

## THE REBIRTH OF A CITY: SOCIAL JUSTICE, ETHICS, AND NEW ORLEANS

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This past year as New Orleans marked the tenth anniversary of Hurricane Katrina, many people celebrated the progress that the city has made. Progress has been slow and there are many reasons for that. The extent of the devastation required far more than the physical rebuilding of the city. The city's rebirth has involved every social structure; government, education, and commerce all had to be rebuilt. Government at every level—city, state, and federal—had to participate. But it is also important to remember that, as Mayor Mitchell Landrieu often notes, our progress is not about rebuilding the city as it was but about creating a city for the future.

There are multiple examples of the failure of government, at every level, to do the kind of work that government is supposed to do.<sup>1</sup> And these failures have hindered progress.<sup>2</sup> However, people often miss the complexity of the problems unmasked by Katrina. It is easy to forget that the real damage to the city came, not directly from the storm, but from the failure of the infrastructure that was supposed to protect the city.<sup>3</sup> Those failures left over eighty percent of the city (the equivalent of

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1. See, e.g., Scott Shane, *After Failures, Government Officials Play Blame Game*, N.Y. TIMES (Sept. 5, 2005), <http://www.nytimes.com/2005/09/05/us/nationalspecial/after-failures-government-officials-play-blame-game.html>.

2. One example in Louisiana has been the Road Home Program. The program was set up to make sure that people whose homes were lost or damaged got the resources they needed. The program, however, has been marked by bureaucratic hurdles that have slowed the process of getting money to citizens. See, e.g., David Hammer, *Road Home to Hit Dead End*, NOLA.COM (May 29, 2007 5:31 PM, updated May 30, 2007, 11:58 AM), [http://blog.nola.com/times-picayune/2007/05/road\\_home\\_to\\_hit\\_dead\\_end.html](http://blog.nola.com/times-picayune/2007/05/road_home_to_hit_dead_end.html).

3. See Scott Shane & Eric Lipton, *Government Saw Flood Risk but not Levee Failure*, N.Y. TIMES (Sept. 2, 2005), <http://www.nytimes.com/2005/09/02/us/nationalspecial/government-saw-flood-risk-but-not-levee-failure.html>. It is also important to remember that, to protect national commerce and energy needs, the Mississippi River and Delta are all under federal control, not the control of the states involved.

seven Manhattans) standing in water.<sup>4</sup> Flood damage is not quickly fixed. It requires detailed work that is seldom visible to the eye (e.g., repairs to water and gas lines). But, if done right, these repairs and upgrades will equip the city to move into the future. The repair of the flood protection system is a key to the future of New Orleans. Confidence in these systems is a prerequisite for people to rebuild their homes and businesses.<sup>5</sup>

Just as important as the work being done to the city's physical infrastructure is the work being done to its social infrastructure—work that is just as necessary as the physical repairs. The work being done on public education, health care, criminal justice, and government is just as crucial to the city's long-term health as the work being done on the levees. Much of this work has been accomplished by the legal community, including by graduates of Loyola's College of Law. These social reforms are helping to shape a city where all citizens can live and flourish.

One example of this social redevelopment with which I have been intimately involved has been the establishment of an Ethics Review Board (ERB) for the city.<sup>6</sup> The ERB is an independent agency with the ability to examine every city contract. Since its formation, I have served as the Chair of the ERB and have worked to establish its operations and procedures, as well as establish the Office of the Inspector General (OIG). The Inspector General operates from within the city government to “prevent and detect fraud and abuse.”<sup>7</sup> The development of these structures and offices have laid the groundwork for a city government that more efficiently and effectively serves all citizens. The creation of this board has not been easy, but it has been successful because of the cohesive commitment of leaders throughout the city. The efforts to address efficiency and effectiveness in government are especially important to the poorest and least advantaged citizens as they are the citizens who

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4. See *Hurricanes Katrina and Rita's Impact on America's Wetland*, AM. WETLAND FOUND., [http://www.americaswetlandresources.com/background\\_facts/basicfacts/hurricane.html](http://www.americaswetlandresources.com/background_facts/basicfacts/hurricane.html) (last visited January 5, 2016).

5. See John Schwartz, *A Billion Dollars Later, New Orleans Still At Risk*, N.Y. TIMES (Aug. 27, 2007), <http://www.nytimes.com/2007/08/17/us/nationalspecial/17protect.html>.

6. See *Welcome to the Ethics Review Board*, ETHICS REV. BOARD, <http://www.nolaethics.org/main/> (last visited Jan. 5, 2016).

7. *Our Mission*, NEW ORLEANS OFF. INSPECTOR GEN., [http://nolaoig.gov/main/index.php?page=our\\_mission](http://nolaoig.gov/main/index.php?page=our_mission) (last visited Jan. 5, 2016).

depend the most on city services and who have the little recourse if those services do not work well.<sup>8</sup>

As we have moved through the difficult and time-consuming process of establishing the ERB and OIG, I have often thought of this effort as an example of social justice. Some might argue that we have simply erected another bureaucracy. And that is a real risk. But, if these structures are set up well, they can prevent, as well as root out, corruption and make government more responsive to all citizens.

These goals are entirely consistent with the tenets of Catholic social teaching. The language of justice in the Catholic tradition is founded on a notion of the dignity of the human person. The human person is the fundamental object of concern in the tradition of Catholic social thought.<sup>9</sup> This language of the human person and human dignity is fundamentally tied to the idea of community. And so the language of justice is inextricably bound up with the language of community and the dignity of the person.<sup>10</sup>

Why is this tradition so tied to the relationship of human person, human dignity, and community? The fundamental assumption is that the human person is made in the image of God (*imago dei*). This language, based in the Hebrew and Christian Scriptures, was developed by theologians and philosophers in the early Church and elaborated throughout the Middle Ages. One theme that runs through the development of the language of the *imago dei* is a Trinitarian understanding of God. God is three persons and yet is one God. As God is fundamentally communal in God's own nature, so too human life, made in the image of God, is communal. Therefore, embedded in the concepts of the *imago dei* and human dignity is the concept of the "common good."

Most Americans would understand common good to mean the good of the majority as expressed through the majority's will. But that interpretation is incorrect in this tradition. The notion

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8. See generally Nanak Kakwani & Hyun H. Son, *Evaluating Targeting Efficiency of Government Programmed: International Comparisons* (United Nations Dep't of Econ. & Soc. Affairs, Working Paper No. 13, 2006) (proposing a method to measure the degree to which various government programs are "pro-poor," that is, achieve a reduction in poverty).

9. Second Vatican Council, *Gaudium et Spes* #26 (Pastoral Constitution on the Church in the Modern World), Dec. 7, 1965.

10. This tradition of justice is distinct from atomistic accounts of many modern philosophers.

of common good refers to those conditions necessary for human flourishing. Pope John XXIII defined the common good as “the sum total of conditions of social living, whereby persons are enabled more fully and readily to achieve their own perfection.”<sup>11</sup> Social justice represents a concern that a society be organized in such a way that its members have access to these basic conditions.<sup>12</sup> In *Pacem et Terris*, John XXIII said that “in our time the common good is chiefly guaranteed when personal rights and duties are maintained.”<sup>13</sup> The idea of social justice is a cross, one could argue, between general justice and distributive justice. The goal of social justice is a society organized with respect to the common good. The language of common good focuses us on those conditions that human beings need to flourish as human beings.

The Civil Rights movement in the United States is an example of social justice. The movement sought to ensure that the same rights were extended to all Americans. In many ways, the development of the ERB and OIG in New Orleans is also an exercise in social justice because these entities will ensure that the structures of the city respond efficiently and effectively to all citizens.

Ten years after Katrina, it is important to step back and contemplate the extent to which the city’s rebuilding has been illuminated by these concerns for human dignity, community, and social justice. The articles presented by the *Loyola Law Review* in this volume will explore the city’s destruction and rebuilding from the perspective of developments in the legal system that have affected all citizens. This volume will examine ways that courts have addressed Katrina-related issues, legal strategies that have been developed in the last decade in reaction to the courts’ positions, and judicial and administrative responses that will strengthen the New Orleans community as we move forward into the future. As the city moves into a new era, it is my hope that all who play an influential role in the growth of New Orleans, including members of the legal community, will continue to prioritize the good of the community and the respect for the dignity of all our citizens.

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11. John XXIII, *Mater et Magister* #65 (Encyclical on Christianity and Social Progress), May 15, 1961.

12. Pius XI, *Divini Redemptoris* #51 (Encyclical on Atheistic Communism), Mar. 19, 1937.

13. John XXIII, *Pacem et Terris* # 60 (Encyclical on Establishing Universal Peace in Truth, Justice, Charity, and Liberty), Apr. 11, 1963.