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Beyond Response: Reimagining the Legal Academy's Role in Disaster Recovery and Preparedness

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BEYOND RESPONSE: REIMAGINING THE LEGAL ACADEMY'S ROLE IN DISASTER RECOVERY AND PREPAREDNESS

LATISHA NIXON-JONES*

ABSTRACT

This Article proposes expanding the legal academy's role in responding to disasters and emergencies, specifically through creating disaster clinics that take a community-based lawyering approach. The Article is one of the first to identify the need for community-based disaster legal clinical education that goes beyond the immediate response phase. It also proposes creating a disaster legal pipeline from the clinic through post-graduation employment. The Article furthers the literature's discussion of the need for sustained disaster legal education. As the global pandemic caused by COVID-19 coronavirus continues to impact vulnerable populations and the frequency of natural disasters continues to increase, this Article provides a blueprint to law school faculty and administrators on the process of starting a new clinic or redesigning an existing clinic into a long-term disaster-related clinic. Additionally, the Article provides a timeline of disaster legislation that has evolved to provide a robust background for seminar courses. The Article draws from the author's expertise in creating two disaster clinics and multiple disaster and environmental justice courses.

* Latisha Nixon-Jones, an Assistant Professor of Law, and I am honored to present this Article, which would not have been possible without the support and contributions of so many individuals and organizations. I initially presented this work-in-progress during the Southeastern Association of Law School conference in the summer of 2021, where I received valuable feedback. Professor Kenneth Klein provided invaluable feedback on my abstract. I am also grateful to Professors Suzanne Rowe and Adele Amos at the University of Oregon, who generously assisted with editing, polishing, and providing general support. Furthermore, I would like to express my sincere gratitude to Chancellor John Pierre and the clinical faculty at Southern University Law Center for affording me the opportunity to create this vital clinic. The ongoing support from Equal Justice Works and Americorps for disaster research and practice is also greatly appreciated. To the editorial board at *Cleveland State Law Review*, thank you for all of you feedback and consistency, your hard work truly made this Article better. Lastly, I would like to thank my family and village for their unwavering support. To my husband, Christopher Jones, and my children, Jordyn, Sidney, and Christopher Jr., I am grateful for your love and understanding. To my grandmothers, Iceola, Charlene, and Cathy, who helped watch my children so I could complete this Article, your sacrifice has helped shape the scholar I am and will become.

The Article looks at the creation of the disaster legal clinic, examines the evolution of the popular Equal Justice Works disaster corps, and provides best practices for designing the course. The Article provides insight on the distinctive ability of law schools to foster community-based solutions, as demonstrated through the lens of successful clinics.

Keywords: Disaster Law, Legal Clinic, Law Clinic, Community Lawyering, COVID-19, Coronavirus, Vulnerable Populations, FEMA, Young Lawyers Division, National Preparedness Goal, National Recovery Framework, ABA, Crisis Lawyering

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I. INTRODUCTION

In 2016, the Louisiana capital city of Baton Rouge underwent a thousand-year flooding event.¹ Imagine going to bed with the light sound of rain on your roof only to wake up the next morning to the sound of water rushing into your home. You call 911; only for 911 to ring busy. Your neighbor has a boat and starts to rescue your family and others in the neighborhood. Once the water recedes and the boots are on the ground, you realize that your place of employment is also flooded and is forced to close immediately. Additionally, your property owner must evict you to repair the property. You are overwhelmed and wonder who you can turn to for advice. Many residents of Baton Rouge found themselves in the above situation.² But luckily, the Southern University Law Center recognized the community's needs and opened the Southern University Disaster Legal Clinic.³

In recent years, the increase in the number of natural and man-made regional disasters, local emergencies, and a global pandemic have highlighted the need to increase the legal academy's ability to create a community-based approach for example critical legal services.⁴ There is a growing trend among professional schools to incorporate a comprehensive disaster curriculum.⁵ As natural and man-made disasters increase in frequency, first responder systems are often overwhelmed.⁶ As such, professional schools are the perfect partners to assist in expanding those services for vulnerable populations.⁷ In particular, the legal needs of vulnerable populations have increased with each disaster.⁸ Law schools are not the exception and are primed to establish a disaster legal curriculum based on historical changes in disaster legislation, the expansion of the National Incident Management System, and the success of previous disaster response clinical models.⁹ Since 2006, law schools have

¹ *Oversight of the Federal Emergency Management Agency's Response to the Baton Rouge Flood Disaster: Hearing Before the Subcomm. on Transp. & Pub. Assets of the Comm. on Oversight and Gov't Reform H.R.*, 114th Cong. 2 (2016) (statement of Rep. John L. Mica, Chairman, Subcomm. on Transp. & Pub. Assets).

² *Id.*

³ *Disaster Law*, S. UNIV. L. CTR., <https://www.sulc.edu/page/7061> (last visited Jan. 8, 2023).

⁴ See generally FEMA, NATIONAL INCIDENT MANAGEMENT SYSTEM (3d ed. 2017); *How a Disaster Gets Declared*, FEMA, <https://www.fema.gov/disaster/how-declared> (Jan. 4, 2022). FEMA provides disaster legal services; however, those services exclude any fee-generating services including disaster unemployment, landlord tenant issues, and contractor fraud claims.

⁵ See Edward H. Jasper et al., *Implementing a Disaster Preparedness Curriculum for Medical Students*, 110 S. MED. J. 523, 523 (2017).

⁶ *Id.*

⁷ *Id.*

⁸ See Jeffrey R. Baker et al., *In Times of Chaos: Creating Blueprints for Law School Responses to Natural Disasters*, 80 LA. L. REV. 421, 424 (2020).

⁹ Andrew Jack VanSingel, *The Calm After the Storm: 45 Years of the ABA Young Lawyers Division's Disaster Legal Services Program*, 35 TOURO L. REV. 1019, 1021 (2019).

been part of local legal responses and recovery phases of many disasters.¹⁰ However, as the frequency of disasters increases, law schools and academic institutions must become larger stakeholders in the federal preparedness and mitigation framework.

The current system of providing legal assistance following disasters has followed the traditional disaster legislation, which have primarily focused on initial response and recovery.¹¹ In 2004, the Department of Homeland Security published the National Incident Management System (“NIMS”), which was designed to create a “consistent nationwide template to enable partners across the Nation to work together to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location or complexity.”¹² However, after the failures associated with Hurricane Katrina in 2005, the Federal Emergency Management Agency (“FEMA”) shifted its focus to developing national and community preparedness incentives.¹³ These approaches took into consideration the whole community approach, but largely ignored the access to justice issues.¹⁴

Currently, the disaster legal response system is very antiquated. Modern legal services followed the same original response structure with a volunteer and pro-bono model that rests on the internal organization of the American Bar Association (“ABA”) and its Young Lawyers Division (“YLD”).¹⁵ Most of the modern-day legal response is shaped and governed by the YLD’s Memorandum of Understanding, Legal Service Corporation, which oversees most state and local-level legal aid organizations and the structure of many non-governmental organizations (“NGO”) and many local-level nonprofit legal organizations.¹⁶

While many law schools have attempted to aid in disaster response by creating law clinics that provide full-scaled legal services, many of these clinics lacked the dedicated resources for long-term curriculum goals and schools have opted for a smaller, scaled-back approach with seminars or spring break courses that assisted briefly after specific disasters.¹⁷ These are known as disaster response and recovery

¹⁰ *Id.* at 1057.

¹¹ *Id.* at 1021.

¹² FEMA, *supra* note 4, at iii. Note that the term “disaster response” covers both the immediate action taken after a disaster and the entire four phases of disaster management, including preparedness, initial response, recovery, and mitigation. The fluidity in the word “response” stems from all other cycles that were evolutions of the initial response. See VanSingel, *supra* note 9, at 1026.

¹³ KEITH BEA, CONG. RSCH. SERV., FEDERAL EMERGENCY MANAGEMENT POLICY CHANGES AFTER HURRICANE KATRINA: A SUMMARY OF STATUTORY PROVISIONS 5–6 (2007).

¹⁴ *Id.*

¹⁵ VanSingel, *supra* note 9, at 1027.

¹⁶ *Id.* at 1023.

¹⁷ See *Resources for Pro Bono Volunteers*, NAT’L DISASTER LEGAL AID, https://www.disasterlegalaid.org/volunteer/item.5655-Law_School_Resources (last visited Jan. 25, 2023) (discussing the types and scopes of disaster law courses and clinics).

clinics.¹⁸ However, the current academic model is not sustainable, and many law school legal clinics and courses eventually dwindle or close—due to lack of funding or interest—after the initial recovery phase slows.¹⁹ Consequently, the legal academy has been excluded from the NIMS recovery framework, preventing schools from having access to additional resources and funding granted to other stakeholders.²⁰

In order to fulfill national preparedness and initial response goals, the legal academy must be incorporated into the federal disaster framework.²¹ Doing so will create a multi-layer pipeline for future disasters, and creating advocates for the communities that are impacted the greatest after a disaster or local emergency.²² Additionally, the academy is primed to provide legal advocates throughout the disaster cycle.²³ The current framework and structure of legal response must be expanded to include law schools and collaborations with nonprofit organizations and other community organizations.²⁴ This Article details how the legal academy can fulfill goals in the national disaster management framework through the incorporation of a comprehensive disaster legal curriculum. Historically, disaster law clinics made up a large component of the legal academy's disaster law curriculum design.²⁵ However, the clinics are often the individual efforts of the local school and are not coordinated with other response agencies.²⁶ 2017 was the costliest year in history for disaster recovery and demonstrated the need for experienced disaster legal scholars and practicing attorneys.²⁷ The needs of vulnerable populations increase after a disaster,

¹⁸ *Id.*

¹⁹ *See, e.g., Baker et al., supra note 8.*

²⁰ Rebecca Herscher, *COVID-19 Has Created a Legal Aid Crisis. FEMA's Usual Response Is Missing*, NAT'L PUB. RADIO (May 11, 2020, 7:32 AM), <https://www.npr.org/2020/05/11/851359260/covid-19-has-created-a-legal-aid-crisis-femas-usual-response-is-missing> (“The Disaster Legal Services program is part of a larger suite of FEMA benefits known as individual assistance, which the governors of at least 30 states have requested in connection with the pandemic. But the White House has not approved those requests.”).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *See id.*

²⁵ Baker et al., *supra note 8*, at 423.

²⁶ *See, e.g., id.; see infra pt. III.A* (discussing six individual schools implementing disaster law clinics).

²⁷ *See Sally French, 2017 Was the Costliest Year Ever for Natural Disasters in the U.S., In One Chart*, MARKETWATCH (Jan. 9, 2018, 3:04 PM), <https://www.marketwatch.com/story/2017-was-the-costliest-year-ever-for-natural-disasters-in-the-us-2018-01-09> [<https://perma.cc/T7WQ-MHH8>].

generating a significant need for disaster law attorneys.²⁸ Disaster legislation is constantly changing, and lawyers are needed to draft emergency and disaster laws on a national and state level.²⁹ Additionally, local general counsel is needed to possess an understanding of state and local emergency and disaster laws.³⁰ It is evident law schools must do more than house initial response and relief clinics.

This Article begins in Part II with a detailed discussion of disaster legislation, including the relationship between that legislation and the role of the ABA's YLD in providing much of the legal assistance regarding disasters. This Part summarizes the current state of disaster law and attitudes toward disaster preparedness. Then Part III provides a historical context for incorporating the legal academy into a national framework. Part IV explores the author's creation of the disaster law clinic at Southern University Law Center. Part IV also provides a blueprint for a comprehensive whole community-based model to expand long-term academic planning creating a pipeline for disaster legal education that will produce lawyers ready to lead sustained legal work at the national, state, and local levels. Part V concludes with necessary steps to aid in developing legal first responders in the future. The purpose of this Article is to cast light on the need for a comprehensive approach to the legal academy's response to disaster preparedness and disaster legal education and to show what steps law schools should take to meet that need.

II. HISTORY OF DISASTER LEGISLATION

This Part opens with an overview of the evolution of law governing disasters. Then it explains key legislation and related presidential actions that create the current framework of disaster law, highlighting the impact on the role of legal academia. Because disaster law is in its infancy, this Part goes into depth on the details of the current legislation.

A. Evolution of Disaster Laws

While the concept of disaster law appears to be new, disaster legislation began at the federal level in 1950 with the Disaster Federal Relief Program.³¹ The program was only meant to be a big brother to each state's disaster assistance plans and help to

²⁸ *Id.*; Baker et al., *supra* note 8, at 424.

²⁹ See, e.g., S. 3041, 115th Cong. (as reported by Sen. Ron Johnson, Dec. 19, 2018). The law contains fifty-six distinct provisions that require FEMA policy or regulation changes for full implementation, as they amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

³⁰ Alex Berenson & Sewell Chan, *New Orleans Officials Grapple with How to Pull Out Residents*, N.Y. TIMES (Sept. 8, 2005), <https://www.nytimes.com/2005/09/08/us/nationalspecial/new-orleans-officials-grapplewith-how-to-pull-out.html> (detailing the need for legal interpretation of state disaster law in response to hurricane Katrina).

³¹ Anna Marie Baca, *History of Disaster Legislation*, ON CALL: DISASTER RSRV. WORKFORCE NEWS (FEMA, Wash. D.C.), Sept. 2008, at 1, <https://www.fema.gov/pdf/dae/200809.pdf>. Prior to 1950, natural disasters were funded and responded to on an individual basis, which created inequalities and disparities in the treatment to states based on the disaster.

assist states with one-on-one assistance as disasters arose.³² However, it quickly became apparent that a larger range of assistance was needed as states were not prepared to handle the multitude of challenges that natural and man-made disasters presented.³³ The complexity of the problems was too intricate for states to handle because disasters were not common occurrences and taxed states' resources.³⁴ Additionally, the disaster relief program was only authorized to assist with response efforts and not recovery or pre-disaster preparedness.³⁵

As a result, Congress passed the Disaster Relief Act of 1966 to update the existing program and expand to provide federal assistance for relief.³⁶ However, the new legislation only addressed relief assistance.³⁷ States were still left with the burden of providing for both short- and long-term recovery efforts which fell outside of the scope of the Disaster Relief Act of 1966.³⁸ Thirteen years later, FEMA was created by executive order.³⁹ President Jimmy Carter transferred all of the statutory authority and rights vested in the presidency and any and all other federal agencies to FEMA.⁴⁰ Problems arose because FEMA was created through an executive order,⁴¹ and thus lacked a Congressional funding method.⁴² Disasters were still being funded on a case-by-case basis.⁴³ However, for the first time, a federal agency was able to establish programs to assist with all phases of the disaster recovery process including mitigation, preparedness, response, and recovery.⁴⁴ These terms are explained in the following chart.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*; see also *History of Federal Disaster Policy*, EVIDENCE MATTERS (HUD Off. Pol'y Dev. & Rsch., D.C.), Winter 2015, https://www.huduser.gov/portal/periodicals/em/winter151/highlight1_sidebar.html (explaining the timeline for major sections of disaster legislation).

³⁶ Baca, *supra* note 31, at 1.

³⁷ *Id.*; see also BEA, *supra* note 13, at 5–6 (creating national and regional entities and positions to assist in incident management and recovery via the Post-Katrina Act).

³⁸ *Id.*

³⁹ Baca, *supra* note 31, at 1.

⁴⁰ *Id.*

⁴¹ See *id.*

⁴² See *id.*; BEA, *supra* note 13, at 5–6 (reestablishing FEMA under the Post-Katrina Act).

⁴³ Baca, *supra* note 31, at 1.

⁴⁴ BEA, *supra* note 13, at 3; Press Release, Patrick Rodenbush, *HUD Announces Winning Proposals from the "Rebuild by Design" Competition*, U.S. DEP'T HOUS. & URB. DEV. (June 2, 2014), <https://archives.hud.gov/news/2014/pr14-063.cfm>.

DISASTER PHASE	DEFINITION
Preparedness	Disaster preparedness efforts include plans or preparations made in advance of an emergency that help individuals and communities get ready. ⁴⁵ Such preparations might include the stocking of food and water or the gathering and screening of willing volunteers, ready to mobilize post-disaster. ⁴⁶
Response	Disaster response work includes any actions taken during or immediately following an emergency, including efforts to save lives and to prevent further property damage. ⁴⁷ Ideally, disaster response involves putting already established disaster preparedness plans into motion. ⁴⁸ Typically, this phase of the disaster life cycle draws the most attention. It is also known as “disaster relief.” ⁴⁹
Recovery	Disaster recovery happens after the damage has been assessed and involves actions to return the affected community to its pre-disaster state or better, and ideally, to make it less vulnerable to future risk. ⁵⁰ Risk identification includes understanding the nature of hazards as well as understanding the nature of vulnerabilities. ⁵¹ Subsequent efforts may range from physical upgrades to education, training, and public awareness campaigns. ⁵²

⁴⁵ DR. K. RAMESH REDDY, NATIONAL SERVICE SCHEME OPPORTUNITIES IN COMMUNITY DEVELOPMENT 188 (2020) (ebook).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

DISASTER PHASE	DEFINITION
Mitigation	Disaster mitigation work involves directly preventing future emergencies and/or minimizing their negative effects. ⁵³ It requires hazard risk analysis and the application of strategies to reduce the likelihood that hazards will become disasters, such as flood-proofing homes or buying insurance. ⁵⁴

B. Progression of Disaster Legislation and Related Presidential Actions

After the creation of FEMA, disasters were managed as a cyclical process. During blue sky days, disasters were prepared for, during actual events, disasters were responded to, and after an event, communities entered into long-term recovery.⁵⁵ The response was studied for best practices and failures and mitigations strategies were explored and funded.⁵⁶ This Part will explore the major pieces of legislation that have defined disaster phases and disaster response: Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Post-Katrina Emergency Reform Act of 2006, Presidential Policy Directive 8: National Preparedness, National Preparedness Goal, National Incident Management System (“NIMS”), and the Disaster Recovery Reform Act of 2018.⁵⁷ Prior to these enactments, explained below, the legislation governing disasters was sporadic and existed in silos that could only be studied on a state and local level or regional level at most.⁵⁸ The evolution of disaster legislation has created a long-term disaster law area of study.⁵⁹ The coordination of a national disaster goal

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ BRUCE R. LINDSAY, CONG. RSCH. SERV., R42854, FEDERAL EMERGENCY MANAGEMENT: A BRIEF INTRODUCTION 2 (2012).

⁵⁶ *Id.*

⁵⁷ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 (2018); Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109–295, §§ 601–699A, 120 Stat. 1355, 1394–463 (codified as amended in scattered sections of 6, 42 U.S.C.); *Presidential Policy Directive/PPD-8: National Preparedness*, U.S. DEPT. HOMELAND SEC. (Oct. 27, 2022) [hereinafter *PPD-8*], <https://www.dhs.gov/presidential-policy-directive-8-national-preparedness>; U.S. DEP’T HOMELAND SEC., NATIONAL PREPAREDNESS GOAL (1st ed. 2011), <https://www.fema.gov/pdf/prepared/npg.pdf>; FEMA, *supra* note 4; Disaster Recovery Reform Act of 2018, Pub. L. No. 115–254, div. D, 132 Stat. 3186 (2018) (codified as amended in scattered sections of 6, 42 U.S.C.).

⁵⁸ ERICA A. LEE & BRUCE R. LINDSAY, CONG. RSCH. SERV., IN11229, STAFFORD ACT ASSISTANCE FOR PUBLIC HEALTH INCIDENTS (2021).

⁵⁹ See *History of Federal Disaster Policy*, *supra* note 35.

with a community focus has presented the opportunity for legal scholars to research and teach beyond the mundane of just revisionist response archetypes.⁶⁰

1. Robert T. Stafford Disaster Relief and Emergency Assistance Act

The original and largest body of disaster relief legislation is the Robert T. Stafford Disaster Relief and Emergency Assistance Act.⁶¹ This Act details programs and processes that the federal government can enact before, during, and after a disaster.⁶² The Act covers the federal government as well as local, state, tribal, territorial, and insular governments.⁶³ The Stafford Act also includes private nonprofit organizations and individuals that are affected by a presidentially declared disaster or emergency.⁶⁴

The Stafford Act outlines the following provisions for disaster legal assistance:

Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the program authorized by this Chapter, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.⁶⁵

The Stafford Act authorized the agreement between FEMA and ABA YLD.⁶⁶ But it fails to incorporate the legal academy on a federal level or to incorporate individual law schools on a state and local level.⁶⁷

2. The Post-Katrina Emergency Reform Act of 2006 (“Katrina Act”)

Due to the systemic failures that occurred after Hurricane Katrina, Congress passed six statutes to correct the functions of FEMA and the national disaster response in the future.⁶⁸ The Katrina Act “reorganize[d] FEMA, expand[ed] its statutory authority

⁶⁰ See *PPD-8*, *supra* note 57, at 1.

⁶¹ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121; *Baca*, *supra* note 31, at 3.

⁶² Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121(b).

⁶³ *Id.* § 5123.

⁶⁴ *Id.* § 5135(a)(1).

⁶⁵ VanSingel, *supra* note 9, at 1022 (quoting Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121).

⁶⁶ *Id.*

⁶⁷ See discussion *infra* Parts II.B–C.

⁶⁸ BEA, *supra* note 13, at 1. See generally Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109–295, 120 Stat. 1355 (codified as amended in scattered sections of 6, 42 U.S.C.); Security and Accountability for Every (SAFE) Port Act of 2006, Pub. L. No. 109–347, 120 Stat. 1884 (codified as amended in scattered sections of 6, 19, 31, 33, 42, 46–47, 49 U.S.C.); Pets Evacuation and Transportation Standards Act of 2006, Pub. L. No. 109–308, 120 Stat. 1725 (codified as amended at 42 U.S.C. §§ 5121, 5196, 5196b, 5170b(a)(3)); Federal Judiciary Emergency Special Sessions Act of 2005, Pub. L. No. 109–63, 119 Stat. 1993 (codified

and impose[d] new conditions and requirements on the operations of the agency.”⁶⁹ While the Post-Katrina Emergency Reform Act of 2006 created varied and wide-ranging standards for FEMA, this Article will focus on five of the provisions:

- The education and training section including the restructuring of public assistance and the focus on providing legal aid for low-income victims;⁷⁰
- Requirements for the development of pre-scripted mission assignments as part of the planning efforts for Emergency Support Functions (“ESFs”) response efforts;⁷¹
- NIMS and the National Response Framework as the framework for emergency response and domestic incident management;
- Direction for the development of a national disaster recovery strategy and national disaster housing strategy;⁷²
- Amendment to the Stafford Act to direct FEMA to appoint a Disability Coordinator to ensure that the needs of individuals with disabilities are addressed in emergency preparedness and disaster relief; and⁷³
- FEMA qualification system.⁷⁴

The Katrina Act created the structure for the coordinated response that FEMA currently uses.⁷⁵ The surge capacity structure was first tested in 2012 during Super Storm Sandy when FEMA had to deploy over 1,000 personnel members to respond and prepare for Hurricane Sandy.⁷⁶ The Katrina Act allowed FEMA to deploy surge

as amended in scattered sections of 28 U.S.C.); Student Grant Hurricane and Disaster Relief Act, Pub. L. No. 109-67, 119 Stat. 2001 (2005) (codified as amended at 20 U.S.C. §§ 1001, 1091b(b)(2)); and John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. No. 109-364, 120 Stat. 2083 (2006) (codified as amended in scattered sections of 5, 8, 10, 16, 20, 22, 37, 42, 46, 49, 50 U.S.C.).

⁶⁹ BEA, *supra* note 13, at 1.

⁷⁰ Post-Katrina Emergency Management Reform Act of 2006 § 503(G).

⁷¹ *Id.* § 633.

⁷² *Id.* § 683.

⁷³ *Id.* § 503.

⁷⁴ *Id.* § 643.

⁷⁵ Ted Mann & Joshua Jamerson, *Back-to-Back Hurricane Hurricanes to Test Post-Katrina FEMA Reforms*, WSJ (Sept. 7, 2017, 4:24 PM), <https://www.wsj.com/articles/back-to-back-hurricanes-to-test-post-katrina-fema-reforms-1504815848> (“The post-Katrina changes gave the agency the ability to direct a ‘surge capacity force’ of federal personnel to affected areas and to ‘pre-deploy’ resources like water and tarps, as well as federal staff to begin logistical preparations for housing people uprooted by disasters.”).

⁷⁶ *Id.*

capacity prior to the declared event.⁷⁷ Prior to Katrina, FEMA could only have allocated personnel and resources after the manifestation of the event.⁷⁸ This old system created mass confusion and blurred lines of authority across agencies.⁷⁹ FEMA now has the authority to allocate resources, funding, and personnel to agencies in advance of an actual disaster.⁸⁰ Additionally, FEMA can “accelerate federal assistance and support where necessary in the absence of a specific request by a state to save lives and prevent suffering.”⁸¹

3. Presidential Policy Directive (“PPD-8”)

In 2011, under the directive of President Barack Obama, the White House issued the presidential policy directive also known as PPD-8.⁸² The purpose of the directive was to create a national preparedness goal that “identifi[ed] the core capabilities necessary for preparedness and a national preparedness system to guide activities that will enable the nation to achieve the[ir] goal.”⁸³ It also provided metrics for the nation to be able to track the progress of its goals and to be able to build and improve on the capabilities that would allow the nation to prevent, protect against, and mitigate the efforts, respond to, and recover from any threat that would pose a great risk to the security of the nation.⁸⁴

PPD-8 was instrumental in shaping the way that the nation currently looks at preparedness. The directive provided for a national preparedness system, a national preparedness goal, methods to build and sustain preparedness, and a yearly national preparedness report.⁸⁵ It also defined and gave responsibilities to the Assistant to the President of Homeland Security and Counterterrorism and to the Secretary of Homeland Security.⁸⁶ Most importantly, the directive defined national preparedness,

⁷⁷ *Id.*

⁷⁸ *Id.*; see also U.S. GOV'T ACCOUNTABILITY OFF., GAO-09-59R, ACTIONS TO IMPLEMENT THE POST-KATRINA ACT 27 (2008) (“FEMA is to lead and support the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. Under the act, the FEMA Administrator reports directly to the Secretary of Homeland Security; FEMA is now a distinct entity within DHS; and the Secretary of Homeland Security can no longer substantially or significantly reduce the authorities, responsibilities, or functions of FEMA or the capability to perform them unless authorized by subsequent legislation.”).

⁷⁹ Mann & Jamerson, *supra* note 75.

⁸⁰ *Id.*

⁸¹ *Historic Disasters*, FEMA, <https://www.fema.gov/disasters/historic> (Jan. 4, 2022).

⁸² PPD-8, *supra* note 57.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

which requires actions to take plan, organize, equipped, training, and exercise to build, and sustain the capacities necessary to prevent, protect against, mitigate the effects of, respond to, and recover from those threats that pose the greatest risk of security of the nation. The terms security, resilience, prevention, protection, and mitigation, response, and recovery were defined, giving form to the current four stages of disaster preparedness.⁸⁷

Each of the national frameworks, one for each of the newly defined phases of disaster relief, was designed to assign roles and responsibilities on how to sustain, create, and leverage nonfederal disaster resources to non-profit and private sectors' resources.⁸⁸

4. National Preparedness Goal

In 2011, the National Preparedness Goal became the first deliverable from the Presidential Policy Directive known as PPD-8.⁸⁹ The goal consisted of five components: prevention, protection, mitigation, response, and recovery.⁹⁰ In addition to defining the five components, the National Preparedness Goal also provided for core capabilities that would not only include government agencies but also, for the first time, look at response and preparedness as a community goal.⁹¹ Creating this community outlook allowed the preparedness goal to expand and centralize creating a national response framework.⁹² The chart below outlines all of the core capabilities. The initial 2011 goal defined success as “a secure and resilient nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that possess the greatest risk.”⁹³ Since the 2011 initial report, the national preparedness goal has been updated once. In 2015, the report updated the structure of the five-core capability was expanded and measured by six targets including:

- planning, public information and warning;
- operation coordination;
- access control and identity verification;
- cybersecurity;
- interdiction and disruption; and

⁸⁷ *Id.*

⁸⁸ *Id.*; see Mann & Jamerson, *supra* note 75; U.S. GOV'T ACCOUNTABILITY OFF., ACTIONS TO IMPLEMENT, *supra* note 78.

⁸⁹ PPD-8, *supra* note 57.

⁹⁰ *Id.* at 1.

⁹¹ *Id.*

⁹² See *id.*

⁹³ *Id.*

- screening search in detection.⁹⁴

The initial 2011 report also included physical protection measures and risk management or protection programs in activities, both of those initiatives were omitted from the 2015 report.⁹⁵ The National Preparedness Goal also created a common definition for how we define community,⁹⁶ all-of nation,⁹⁷ core capabilities,⁹⁸ and cultural resources.⁹⁹ The following definitions provide a model framework from which the legal academy can build a similar legal response framework that mimics the structure of the National Preparedness Goal.¹⁰⁰

⁹⁴ U.S. DEP'T HOMELAND SEC., NATIONAL PREPAREDNESS GOAL 3–4 (2d ed. 2015), https://www.fema.gov/sites/default/files/2020-06/national_preparedness_goal_2nd_edition.pdf.

⁹⁵ *Id.*; see also PPD-8, *supra* note 57, at 2.

⁹⁶ U.S. DEP'T HOMELAND SEC., NATIONAL PREPAREDNESS GOAL, *supra* note 94, at A-1 (“Community: Unified groups that share goals, values, or purposes; they may exist within geographic boundaries or unite geographically dispersed individuals. Communities bring people together in different ways for different reasons, but each provides opportunities for sharing information and promoting collective action.”).

⁹⁷ *Id.* at A-3 (“Whole Community: A focus on enabling the participation in national preparedness activities of a wider range of players from the private and nonprofit sectors, including nongovernmental organizations and the general public, in conjunction with the participation of all levels of government in order to foster better coordination and working relationships. Used interchangeably with ‘all-of-Nation.’”).

⁹⁸ *Id.* at A-1 (“Core Capabilities: Distinct critical elements necessary to achieve the National Preparedness Goal.”).

⁹⁹ *Id.* (“Cultural Resources: Aspects of a cultural system that are valued by or significantly representative of a culture or that contain significant information about a culture.”).

¹⁰⁰ See U.S. DEP'T HOMELAND SEC., NATIONAL PREPAREDNESS GOAL, *supra* note 94, at A-1–A3.

PREVENTION ¹⁰¹	PROTECTION ¹⁰²	MITIGATION ¹⁰³	RESPONSE ¹⁰⁴	RECOVERY ¹⁰⁵
Planning				
Public Information				
Operational Coordination				
Intelligence and Information Sharing	Community Resilience Long-term Vulnerability Reduction	Infrastructure Systems		
Interdiction and Disruption		Critical Transportation	Economic Recovery	
Screening, Search, and Detection				

¹⁰¹ *Id.* at 3.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

Forensics and Attribution	Access Control and Identity Verification	Risk and Disaster Resilience Assessment	Environmental Response/Health and Safety	Health and Social Services
	Cybersecurity	Threats and Hazards Identification	Fatality Management Services	Housing
	Physical Protective Measures		Fire Management and Suppression	Natural and Cultural Resources
	Risk Management for Protection Programs and Activities	Logistics and Supply Chain Management	Mass Care Services	
	Supply Chain Integrity and Security	Mass Search and Rescue Operations	On-scene Security, Protection, and Law Enforcement	
		Operational Communications	Public Health, Healthcare, and Emergency Medical Services	
		Situational Assessment		

5. Disaster Recovery Reform Act of 2018 (“DRRA”)

The Disaster Recovery Reform Act was the largest set of disaster legislation since the 2006 Post-Katrina Reform Act.¹⁰⁶ The DRRA was a reactionary set of legislative acts to correct the failures that occurred after the sixteen weather and climate related disasters recorded the costliest year of natural disasters on record.¹⁰⁷ The DRRA was signed into law in 2018,¹⁰⁸ one year after four natural disasters—Hurricanes Harvey, Irma, and Maria and the California wildfire—caused ravenous damages to various parts of the United States.¹⁰⁹ The process was remarkably similar to the Post-Katrina Act that was signed into law one year after Hurricane Katrina and attempted to do the same type of mitigation legislation that the Katrina Act attempted to do.¹¹⁰

The DRRA addressed several major functions of the Stafford Act in fifty-six provisions.¹¹¹ Four areas impact the legal academy’s ability to effectively move beyond disaster response: hazard mitigation, funding, research and reporting, and preparedness.¹¹² The DRRA defines hazard mitigation as “any action taken to reduce or eliminate long term risk to people and property from natural disasters[.]” and it is crucial to long term disaster planning.¹¹³ FEMA utilizes three hazard mitigation programs: the Hazard Mitigation Grant Program (“HMGP”), the Pre-Disaster Mitigation Program (“PDM”), and the Flood Mitigation Assistance Program (“FMA”).¹¹⁴ The enhancement of disaster hazard mitigation is important to disaster legal clinics that aim to move beyond providing one-semester clinic courses and want to expand to a comprehensive disaster litigation curriculum.¹¹⁵ The DRRA allows for funding to create programs for researching when certain municipalities experience the

¹⁰⁶ Disaster Recovery Reform Act of 2018, Pub. L. No. 115-254, div. D, 132 Stat. 3186, 3438–69 (2018) (codified as amended in scattered sections of 6, 42 U.S.C.); CONG. RSCH. SERV., R46776, THE DISASTER RECOVERY REFORM ACT OF 2018 (DRRA): IMPLEMENTATION UPDATES FOR SELECT PROVISIONS 1 (2021) [hereinafter *DRRA Implementation Updates*].

¹⁰⁷ Shannon Collins Schroeder, Note, *Does America’s New Disaster Relief Law Provide the Relief America Needs?*, 56 HOUS. L. REV. 1177, 1199–1200 (2019).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *DRRA Implementation Updates*, *supra* note 106, at 4–10.

¹¹¹ Disaster Recovery Reform Act of 2018 §§ 1201–46; *see supra* note 29.

¹¹² *See id.*

¹¹³ *Hazard Mitigation Assistance*, FEMA, <https://www.fema.gov/hazard-mitigation-assistance> [<https://perma.cc/C3B3-NEHG>] (Dec. 18, 2018, 2:39 PM).

¹¹⁴ *Id.*

¹¹⁵ *See Baker et al.*, *supra* note 8.

same risk factors, when certain segments of the populations are at risk of not being able to recover, and when creating sustainable solutions for housing and renters.¹¹⁶

Additionally, the DRRA provided resources for research and creating a public website that will allow disaster victims to access and see how disaster funding is allocated.¹¹⁷ The research will also help to determine and shorten the process for disaster victims to be able to access funding and to determine how the applications are maintained and funded.¹¹⁸

Finally, the DRRA “[r]equire[d] FEMA to provide Congress with regular progress updates on a National Preparedness Assessment recommended by the Government Accountability Office in 2012. The assessment is meant to review security risks and capabilities to prioritize grant dollars to needed localities.”¹¹⁹ The main concern is that lawyers and legal professionals are often left out of the non-disaster and pre-disaster planning and training.¹²⁰ The chart below shows the occupational training chart for non-disaster funding.¹²¹ While the DRRA is a step in the right direction, it continued the historical exclusion of civil legal providers.¹²²

¹¹⁶ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5135(a)(1).

¹¹⁷ Disaster Recovery Reform Act of 2018 § 1223.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *See infra* graphic accompanying note 124 (discussing disciplines of individuals receiving National Disaster Preparedness Consortium Training without mentioning lawyers or legal professionals).

¹²¹ U.S. DEP’T HOMELAND SEC., 2019 NATIONAL PREPAREDNESS REPORT 18, https://www.fema.gov/sites/default/files/2020-03/fema_national-preparedness-report-2019.pdf.

¹²² *See id.*

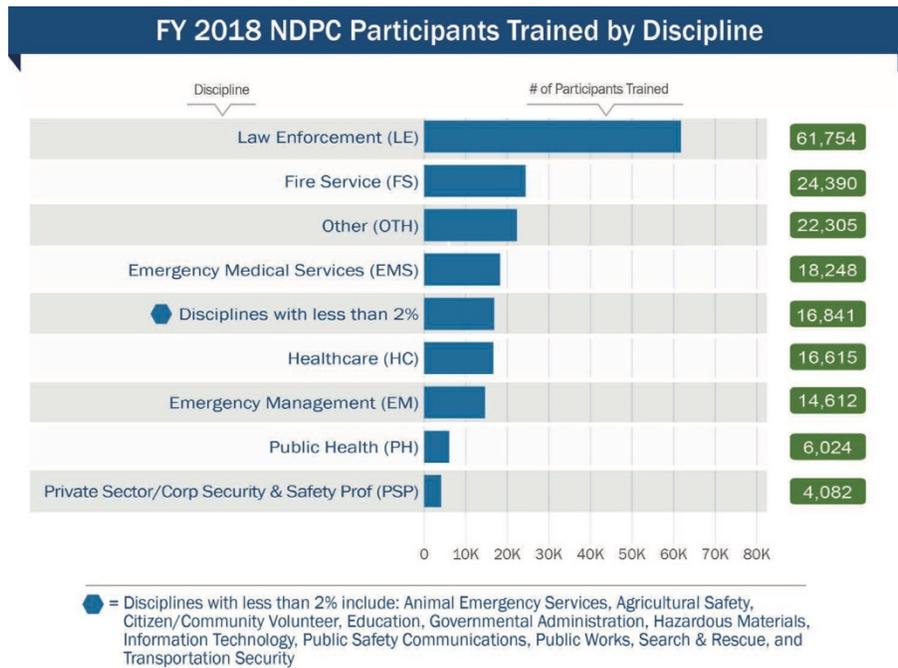


Figure 1: FY 2018 NDPC Participants Trained by Discipline¹²³

C. FEMA and Disaster Legal Aid

All of the above legislation created the overall disaster response framework. However, only one piece of legislation throughout the evolution of disaster response creates a disaster legal response.¹²⁴ In 1979, FEMA through the Robert T. Stafford Act authorized the creation of the Disaster Legal Services (“DLS”) program.¹²⁵ The program was an agreement between the Young Lawyers Division (“YLD”) of the ABA and FEMA.¹²⁶ The purpose of the program was to provide free legal assistance to disaster survivors through the request of the state, local, tribal, or territorial

¹²³ *Id.* at 18 (“The National Preparedness Report summarizes the progress made and challenges that remain in building and sustaining the capabilities needed to prevent, protect against, mitigate, respond to, and recover from the threats, hazards and incidents that pose the greatest risk to the Nation. As a requirement of the Post-Katrina Emergency Management Reform Act of 2006 and a key element of the National Preparedness System, this annual report offers all levels of government, the private and nonprofit sectors, and the public practical insights into preparedness that support decisions about program priorities, resource allocation, and community actions.”); *see also id.* at 2.

¹²⁴ Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5182.

¹²⁵ FEMA, DISASTER LEGAL SERVICES FACT SHEET (2019), https://www.jumpjet.info/Emergency-Preparedness/Neighborly-Response/Outside/Disaster_Legal_Services.pdf [<https://perma.cc/T5WM-3GGK>].

¹²⁶ *Id.*

governments.¹²⁷ The DLS program is activated when the president declares a major disaster that includes Individual Assistance.¹²⁸

The success of the DLS program has been instrumental after past disasters that include Hurricane Katrina, Hurricane Maria, Super Storm Sandy, and the west coast fires.¹²⁹ The program works by providing confidential, free legal assistance to low-income survivors who were directly affected by the presidentially declared major disaster.¹³⁰ The survivors must also meet the definition of being low-income¹³¹ and not have the means to hire a market rate attorney.¹³²

The question remains whether the current existence of FEMA and the Disaster Legal Services administered by the ABA's YLD is sufficient to provide an immediate response after a disaster and what other agencies are available to assist during the other three phases of a disaster.¹³³ In addition to the above YLD agreement, Disaster Legal Aid is also administered by the existing module of Legal Aid organizations.¹³⁴ However, this model is also insufficient because it only is activated as a method of recovery and response.¹³⁵ The existing model does not consider the other two phases of the disaster cycle—preparedness and mitigation—and the need for disaster policymakers and practicing attorneys.¹³⁶

The model has not been updated to reflect the shift from a response and recovery model to a holistic, cyclical continuum model.¹³⁷ Disasters happen without notice, or with very little notice, and the legal field is often not ready to respond; thus, it heavily

¹²⁷ *Id.*

¹²⁸ *Id.*; FEMA, INDIVIDUAL ASSISTANCE FACT SHEET (2016), <https://clients.freese.com/OWRBDiscovey19-2/static/media/FACTSHEET-IAProgram2016.348ee86f08dc61e2a347.pdf> [<https://perma.cc/7ZEQ-4ADC>].

¹²⁹ See generally VanSingel, *supra* note 9.

¹³⁰ See *Disaster Legal Services (DLS)*, DISASTER ASSISTANCE, 1, <https://www.disasterassistance.gov/get-assistance/forms-of-assistance/4464> (last visited Jan. 6, 2023).

¹³¹ See Anna Sillers, *Report Finds 44 Percent of U.S. Children Live in Low-income Families*, PBS (Apr. 6, 2015, 4:52 PM), <https://www.pbs.org/newshour/nation/nccp-finds-44-percent-u-s-children-live-low-income-families>.

¹³² DEP'T OF HOMELAND SEC., INDIVIDUAL ASSISTANCE PROGRAM AND POLICY GUIDE (IAPPG), FP No. 104-009-03 (2019).

¹³³ VanSingel, *supra* note 9, at 1027.

¹³⁴ DEP'T. OF HOMELAND SEC., INDIVIDUAL ASSISTANCE, *supra* note 132, at 215.

¹³⁵ *Id.*

¹³⁶ Sean Wilson et al., *The Lack of Disaster Preparedness by the Public and its Effect on Communities*, 7 INTERNET J. RESCUE AND DISASTER MED. 1, 6 (2007), <https://ispub.com/IJRDM/7/2/11721#>.

¹³⁷ *Id.*

depends on a volunteer model to aid society's most vulnerable populations.¹³⁸ The current DLS agreement has generally funded a disaster hotline staffed by volunteer attorneys across the country and by committee members of the Young Lawyer's Division.¹³⁹

D. Expanding the Role of Disaster Recovery to Vulnerable Populations Through Preparedness and Mitigation

Since the wide devastation and vivid images left by Hurricane Katrina, many federal, state, and local laws have shifted a focus to preparedness.¹⁴⁰ Preparing for a disaster can help to mitigate the damage and effects of the unknown risks posed by disasters.¹⁴¹ However, the object of the planning has in many ways left out the needs of vulnerable populations.¹⁴² Federal, state, and local laws are in existence to protect vulnerable populations.¹⁴³ However, any of the members in the vulnerable populations, including those in the lowest income brackets, are often left without the means to secure legal representation to avail themselves of the laws and their benefits.¹⁴⁴ Therefore, it is important to address the inequality to access to justice.¹⁴⁵ Incorporating law schools into the federal framework can address an increase in the number of disaster law practitioners and scholars that can advocate, represent, and educate vulnerable populations outside of the initial onset of a disaster or emergency.¹⁴⁶ A comprehensive legal education allows for public education of

¹³⁸ DEP'T. OF HOMELAND SEC., INDIVIDUAL ASSISTANCE, *supra* note 132, at 9.

¹³⁹ *Id.* at 217.

¹⁴⁰ S. REP. NO. 109-322, at 8 (2006).

¹⁴¹ DEP'T. OF HOMELAND SEC., INDIVIDUAL ASSISTANCE, *supra* note 132, at 181.

¹⁴² DEP'T. OF HEALTH AND HUMAN SERVS., SAMHSA, DISASTER TECHNICAL ASSISTANCE CENTER SUPPLEMENTAL RESEARCH BULLETIN: GREATER IMPACT: HOW DISASTERS AFFECT PEOPLE OF LOW SOCIOECONOMIC STATUS, 4 (2017).

¹⁴³ *Puerto Rico Increases Hurricane Maria Death Toll to 2,975*, BBC (Aug. 29, 2018), <https://www.bbc.com/news/world-us-canada-45338080> (discussing the number of deaths include people who died after the initial onset of the storm due to various reasons. But the new report also counted those who died in the six months following the storm as a result of poor healthcare provision and a lack of electricity and clean water. Repeated power cuts also led to an increased number of deaths from diabetes and sepsis.).

¹⁴⁴ *Id.*

¹⁴⁵ See generally Dennis P. Andrulis et al., *Preparing Racially and Ethnically Diverse Communities For Public Health Emergencies*, 26 HEALTH AFFAIRS, 1269, 1277 (2007), https://www.researchgate.net/publication/5992979_Preparing_Racially_And_Ethnically_Diverse_Communities_For_Public_Health_Emergencies.

¹⁴⁶ Leonard Wills, *Access to Justice: Mitigating the Justice Gap*, ABA: PRACTICE (Dec. 3, 2017) <https://www.americanbar.org/groups/litigation/committees/minority-trial-lawyer/practice/2017/access-to-justice-mitigating-justice-gap>.

disaster issues making a more informed public for the onset of disaster risk manifestation.¹⁴⁷

When vulnerable populations are not considered in disaster legislation and policies, the effects can become catastrophic. Many of the legal issues that vulnerable populations face are often because of poor mitigation and preparedness planning.¹⁴⁸ In 2005, after Hurricane Katrina, over 1,800 people died due to the inability to evacuate the city.¹⁴⁹ In 2017, after Hurricane Maria, nearly three thousand people died in Puerto Rico due to insufficient planning, resources, and communication.¹⁵⁰ The government failed to plan and protect its most important resource, its citizens.¹⁵¹ Hurricane Maria's effects showed how vulnerable populations not only suffer during an event but can also suffer for months after the event has occurred.¹⁵² Survivors of the event may be unable to return to their employment or even pre-disaster employment levels.¹⁵³ They may suffer from being unhoused due to the physical devastation of the structure or they may not be able to care for themselves or live independently.¹⁵⁴ The disaster may separate survivors from their loved ones and family who are their normal caregivers.¹⁵⁵ Many of these are American taxpayers who have not been able to depend on the protections from the federal assistance such as unemployment or disaster food benefits or even things as simple as tenant rights legislation that may have been passed to protect them.¹⁵⁶ Many of the members of this vulnerable population are members of the Black and Brown communities that are unable to locate resources as quickly as their majority counterparts.¹⁵⁷

¹⁴⁷ VanSingel, *supra* note 9, at 1021.

¹⁴⁸ *Id.* at 1064.

¹⁴⁹ David Hall, *Katrina: Spiritual Medicine for Political Complacency and for Social Activists Who Are Sleepwalking*, 23 HARV. BLACKLETTER L.J. 1, 1 (2007).

¹⁵⁰ *Puerto Rico Increases Hurricane Maria Death Toll to 2,975*, *supra* note 143, at 2.

¹⁵¹ Steve Gorman, *Puerto Rico's Death Toll From Hurricane Maria Raised to Nearly 3,000*, REUTERS (Aug. 28, 2018, 3:53 PM), <https://www.reuters.com/article/us-usa-puertorico-maria/puerto-ricos-death-toll-from-hurricane-maria-raised-to-nearly-3000-idUSKCN1LD2DK>.

¹⁵² See Sharona Hoffman, *Preparing for Disaster: Protecting the Most Vulnerable in Emergencies*, 42 U.C. DAVIS L. REV. 1491, 1493–94 (2009).

¹⁵³ *Id.* at 1500.

¹⁵⁴ *Id.* at 1496–97.

¹⁵⁵ Michael S. Rendell, *Break-up of New Orleans Households after Hurricane Katrina*, 73 J. MARRIAGE FAM. 654, 657 (2011).

¹⁵⁶ Hoffman, *supra* note 152, at 1494.

¹⁵⁷ U.S. CENSUS BUREAU, AMERICANS WITH DISABILITIES: 2014, CURRENT POPULATION REPORTS (2014).

An additional number of disaster survivors also identify as having some form of disability.¹⁵⁸ Staggering numbers of disabled survivors justify the demand for legal academics to divert resources to support the creation of innovative programs to support this expanding category of vulnerable populations. According to the United States Census Bureau, it is estimated that over 85.3 million people (about twice the population of California) living in the United States suffer from a disability.¹⁵⁹ Of that number, over 55.2 million had a severe disability.¹⁶⁰ In 2018, children under the age of ten accounted for six percent of the population, or 20.21 million.¹⁶¹ In 2018, 11% of all children under the age of five were living under the poverty line.¹⁶² Additionally, seniors over the age of sixty-five make up the largest group of adults living under the poverty line.¹⁶³ Additionally, 22% of Black people and 18.9% of Hispanic people are living under the poverty line.¹⁶⁴ Meaning those communities are living at a higher risk for threats from disasters and emergencies. It also means that members of those populations may not have the means or access to information and communication to prepare for disasters or emergencies. They also may be at risk for not knowing their rights to basic legal liberties and rights.¹⁶⁵

Without adequate planning and preparation, many vulnerable communities are not able to return to pre-disaster levels.¹⁶⁶ Because these communities start at a disadvantage from racial and economic inequalities, they generally do not have the network and resources to aid in recovery after a disaster.¹⁶⁷ For instance, twelve months after Hurricane Maria citizens of Puerto Rico found themselves without many

¹⁵⁸ Hoffman, *supra* note 152, at 1499–1500.

¹⁵⁹ U.S. CENSUS BUREAU, *supra* note 157, at 2.

¹⁶⁰ *Id.*

¹⁶¹ *Population by Age and Sex, Table 1*, U.S. CENSUS BUREAU, <https://www.census.gov/data/tables/2019/demo/age-and-sex/2019-age-sex-composition.html>.

¹⁶² *Id.* at Table 11.

¹⁶³ *Id.*

¹⁶⁴ *Poverty, All People in United States*, U.S. CENSUS BUREAU, <https://data.census.gov/all?q=race+and+poverty> (last visited Jan. 26, 2023).

¹⁶⁵ Stephen D. Sugarman, *Roles of Government in Compensating Disaster Victims*, 6 ISSUES LEGAL SCHOLARSHIP 1, 14 (2007).

¹⁶⁶ Gretchen Frazee, *How Natural Disasters Can Increase Inequality*, PBS (Apr. 11, 2019, 5:39 PM), <https://www.pbs.org/newshour/economy/making-sense/how-natural-disasters-can-increase-inequality> (discussing the fact that typically, FEMA, nonprofits, and private insurance companies all pay out aid based on the property that was damaged—a formula that can end up benefiting richer white Americans who tend to own more property. Homeowners, for example, often get enough money to not only make up for their loss but upgrade their homes. White Americans also tend to live in areas where property values are higher, so insurance pays out more money to rebuild after a disaster.).

¹⁶⁷ *See id.*

of the resources they had prior to the disaster.¹⁶⁸ Many communities were still without power due to a failed power grid.¹⁶⁹ Local schools were still not back in session or had not even opened.¹⁷⁰ Individuals had not returned to their original home structures, and either were relying on friends and family or were living in temporary shelters until they could get back into their original structure.¹⁷¹ Additionally, many individuals were not able to meet the requirements for federal assistance from FEMA or Housing and Urban Development (“HUD”) due to a lack of resources or a lack of understanding of the requirements needed to obtain assistance or documentation of ownership.¹⁷² In addition, many residents also felt that language created a barrier to accessing many of the disaster institutions including FEMA and HUD because they did not have both English and Spanish translations of documents.¹⁷³ Not having Spanish documentation prevented them from being able to have a full grasp of the information that was needed to acquire benefits or to be in compliance with legal loan documents or residential leases.¹⁷⁴

E. Incorporating Legal Services into the National Disaster Legal Framework

As a new area of law, disaster legislation is quickly changing and expanding to meet the challenges presented by new disasters.¹⁷⁵ Currently, the legal community is bracing for the impact of COVID-19 and the myriad of disaster-related issues that will impact vulnerable populations, including evictions, bankruptcies, contract disputes, and unemployment.¹⁷⁶ Legal aid organizations are concerned that the current

¹⁶⁸ Lola Fadulu & Mark Walker, *Trump Attaches Severe Restrictions to Puerto Rico’s Long-Delayed Disaster Aid*, N.Y. TIMES (Jan. 15, 2020), <https://www.nytimes.com/2020/01/15/us/politics/trump-puerto-rico-disaster-aid.html> (saying that the nearly \$16 billion in funding, released while Puerto Ricans still sleep on the streets for fear of aftershocks from last week’s earthquake, is part of \$20 billion that Congress allocated for disaster recovery and preparation more than a year ago, in response to the commonwealth being hit by back-to-back hurricanes in 2017).

¹⁶⁹*Id.*

¹⁷⁰ Lizette Alvarez, *Some Puerto Rico Schools Reopen, Making Do Without Power*, N.Y. TIMES (Oct. 24, 2017), <https://www.nytimes.com/2017/10/24/us/puerto-rico-schools.html>.

¹⁷¹ Fadulu & Walker, *supra* note 168.

¹⁷² *Id.*

¹⁷³ HURRICANE MARIA: COMMUNITY WITHOUT LIMITS, LIBERAL ARTS ACTION LAB FALL 2019, 3, (2019), <https://action-lab.org/hurricane-maria/>.

¹⁷⁴ DEPT. OF HOMELAND SEC., INDIVIDUAL ASSISTANCE, *supra* note 132, at 51.

¹⁷⁵ Eric Katz, *A New Law Requires Agencies to Better Prepare for Natural Disasters*, GOV’T EXEC. (Dec. 5, 2022), <https://www.govexec.com/management/2022/12/new-law-requires-agencies-better-prepare-disasters/380477/>.

¹⁷⁶ *Support our Fellowship Program*, EQUAL JUSTICE WORKS, <https://www.equaljusticeworks.org/> (last visited Jan. 26, 2023).

infrastructure and funding models will not be sufficient to meet the needs of the community.¹⁷⁷

One of the newest frameworks that could expedite the legal academy response to disaster includes the NIMS system. The mission of NIMS includes resource management, command and coordination, and information management.¹⁷⁸ Resource management “describes standard mechanisms to systematically manage resources, including personnel, equipment, supplies, teams, and facilities, both before and during incidents in order to allow organizations to more effectively share resources when needed.”¹⁷⁹ “Command and [c]oordination describes leadership roles, processes, and recommended organizational structures for incident management at the operational and incident support levels and explains how these structures interact to manage incidents effectively and efficiently.”¹⁸⁰ “Communications and [i]nformation [m]anagement describes systems and methods that help to ensure that incident personnel and other decision makers have the means and information they need to make and communicate decisions.”¹⁸¹ Within the function of the national disaster framework is the concept of the “whole community.”¹⁸²

The whole community refers to the ability of a particular geographical location to be more inclusive to a broader range of its stakeholders including private and nonprofit sectors and vulnerable populations.¹⁸³ Included within those sectors are NGOs and the general public.¹⁸⁴ The focus is to include more stakeholders in the process to create risk reduction and mitigate liability after a disaster.¹⁸⁵ Within NIMS is a more granular format that allows for the coordination and command of a single local incident to a national terrorist attack.¹⁸⁶ This system is called Incident Management System (“ICS”).¹⁸⁷ For the purpose of this Article, the next Part will explore how a disaster

¹⁷⁷ Rebecca Hersher, *COVID-19 Has Created A Legal Aid Crisis, FEMA's Usual Response Is Missing*, NPR (May 11, 2020, 7:32 AM), <https://www.npr.org/2020/05/11/851359260/covid-19-has-created-a-legal-aid-crisis-femas-usual-response-is-missing>.

¹⁷⁸ DEP'T. OF HOMELAND SECURITY, NATIONAL INCIDENT MANAGEMENT SYSTEM, THIRD EDITION FP (2017).

¹⁷⁹ *Id.* at v.

¹⁸⁰ *Id.* at 1.

¹⁸¹ *Id.* at 2.

¹⁸² *Id.* at 67.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 71.

¹⁸⁵ *Id.* at 76.

¹⁸⁶ *Id.* at 79.

¹⁸⁷ *Id.*

clinic and course can fit with the structures of resource management, command, and coordination.¹⁸⁸

For years, the only response garnered from law schools has been disaster response clinics and occasional semester seminar courses.¹⁸⁹ Disaster clinics have provided valuable resources to communities, especially communities of color and vulnerable populations; however, year after year the cost and frequency of natural disasters have increased creating a need for more legislation, policy, litigation, and advocacy from the legal community.¹⁹⁰ Consequentially, following a natural disaster, vulnerable populations are increasingly dependent on a collection of pro bono attorneys and legal aid attorneys attempting to shoulder the large and vast response to disaster litigation and unmet legal needs.¹⁹¹

Due to a lack of coordinated preparedness or mandated disaster legal response guidelines, there is an increase in ad hoc training and response model for volunteer legal aid attorneys.¹⁹² The current disaster response framework does not account for the deployment of legal personnel.¹⁹³ However, the FEMA Higher Education Consortium does call for “meeting the emerging challenges of 21st century disasters and the changing nature of the risks we face requires innovation and engagement with the whole community, including academia, emergency management professional organizations, and the private sector, to harness the collective creativity to solve our toughest challenges.”¹⁹⁴

This creativity was on display after Hurricane Katrina, as the region was completely underwater and many courts were closed, and local attorneys were battling recovery on a personal and professional level.¹⁹⁵ As a result, Louisiana changed its attorney laws allowing out-of-state attorneys to temporarily take cases after a natural

¹⁸⁸ *Id.* at 2.

¹⁸⁹ *The Role of Legal Aid In Disaster Recovery*, LEGAL SERVS. CORP., <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/role-legal-aid-disaster-recovery> (last visited Jan. 26, 2023) (discussing that DisasterLegalAid.org was originally launched in 2008 as a direct outgrowth of a website called Katrina Legal Aid, developed in 2005 in the wake of Hurricane Katrina. With funding from the Legal Services Corporation's Technology Initiative Grant program, DisasterLegalAid.org was significantly expanded in 2014.).

¹⁹⁰ Justin Dorazio, *How FEMA Can Prioritize Equity in Disaster Recovery Assistance*, CTR. FOR AMERICAN PROGRESS (July 19, 2022), <https://www.americanprogress.org/article/how-fema-can-prioritize-equity-in-disaster-recovery-assistance/>.

¹⁹¹ Emma Cueto, *Why A Post-Disaster Rule For Pro Bono Aid Isn't For Everyone*, PRO BONO NEWS (Oct. 28, 2019), <https://www.law360.com/articles/1213079/why-a-post-disaster-rule-for-pro-bono-aid-isn-t-for-everyone>.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ DEP'T. OF HOMELAND SEC., HIGHER EDUCATION PROGRAM 2021 PROGRAM PLAN (Jan. 27, 2021).

¹⁹⁵ Cueto, *supra* note 191, at 1.

disaster.¹⁹⁶ This rule quickly became known as the Hurricane Katrina rule.¹⁹⁷ While the Hurricane Katrina rule became popular to the extent that nineteen states implemented it, it is still a controversial topic in that several states grapple with whether the actions are appropriate or even if they are helpful.¹⁹⁸ Many states have a problem acquiring volunteers and ensuring that they are adequately trained.¹⁹⁹ States are also concerned they will not be able to facilitate and utilize the volunteers and instead worry they will become an additional burden on the already taxed organizations that currently have an existing structure in place.²⁰⁰ Additional issues such as community trust and language barriers are also a factor into being able to determine if post-disaster rules are helpful to vulnerable populations or if they become an obstacle.²⁰¹ The implementation of the NIMS system would create a sustainable structure that bar associations and the ABA could model uniform standards for states to comply.

National organizations have attempted to address the lack of coordinated responses and restricted access to justice with alternative solutions like websites and webinars partnered with the American Bar Associations.²⁰² Websites such as www.disasterlegalaid.org and the https://www.americanbar.org/groups/committees/disaster/disaster_relief/ to help communities grapple with the immediate aftermath of the disaster.²⁰³ The websites provide information for both pro bono attorneys, volunteers, and disaster survivors.²⁰⁴ The websites attempt to provide training and resources for individuals and volunteers to craft their own forms including sample FEMA appeals.²⁰⁵ Many of the individual and volunteer attorneys are meeting with the disaster survivors in shelters and outreach events and on the ground level but often the assistance is insufficient to help a survivor proceed self-represented.²⁰⁶ Survivors then turn to legal aid offices that are at

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ Cueto, *supra* note 191, at 1; Carolina Bolado and Natalie Rodriguez, 'Now Is The Real Crisis'; *Puerto Ricans Struggle for Disaster Aid*, LAW360 (Feb. 10, 2019, 8:39 PM), <https://www.law360.com/articles/1123340>.

²⁰¹ DEP'T. OF HEALTH AND HUMAN SERVS., *supra* note 142, at 5.

²⁰² See *Disaster Relief*, ABA, https://www.americanbar.org/groups/committees/disaster/disaster_relief/ (last visited Jan. 26, 2023).

²⁰³ *Id.*; See generally *Resource Center*, NAT'L DISASTER LEGAL AID, <https://www.disasterlegalaid.org/> (last visited Jan. 26, 2023).

²⁰⁴ *Disaster Relief*, *supra* note 202.

²⁰⁵ *Id.*

²⁰⁶ Wills, *supra* note 146, at 1.

capacity.²⁰⁷ Therefore, survivors are left without representation; creating a large sector of survivors with unmet legal needs and a need for solutions to expand access to justice.²⁰⁸

For the reasons stated above, there is a shift in focus on the federal and local disaster management level to scale capacity for additional legal advocates and pro bono attorneys to create and fulfill the unmet need left by the chasm created by the partnership between FEMA and the ABA YLD and Legal Aid attorneys.²⁰⁹ The Memorandum of Understanding (“MOU”) between FEMA and the ABA YLD has created an agreement for pro bono attorneys acting as independent contractors to provide legal assistance after a disaster.²¹⁰ The agreement is commonly referred to as Disaster Legal Services (“DLS”).²¹¹ The MOU only stipulates that the ABA YLD may provide training.²¹² However, it does not mandate the type and quality of training.²¹³ Therefore, after a disaster many of the volunteer attorneys are receiving ad hoc training to be able to assist disaster victims.²¹⁴ Andrew VanSingel wrote a detailed description of the DLS’s forty-five-year history in his *Touro Law Review* article and described DLS as a “whatever it takes” approach to disaster legal services.²¹⁵

However, to create a succinct and diverse response to disasters, a method to create trained disaster lawyers is needed. To get an efficient disaster legal system, we must evaluate the entire pipeline of the legal community.²¹⁶ The scope of the pipeline must be determined to see if a demand exists for lawyers beyond the traditional response

²⁰⁷ *Id.*

²⁰⁸ *See Disaster Relief, supra* note 202.

²⁰⁹ Memorandum of Agreement Between the Federal Emergency Management Agency and the American Bar Association Regarding Disaster Legal Services (May 9, 2012).

²¹⁰ *Id.* at 4.

²¹¹ VanSingel, *supra* note 9, at 1024 (highlighting that the DLS program is broad in its eligibility guidelines and requires only that the survivor has ‘insufficient resources to secure adequate legal services’ at the time of the disaster, and that the case is not ‘fee-generating.’ This eligibility test is significantly relaxed when compared to traditional legal aid programs, which is set at 125 percent of the federal poverty guidelines, with few exceptions. This relaxed eligibility standard assures that those who truly cannot afford an attorney will have access to representation. However, since the DLS Program extensively coordinates with many LSC grantees, careful planning is imperative to ensure that the ineligible clients are not being funneled to LSC grantees.).

²¹² *Id.* at 1042.

²¹³ *See id.* at 1029.

²¹⁴ *Id.* at 1031.

²¹⁵ *Id.* at 1085.

²¹⁶ Paul G. Rando, *A Vision for a Robust Disaster Legal Services System in the Midwest*, 91 U. CIN. L. REV. 1, 3 (2022).

phases.²¹⁷ If the need exists, then law schools will be more apt at creating pipelines to fulfill this need.²¹⁸ FEMA has created higher education initiatives to address the void between the overall higher education academy but the impetus to connect graduate and professional schools is void.²¹⁹ Creating a pipeline that flows from the community to law schools to post graduate employment opportunities, creates a community approach with a succinct educational framework that filters into all disaster phases including preparedness, response, recovery, and mitigation.²²⁰

A quick search of law review articles will highlight that the nexus of modern-day disaster law accelerated after Hurricane Katrina.²²¹ However, the majority of the articles focus on the concept of recovery.²²² This Article deviates and argues for the need for consistent legal presence through the disaster cycle. The consistent presence creates a disaster pipeline and provides protection for vulnerable population.²²³ The large-scale systemic failures that followed Hurricane Katrina allowed academics from all fields to assess and learn from those monumental failures.²²⁴ The result of the widespread failure was exposure of a need to overhaul the entire disaster management process.²²⁵ Emergency and disaster managers begin to look at the management of disaster as a cyclical event instead of linear.²²⁶

²¹⁷ *Id.* at 4.

²¹⁸ *Id.*

²¹⁹ Minutes and Itinerary, National Emergency Training Center, Emergency Management Institute, Higher Education Project Workshop (July 7–8, 1999) (located on FEMA training website).

²²⁰ DEP'T. OF HOMELAND SEC., A WHOLE COMMUNITY APPROACH TO EMERGENCY MANAGEMENT: PRINCIPLES, THEMES, AND PATHWAYS FOR ACTION, FDOC 104-008-1 (Dec. 2011) (“Whole Community Defined - As a concept, Whole Community is a means by which residents, emergency management practitioners, organizational and community leaders, and government officials can collectively understand and assess the needs of their respective communities and determine the best ways to organize and strengthen their assets, capacities, and interests. By doing so, a more effective path to societal security and resilience is built. In a sense, Whole Community is a philosophical approach on how to think about conducting emergency management.”).

²²¹ Melissa H. Luckman & Patricia R. Sturm, *Restoring Power: A Law School's Response to a Superstorm*, 2 J. EXPERIENTIAL LEARNING 232, 236 (2018).

²²² *Id.* at 252.

²²³ *Id.* at 238.

²²⁴ Chris Edwards, *Hurricane Katrina: Remembering the Federal Failures*, CATO INSTITUTE: CATO AT LIBRARY (Aug. 27, 2015, 2:56 PM), <https://www.cato.org/blog/hurricane-katrina-remembering-federal-failures>.

²²⁵ *Id.* at 1.

²²⁶ REDDY, *supra* note 45, at 188.

III. AUTHOR'S INCORPORATION OF THE DISASTER LEGAL CURRICULUM

This Part will explore how the legal academy has a natural fit within the NIMS management system by looking at the author's coordination of the disaster response clinic and doctrinal coursework. After setting the stage with the 2016 disaster, this Part explains the response of a traditional clinic, highlighting its successes and identifying key problems that academia needs to address.

As natural disasters continue to evolve and grow in frequency and scope, federal and state agencies continue to adapt and change to meet the growing demand for response.²²⁷ However, the need to incorporate the legal academy into the federal framework continues to lag to the point of exclusion.²²⁸

Since 2004, federal, state, and local governments have relied on the NIMS structure to respond and prepare for disasters and emergencies.²²⁹ However, the NIMS plans do not take into consideration the need for lawyers and legal scholars.²³⁰ There is a gap between the goal to incorporate legal scholars and practitioners into disaster response and creating scholars and practitioners to fill that role.²³¹

Currently, attorneys are absent from the disaster management process. Disaster law is managed on the federal, state, and local levels.²³² On the federal side, FEMA is responsible for the coordination and deployment of resources, people, and places through the overall NIMS framework.²³³ However, on the state and local side, the command and control of local incidents are managed by the Incident Command System ("ICS") framework which is a subset of NIMS.²³⁴ ICS has adopted the "standardized approach to the command, control, and coordination of on-scene incident management that provides a common hierarchy within which personnel from multiple organizations can be effective."²³⁵ The coordination of the federal and local framework allows various agencies to work together to create an emergency plan either in a single jurisdiction or across multiple jurisdictions.²³⁶ Rarely in those emergency disaster plans are the services of legal providers planned or provided

²²⁷ DEP'T. OF HOMELAND SEC., A WHOLE COMMUNITY, *supra* note 220, at 14.

²²⁸ *Id.* at 2.

²²⁹ DEP'T. OF HOMELAND SEC., NATIONAL INCIDENT, *supra* note 178, at iii.

²³⁰ William Charles Nicholson, Emergency Management and Law 12–13 (unpublished manuscript).

²³¹ *Id.* at 1.

²³² *Id.* at 3.

²³³ *Id.* at 11.

²³⁴ DEP'T. OF HOMELAND SEC., NIMS: FREQUENTLY ASKED QUESTIONS, GENERAL QUESTIONS 3.

²³⁵ ICS REVIEW DOCUMENT, EXTRACTED FROM – E/L/G 0300 INTERMEDIATE INCIDENT COMMAND SYSTEM FOR EXPANDING INCIDENTS, ICS 300 10 (2018).

²³⁶ DEP'T. OF HOMELAND SEC., NIMS, *supra* note 234, at 3.

for.²³⁷ Often lawyers that are deployed by state and local municipalities are responsible for the interpretation and compliance of local, state, and federal grant and aid assistance rewards.²³⁸ While the evaluation of disaster risk reduction is important, it is equally important to communicate clear and unambiguous goals to the community.²³⁹ However, many of the rules and regulations needed to access benefits, services, and survival contain some inherent ambiguity of the law.²⁴⁰ And the lack of lawyers and advocates increases the inherent harm to vulnerable populations.²⁴¹

Many of the requirements of NIMS can be met through a partnership with or incorporation of legal academics. One of the goals of NIMS is to create a national standard that will ensure that participating agencies in organization field personnel possess the minimum knowledge, skills, and experience necessary to perform activities safely and effectively.²⁴² A nationwide initiative to create a legal curriculum could help to accomplish and measure this goal.

A. *The Beginning of the Clinic*

On August 11, 2016, the sky opened up and saturated over twenty parishes in Southern Louisiana with twenty to thirty inches of rain over a two-day period.²⁴³ The Mississippi River levels were already high and the ground which is below sea level was completely saturated.²⁴⁴ It was the recipe for what was the costliest natural disaster since Super Storm Sandy.²⁴⁵ The low-pressure tropical storm system caused massive flooding.²⁴⁶ In some parishes, the downpour caused record flash flooding and survivors had to be rescued from their homes.²⁴⁷ The Louisiana 2016 flood was estimated to cause damage to 50,000 to 70,000 structures.²⁴⁸ The final cost of the

²³⁷ Nicholson, *supra* note 230, at 13.

²³⁸ *Id.*

²³⁹ DEP'T. OF HOMELAND SEC., A WHOLE COMMUNITY, *supra* note 220, at 3.

²⁴⁰ Wills, *supra* note 146, at 1.

²⁴¹ *Id.* at 2.

²⁴² *Id.*

²⁴³ See generally NAT'L WEATHER SERV., AUG. 2016 REC. FLOODING (2016), <https://www.weather.gov/lix/August2016flood>.

²⁴⁴ See generally *id.*

²⁴⁵ Holly Yan & Rosa Flores, *Louisiana Flood: Worst U.S. Disaster Since Hurricane Sandy, Red Cross Says*, CNN (Aug. 19, 2016, 12:32 PM), <https://www.cnn.com/2016/08/18/us/louisiana-flooding/index.html>.

²⁴⁶ Sarah Gibbens, *Hurricane Sandy, Explained*, NAT'L GEOGRAPHIC (Feb. 11, 2019), <https://www.nationalgeographic.com/environment/article/hurricane-sandy>.

²⁴⁷ *Id.*

²⁴⁸ Bryn Stole, *How Much Damage did the August 2016 Flood Do? Data Becomes Clearer, But Gaps Remain*, ADVOCATE, 2 (Aug. 7, 2017, 6:56 PM), https://www.theadvocate.com/louisiana_flood_2016/how-much-damage-did-the-august-2016-

damage was estimated at ten to fifteen billion for the economic cost and five billion for insured losses.²⁴⁹

The majority of the flooding occurred in East Baton Rouge, Livingston, Ascension, and Tangipahoa Parishes.²⁵⁰ Over eighty percent of the homes in the impacted area were not insured which led to many legal issues including FEMA applications, FEMA appeals, landlord/tenant issues, bankruptcies, and foreclosures.²⁵¹ Many businesses were also uninsured which led to closures resulting in employee layoffs, employee unemployment, blighted commercial properties and residential homes.²⁵² The effects of the flood-impacted survivors of every economic level.²⁵³ Additionally, flooding was occurring in areas that had historically never flooded and only had the chance of flooding every thousand years.²⁵⁴ In an effort to assist the surrounding community, the Southern University Law Center created a disaster law clinic building on its experience from hosting disaster pop-up legal clinics after Hurricane Katrina and utilized its resources to start the Southern University Disaster Law Clinic.²⁵⁵ As a result, several other law schools partnered together to respond to both the flooding and to continually respond to natural disasters including Hurricane Maria, Hurricane Irma, Hurricane Michael, and the California Wildfires of 2017.²⁵⁶

B. Identifying Resources

Progress in disaster management and the law can be made by creating a community lawyer network that includes federal and state lawmakers, law schools, non-profits, and legal aid institutions. By creating a network for legal scholars, the efforts to create disaster and emergency preparedness plans and mitigation plans can take into effect

flood-do-data-becomes-clearer-but-gaps-remain/article_66d26396-7974-11e7-ba41-83143d6dfef1.html.

²⁴⁹ *Louisiana Flooding Will Cost U.S. Economy More Than \$10 Billion*, ADVOCATE (Sept. 9, 2016, 8:05 AM), https://www.theadvocate.com/louisiana_flood_2016/article_378487b6-768e-11e6-832f-df9408322f2c.html (statements of Steven Bowen, National Flood Insurance Impact Forecasting Director and Meteorologist: "To put the anticipated NFIP losses in perspective, there have only been six natural disasters since 1978 that have resulted in more than \$1 billion in NFIP claims payouts," Bowen said. "All six were hurricanes or tropical storms: HU Katrina (2005), HU Sandy (2012), HU Ike (2008), HU Ivan (2004), TS Allison (2001), HU Irene (2011). This is very likely going to be the seventh.").

²⁵⁰ NAT'L WEATHER SERV., *supra* note 243.

²⁵¹ *Over 80% of Homes Damaged in Louisiana Storms Lack Flood Insurance*, CARRIER MGMT. (Sept. 9, 2016), <https://www.carriermanagement.com/news/2016/09/09/158662.htm>.

²⁵² Gibbens, *supra* note 246, at 4.

²⁵³ DEP'T. OF HOMELAND SEC., *A WHOLE COMMUNITY*, *supra* note 220, at 1.

²⁵⁴ Gibbens, *supra* note 246, at 4.

²⁵⁵ *Southern University Law Clinic Response to COVID-19 and Hurricane Assistance*, S. UNIV. L. CTR., <https://www.sulc.edu/page/disaster-response> (last visited Jan. 27, 2023).

²⁵⁶ VanSintel, *supra* note 9, at 1053.

the needs of vulnerable populations.²⁵⁷ Additionally, the networks can also serve as repositories or databases for different segments of vulnerable populations.²⁵⁸ The network can also serve as a basis of trust and relationship with vulnerable populations that mistrust outside organizations that come in after a disaster or emergency.²⁵⁹ Many of the agencies that will be involved with the whole community lawyering approach already have a deep rooted historical footprint within identified vulnerable communities.²⁶⁰ Black and Brown communities especially have a historical mistrust in any agency title and ownership rights.²⁶¹ Creating a whole community lawyering approach also helps to diversify the response of legal communities and legal scholars who oftentimes do not have a voice in the process of emergency managers and planners.²⁶²

C. *Qualifying, Certifying, and Credentialing Personnel*²⁶³

For the first ninety days (about three months), the main concentration of the clinic was to provide FEMA-related assistance.²⁶⁴ In order to aid, students and faculty had to be identified.²⁶⁵ Most of the initial staff identification occurred through the triage of volunteer faculty and students.²⁶⁶ The qualification and certification during this period were limited to law school volunteers.

²⁵⁷ Clifford J. Villa, *Law and Lawyers in the Incident Command System*, 36 SEATTLE UNIV. L. REV. 1855, 1858 (2013).

²⁵⁸ See generally *id.*

²⁵⁹ See Lee Rainie & Andrew Perrin, *Key findings About Americans' Declining Trust in Government and Each Other*, PEW RSCH. CTR. (July 22, 2019), <https://www.pewresearch.org/fact-tank/2019/07/22/key-findings-about-americans-declining-trust-in-government-and-each-other/>.

²⁶⁰ Villa, *supra* note 257, at 1857; Taylor Healy & AJA G. Taylor, *Making the Case for Community Lawyering*, DISABILITY RTS. EDUC. AND DEF. FUND (Nov. 2016), <https://dredf.org/wp-content/uploads/2019/08/Materials-CommunityLawering-HealyAndTaylor-Clearinghouse-2016Nov.pdf>.

²⁶¹ Lizzie Presser, *Their Family Bought Land One Generation After Slavery*, PROPUBLICA (July 15, 2019), <https://features.propublica.org/black-land-loss/heirs-property-rights-why-black-families-lose-land-south/>.

²⁶² *Higher Education Program 2021 Program Plan*, FED. EMERGENCY MGMT. AGENCY (Jan. 27, 2021), https://training.fema.gov/hiedu/downloads/2021_higher_education_program_plan.pdf; Nicholson, *supra* note 230.

²⁶³ FED. EMERGENCY MGMT. AGENCY, NATIONAL INCIDENT MANAGEMENT SYSTEM, 3rd ed., at 7 (Oct. 2017).

²⁶⁴ *Latisha Nixon-Jones*, S. UNIV. L. CTR., <https://www.sulc.edu/page/latisha-nixonjones> (last visited Jan. 29, 2023).

²⁶⁵ FED. EMERGENCY MGMT. AGENCY, *supra* note 263, at 8.

²⁶⁶ *Id.* at 6.

Initially, law students and law faculty worked in disaster relief clinics that were hosted by FEMA, Saint Vincent DePaul, and the Red Cross. In those clinics, students would be able to interact with clients by providing questionnaires, assisting with FEMA applications, assisting with disaster food stamp applications, and temporary housing applications. Students were also able to help individuals who have been displaced from their homes and were currently temporarily living in hotels and motels through the FEMA temporary housing assistance programs. During the outreach clinics, each NGO had its own requirements and coordination of resources that matched the requirement of NIMS.²⁶⁷

At the beginning of the semester, once students were enrolled in the clinic they were sworn in as student attorneys.²⁶⁸ As a student attorney they were able to also provide assistance in connecting case managers with Saint Vincent's DePaul and providing legal presentations and outreach to the community including "Know Your Rights" seminars and contractor fraud claims workshops.²⁶⁹ The workshops helped the community identify who to contact before they signed the contract or after they unfortunately had been taken advantage of.²⁷⁰ They could also facilitate their own outreach events including working with local law enforcement agencies to facilitate contract reviews and to look up contractor insurance and licensing information.²⁷¹

In the NIMS process, FEMA leads the development and allocation of resources shared by local, interstate, regional, or national governments by scale.²⁷² Jurisdictions will often mimic the same structure and resource allocation.²⁷³ In creating the clinic,

²⁶⁷ See *What is NIMS?*, NAT'L INCIDENT MGMT. SYS., <https://www.nh.gov/safety/divisions/hsem/documents/NIMSQA1305.pdf> (last visited Jan. 29, 2023) (answering questions regarding the implementation of the NIMS program and other frequently asked questions).

²⁶⁸ LA. CONST. ANN. art. V (1999) ("All activities provided for and allowed to an eligible law student herein shall be limited to law school sponsored and supervised programs on an individually selected case basis approved, assigned, and controlled by the law school . . . Under such law school sponsored clinical instruction plan an eligible law student may appear in any court or before any administrative tribunal in this state on behalf of the state, any political subdivision thereof, or any indigent person or indigent community organization if the person on whose behalf the student is appearing has indicated in writing consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:").

²⁶⁹ Sara Debus & Seri Irazola, *Delivering Legal Aid After Katrina: The Equal Justice Works Katrina Legal Initiative*, URB. INST. JUST. POL'Y CTR. (Aug. 2009), https://webarchive.urban.org/uploadedpdf/411946_legal_aid_katrina.pdf.

²⁷⁰ See VanSingel, *supra* note 9, at 1039.

²⁷¹ See, e.g., Caroline Grueskin & Emma Discher, *Contractor Fraud Cases Still Plague Baton Rouge-Area Law Enforcement Agencies, Prosecutors*, ADVOCATE (Jan. 20, 2018, 3:26 PM), https://www.theadvocate.com/baton_rouge/news/contractor-fraud-cases-still-plague-baton-rouge-area-law-enforcement-agencies-prosecutors/article_e30eb284-f64c-11e7-be2d-8f9c6abcd256.html.

²⁷² FED. EMERGENCY MGMT. AGENCY, *supra* note 263, at 6.

²⁷³ *Id.*

the same structure was used to evaluate the capacity of the school, the category of cases, and the kind of client that would be facilitated.²⁷⁴

D. Identifying the Client and the Clinical Model

Southern University Law Center (“SULC”) disaster legal clinic relied heavily on the existing clinical models that were already in place at the law school.²⁷⁵ Therefore, during the first outreach event, the clinic knew the baseline for clients that they would be receiving. Additionally, the grant types specified that there would be an income limit to determine applicable current intake applicants.²⁷⁶ Students began to see a trend in the intake applications that included low-income populations and within these populations, they were able to see a variant in the types of vulnerable populations.²⁷⁷ The vulnerable populations included the elderly specifically those sixty-five years of age or older, veteran populations, people of color—specifically, Black and Brown communities—and single parents.²⁷⁸ Additionally, they saw a variant in education levels specifically with those individuals that were low literacy or did not have any degree that was higher than a high school diploma.²⁷⁹ The third variant included ownership or status of housing with the main difference being having a renter or homeowner.²⁸⁰

²⁷⁴ *Id.* at 8 (“FEMA recommends minimum qualifications, but it is AHJs across the Nation that establish, communicate, and administer the qualification and credentialing process for individuals seeking qualification for positions under that AHJ’s purview. AHJs have the authority and responsibility to develop, implement, maintain, and oversee the qualification, certification, and credentialing process within their organization or jurisdiction. AHJs may impose additional requirements outside of NIMS for local needs. In some cases, the AHJ may support multiple disciplines that collaborate as a part of a team (e.g., an Incident Management Team [IMT]).”).

²⁷⁵ See *Disaster Law Clinic*, S. UNIV. L. CTR., <https://www.sulc.edu/page/7061> (last visited Jan. 29, 2023).

²⁷⁶ VanSingel, *supra* note 9, at 1024 (“For example, 125 percent of the federal poverty level for a household size of four is \$32,188 (based on 2019 figures set by the Department of Health and Human Services). Certain exceptions to the 125 percent ceiling are outlined in 42 U.S.C. § 1611.5(a) which increases the threshold to 200 percent of the federal poverty level (which is \$51,500 annually for a household size of four persons). In addition to income eligibility, the regulations also prohibit services to a non-citizen or an “ineligible alien” (45 C.F.R. § 1626.3) (1996)) unless a stated exception in 42 U.S.C. §1626.3 applies.”).

²⁷⁷ John K. Pierre & Gail S. Stephenson, *After Katrina: A Critical Look at FEMA’s Failure to Provide Housing for Victims of Natural Disasters*, 68 LA. L. REV. 443, 495 (2008).

²⁷⁸ *Id.* at 455; Vincanne Adams et al., *Aging Disaster: Mortality, Vulnerability, and Long-Term Recovery Among Katrina Survivors*, MED. ANTHROPOLOGY (May 2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3098037/>.

²⁷⁹ See Bill Meyer, *Illiteracy Slows Hurricane Katrina Recovery*, PLAIN DEALER (Aug. 27, 2008, 10:35 PM), https://www.cleveland.com/nation/2008/08/illiteracy_slows_hurricane_kat.html.

²⁸⁰ See Pierre & Stephenson, *supra* note 277, at 456.

As, the clinic began to formalize its exact design, one of the issues remained: what would the clinic be able to provide to the clients? The clinic used the above variants as criteria to pivot their client profile and create a client triage similar to the NIMS resource criteria.²⁸¹ The first level of triage included individuals who needed assistance with their day-to-day needs.²⁸² Day-to-day needs were classified as those individuals whose immediate needs centered around housing and the available housing resources through FEMA individual assistance. And lastly, those individuals who were displaced from their main residence, were without employment, or were unable to obtain schooling. The second level of triage included those individuals with immediate needs for assistance with home repairs and obtaining their FEMA benefits approval or those who were in the process of getting their insurance benefits from their homeowner's insurance. The third level of triage included those who need assistance with legal issues that came about due to the flooding and specifically those individuals who were having title clearance issues that prevented them from being able to either get FEMA assistance or their homeowner's insurance due to the inability to prove ownership.²⁸³

In order for the clinic to continue, and to pivot from just being able to provide the resources during the response and the recovery phases, the professors had to evaluate the capacity of the disaster clinic. The results of the internal evaluation were the realization that the clinic had the capacity to create an intersectionality of curriculum design for our law students.²⁸⁴ The evaluation of the internal capacity included the law school's nine existing clinics and their personnel.²⁸⁵ The range of expertise included family law clinic, a criminal law clinic, administrative law clinic, tax law clinic, and elderly law clinic.²⁸⁶ We took an internal needs assessment within the current clinic team of who already had set parameters and learning outcomes and established syllabi within their respective courses to see how they would be able to facilitate additional students that were providing disaster loss services within those nuanced sectors. Many of the faculty would be able to be brought up to speed easily with a simplified training course that could be done during the summer or winter break. The clinic had unified acceptance of all of the faculty which allowed us to expand initially internally. An additional substantive course then had to go before the curriculum committee which required the professors to intentionally design a concurrent curriculum in tandem with the clinic. The design for the clinic and the course looked at the scope of work for the students and available resources to facilitate

²⁸¹ This sentence was based on the lived experience of the author as she redesigned the clinic into a substantive course and the clinic as a tandem experiential course.

²⁸² *Id.*

²⁸³ See *Common Reasons for a FEMA Ineligibility Decision*, FED. EMERGENCY MGMT. AGENCY (Dec. 14, 2021), <https://www.fema.gov/fact-sheet/common-reasons-fema-ineligibility-decision>.

²⁸⁴ *Id.*

²⁸⁵ See, e.g., *Clinical Education*, S. UNIV. L. CTR., <https://www.sulc.edu/page/clinical-education> (last visited Jan. 29, 2023).

²⁸⁶ See, e.g., *id.*

the needs of the holistic client. The scope also measured the current needs of a community, what needs we were currently providing, and then what were the unmet needs that we were not able to facilitate.

At the six-month mark, when we began to look past the recovery and the response phase, we noticed that we still were looking at FEMA or offering FEMA assistance, however, those services were no longer relevant as the deadline had passed.²⁸⁷ The additional capacity allowed the clinic to pivot and focus on more complex issues. As we neared the nine-month mark, we realized that we would have to eliminate our public benefits option which will allow us to shift towards looking at bankruptcy.²⁸⁸

However, as the clinic began to add and eliminate each offering communication and command of the process was key to the longevity and trust of the community. Therefore, a communications plan was established for each semester. This plan was important to marketing to our student body and enabled an effective method to make adjustments between semesters. It was important to provide clear expectations to students that the disaster law clinic was an intersection of laws that were created or enacted before, during, or after the stated disaster. Students came into the clinic with a clear expectation that they would have to learn distinct aspects of the law while also practicing the law. This shift in expectations led us to create a seminar course that would pair with the clinic to provide students with knowledge of the basic disaster law foundations.

The substantive law course was open to students that were not in the clinic to facilitate a pipeline of students that may not be able to take the clinic at the same time as the course but could enroll in a different semester. Creating the course gave structure to the disaster curriculum and allowed the author to deliver the knowledge associated with the clinic in a model geared towards the students. The course also created the ability to see past the immediate need of the client and create a pipeline with community partners that could invest in the long-term success of the clinic including the mayor's office, local bar associations, and other NGOs.

It is time for legal educators, lawyers, judges, and members of the public to reevaluate our assumptions about the roles and methods of law schools and to explore new ways of conceptualizing and delivering learner-centered legal education. We agree with the authors of the Carnegie Foundation's report that the changes we need to make are substantial.²⁸⁹

E. Identifying the Shift from Recovery to Response

SULC initially created the disaster law clinic as the traditional response clinic with temporary funding; however, as the clients' needs shifted the clinic realized that it had the potential to grow to be much more than just the recovery and response clinic. In searching for additional funding, the clinic found through research that after a disaster, members of the vulnerable population including low income, low literacy, veterans,

²⁸⁷ FRANCIS X. MCCARTHY, CONG. RSCH. SERV., RL34087, FEMA DISASTER HOUSING AND HURRICANE KATRINA: OVERVIEW, ANALYSIS, AND CONGRESSIONAL ISSUES (2008).

²⁸⁸ See generally Robert M. Lawless, *Bankruptcy Filing Rates After a Major Hurricane*, 6 NEV. L.J. 7, 20 (2005).

²⁸⁹ ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 3 (2007).

members of the Black and Brown community, single mothers, and students were left without many resources or access to justice to the myriad of legal problems that arose after the initial response phase.²⁹⁰ Some of those issues included seeking public benefits, creating equitable housing solutions, financial literacy, job training, title, and estate planning.²⁹¹ Additionally, curing blighted properties that were left by either resource-strapped owners or property owners that could no longer afford the burden of keeping up the property.²⁹² It was from this lens that the law schools shifted and created a more comprehensive clinical model that was based on the student-learner approach and community lawyering model.

As the shift took place to move toward community lawyering, the law school realized that it was ill-prepared to handle all facets of the entire disaster process and created a collaborative learning environment that would better serve both the law school, its students, and the community. Students were able through the collaborations to gain real-life experience and externships, some paid and some not paid. In addition, students were also able to facilitate and learn solid skills including interviewing skills, how to ask sensitive questions, emotion management, emotional intelligence, and the ability to serve their community through both horizontal and vertical leadership skills.²⁹³

Shifting from the recovery and response phase also provided an opportunity for a thoughtful recollection of how to actually design and implement the clinic into the overall curriculum of the law school.²⁹⁴ It was no longer sufficient to merely be a clinic that served the needs of clients but instead needed to actually shift the focus to a reflective model that would facilitate learning objectives that would provide for the students to be able to progress in their case management of their clients' cases.²⁹⁵ The curriculum design of the clinic would also have to account for the ability to move the case from semester to semester, student to student, without being able to lose any

²⁹⁰ See Pierre & Stephenson, *supra* note 277, at 455; *Understanding Disaster Risk: Vulnerability*, PREVENTIONWEB (2017), <https://www.preventionweb.net/understanding-disaster-risk/component-risk/vulnerability>.

²⁹¹ Morgan Colonna, *Tackling Housing Instability Through Medical-Legal Partnerships*, EQUAL JUST. WORKS (Apr. 2, 2021), <https://www.equaljusticeworks.org/news/tackling-housing-instability-through-medical-legal-partnerships/>.

²⁹² Jaquetta White, *Blight in New Orleans is Back to Pre-Katrina Levels, but Challenges Remain*, ADVOCATE (Aug. 29, 2015, 5:29 PM), https://www.theadvocate.com/baton_rouge/news/blight-in-new-orleans-is-back-to-pre-katrina-levels-but-challenges-remain/article_91d27e96-ec2f-50bb-a205-48a394d128ab.html.

²⁹³ See Susan Bryant & Elliot Milstein, *Rounds: A "Signature Pedagogy" for Clinical Education*, 14 CUNY CLINICAL L. REV. 195, 251 (2007); *Developing Talent? You're Probably Missing Vertical Development*, CTR. FOR CREATIVE LEADERSHIP, <https://www.ccl.org/articles/leading-effectively-articles/developing-talent-youre-probably-missing-vertical-development/> (last visited Jan. 29, 2023).

²⁹⁴ See generally *id.* at 211.

²⁹⁵ *Id.* at 213.

quality.²⁹⁶ The curriculum design would also incorporate the Law Center's historical footprint in the clinical atmosphere and, therefore, would provide students with an intersectional education using existing faculty and available clinics. Clinics including the family law clinic, domestic violence clinic, the elder law clinic, and tax clinic which all have bases of law that are interconnected with disaster however because of limited resources the disaster response and recovery clinic as a whole would not be able to serve. The clinic was then incorporated into the local disaster recovery long term task force and implemented many similar NIMS structures.

IV. DESIGNING A DISASTER LEGAL CURRICULUM

Critiques of the NIMS system include the multiple failures of NIMS in large-scale incidents.²⁹⁷ However, NIMS has received success during small and local-scale disasters and emergencies.²⁹⁸ NIMS and disaster legal response are complementary structures.²⁹⁹ After a natural or man-made disaster, survivors of a disaster are in need of legal assistance.³⁰⁰ Since Hurricane Katrina, most disaster law curriculums have focused on disaster response or providing "disaster justice" after a disaster has occurred.³⁰¹ However, as disasters continue to occur and increase in both frequency and economic impact, it is imperative that law schools evaluate and prepare the next generation of lawyers to help shape policies that will impact all phases of disasters.³⁰² Immediately after a disaster occurs survivors are impacted by a variety of legal needs.³⁰³ Some of the survivors can afford to hire market-rate attorneys to handle their legal issues.³⁰⁴ However, many low- and moderate-income families find themselves trying to navigate the legal landmines of insurance, regulatory agencies, FEMA, HUD,

²⁹⁶ Praveen Kosuri, "Impact" in *3D – Maximizing Impact Through Transactional Clinics*, 18 UNIV. PA. CLINICAL L. REV. 1, 46 (2011).

²⁹⁷ Cynthia Renaud, *The Missing Piece of NIMS: Teaching Incident Commanders how to Function in the Edge of Chaos*, HOMELAND SEC. AFFS., June 2012, at 3.

²⁹⁸ *Id.* at 4.

²⁹⁹ FED. EMERGENCY MGMT. AGENCY, *supra* note 263, at 35.

³⁰⁰ Melissa H. Luckman & Patricia R. Sturm, *Restoring Power: A Law School's Response to a Superstorm*, TOURO UNIV. J. EXPERIENTIAL LEARNING 232, 260 (2018).

³⁰¹ *Id.* at 238.

³⁰² *Id.* at 259; Adam B. Smith, *2021 U.S. Billion-Dollar Weather and Climate Disasters in Historical Context*, CLIMATE.GOV (Jan. 24, 2022), <https://www.climate.gov/news-features/blogs/beyond-data/2021-us-billion-dollar-weather-and-climate-disasters-historical#>.

³⁰³ *See id.* at 233.

³⁰⁴ Arloc Sherman & Isaac Shapiro, *Essential Facts About the Victims of Hurricane Katrina*, CTR. OF BUDGET & POL'Y PRIORITIES (Sept. 19, 2005), <https://www.cbpp.org/sites/default/files/archive/9-19-05pov.htm>; David D. Gongora, *Hurricane Lawyer*, <https://davidgongora.com/hurricane-lawyer/> (last visited Jan. 29, 2023).

and state agencies.³⁰⁵ A survey by FEMA reveals that less than fifty percent of low-income families can afford an emergency that costs more than \$400.³⁰⁶ Therefore, there is a need to create comprehensive disaster law pedagogy to assist vulnerable populations.

Many of the students in law clinic settings are actual members of the community. They attend religious institutions, are a part of charitable organizations, and live in the neighborhoods impacted by the disasters.³⁰⁷ Therefore, it is important for them to be lawyer-leaders but, more importantly, it exposes the community to the law and legal settings in a positive manner.³⁰⁸ Many members of the community may not have navigated a legal issue before and do not understand the subtle nuances that are associated with the legal environment.³⁰⁹ Legal clinics provide an atmosphere where they can interact with community lawyers, law students, and law faculty in a more informal setting.³¹⁰ Additionally, legal clinics can provide free legal advice, referrals, and added value in the form of knowledge.³¹¹ After a disaster, students can engage and educate the community about the proper parts of a contract, how to read a lease, or verify their insurance coverage.³¹² The physical legal clinic setting is also a resource for clients and the community.³¹³ Many legal clinics offer free notary for disaster-related documents and access to printed copies of legal and identification documents.³¹⁴

³⁰⁵ *60% of Americans Not Practicing for Disaster*, FED. EMERGENCY MGMT. AGENCY (Apr. 28, 2015, 10:30 AM), <https://www.prnewswire.com/news-releases/60-of-americans-not-practicing-for-disaster-300073282.html>; see also Disaster Tech. Assistance Ctr., *Greater Impact: How Disasters Affect People of Low Socioeconomic Status*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. (Jul. 2017), https://www.samhsa.gov/sites/default/files/dtac/srb-low-ses_2.pdf.

³⁰⁶ FED. EMERGENCY MGMT. AGENCY, *Disaster Financial Management Guide* (Apr. 2020), <https://www.fema.gov/sites/default/files/2020-07/disaster-financial-management-guide.pdf>.

³⁰⁷ *A Whole Community Approach to Emergency Management: Principles, Themes, and Pathways for Action*, FED. EMERGENCY MGMT. AGENCY (Apr. 2020), https://www.fema.gov/sites/default/files/2020-07/whole_community_dec2011_2.pdf.

³⁰⁸ MARY A. LYNCH, *TOWN AND GOWN: LEGAL STRATEGIES FOR EFFECTIVE COLLABORATION* 3 (Cynthia Baker & Patricia Salkin eds., 2012).

³⁰⁹ *Id.* at 8 (“Law School Clinics emphasize to and for the local community the professional identity of attorneys as justice seekers.”).

³¹⁰ See generally Luckman & Sturm, *supra* note 300, at 235.

³¹¹ LYNCH, *supra* note 308, at 1–2.

³¹² *Id.* at 19.

³¹³ See generally Luckman & Sturm, *supra* note 300, at 249.

³¹⁴ *Meeting the Needs of Self-Represented Litigants in East Baton Rouge Family Court*, E. BATON ROUGE FAM. CT. SELF HELP RES. CTR., https://brba.org/Images/CLEmaterials/pro_bono_seminar/BR_SHRC_STUDENT_TrainingSlides2013.pdf (last visited Jan. 29, 2023).

A. *Building Community Trust*

The first significant hurdle for the disaster clinic was building the trust of the community. The community was hurting and already had an enormous distrust of outside entities coming in to “help.”³¹⁵ Louisiana is known for enduring natural disasters and, as a result, the community understands after a disaster an influx of money and multiple rounds of the additional funding comes a lot of organizations that have good intentions but do not historically deliver on their promises.³¹⁶ Client transience was also an issue because clients would relocate due to other disaster-related issues involving housing and employment.³¹⁷

Due to the deficiency in community trust, the disaster clinic was very intentional with the type and scope of cases selected. The first determination was to designate that the clinic would only accept civil cases. The next criteria were determined based on the needs of the community. The clinic was initially set to last twenty-four months (about two years); therefore, we only wanted to select cases and causes so that we could receive a result for the client in the selected timeline.³¹⁸

The needs of the community far exceeded the capability of the clinic so in addition to being able to accomplish the clients’ task in the allotted time, the clinic also selected cases based on a triage approach:

- (1) cases that were urgent and time sensitive, *i.e.*, FEMA cases;
- (2) cases involving immediate housing and employment needs; and
- (3) cases related to the disaster but not time sensitive.³¹⁹

This triage system was essential in being able to develop consistent criteria that we could market and educate the clients on. Additionally, it allowed the clinic to become an intake portal and important asset in creating a holistic community approach to work with other churches, nonprofit organizations, mental and health organizations, and other legal organizations.³²⁰

The concept of a triage system allowed students to become self-regulated learners. As Patience Crowder discusses “Self-regulated learning puts students on this path to

³¹⁵ DeMond Shondell Miller & Jason David Rivera, *Guiding Principles: Rebuilding Trust in Government and Public Policy in the Aftermath of Hurricane Katrina*, J. CRITICAL INCIDENT ANALYSIS 22, 32 (2011).

³¹⁶ *Navigating Before and After Natural Disasters*, NEW ORLEANS INJ. L. NEWS, <https://neworleans.legalexaminer.com/category/legal/natural-disasters/> (last visited Jan. 29, 2023); see Pierre & Stephenson, *supra* note 277, at 448.

³¹⁷ Debus & Irazola, *supra* note 269, at 67 (discussing the impact and challenges of delivering legal aid to communities after a disaster).

³¹⁸ The twenty-four-month perimeter was determined by the award of the Equal Justice / Americorp grant funding. The award documentation is located at the Southern University Law Center Clinic.

³¹⁹ Patience Crowder, *Designing a Transactional Law Clinic for Life-Long Learning*, 19 LEWIS AND CLARK L. REV. 412 (2015).

³²⁰ See generally *id.* at 440.

good lawyering.”³²¹ Students were able to make independent determinations about cases, “engage with the law[,] and problem solve for their clients.”³²²

In addition to having a theoretical framework for the type of clients the clinic could accept, it also allowed a framework for the types of clients that it could not accept. These application criteria were especially important to establishing community trust with the community in two ways.

First, we explained that we would not be able to handle certain matters like criminal or family matters because they could take longer than our clinic would be in existence, and we made it clear that our mission was to assist low-income survivors that may not be able to obtain legal assistance without the help of the clinic. The messaging was highly effective and allowed access to several organizations that do not work with disaster organizations. Second, as our reputation grew, we were invited to join governmental and local recovery task force groups, long term recovery organizations, and community leadership meetings. Our clinic represented the voice of many in the community that may otherwise never have had would have a voice at those tables. Our students were able to assist their friends, family, and neighbors.

However, the clinic also realized that we would have to make a geographical spatial decision for the areas that we would represent.³²³ The term community can take on different meanings, and, as an HBCU clients immediately associated our clinic with only being able to help the Black and Brown communities. However, the flooding had impacted a wide geographical area around the law school and as one of the most diverse law schools in the nation, we felt the need to represent the demographics of our student body and not just the immediate geographical area only.³²⁴

B. *Measuring Success*

The initial design of the legal clinic depended heavily on the criteria established through the Equal Justice Works/AmeriCorps partnership.³²⁵ The clinic had to provide monthly and quarterly updates in reference to the functionality of the clinic.³²⁶ The metrics helped to guide and establish what success would be for the clinic and the community. The following were some of the metrics that were used to measure the effectiveness of the clinic:

(1) Client Demographics

(a) How many new clients did you take in per month?

³²¹ *Id.* at 435.

³²² *Id.*

³²³ Debus & Irazola, *supra* note 269, at 15 (discussing the difficulty of representing clinics that are not geographically close to the law school).

³²⁴ LYNCH, *supra* note 308, at 7 (“Clinics not only provide a think tank to address local social justice issues, but their visible existence in the community also highlight lawyers’ professional obligations to the wider community.”).

³²⁵ Debus & Irazola, *supra* note 269, at iv.

³²⁶ This Part incorporates the lived experience of the author as she redesigned the clinic into a substantive course and the clinic as a tandem experiential course.

- (b) How many existing cases were you able to close each month?
 - (c) What was the age range of the clients that you took in?
 - (d) What was the gender breakdown of new clients?
 - (e) Identify the number of new clients in each underserved area.
 - (f) What was the economic impact of each case?
 - (g) What was the community impact from each case?
 - (h) How many clients were you able to provide community / housing stability?
 - (i) How many clients received a positive outcome?³²⁷
 - (j) How many new community partnerships did you make?
 - (k) How did those partnerships benefit the entire community?
 - (l) What was the total employment impact?³²⁸
- (2) Client Narratives
- (a) Describe a maximum of two particularly compelling case stories involving disaster/employment/veteran cases for which your Fellow(s) provided consultation or representation during the quarter.
 - (b) Please describe any interactions that you, other staff members, or your Fellow(s) have had with the media regarding the Disaster/Employment/Veterans program during the quarter. Please share links to relevant videos, articles, and other media associated with these interactions.
 - (c) Describe any overall challenges related to the representation of clients by your Fellow(s). Explain the steps your organization has taken to address these challenges.
 - (d) Describe any successes related to building pro bono capacity for your program. This may include leveraging of private and/or in-house pro bono resources; partnerships with social services,

³²⁷ *What Possible Outcomes Might Happen in my Case?*, WOMENLAW.ORG, <https://www.womenslaw.org/laws/preparing-court-yourself/court-system-basics/subject-matter-jurisdiction/what-possible-outcomes> (last visited Jan. 29, 2023) (questions coming from an internal document in the clinic. The positive outcome could be defined as anything tangible for the client. For example, reducing a fine, debt, court fee, reclaiming lost money, retaining employment, or gaining government benefits.).

³²⁸ *Overcoming Employment Barriers*, NAT'L ALL. TO END HOMELESSNESS (Aug. 21, 2013), <https://endhomelessness.org/resource/overcoming-employment-barriers/> (defining employment impact as removing employment barriers, retaining employment, obtaining unemployment or enrolling in technical or career education. Employment barriers include removing expungements, sealing criminal records, updating identification records, updating or obtaining occupational licenses or early termination of parole/probation.).

medical, and/or mental health providers; and any other partnerships during the quarter.

- (e) Please describe any aspects of your program, or any support from Equal Justice Works that helped Fellows be successful and feel connected in a meaningful way to their project.

(3) Partnerships

- (a) How many new partnerships were identified and/or created?
 (b) Describe the partnership and the benefit to the community.
 (c) How many volunteers will the partnership foster?

The above metrics were used to help identify the strengths and weaknesses of the overall program.³²⁹ It also allowed the clinic students to engage with the clients and to receive feedback in their own words; additionally, the client narrative specifically focused on getting the client to assess the program in their own words.³³⁰ This feedback would be used to establish the metrics for the next quarter.

The metrics also set timelines for the clinic to assess and adjust. The three-month timeline was important to the success of the clinic and is still in use today to determine the capacity of the clinic and the established partnerships.³³¹ Some partners only wanted to be involved in certain projects while other partners wanted a long-lasting relationship. In the beginning of the clinic, it was important to assess the effectiveness of new partners every thirty days. The flexibility in the relationship allowed us to expand and contract the services we were able to provide to the community.³³² It was also particularly important to communicate the beginning and ending of partnerships to the client.³³³ The community was also especially important to determining the trustworthiness of the partnership.³³⁴ For instance, we quickly learned that we could not make any recommendations for contractors or subcontractors.³³⁵ The community held our recommendations in high regard and if any of the contractors violated the trust of a community member it would negatively impact the clinic.

Students were also particularly important in building partnerships with the community because many of the students were a part of the neighborhoods and organizations that we created partnerships with. Students were seen as trustworthy and

³²⁹ *What is NIMS?*, *supra* note 267, at 6.

³³⁰ Crowder, *supra* note 319, at 440.

³³¹ Colleen F. Shanahan et al., *Measuring Law School Clinics*, 92 TUL. L. REV. 547, 586 (2018).

³³² *See id.* at 557.

³³³ *See* Debus & Irazola, *supra* note 269, at 72.

³³⁴ Miller & Rivera, *supra* note 315, at 28.

³³⁵ *Building Legal-Community Partnerships*, JUST LEAD WASH. (Jul. 2020), https://justleadwa.org/wp-content/uploads/2020/07/JustLead-Community-Guide_Final.pdf.

viable resources.³³⁶ Students worked in the clinic specifically engaged in the intake process and they worked in the outreach events.³³⁷ Students had to be prepped in interviewing skills, negotiating, dealing with difficult clients, and maintaining client trust.³³⁸ Students were measured on subsets of the clinic's overall metrics and according to the overall clinic grading system.

The Disaster Corp. and programs similar to it are the last piece of the legal academy pipeline.³³⁹ Law school administrators must create and approve courses that will lead students to gainful employment.³⁴⁰ The Equal Justice Disaster Corps is a blueprint for other nonprofit agencies and pro bono law firms looking to hire disaster lawyers after law school.³⁴¹ The program places post graduate law students and young lawyers directly in the community to assist with all phases of the disaster cycle.³⁴²

C. *Designing the Framework of the Clinic*

The belief that all genuine education comes through experience does not mean that all experiences are genuinely or equally educative [T]he central problem of education based on experience is to select the kind of present experiences that live fruitfully and creatively in subsequent experiences.

– John Dewey³⁴³

When exploring the concept of disaster law pedagogy and curriculum tangent to disaster national framework, the focus must be on the type of class and the desired effect. For example, most of the programs for disaster law at the undergraduate and/or law school level came as a reaction to a natural disaster.³⁴⁴ The greatest development of disaster law came after Hurricane Katrina.³⁴⁵ Law schools that were located in the

³³⁶ See generally Debus & Irazola, *supra* note 269, at 26 (discussing the impact and challenges of delivering legal aid to communities after a disaster).

³³⁷ *Id.* at ix.

³³⁸ See *id.* at 56.

³³⁹ *Id.* at 70.

³⁴⁰ Crowder, *supra* note 319, at 440.

³⁴¹ See, e.g., *Equal Justice Works Teams Up with National Partners to Host Disaster Resilience Awareness Month*, EQUAL JUST. WORKS (Feb. 24, 2022), <https://www.equaljusticeworks.org/news/equal-justice-works-teams-up-with-national-partners-to-host-disaster-resilience-awareness-month/>.

³⁴² See Debus & Irazola, *supra* note 269, at 1.

³⁴³ JOHN DEWEY, EXPERIENCE AND EDUCATION 8–9 (Touchstone, 1997).

³⁴⁴ Luckman & Sturm, *supra* note 300, at 233.

³⁴⁵ *History of FEMA*, FED. EMERGENCY MGMT. AGENCY (Jan. 4, 2021), <https://www.fema.gov/about/history>.

Gulf South region developed legal clinics as a reaction to the disaster itself.³⁴⁶ Schools that were located outside of the disaster affected area developed courses to assist with the development of the lack of information or lessons learned from the storm.³⁴⁷

1. Defining the Clinical Workload and Communication

NIMS emphasizes the evaluation and determination of the scope and scale of work that the clinic will perform.³⁴⁸ Clients will approach the clinic with varied and complex issues and the role of the clinic intake is important to have a clear line of demarcation for the student lawyer and the intake staff.³⁴⁹ Having clear communication with everyone involved in the clinic will preserve any future indication of impropriety.³⁵⁰ The needs of the community will be the deciding factor in what services will be the most needed.³⁵¹ NIMS is a performance-based model which focuses on “enabling communities to plan for, request, and have confidence in personnel assigned from other organizations through mutual aid and state and local agencies.”³⁵² Therefore, the clinic will need to lay out specific models to select clients.³⁵³ The following list provides sample language for clinic intake communication and staff of sample clinic work.

(1) Housing

- Tenant evictions so property owners can rent property at higher rates due to scarce housing;
- Disagreements over obligations to pay rent or make repairs related to whether properties are inhabitable;
- Lack of information about foreclosure moratoriums and failure to make mortgage payments on destroyed homes;
- Auctioning of homes when evacuated homeowners cannot be located; and

³⁴⁶ Debus & Irazola, *supra* note 269, at 12 (discussing the impact and challenges of delivering legal aid to communities after a disaster).

³⁴⁷ *Id.* at 35 (responding to Hurricane Katrina by non-profits and local schools).

³⁴⁸ FED. EMERGENCY MGMT. AGENCY, *supra* note 263, at 28.

³⁴⁹ *See* Luckman & Sturm, *supra* note 300, at 248.

³⁵⁰ *Id.* at 244.

³⁵¹ Alonzo Plough et al., *Building Community Disaster Resilience: Perspectives from a Large Urban County Department of Public Health*, 103 AM. J. PUB. HEALTH 1190, 1191 (2013) (explaining that community need involves a combination of both community strengths and vulnerabilities).

³⁵² FEMA, *supra* note 4, at 8.

³⁵³ *Potential Clients for Nonprofit and Small Business Clinic*, N.Y. L. SCH., <https://www.nyls.edu/academics/specialty-areas/clinics-and-experiential-learning/clinics/potential-clients/> (last visited Jan. 25, 2023).

- Contractor fraud for home repairs.
- (2) Insurance
- Disputes over insurance denials based on damage being caused by water rather than wind; and
 - Obtaining the appropriate amount of insurance benefits.
- (3) Consumer Matters
- Bankruptcies and credit problems; and
 - Disaster-related fraud.
- (4) Claims for FEMA and Other State Disaster Programs
- Filing for FEMA and other disaster programs (e.g., Road Home) benefits;
 - Appealing FEMA decisions to take back previously distributed benefits;
 - Documenting the amount of damage to a home; and
 - Documenting legitimate ownership of properties passed down without official wills.
- (5) Family Law Matters
- Interstate child custody disputes when parents evacuate and remain in different states; and
 - Increased domestic violence and divorce due to extreme stress.

2. Defining the Client and Community

In order to successfully determine how the clinic would run, the federal framework requires stakeholders to define the clients and match the legal issues to unmet legal needs in the community, along with establishing a financial criterion for client intake.³⁵⁴ Prior data analytics from FEMA and HUD provides insight on defining vulnerable clients such as the elderly, the moderate to low-income, the un-housed, and veterans for each region.³⁵⁵ Each disaster carries with it a new definition of

³⁵⁴ *Id.*; Patricia I. Documet et al., *Engaging Stakeholders at Every Opportunity: The Experience of the Emergency Law Inventory*, 108 AM. J. PUB. HEALTH S394, S394 (2018).

³⁵⁵ VanSingel, *supra* note 9, at 2020; *Questions & Answers About HUD*, U.S. DEP'T HOUS. & URB. DEV., <https://www.hud.gov/about/qaintro> (last visited Jan. 25, 2023); Debra Ballen, *Vulnerable Populations*, INST. FOR BUS. HOME & SAFETY (Mar. 2009), <https://training.fema.gov/hiedu/docs/ballen%20-%20vulnerable%20populations.pdf>.

vulnerable.³⁵⁶ The disaster's region, location, and type of hazardous condition would be defined by the actual disaster risk manifestation.³⁵⁷

While every disaster reveals a certain and permanent class of vulnerable people including the un-housed and low-income, the flooding in South Louisiana revealed a sensitivity to middle income populations and renters.³⁵⁸ Many of the areas that were impacted by the flood were areas that did not mandate an owner or landlord to carry flood insurance.³⁵⁹ As a result, the owners and property owners did not have insurance creating a dependence on FEMA to provide coverage as the insurer of last resort.³⁶⁰ Going forward, legal clinics will have to develop a plan to address how to determine and protect unforeseen new categories of vulnerable populations during the initial stages of client intake.

The initial plan for a NIMS disaster clinic is to follow the lead of previous disaster clinics.³⁶¹ Creating a strategic unit using current faculty and students to address short-term legal issues with mutual aid agreements with NGOs and non-profits such as the American Red Cross.³⁶² The initial clinic intake would only receive clients with issues relating to FEMA appeals and applications and other short-term benefits that could be

³⁵⁶ *Vulnerable Populations*, COLUM. CLIMATE SCH. NAT'L. CTR. FOR DISASTER PREPAREDNESS, <https://ncdp.columbia.edu/research/vulnerable-populations/> (last visited Jan. 15, 2023) ("Vulnerability is not a fixed characteristic of an individual or a group. Rather, it is a fluid state defined by timing, the hazard at hand, circumstances, and access to different types of capital. Someone who is 'mobility impaired'—for example, an individual with a broken leg—may be vulnerable to not getting out of harm's way of an encroaching flood but may be well-equipped to find stable housing and economic security in the flood's wake.").

³⁵⁷ *See id.*

³⁵⁸ *See* John Upton, *One Year After the Great Flood, Louisiana's Most Vulnerable Cope with the Losses*, GRIST (Aug. 9, 2017), <https://grist.org/article/one-year-after-the-great-flood-louisianas-most-vulnerable-cope-with-the-losses/>.

³⁵⁹ Edward Richards, *Why was the Louisiana Flood of August 2016 so Severe?*, L.S.U. L. CTR. CLIMATE CHANGE L. & POL'Y PROJECT (Aug. 24, 2016), <https://sites.law.lsu.edu/coast/2016/08/why-was-the-louisiana-flood-of-august-2016-so-severe/> (explaining that areas outside of FEMA's flood-zone were not required to purchase flood insurance).

³⁶⁰ *See* Press Release, FEMA, *After 2016's Spring Rains, a Flood of Assistance in Louisiana* (Mar. 14, 2017), <https://www.fema.gov/press-release/20210318/after-2016s-spring-rains-flood-assistance-louisiana>.

³⁶¹ *See, e.g.*, Susan D. Bennett, *Discussion and Response, on Long-Haul Lawyering*, 25 *FORDHAM URB. L.J.* 771, 776–77 (1998) (discussing how community lawyering plays a part in the long-term community projects of clinics).

³⁶² *Disaster Teams Respond Across 18 States – How You Can Help*, AM. RED CROSS (June 22, 2022), <https://www.redcross.org/about-us/news-and-events/news/2022/disaster-teams-respond-across-18-states-how-you-can-help.html>; Press Release, FEMA, *Voluntary and Non-Governmental Organizations Save Lives, Feed, and Support Survivors in U.S. Virgin Islands and Puerto Rico* (Mar. 18, 2021), <https://www.fema.gov/press-release/20210318/voluntary-and-non-governmental-organizations-save-lives-feed-and-support>.

revolved around the student's semester or one-year rotation.³⁶³ However, after six months, the clinic can pivot to address such essential claims such as (1) contractor fraud claims³⁶⁴ and (2) landlord/tenant disputes.³⁶⁵

The concept of community-based lawyering is not a new concept.³⁶⁶ However, using a community-based year-long disaster law clinic in conjunction with a national framework is novice.³⁶⁷ After Hurricane Katrina, the Louisiana Bar Association created the Louisiana Center for Social Justice, which would handle and house the ABA YLD Hotline.³⁶⁸ This program would allow the partnership of local attorneys and the legal academy to create synergies as designed under the multi-agency portion of NIMS.

An additional example of partnered academic institution and a community-based approach is the National Center for Disaster Preparedness and the Gulf Coast Population Impact Project.³⁶⁹ The project was a joint venture to evaluate a near category of vulnerability within children after the BP Oil Spill.³⁷⁰ In June 2010, Columbia University's National Center for Disaster Preparedness ("NCDP") in partnership with the Children's Fund went into local communities and conducted focus groups and town hall meetings in Louisiana and Mississippi.³⁷¹ The focus of the meeting was to gather information on how the oil spill affected "family's health and

³⁶³ Praveen Kosuri, "Impact" in *3D - Maximizing Impact Through Transactional Clinics*, 18 CLINICAL L. REV. 1, 28 (2011).

³⁶⁴ Caroline Grueskin & Emma Discher, *Contractor Fraud Cases Still Plague Baton Rouge-Area Law Enforcement Agencies, Prosecutors*, ADVOCATE (Jan. 20, 2018), https://www.theadvocate.com/baton_rouge/news/article_e30eb284-f64c-11e7-be2d-8f9c6abcd256.html.

³⁶⁵ The essay exposes how the disparity in legal protections for these two groups is not unique to this pandemic. Rather, the crisis has merely uncovered longstanding, deep-rooted patterns within legal doctrines, governmental programs, and public policies that bestow favorable treatment upon homeowners at the expense of renters. *See, e.g.*, Sarah Schindler & Kellen Zale, *How the Law Fails Tenants (and not Just During a Pandemic)*, 68 UCLA L. REV. 146, 153 (2020).

³⁶⁶ Bennett, *supra* note 361, at 773.

³⁶⁷ *See id.*

³⁶⁸ VanSingel, *supra* note 9, at 1051.

³⁶⁹ *See The Gulf Coast Population Impact Project*, NAT'L CTR. FOR DISASTER PREPAREDNESS, <https://ncdp.columbia.edu/custom-content/uploads/2020/03/gulf-coast-brochure.pdf> (last visited Jan. 16, 2023).

³⁷⁰ *Id.* ("April-Aug 2012 - In order to learn more about how the oil spill affected the hardest hit communities, we interviewed 1,437 parents in four states. Children who had direct contact with oil, tar balls, or dispersant were three times as likely to experience physical or mental health effects.").

³⁷¹ *Id.*

well-being.”³⁷² Information was gathered by door-to-door surveys, phone surveys, and coordination with local leaders.³⁷³ As the survey results indicate, the Shoreline - Youth helping Youth Recover from Disaster was founded.³⁷⁴ Following the model of other academic institutions, the legal schools are primed to become stakeholders in national response system to make lasting impact in the future.

V. CONCLUSION

The field of disaster law continues to evolve. New natural disasters and the current administration of FEMA dealing with the pandemic has tested the limits of FEMA’s ability to provide concurrent help.³⁷⁵ After each administration of a large disaster, FEMA has used the mitigation philosophy to create new legislation to learn and adjust from its errors and its successes.³⁷⁶ As FEMA continues to expand and re-defines its role regarding preparedness and mitigation, more legal advocates and scholars will be needed to ensure compliance and to amplify the voices of those vulnerable populations that go unheard.

COVID-19 has exposed the ugly underbelly of the nation’s inequality in the income, health, and housing sectors. It also undermined the fragility of the national framework to respond to large scale emergency and disaster events.³⁷⁷ During COVID-19 and traditional natural disasters, individuals who were marginally making it economically prior to the disaster are suddenly thrust into economic uncertainty.³⁷⁸ Many of these individuals cannot afford to hire market rate attorneys and often legal

³⁷² *Id.*

³⁷³ *Id.*

³⁷⁴ *Id.* (“As a result of our research, we established five chapters of the SHOREline youth empowerment program—which stands for Skills, Hope, Opportunity, Recovery, and Engagement—in high schools in Louisiana, Mississippi, and Alabama. More than 100 students applied, and 60 were accepted. SHOREline is based on project-based learning and the idea of ‘youth helping youth recover from disaster.’”).

³⁷⁵ Rebecca Hersher & Ryan Kellman, *Why FEMA Aid is Unavailable to Many Who Need it the Most*, NAT’L PUB. RADIO (June 29, 2021), <https://www.npr.org/2021/06/29/1004347023/why-fema-aid-is-unavailable-to-many-who-need-it-the-most>; Press Release, FEMA, COVID-19 Update (May 14, 2021), <https://www.fema.gov/press-release/20210514/fema-covid-19-update>.

³⁷⁶ See *Risk Management: Hazard Mitigation Planning*, FED. EMERGENCY MGMT. AGENCY, <https://www.fema.gov/emergency-managers/risk-management/hazard-mitigation-planning> (last visited Jan. 25, 2023) (showing that FEMA develops “long-term strategies for protecting people from similar events”).

³⁷⁷ Rohit C. Khanna et al., *COVID-19 Pandemic: Lessons Learned and Future Directions*, 68 INDIAN J. OPHTHALMOLOGY 703, 706 (2020).

³⁷⁸ See Pamela Winston, *COVID-19 and Economic Opportunity: Unequal Effects on Economic Need and Program Response*, U.S. DEP’T OF HEALTH & HUM. SERVS. 1, 1 (Apr. 2021), <https://aspe.hhs.gov/sites/default/files/private/pdf/265391/covid-19-human-service-response-brief.pdf>.

aid organizations are already at or approaching capacity.³⁷⁹ Local government agencies and emergency managers are often responsible for the coordination of resources and compliance with federal and state requirements.³⁸⁰ Law schools are uniquely situated to provide legal expertise to government officials and to provide critical services to vulnerable populations.³⁸¹ Therefore, law school clinics provide a valuable resource to the very communities that they are geospatially located in.

Additionally, law schools are currently needed to answer the call for sustained comprehensive disaster legal education to create community-based lawyers, protect vulnerable populations, and research and provide legal scholars versed in disaster legislation and policy. In the NIMS framework, law schools are needed to become integral stakeholders in disaster legal aid conversation which also includes the ABA YLD, LSC and its grantees, and other state and local non-profits.³⁸² The legal academy has the unique ability to facilitate knowledge and respond to the community.³⁸³ As a result, law schools can leverage their earned trust in the community to create and sustain community partnerships and fill the gap left by ad hoc training and intermittent resources to the community.

History has shown that advance planning can have exponential results including risk reduction and sustainable practices for vulnerable populations. The inclusion of law schools in the National Incident Management System will increase disaster legal planning, will promote the “whole community” benefits, and will also create an avenue for research and advocacy to expand and advance disaster policy on a national level.³⁸⁴ Law school clinics can include local community outreach events, sponsor legal conferences, and fund legal research all focusing on disaster law and expanding the discussion of response but advocating preparedness and mitigation.

³⁷⁹ Adiel Kaplan, *More People Than Ever Need Legal Aid Services. But the Pandemic Has Hit Legal Aid Funding Hard*, NBC NEWS (Apr. 25, 2021), <https://www.nbcnews.com/business/personal-finance/more-people-ever-need-legal-aid-services-pandemic-has-hit-n1264989>.

³⁸⁰ Khanna et al., *supra* note 377.

³⁸¹ See, e.g., Melissa H. Luckman, *Restoring Power: A Law School's Response to a Superstorm*, 2 J. EXPERIENTIAL LEARNING 232, 233 (2018).

³⁸² Kosuri, *supra* note 363; VanSingel, *supra* note 9; *The Role of Legal Aid in Disaster Recovery*, LEGAL SERVS. CORP., <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/role-legal-aid-disaster-recovery> (last visited Jan. 25, 2023).

³⁸³ Kosuri, *supra* note 363; Bennett, *supra* note 361.

³⁸⁴ *Id.*; see *supra* notes 95–97 and accompanying text.