

**SHO SATO WORKSHOP ON  
“THE PROBLEM OF LAW IN RESPONSE TO DISASTERS”  
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UNIVERSITY OF CALIFORNIA, BERKELEY**

**Disaster Law after Katrina**

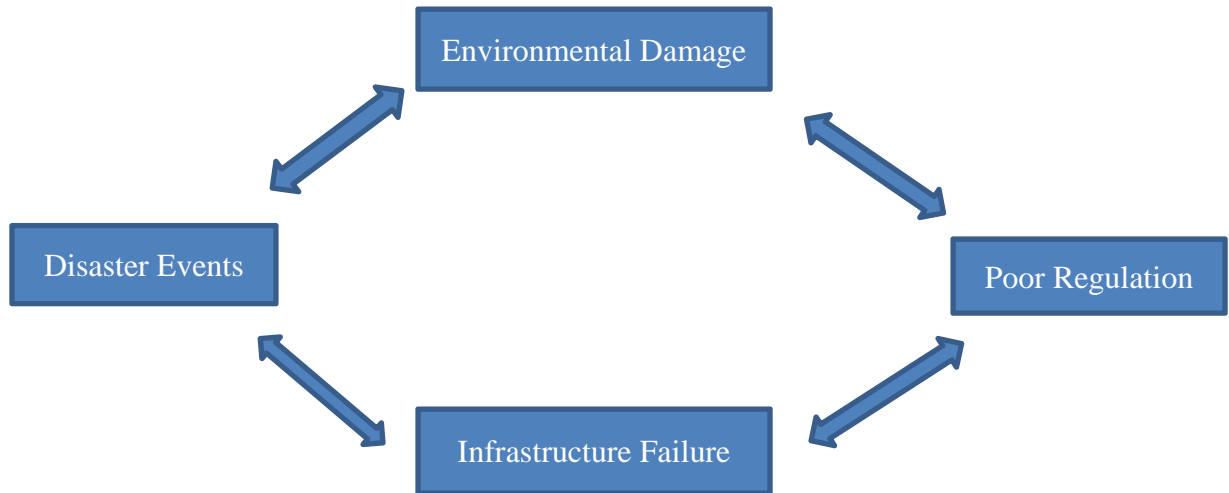
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Disasters are superimposed on existing characteristics and problems. For example, the levees built in the Gulf Coast region have caused silt to go out to the Gulf and not build up the land. The result is erosion of coastal wetlands of around 32,000 acres each year. Additionally, climate change will increase clouding due to rising waters, forcing species to migrate inwards and stressing ecosystems. Also, farm fertilizers that are essentially flushed down the Mississippi River create dead zones in the Gulf where there is not enough oxygen in the water for anything but algae to survive.

Thus, events such as the BP oil spill and Hurricane Katrina impacted an environment that was already fragile because of weak environmental regulation. Lack of regulation also contributed to disaster events. The BP oil spill resulted in a slick about the size of New England. Its causes were negligence by private firms and a failure of environmental regulation due to overreliance on industry assumptions. With Katrina, coastal wetlands could not function as a buffer because of wetland destruction due to poor environmental policies. Furthermore, levees failed because of poor design, construction and maintenance. These regulatory failures contributed to the flooding of New Orleans.

Looking at other major environmental disasters of the last half century or so, in 1952 London experience a killer pollution-induced fog that lasted 4 days, blotted out the sun at noontime, and killed 1 out of every 2000 residents. In 2002 a European heat wave was estimated to have killed between 30,000-50,000 people. The risk for such heat waves has doubled due to human activity that resulted in climate change.

Bad government policies have been a contributing cause to disasters, and there is an interaction between natural events and regulatory policies (see model below):



One of the key lessons to be learned is that it is a mistake to only focus on the emergency response and recovery. We need to think about land use planning – should people be living there, and, if so, should their houses be designed differently? We need to think about policies as preventative, rather than reactive, efforts.

Katrina and the BP oil spill added to the difficulties of culturally distinct communities, such as the Cajuns or Vietnamese along the Gulf Coast. Some of these problems can be somewhat anticipated. Despite warnings, people had a difficult time leaving because they didn't have cars, they didn't have sufficient funds (the disaster occurred at the end of the month), there was uncertainty over whether the event would actually occur, and the residents had past experience of successfully weather such warnings.

In addition, there is a lot of pressure on politicians and the government to not adopt measures to deal with low-probability, non-catastrophic events. Also, in developing countries, given the constraints on the government, it is hard to call either a lack of preventative measures or an ineffective response a government policy failure, but developed countries have no such excuse. In the United States, federalism complicates issues since local officials can often frustrate the aims of the national government. Despite these barriers, the issues need to be addressed, because the harm involved is so great.