.	EDUCATION FOR CHILDREN	YES	1	2	3	4	5	YES	
79.	OTHER, SPECIFY _____	YES	1	2	3	4	5	YES	

*Due to inadvertent error, "Medicare" was listed instead of "Medicaid." Accordingly, the responses to this question have been disregarded in the analysis.

SINCE KATRINA, HAVE YOU EXPERIENCED ANY OF THE FOLLOWING, AND IF YES HOW MUCH OF A PROBLEM WAS IT?							
80.	BROKEN/ SPRAINED LIMBS	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
81.	HEAD INJURIES	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
82.	CUTS/BRUISES	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
83.	SKIN RASHES, SWELLING	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
84.	BURNS	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
85.	NOSE BLEEDS	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
86.	DIFFICULTY BREATHING	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
87.	ASTHMA ATTACK	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
88.	COLD/FLU	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
89.	COUGH	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
90.	RECURRING HEADACHE	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
91.	WATERY OR RED EYES OR EYE INFECTIONS	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
92.	DIFFICULTY REMEMBERING RECENT EVENTS OR INFORMATION	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
93.	DIABETES	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
94.	HYPERTENSION	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
95.	DIARRHEA	1	NOT AT ALL	2	MINOR PROBLEM	3	SERIOUS PROBLEM
96.	IF YOU ANSWERED YES FOR ANY OF THE ABOVE, HAVE YOU RECEIVED MEDICAL CARE?	1	YES	2	No → SKIP TO 100		
97.	FOR WHICH CONDITION(S) DID YOU SEEK MEDICAL CARE?						
98.	WHERE DID YOU SEEK MEDICAL CARE?						
99.	WHO PAID FOR THE MEDICAL TREATMENT?	1	INSURANCE PROVIDED BY WORK				
		2	PERSONAL INSURANCE				
		3	MYSELF				
		4	WORK				
		5	TREATMENT WAS FREE				
		6	UNABLE TO PAY				
		7	OTHER, SPECIFY _____				
100.	DO YOU HAVE ANY OTHER HEALTH CONCERN?	1	YES, SPECIFY _____	2	NO		

SINCE KATRINA, HAVE YOU EXPERIENCED ANY OF THE FOLLOWING, AND IF YES HOW STRONGLY?									
101.	TROUBLE FALLING OR STAYING ASLEEP	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
102.	FEELING IRRITABLE OR HAVING ANGRY OUTBURSTS	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
103.	HAVING DIFFICULTY CONCENTRATING	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
104.	FEELING JUMPY OR EASILY STARTLED	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
105.	FEELING LOW IN ENERGY, SLOWED DOWN	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
106.	BLAMING YOURSELF FOR THINGS THAT HAVE HAPPENED	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
107.	CRYING EASILY/HAVE EMOTIONAL OUTBURST	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
108.	FEELING HOPELESS ABOUT THE FUTURE	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
109.	FEELING TRAPPED OR CAUGHT	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
110.	FEELING LONELY	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
111.	LOST OF APPETITE, NOT HUNGRY OR DO NOT FEEL LIKE EATING	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
112.	FEELING SAD OR BLUE	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
113.	THINKING OF ENDING YOUR LIFE	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
114.	FEELING WORTHLESS, FEELING AS YOU THOUGHT YOU ARE NOT OF ANY VALUE TO SOCIETY	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
115.	LOSS OF INTEREST IN THINGS OR IN DAY TO DAY ACTIVITIES	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
116.	CONSTANTLY WORRY ABOUT THINGS	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY
117.	LOSS OF INTEREST IN INTIMATE RELATIONSHIP	1.	NOT AT ALL	2.	A LITTLE BIT	3.	QUITE A BIT	4.	EXTREMELY

118.	FEELING EVERYTHING IS AN EFFORT	1. NOT AT ALL	2. A LITTLE BIT	3. QUITE A BIT	4. EXTREMELY
119.	DRINK ALCOHOL MORE THAN 3 TIMES PER WEEK	1. NOT AT ALL	2. A LITTLE BIT	3. QUITE A BIT	4. EXTREMELY
WE UNDERSTAND THAT THE FOLLOWING IS A SENSITIVE SUBJECT AND YOU DO NOT HAVE TO ANSWER. WE WOULD LIKE, HOWEVER, TO REMIND YOU THAT THIS IS A CONFIDENTIAL INTERVIEW AND THAT NO INFORMATION THAT COULD IDENTIFY YOU HAS BEEN RECORDED.					
120.	ARE YOU A US CITIZEN OR PERMANENT RESIDENT OF THE US?	1	YES → STOP	2	No
121.	IF NO, DO YOU HAVE A WORK VISA IN THE US?	1	YES	2	No
122.	HAVE YOU EVER ENCOUNTERED IMMIGRATION PEOPLE	1	YES	2	No → SKIP TO 125
123.	IF YES, WHERE? (CIRCLE ALL THAT APPLY)	1	HOME	2	WORK
		3	OTHER, _____		
124.	IF YES, WHAT DID THEY DO?	1	CHECKED PAPERS		
		2	WARNED PEOPLE TO LEAVE		
		3	TOOK PEOPLE AWAY		
		4	OTHER		
125.	HAVE YOU OR YOUR CO-WORKERS EXPERIENCED ANY UNFAIR TREATMENT BY IMMIGRATION?	1	YES	2	No
126.	HAVE YOU EVER BEEN APPROACHED BY THE POLICE?	1	YES	2	No → SKIP TO 129
127.	IF YES, WHERE? (CIRCLE ALL THAT APPLY)	1	HOME	2	WORK
		3	OTHER, _____		
128.	IF YES, WHAT DID THEY DO?	1	CHECKED PAPERS		
		2	WARNED PEOPLE TO LEAVE		
		3	TOOK PEOPLE AWAY		
		4	OTHER		
129.	HAVE YOU OR YOUR CO-WORKERS EXPERIENCED ANY UNFAIR TREATMENT BY THE POLICE?	1	YES	2	No

THANK YOU FOR YOUR VALUABLE TIME. DO YOU HAVE ANY QUESTIONS OR ADDITIONAL COMMENTS?

APPENDIX B: LEGAL STANDARDS

International Legal Standards

International human rights and labor standards contain a core set of guarantees to promote respect for the rights of workers and prevent violations of these rights by governments as well as private employers. These international standards address the treatment, welfare, and human rights of workers regardless of their legal status. Widely-recognized by governments, these principles serve as an important source of norms that may guide legislative reform and promote policy in the United States to reduce the vulnerabilities of documented and undocumented workers to exploitation during the reconstruction phase after a natural disaster.

The International Labour Organization (ILO)—a tripartite international organization of states, labor, and employers—adopted a set of four “core labor standards” in 1998. These principles enshrine the right to freedom of association and the right to collective bargaining; the elimination of all forms of forced labor; the effective abolition of child labor; and the elimination of discrimination in respect of employment and occupation.¹ All states have an obligation “to respect, promote, and realize” these fundamental labor guarantees.² The UN Global Compact initiative to “promote responsible corporate citizenship so that business can be part of the solution to the challenges of globalization” also contains these ILO core labor principles.³ The United States is a member of the ILO and has separately adopted a number of the conventions upon which these standards are based.⁴

The primary international human rights instruments, collectively referred to as the International Bill of Human Rights⁵ contain several rights applicable to protecting the rights of workers in the Gulf Coast. These include the right to be free from forced labor and slavery,⁶ the right to be free from discrimination,⁷ and the right to health.⁸ In addition, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Worker Convention) articulates international human rights standards related to the treatment, welfare and human rights of both documented and undocumented migrants, as well as the obligations and responsibilities on the part of sending and receiving states.⁹ The United States has not joined the treaty, and is thus not bound by it.¹⁰

The Migrant Worker Convention enumerates migrant workers’ rights within employment relationships. Of particular relevance to the Gulf Coast hurricane reconstruction effort are provisions that guarantee freedom from discriminatory treatment (Article 7); the right to protection from the state against violence, physical injury, threats and intimidation (Article 16); the right to treatment not less favorable than nationals (Article 25), as well as the right to urgent medical care (Article 28). Under the Migrant Worker Convention, the state has responsibilities to migrant workers when it is itself an employer, but also in cases where private, third parties are employers.¹¹ Thus, whether the state is the primary employer or not, it must protect worker rights by creating legislation that defines the labor relationship, monitors the compliance with that legislation, and provides recourse for workers when their rights are violated.¹²

The regional human rights mechanism covering the Americas is established through the Organization of American States (OAS), of which the United States is a member. Within the Inter-American human rights system, the rights of migrant workers to life, health, and remuneration, regardless of immigration status, have been consistently recognized. The Inter-American

Court, the highest human rights tribunal in region, recently affirmed these rights in its Advisory Opinion on the *Juridical Condition and Rights of the Undocumented Migrants*.¹³ This Court held that “a person who enters a State and assumes an employment relationship, acquires his labor human rights in the State of employment, *irrespective of his migratory status*, because respect and guarantee of the enjoyment and exercise of those rights must be made without any discrimination.”¹⁴ (emphasis added). In conjunction with the anti-discrimination norm, this advisory opinion establishes state obligations to ensure that the rights of undocumented workers to remuneration and health are protected effectively. The United States has not accepted the jurisdiction of the Court and is not bound by its judgments. However, the ruling establishes international norms that may inform debate and policy development in this area.

Domestic Legal Standards

Natural disasters expose the weaknesses of public institutions and laws designed to protect vulnerable populations. In the aftermath of the 2005 hurricanes, the paucity of state labor protections compounded by weakening of federal labor regulations by the Executive Branch, exposed workers, particularly undocumented workers, to labor exploitation and on the job injury. Easing compliance with immigration regulations in the aftermath of Hurricane Katrina unintentionally may have drawn undocumented migrants to the Gulf Coast area. However, authorities did not act to increase protections for this vulnerable group, increasing their exposure to abuse. Government enforcement of workplace safety laws has been curtailed due to the devastation. Outreach and education conducted by the responsible federal agency—the Office of Safety and Health Administration (OSHA)—to the private sector is limited. Similar to all residents in the affected areas, sick and injured workers and their families face inadequate or unavailable medical treatment although uninsured poor and undocumented workers confront additional obstacles to accessing treatment. Workers injured on the job are entitled to medical treatment and compensation through employer-mandated insurance schemes. Uninsured workers have few health-care options.

Wage and Hour Laws

Mississippi and Louisiana do not have state minimum wage laws. Workers may be entitled to the federal wage standard if they are covered by one of the federal laws regulating wages in particular industries. Workers are protected by the federal Fair Labor Standards Act, (FLSA)¹⁵ if employed by a public agency or certain types of private enterprises.¹⁶ The statute establishes a minimum wage (currently \$5.15 per hour),¹⁷ but the law’s greater utility for Gulf Coast reconstruction workers, who have generally been receiving more than the federal minimum wage, is that it establishes worker entitlement to overtime pay.¹⁸ Employees regardless of legal status may sue an employer under FLSA for violation of the minimum wage and overtime regulations.¹⁹

In addition to FLSA, there are other federal laws requiring employers to pay workers in federally-funded construction or service contracts based on the local wage standard (“prevailing wage”) for the type of work they perform; these wages are higher than the federal minimum.²⁰ One of these statutes, the Davis-Bacon Act,²¹ was suspended in areas damaged by Hurricane Katrina from September 8, 2005 through November 7, 2005.²² Federal construction contracts awarded during that period are not subject to the prevailing wage or production of payroll records requirements of the Davis-Bacon Act.²³ The Wage and Hour Division (WHD) of the Employment Standards Administration (part of the U.S. Department of Labor) enforces the prevailing wage

law. The WHD monitors compliance with all federal labor laws, investigates allegations of violations, and issues recommendations to employers to bring them into compliance. It also may file suit against employers to compel compliance.²⁴

Workers employed by small contractors that are not required to comply with FLSA must file suit under state law to collect unpaid wages. Legal status does not prevent a worker from filing suit, but access to attorneys willing to represent individuals seeking to recover relatively small claims poses additional challenges to workers in this situation.

Immigration Regulation

The Immigration Reform and Control Act of 1986²⁵ prohibits employment of any alien who is not authorized to work.²⁶ Employers must verify the work-eligibility for all newly-hired employees and are subject to civil and criminal penalties for hiring illegal aliens.²⁷ On September 6, 2005, in the wake of Hurricane Katrina, the federal Department of Homeland Security (DHS) announced that for a period of 45 days it would not sanction employers for failure to provide identity and eligibility documents as a result of the storm.²⁸ On October 21, 2005, DHS reinstated enforcement and stated that the agency expected that by this point in time individuals who previously were unable to provide documents had been able to replace required documents or could demonstrate that they have applied for these documents from relevant agencies.²⁹ Reports and our key informant interviews suggest that the DHS waiver of the documentation provisions attracted undocumented migrants to the Gulf Coast area in search of work.³⁰ An increase in undocumented workers seeking jobs in hurricane-affected areas should have been a foreseeable consequence of the employer sanction waiver. However, authorities took no additional measures to increase protection for a predictable influx of vulnerable laborers.

Health and Safety Regulations

State and federal laws obligate employers to minimize risk to the health and safety of workers. Louisiana law makes it a duty of the employer to provide a reasonably safe work environment.³¹ The Workplace Safety Section of the Louisiana Department of Labor identifies worksite safety and health hazards and issues recommendations to employers, but does not issue fines or citations.³² Mississippi administers an occupational health and safety program, but its function is to assist, inform, educate and train employers and employees about workplace health and safety issues in order to encourage compliance with established standards.³³ In both states, compliance inspections and enforcement are performed by the federal Occupational Safety and Health Administration (OSHA).³⁴

The Occupational Safety and Health Act of 1970 (OSH),³⁵ is administered by OSHA and establishes “mandatory occupational safety and health standards applicable to businesses affecting interstate commerce.”³⁶ OSHA also assists states in developing and implementing their own occupational health and safety programs.³⁷ Employers covered by the OSH Act must comply with the regulations and the safety and health standards promulgated by the federal agency. Homeowners who hire contractors are not considered employers and are generally not subject to the OSH Act’s health and safety requirements.³⁸ However, a contractor rebuilding a private home likely will be considered an employer under federal law³⁹ and may be sanctioned for unsafe work conditions. OSHA enforces federal occupational health and safety standards through publishing its inspections and investigations,⁴⁰ issuing citations,⁴¹ and assessing monetary penalties.⁴² The agency may also seek a court order to shut down operations that pose an immediate danger to the health and safety of workers.⁴³

Following the 2005 Gulf Coast hurricanes, OSHA exempted a number of affected areas in Florida, Alabama, Mississippi and Louisiana from regular enforcement status to “enable[] OSHA staff to provide faster and more flexible responses to hazards facing workers involved in the cleanup and recovery.”⁴⁴ The agency deployed teams to the area to provide technical assistance to workers and employers involved in clean up operations.⁴⁵ However, the number of OSHA personnel devoted to these tasks was not more than 100 and the teams covered a disaster area of 90,000 square miles.⁴⁶ Normal enforcement restarted on January 25, 2006, except for the worst-affected areas.⁴⁷ OSHA continues to investigate worker complaints and reports of major injuries and fatalities even in the exempted areas.⁴⁸

Although OSHA suspended enforcement operations in the affected areas, it assumed special duties in the aftermath of the hurricanes. Under federal law activated by the Federal Emergency Management Agency after hurricane Katrina, OSHA is the coordinating agency responsible for promoting the safety of federal responders and contractors.⁴⁹ The function of the federal agency in this context is to promote workplace safety through technical support and coordination with other relevant agencies. Since the hurricane, OSHA employees have interacted with over 16,000 work crews and handed out nearly 57,000 safety and health technical assistance fact sheets throughout the affected areas.⁵⁰ The agency does not assume substantive responsibility for the health and safety of workers after a natural disaster; private and federal employers remain obliged to ensure the health and safety of their employees.⁵¹

Injuries and Access to Healthcare

Workers’ compensation laws are designed to compensate employees who are injured in work-related accidents according to a fixed monetary scheme, without having to resort to litigation. The Federal Employment Compensation Act only covers civil employees of the federal government or any of its instrumentalities.⁵² State workers’ compensation statutes cover most other employees, regardless of their immigration status.

In Louisiana, the state workers’ compensation scheme is administered through the Office of Workers’ Compensation Administration of the state Department of Labor.⁵³ State law requires that workers be able to seek medical assistance for work-place related injuries without resorting to out-of-pocket payments.⁵⁴ With certain exceptions, Louisiana law requires public and private employers to buy and maintain workers’ compensation coverage for *all* workers.⁵⁵ The Mississippi workers’ compensation law covers most private employers with five or more employees.⁵⁶ In both Louisiana and Mississippi, if an employer has workers’ compensation coverage, any injury, disease or occupational illness as well as death to an individual is covered if it arises out of the course and scope of employment.⁵⁷ Undocumented workers technically are eligible for protection under the laws.⁵⁸ However, in practice, undocumented workers may not be protected if insurance companies require employee social security numbers in order to extend them coverage.

Injured workers who are not covered by workers compensation—either because the employer does not have coverage, is paying workers “off the books,” or because the injury is not work-related—have to rely on other forms of insurance, or pay for treatment out-of-pocket. Employers may offer health insurance to workers, but are not required to do so.⁵⁹ Although workers employed by a company that does not offer health insurance coverage may be able to purchase private medical insurance, these policies tend to be more expensive and, within the region, few individuals of working age are covered by private insurance.⁶⁰

Uninsured workers in need of care who do not have private insurance generally must pay for treatment. Most workers are not eligible for Medicaid, the federal medical assistance program. This program covers low-income women who are pregnant, children, families with children, seniors, and the disabled.⁶¹ Low-income adults without children are not eligible for the program. Undocumented workers generally are ineligible for Medicaid.⁶² While federally-funded community clinics must offer services regardless of immigration status,⁶³ such clinics may not be accessible or are unable to meet demand for services.

States are not prevented by federal law from offering medical coverage to undocumented immigrants. Approximately one-third of states provide some type of medical coverage to immigrants who are ineligible for Medicaid. However, Louisiana and Mississippi do not have such programs.⁶⁴ For the medically indigent and undocumented, the only medical care to which they are entitled is emergency room treatment.⁶⁵ In Louisiana, state hospitals are obligated to provide indigent care to residents, although it is not clear whether this duty specifically encompasses the undocumented.⁶⁶ Mississippi law contains no similar requirement that counties provide indigent care.⁶⁷

NOTES

Notes to Study

- ¹ Richard D. Knabb, Jamie R. Rhome, and Daniel P. Brown, "Tropical Cyclone Report: Hurricane Katrina, 23-30 August 2005," National Hurricane Center, Dec. 20, 2005. Hurricane Katrina grew from a tropical depression near the Bahamas on August 23, and touched down as a Category I storm in Florida on August 25 (ibid.).
- ² Thomas Gabe, Gene Falk, Maggie McCarty, Virginia W. Mason, *Hurricane Katrina: Social-Demographic Characteristics of Impacted Areas*. (Congressional Research Service, The Library of Congress, Nov. 4, 2005). <http://www.gnocdc.org/reports/crsrept.pdf>.
- ³ Ibid.
- ⁴ See e.g. Kristen Gelineau, "Civil Rights Leaders Say Hispanic Immigrants Going Unpaid for Katrina Work," *Associated Press*, Nov. 19, 2005; Joshua Norman, "All Work and No Pay Is Plight of Some- Latino Workers Face Fight to Receive Their Due," *Sun Herald* (Biloxi, MS), Nov. 19, 2005; Justin Pritchard, "Immigrants Often Unpaid for Katrina Work," *Associated Press*, Nov. 6, 2005; Darryl Fears, "Firms in Gulf Coast Allege Nonpayment: 150 Immigrants' Cases Sent to Labor Dept.," *Wash. Post*, Nov. 4, 2005; Robin Pogrebin, "Lured to U.S. by the Work but Struggling for Fair Pay," *N.Y. Times*, October 17, 2005.
- ⁵ The number of workers employed in construction and related industries in the New Orleans metropolitan area dropped from 40,100 to 22,500 from August to September 2005. The Brookings Institution, *Katrina Index: Tracking Variables of Post-Katrina Reconstruction* (Washington, DC: The Brookings Institution, April 5, 2005), http://www.brookings.edu/metro/pubs/200604_KatrinaIndex.pdf (accessed on May 20, 2006). These figures of workers employed in the "Natural Resources, Mining & Construction" are based on data from the Louisiana Occupational Information System (LOIS), Louisiana Department of Labor, *Current Employment Statistics (CES) Survey*, 2005, and the Bureau of Labor Statistics, U.S. Department of Labor, 2005.
- ⁶ Press release, U.S. Department of Homeland Security, *Notice Regarding I-9 Documentation Requirements for Hiring Hurricane Victims* (Sept. 6, 2005). <http://www.dhs.gov/dhspublic/display?content=4788>.
- ⁷ The suspension of the Act operated in affected areas of Alabama, Florida, Louisiana, and Mississippi. U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division. *Guidance on the Reinstatement of the Davis-Bacon Act Provisions in Areas Impacted by Hurricane Katrina*, November 2005. http://www.dol.gov/esa/whd/aam/DBA_Reinstal.PDF.
- ⁸ Penny Brown Roberts, "Nueva Orleans: Hispanics Rebuilding Crescent City Likely to Stay—And Affect Culture," *Baton Rouge Advocate*, May 7, 2006.
- ⁹ Leslie Eaton, "Storm and Crisis: The Recovery; After Hurricanes Come Tempests Over Cleanups," *N.Y. Times*, Feb. 24, 2006; Pritchard, "Immigrants Often Unpaid;" Fears, "Firms in Gulf Coast Allege Nonpayment;" Pogrebin, "Lured to U.S.;"
- ¹⁰ Press Release, Southern Poverty Law Center, *Center Seeks Justice for Katrina's Migrant Workers* (Feb. 2, 2006). http://www.splcenter.org/legal/news/article.jsp?aid=160&site_area=1&printable=1. Another group operating in Mississippi, the Mississippi Immigrant Rights Alliance also sought to hold egregious employers accountable. The group filed complaints against five subcontractors who the organization alleged had failed to pay hundreds of workers. The rights group also reported finding a group of thirty workers that had been abandoned by a contractor in a remote trailer park. The workers were living in three trailers with no electricity or furniture and had not eaten in three days. Interview with Bill Chandler, President of the Mississippi Immigrant Rights Alliance, on Democracy Now.Org, Friday, December 16, 2005. <http://www.democracynow.org/article.pl?sid=05/12/16/1457237>.
- ¹¹ Kenner was included because many people working in Orleans parish reside in Kenner.
- ¹² We used the minimum sample size formula for estimating the proportion (1). Assuming 95% confidence, a prevalence estimate of 50%, and desired precision of .10, the minimum required sample size is 97. In order to have sufficient sample size to stratify, we increased the minimum sample size requirement to 194.
$$(1): N \geq \frac{Z^2 \times P(1-P)}{d^2}$$
- ¹³ Knabb et al., "Tropical Cyclone Report."
- ¹⁴ Gabe, et al., *Hurricane Katrina*.

¹⁵ Ibid.

¹⁶ See e.g. Gelineau, "Civil Rights Leaders Say Hispanic Immigrants Going Unpaid;" Norman, "All Work and No Pay;" Pritchard, "Immigrants Often Unpaid;" Fears, "Firms in Gulf Coast Allege Nonpayment;" Pogrebin, "Lured to U.S."

¹⁷ The Brookings Institution, *Katrina Index*. See note 5.

¹⁸ U.S. Department of Homeland Security, *Notice Regarding I-9 Documentation Requirements for Hiring Hurricane Victims*.

¹⁹ See note 7.

²⁰ Roberts, "Nueva Orleans."

²¹ Eaton, "Storm and Crisis;" Pritchard, "Immigrants Often Unpaid;" Fears, "Firms in Gulf Coast Allege Nonpayment;" Pogrebin, "Lured to U.S."

²² Press Release, Southern Poverty Law Center, *Center Seeks Justice for Katrina's Migrant Workers*. See note 10.

²³ See note 11.

²⁴ See note 12.

²⁵ Anthony Oliver-Smith and Susanna M. Hoffman, *Introduction*, in *Catastrophe & Culture: The Anthropology of Disaster*. Edited by Oliver-Smith and Hoffman (Santa Fe: School of American Research Press, 2002), 9.

²⁶ James R. Grossman, *Land of Hope: Chicago, Black Southerners, and the Great Migration*. Chicago: University of Chicago Press, 1989, 164. Approximately one million African-Americans moved north during the 1920s. From 1920 to 1930, the African-American population in Chicago more than doubled, increasing from 109,458 to 233, 903 (there were only 30,150 African-Americans living in Chicago in the 1890s) (ibid.).

²⁷ Ibid., 163; 178-179. For more information regarding the race riot, see Hollis Lynch, *The Black Urban Condition: A Documentary History, 1866-1971*. New York: Thomas Y. Crowell Company, 1973.

²⁸ Donald Worster, *Dust Bowl: The Southern Plains in the 1930s*. New York: Oxford University Press, 1979, 150. See also James N. Gregory, "Dust Bowl Legacies: The Okie Impact on California, 1939-1989," *California History* (Fall 1989): 74-85. Gregory argues that, contrary to popular conceptions, the largest influx of people actually came following World War II (76). He also argues that the majority of people came from the Southwest (Oklahoma, Texas, Missouri, and Arkansas) as opposed to the southern plains that make up the Dust Bowl (ibid.).

²⁹ Worster, *Dust Bowl*, 52-53.

³⁰ Ibid., 52-53.

³¹ Roberts, "Nueva Orleans."

³² Katharine Donato and Shirin Hakimzadeh, "The Changing Face of the Gulf Coast: Immigration to Louisiana, Mississippi, Alabama." *The Migration Information Source*, Jan. 1, 2006. <http://www.migrationinformation.org/Feature/print.cfm?ID=368>.

³³ James Gill, *Lords of Misrule: Mardi Gras and the Politics of Race in New Orleans* (Jackson: University Press of Jackson, Mississippi, 1997), 38. Between 1850 and 1855, 67,000 Irish immigrants landed in the area (ibid.).

³⁴ Donato and Hakimzadeh, "The Changing Face of the Gulf Coast."

³⁵ Ibid.

³⁶ Ibid.

- ³⁷ James R. Elliot and Marcel Ionescu, "Post-War Immigration to the Deep South," *Sociological Spectrum* 23 (2003): 167. Original data from 1950-1990, 1 Percent IPUMS, "Census 2000 Estimates." <http://sentats.census.gov/pub/Profiles.shtml>. The data indicate that in Louisiana 2.6% of the population is foreign born population compared to 7.1% in Georgia and 5.3% in North Carolina. And within the tri-state region of the "Deep South"—Mississippi, Louisiana, Alabama—22% of those foreign born live outside urban centers, triple the percentage in other southern states. Asians and Pacific Islanders make up 34% of foreign born population in Deep South compared with 30.4% in the West (ibid.).
- ³⁸ U.S. Census Bureau, "State & Country QuickFacts," U.S. Census Bureau: Public Information Office. <http://quickfacts.census.gov/qfd/states/22000.html>. These figures are based on the 2000 census data.
- ³⁹ A 2000 study revealed 61% of Honduran population has lived in United States for over 15 years and two-thirds are naturalized citizens. Elliot and Ionescu, "Post-War Immigration to the Deep South," 167.
- ⁴⁰ This figure was calculated by adding the reported number of Latinos living in the parishes that make up New Orleans metropolitan area (Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, and St. Tammany), and determining the percentage of the total population (1,316,850) reflected by this number (58,415). U.S. Census Bureau. "Demographic Characteristics for Louisiana Parishes, Alabama and Mississippi Counties," U.S. Census Bureau: Public Information Office, April 4, 2006. http://www.census.gov/Press-Release/www/2005/demographics_katrina1.xls.
- ⁴¹ Adam Nossiter and John Schartz, "Lenient Rule Set for Rebuilding in New Orleans," *New York Times*, Apr. 13, 2006. The Federal Emergency Management Agency set the new elevation level to rebuild homes at three feet, making rebuilding costs far less than if, as some had expected, the elevation requirement was set at 10 feet (ibid.).
- ⁴² Arian Campo-Flores, "A New Spice in the Gumbo: Will Latino day laborers locating in New Orleans change its complexion?" *Newsweek*, December 5, 2005.
- ⁴³ In some figures, reported frequencies may add up to more than 100%. This is due to instances in which respondents could provide multiple answers to a question or to rounding practices. Also, while the illustrated figures are accurate, it is possible that there are small discrepancies between the percentages shown in the illustrations and those reported in the text due to rounding practices.
- ⁴⁴ Respondents had the option to provide several answers; therefore the percentage sums do not add up to 100.
- ⁴⁵ Tyler Cowen, "Bienvenido, Nuevo Orleans," *Slate*, April 19, 2006. <http://www.slate.com/id/2140224/entry/2140240/>; Deborah Cotton, "From the Ground Up: Safe Streets/Strong Communities: Pushes for Reform of New Orleans Police Department," Katrina Help Center, March 2, 2006. <http://www.thebeehive.org/Templates/HurricaneKatrina/Level3NoFrills.aspx?PageId=1.5369.6532.7400>; James Varney, "40 jailed in raid on immigrants: But legal groups say city needs workers," *New Orleans Times Picayune*, March 18, 2006; Eaton, "Storm and Crisis;" Pritchard, "Immigrants Often Unpaid;" Fears, "Firms in Gulf Coast Allege Nonpayment;" Pogrebin, "Lured to U.S." Key informants also reported several incidents of reported police harassment of Latino workers.
- ⁴⁶ Advisory Opinion OC-18/06, Sept. 17, 2003, Inter-American Court of Human Rights, on the *Juridical Condition and Rights of the Undocumented Migrants*, par. 134.
- ⁴⁷ People's Movement for Human Rights Learning, Habitat International Coalition-Housing and Land Rights Network, ActionAid International, *Tsunami Response: A Rights Assessment* (ActionAid International, January 2006), http://www.actionaidusa.org/pdf/176_1_tsunami_HR.pdf; Human Rights Center, UC Berkeley and East-West Center, University of Hawaii, *After the Tsunami: Human Rights of Vulnerable Populations* (Berkeley, CA: Human Rights Center/ Hawaii: East-West Center, October 2005).
- ⁴⁸ Kaiser Family Foundation, Urban Institute and Kaiser Commission on Medicaid and the Uninsured, Estimates, *Louisiana: Health Insurance Coverage of Adults: Age 19-64, States (2003-2004), US (2004)*. StateHealthFact.Org. <http://www.statehealthfacts.org/cgi-bin/healthfacts.cgi?action=profile&area=Louisiana&category=Health+Coverage+%26+Uninsured&subcategory=Health+Insurance+Status&topic=Adults+%2819%2d64%29> U.S. Census Bureau, *March 2004 Current Population Survey* (Current Population Survey, Annual Social and Economic Supplements).

Notes to Sidebar *Hurricane Katrina: Damage and Reconstruction*

- ⁱ John Logan, *The Impact of Katrina: Race and Class in Storm-Damaged Neighborhoods*, Brown University, 2005. The majority of people living in damaged areas were in the city of New Orleans (over 350,000), with additional concentrations in suburban Jefferson Parish (175,000) and St. Bernard Parish (53,000) and along the Mississippi Coast (54,000) (ibid.).
- ⁱⁱ See Bruce Alpert, "White House Accused of Gag Order," *Times-Picayune* (New Orleans, LA), Jan. 25, 2006; "Death Toll from Katrina likely Higher than 1,300," *MSNBC*, Feb. 10, 2006.
- ⁱⁱⁱ Louisiana Department of Health, "Reports of Missing and Deceased, April 26, 2006," April 26, 2006. <http://www.dhh.louisiana.gov/offices/page.asp?ID=192&Detail=5248> (accessed April 26, 2006).
- ^{iv} American Institute of Architects, *Economic and Construction Outlook in the Gulf States After Hurricane Katrina*, Oct. 7, 2005, 3. http://www.aia.org/SiteObjects/files/AIA_katrina_econ_report.pdf.
- ^v Louisiana Recovery Authority, "Facts & Figures: Data By the Numbers," April 10, 2006. <http://lra.louisiana.gov/numbers.html> (accessed on April 26, 2006).
- ^{vi} Entergy, the electricity provider for 190,000 customers in Orleans parish and natural gas for 147,000 customers in Orleans parish, provides updates on power in New Orleans. Entergy New Orleans, "Electric and Gas Service in New Orleans." http://www.entropy-neworleans.com/your_home/storm_center/storms_katrina.aspx (accessed May 13, 2006).
- ^{vii} Amy Liu, Matt Fellowes, Mia Mabanta, *Katrina Index: Tracking Variables of Post Conflict Reconstruction*. Brookings Institute, May 2006. http://www.brookings.edu/metro/pubs/200512_katrinaindex.htm (accessed May 13, 2006).
- ^{viii} US Congress. House. *Emergency Supplemental Appropriations Act for Defense, The Global War on Terror and Hurricane Recovery* H.R. 4939. 109th Cong., 2nd sess., 2006 *Bill Tracking H.R. 4939*: Title II, Ch. 8. There is \$29.8 billion earmarked for hurricane recovery. There is \$4.2 billion appropriated for the "Community Development Fund," to be used separate from funding for Federal Emergency Management Agency or the Army Corp of Engineers. No less than \$1 billion of this funding is designated for rehabilitation, repair and reconstruction of homes, and affordable rental housing stock in public or HUD housing.

Notes to Appendix B

- ¹ International Labour Organization, *ILO Declaration on Fundamental Principles and Rights at Work*, ILO DOC. CIT/1998/PR20A (June 1998), 37 I.L.M. 1233 (1998). http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=DECLARATIONTEXT (accessed April 26, 2006).
- ² Ibid.
- ³ United Nations Global Compact, *Global Compact, The Ten Principles*, July 26, 2000. <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html> (accessed May 14, 2006).
- ⁴ "Abolition of Forced Labour Convention," June 25, 1957. (ILO No. 105) 320 U.N.T.S. 291. <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C105> (accessed May 14, 2006); "Worst Forms of Child Labour Convention," (ILO No. 182), 38 ILM 1207 (1999). <http://www.ilo.org/ilolex/english/convdisp2.htm> (accessed May 14, 2006). The United States ratified this Convention in 1999. International Labour Organization, "Convention no. 182 ratifications," *Database of International Labour Standards*, 2005. <http://www.ilo.org/ilolex/english/convdisp2.htm>. (accessed May 14, 2006).
- ⁵ These documents include the Universal Declaration of Human Rights (UNDHR), *Universal Declaration of Human Rights*, G.A. Res. 217A (III), UN Doc A/810 at 71 (1948). <http://www.unhchr.ch/udhr/> (accessed May 14, 2006); the International Covenant on Civil and Political Rights (ICCPR), *International Covenant on Civil and Political Rights*, GA Res. 2200 (A) XXI, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171; and the International Covenant on Economic, Social and Cultural Rights (CESCR), *International Covenant on Economic, Social and Cultural Rights*, GA Res. 2200 (A) XXI, U.N. GAOR Supp. (No. 16) at 49 U.N. Doc. A/6316 (1966). The United States has signed the Universal Declaration and has ratified the ICCPR. It has not ratified the Covenant on Economic, Social and Cultural Rights. Office of the High Commissioner for Human Rights, *Status of the Ratifications of the Principle Human Rights Treaties*. Geneva: UNHCHR, June 8, 2004. <http://www.unhchr.ch/pdf/report.pdf> (accessed May 16, 2006).
- ⁶ UNDHR, art. 4; ICCPR, art. 8; CESCR, art. 6.

⁷ UNDHR, art 7; ICCPR art 2, 26; CESCR art. 2.

⁸ UNDHR, art 25; CESCR, art. 11.

⁹ *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, G.A. Res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990). http://www.unhcr.ch/html/menu3/b/m_mwctoc.htm. (accessed May 14, 2006).

¹⁰ Nevertheless the Convention is relevant to migrant workers in the United States as the treaty may establish obligations on the workers' home country. Countries that have ratified the Convention include Algeria, Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Chile, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Honduras, Kyrgyzstan, Lesotho, Libya, Mali, Mexico, Morocco, Nicaragua, Peru, Philippines, Senegal, Seychelles, Sri Lanka, Syria, Tajikistan, Timor L'Este, Turkey, Uganda, and Uruguay (*ibid.*). <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty25.asp> (accessed May 14, 2006). The Convention requires that migrant workers have "the right to participate in public affairs of their State of origin and to vote and to be elected . . ." (*ibid.*, art. 41).

¹¹ Article 25(1)(a)-(b) provides that migrant workers shall enjoy treatment not less favorable than that which nationals of the state of employment in respect of pay and other conditions and terms of work. Furthermore subsection 2 of this Article also states that the Principle of Equality of Treatment referred to in subsection 1 cannot be derogated in private contracts.

¹² *Migrant Worker Convention*, art. 25(3). "In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity."

¹³ Advisory Opinion OC-18/06, Sept. 17, 2003, Inter-American Court of Human Rights, on the *Juridical Condition and Rights of the Undocumented Migrants*.

¹⁴ *Ibid.*, par. 133. This holding simply interprets the rights to life, health, and remuneration enshrined in the American Declaration in light of the principle of nondiscrimination found in Article II of the same instrument. *American Declaration of the Rights and Duties of Man*, O.A.S. Res. XXX, adopted by the Ninth International Conference of American States (1948), reprinted in Handbook of Existing Rules Pertaining to Human Rights, OEA/Ser.L/V/II.23 Doc. 21 Rev. 6, at 5 (1979), art. I (right to life); art. II (right to equality); art. XI (preservation of health and well-being); and art. XIV (work and fair remuneration).

¹⁵ 29 U.S.C. § 201.

¹⁶ Agencies covered by the statute include educational institutions, hospitals, and residential care facilities regardless of size. Employees in private enterprises are covered if the company engages in a business that has any effect on interstate commerce, and has an annual gross volume of sales made or business done of at least \$500,000. 29 U.S.C. § 203(s)(1).

¹⁷ 29 U.S.C. § 206(a)(1).

¹⁸ The statutory rate is an amount equal to one and one-half times their regular hourly wage for all hours over forty that an employee works in a week. 29 U.S.C. § 207(a). The statute also covers workers who may be paid based on completion of a project rather than by the hour. Certain types of construction work frequently are contracted on at a "piece rate"—for example a homeowner may agree to pay a contractor a flat rate for a completed project. Roofing work frequently is contracted out as piece work, i.e. a contractor is paid on a flat fee. However, workers employed by such contractors *are* eligible for overtime pay. In other words, employers are not exempt from overtime wage regulations simply by paying workers on a flat rate for work completed. 29 U.S.C. § 207(g).

¹⁹ 29 U.S.C. § 216(b). An employee's right to bring legal action terminates if the Secretary of Labor brings an action against the employer (*ibid.*). In addition, the Secretary of Labor is empowered under FLSA to recover and distribute the amount recovered to the affected employee(s). 29 U.S.C. § 216(c).

²⁰ The Davis-Bacon Act, 40 U.S.C. § 276a - § 276a-7 applies to laborers and mechanics working on federal contracts over \$2,000 for construction, alteration or repair of federal public buildings or federal public works, and the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 327 applies to laborers and mechanics on federally funded or assisted construction contracts over \$100,000, and holds their employers to the same overtime pay calculations as FLSA. 40 U.S.C. §§ 328-29. In addition, other regulations to federal contracts include: The Copeland "Anti-Kickback" Act, 18 U.S.C. § 874 together with 40 U.S.C. § 276c (prohibits federal contractors or subcontractors on construction projects from inducing an employee to give up

any part of the compensation to which he or she is entitled and requires employers to submit weekly statements of compliance); the Equal Pay Act, 29 U.S.C. § 206(d) (“EPA”) (the EPA is part of the FLSA and requires employers to pay men and women equal wages for work that is substantially equal in skill, effort and responsibility and is performed under similar working conditions); The Walsh-Healy Act, 41 U.S.C. § 35 (establishes payment of prevailing wages for work performed to manufacture or furnish materials, supplies, articles, and equipment in an amount exceeding \$10,000).

²¹ 40 U.S.C. § 276a - § 276a-7.

²² The Act’s suspension operated in affected areas of Alabama, Florida, Louisiana, and Mississippi. U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, *Guidance on the Reinstatement of the Davis-Bacon Act Provisions in Areas Impacted by Hurricane Katrina*, November 2005. http://www.dol.gov/esa/whd/aam/DBA_Reinstal.PDF (accessed May 14, 2006).

²³ Any subcontracts awarded under such prime contracts do not need to contain prevailing wage determinations regardless of the date the subcontracts are entered into or the period in which they are performed. U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, *Guidance on the Reinstatement of the Davis-Bacon Act Provisions in Areas Impacted by Hurricane Katrina*, November 2005. http://www.dol.gov/esa/whd/aam/DBA_Reinstal.PDF (accessed May 14, 2006). On November 3, 2005, President Bush reinstated the provisions of the DBA in areas affected by Hurricane Katrina. The reinstatement of the DBA affects all 64 parishes of Louisiana and all 82 counties in Mississippi. (ibid.).

²⁴ 29 C.F.R. § 6(c).

²⁵ 18 U.S.C. § 1101.

²⁶ 18 U.S.C. § 1324(a).

²⁷ 18 U.S.C. § 1324(e).

²⁸ Press release, U.S. Department of Homeland Security, “Notice Regarding I-9 Documentation Requirements for Hiring Hurricane Victims,” Sept. 6, 2006. <http://www.dhs.gov/dhspublic/display?content=4788> (accessed May 14, 2006).

²⁹ U.S. Department of Homeland Security, Emergencies and Disasters: Declared Disasters and Assistance, “Notice Regarding I-9 Documentation Requirements for Hiring Hurricane Victims,” October 21, 2005. http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0751.xml (accessed May 14, 2006). Employees returning to their pre-Katrina employment did not have to demonstrate employment eligibility (ibid.). While continuing to exercise prosecutorial discretion on a case-by-case basis, DHS states that investigators will take into account the totality of the circumstances related to an individual worker’s inability to obtain documents and the employer’s actions to ensure compliance with the Act (ibid.).

³⁰ Sam Quinones, “Migrants Find a Gold Rush in New Orleans,” *LA Times*, April 4, 2006.

³¹ LSA-R.S. 23:13.

³² Department of Labor, Workplace Safety Section, *Frequently Asked Questions, No. 5*. http://www.laworks.net/bus_safetyfaq.asp (last visited, Apr. 19, 2006); US Department of Labor, Occupational Health and Safety Administration, *Safety Testing and Certification of Certain Workplace Equipment or Materials*, CSP 01-01-022 (August 7, 1989). Employers may be exempted from OSHA compliance inspections for one calendar year if they participate in Workplace Safety Section’s (WSS) Safety and Health Achievement Recognition Program authorized as an incentive discount under Louisiana’s worker’s compensation laws. LSA-R.S. 23:1179. If WSS finds health and safety problems at a workplace, it notifies the employer but is prohibited from notifying OSHA. Department of Labor, Workplace Safety Section, *Frequently Asked Questions, No. 7*. http://www.laworks.net/bus_safetyfaq.asp (last visited, Apr. 19, 2006).

³³ *Miss. Code Ann.* § 71-1-1 (2006).

³⁴ Department of Labor, Workplace Safety Section, *Frequently Asked Questions, No. 4*. http://www.laworks.net/bus_safetyfaq.asp (last visited, Apr. 19, 2006). 29 U.S.C. §§ 655, 667.

³⁵ 29 U.S.C § 651.

³⁶ 29 U.S.C. § 651(b)(3).

- ³⁷ 29 U.S.C. § 651(b)(11).
- ³⁸ 29 U.S.C. § 652(5) (“The term ‘employer’ means a person engaged in a business affecting commerce who has employees...”).
- ³⁹ A contractor will be considered an employer subject to federal health and safety laws if any construction process or materials used was involved in interstate commerce. 29 U.S.C. § 652 (3) (defining “commerce” as any trade, traffic, commerce, transportation or communication from one state to another).
- ⁴⁰ 29 U.S.C. § 657(g).
- ⁴¹ 29 U.S.C. § 658(a).
- ⁴² 29 U.S.C. § 659(a).
- ⁴³ 29 U.S.C. § 662.
- ⁴⁴ These areas included sites operating south of Interstate 10 in Mississippi, and in the seven Louisiana parishes in and around New Orleans. US Department of Labor, OSHA Office of Communications, “OSHA Resuming Regular Enforcement Along Most of Gulf Coast,” National News Release, No. USDL 06-119-NAT (Jan. 20, 2006). http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=11805 (accessed May 14, 2006).
- ⁴⁵ US Department of Labor, OSHA Office of Communications, “OSHA Teams Deployed To Aid Hurricane Katrina Recovery Workers,” OSHA National News Release, No. USDL 05-1724-NAT (Sep. 13, 2005). http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=11581 (last visited, Apr. 19, 2006).
- ⁴⁶ Jonathan L. Snare, Speech at ABA 2006 Midwinter Meeting, March 8, 2006. http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=SPEECHES&p_id=901 (last visited May 14, 2006).
- ⁴⁷ OSHA Office of Communications, “OSHA Resuming Regular Enforcement.”
- ⁴⁸ *Ibid.*
- ⁴⁹ The Federal Emergency Management Agency may activate the Worker Safety and Health Support Annex to the National Response Plan, which triggers OSHA’s jurisdiction to act in the aftermath of natural disasters. The annex addresses those functions critical to supporting and facilitating the protection of worker safety and health for all emergency responders and response organizations during potential and actual “Incidents of National Significance” such as Hurricanes Katrina and Rita. US Department of Labor, Occupational Health and Safety Administration, *Worker Safety and Health Support Annex*. http://www.osha.gov/SLTC/emergencypreparedness/nrp_work_sh_annex.html (last visited May 14, 2006); Department of Homeland Security, *National Response Plan*, special report under Homeland Security Presidential Directive (HSPD)-5, December, 2004. http://www.dhs.gov/interweb/assetlibrary/NRP_FullText.pdf.
- ⁵⁰ Snare, Speech at ABA 2006 Midwinter Meeting, March 8, 2006. OSHA estimates that its efforts have resulted in the removal of more than 56,000 workers from hazardous situations that could have led to serious injury or death (*ibid.*).
- ⁵¹ Occupational Health and Safety Administration, *Worker Safety and Health Support Annex*.
- ⁵² 5 U.S.C. § 8101 (“FECA”).
- ⁵³ LSA-R.S. 23:1021. <http://www.legis.state.la.us/lss/lss.asp?doc=83328> (accessed May 14, 2006).
- ⁵⁴ LSA-R.S. 23:1021.
- ⁵⁵ There are exceptions for coverage of employees who own a part of the employing entity. LSA-R.S. 23:1035(A). Owners of small farms and individual homeowners acting as contractors for work on their own residence are exempted from the requirement to provide workers’ compensation coverage, LSA-R.S. 23:1035(B). An employer is not required to provide workers’ compensation coverage to independent contractors, “unless a substantial part of the work time of an independent contractor is spent in manual labor by him in carrying out the terms of the contract.” LSA-R.S. 23:1021(7).

- ⁵⁶ *Miss. Code Ann.* § 71-3-5 (2006). All private employers over covered except “nonprofit charitable, fraternal, cultural, or religious corporations or associations.” If a private employer has less than five employees, or a public agency, workers’ compensation coverage is not mandatory but may be provided voluntarily by the employer (*ibid.*).
- ⁵⁷ LSA-R.S. 23:1031; *Miss. Code Ann.* § 71-3-3(b)-(c) (2006).
- ⁵⁸ Louisiana prohibits employment of undocumented workers except as seasonal farm labor, LSA-R.S. 23:992, but the state statutes do not make the distinction between legal and “illegal” workers under the state workers’ compensation law. See “definitions,” LSA-R.S. 23:1021. The Mississippi workers’ compensation statute provides coverage irrespective of the lawfulness of employment. *Miss. Code Ann.* §§ 71-3-3(d) (2006) (“‘Employee’ means any person ... whether lawfully or unlawfully employed.”).
- ⁵⁹ In Louisiana, approximately 58% of the adult population (ages 19-64) has medical coverage offered through an employer. Kaiser Family Foundation, Urban Institute and Kaiser Commission on Medicaid and the Uninsured, Estimates, *Louisiana: Health Insurance Coverage of Adults: Age 19-64, States (2003-2004), US (2004)*. StateHealthFact.Org. <http://www.statehealthfacts.org/cgi-bin/healthfacts.cgi?action=profile&area=Louisiana&category=Health+Coverage+%26+Uninsured&subcategory=Health+Insurance+Status&topic=Adults+%2819%2d64%29>, based on the US Bureau of the Census. *March 2004 Current Population Survey*. CPS: Annual Social and Economic Supplements, March 2004, and US Bureau of the Census. *March 2005 Current Population Survey*. CPS: Annual Social and Economic Supplements, March 2005. In Mississippi, the coverage is similar with 59% of adults covered through employers (*ibid.*).
- ⁶⁰ In Louisiana, approximately 6% of adults have individual insurance coverage (*ibid.*). The comparable figure for Mississippi is 4% (*ibid.*).
- ⁶¹ Social Security Act, 42 U.S.C. § 1396a.; 42 C.F.R. Part 430.
- ⁶² Undocumented immigrations may be eligible for emergency Medicaid services, immunizations, treatment of communicable diseases, and other non cash federal benefits programs. Welfare Act §401(b)(1), codified at 8 USC § 1611(b)(1).
- ⁶³ 63 Fed. Reg. 41657.
- ⁶⁴ National Immigrant Law Center, *Guide to Immigrant Eligibility for Federal Programs (2002)*, update January 2006. http://www.nilc.org/pubs/guideupdates/tb110_state-med-asst_2006-01.pdf. States seeking to provide additional benefits are required by federal law to pass additional laws to do so. However, there is no enforcement mechanism to sanction state failure to do so. Welfare Act § 401(b)(1).
- ⁶⁵ 42 C.F.R. § 489.24 (d). If any individual, whether or not eligible for Medicare benefits, comes to a hospital, the hospital must provide for further medical treatment and services in order to stabilize the patient or transfer the patient to another medical facility (*ibid.*).
- ⁶⁶ 46 La.Rev. Stat. § 6 (921). The statute requires hospitals to provide medical care to “indigents.”
- ⁶⁷ *Miss. Code Ann.* § 41-7-71 (2006).



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