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### 'Place, Disasters, and Disability' in Law and Recovery from Disaster: Hurricane Katrina

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**SCHOOL OF LAW**

**“Place, Disasters, and Disability”  
in LAW AND RECOVERY FROM DISASTER:  
HURRICANE KATRINA**  
(Robin Paul Malloy editor)

Debra Lyn Bassett

*(Forthcoming 2009)*

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## Place, Disasters, and Disability

Debra Lyn Bassett\*

*This chapter in the forthcoming book, *Law and Recovery from Disaster: Hurricane Katrina* (Robin Paul Malloy ed., forthcoming 2009) addresses the unique considerations at the intersection of place, disasters, and disability. Despite the desire for laws and policies with broad societal applicability, the failure to account for “place” can create false generalities. Urban assumptions regarding technology, communication, and transportation—as well as urban assumptions regarding accessibility, availability, and options more generally—are largely untrue for rural areas, especially remote rural areas. In particular, place puts rural dwellers, and especially disabled rural dwellers, at higher risks during natural disasters and hinders their recovery. As was seen during Hurricanes Katrina and Rita, the failure to include the special considerations of the rural and the disabled in disaster planning has the potential for life-threatening consequences.*

### INTRODUCTION

Hurricanes Katrina and Rita cast a bright spotlight upon a number of important issues, including, among others, issues of race, issues of class, and issues regarding our nation’s emergency preparedness. Still another issue highlighted by the hurricanes, but one that did not garner the same level of subsequent examination or discussion, is the issue of “place.”

“Place” received some limited attention during the 2005 hurricane season, even if inadvertently, because place indeed mattered. Only particular places are susceptible to hurricanes generally, and only specific places suffered any impact from Hurricanes

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\* Professor of Law and Judge Frank M. Johnson, Jr., Scholar, University of Alabama School of Law. Many thanks to Robin Paul Malloy for his invitation to participate in the 2006 Property, Citizenship, and Social Entrepreneurism Workshop, and to the workshop participants for their helpful comments. I also presented this paper as part of the Faculty Enrichment Series at the University of Florida College of Law and would like to thank the UF faculty for their helpful comments.

Katrina and Rita. Place was not interchangeable or irrelevant—some places were more geographically vulnerable than others.

“Place” matters in law and policy, but its significance is rarely acknowledged. The failure to recognize the significance of place in law and policy stems from assumptions that place is irrelevant, and results in unjustified generalities that have undermined the effectiveness of many laws and policies in their implementation. In empirical studies, researchers control for variables that might have an impact on the outcome. Place might, or might not, be one such variable; if place is not a controlled variable, the researcher has thereby indicated that she considers place irrelevant to the potential outcomes. The same is true in law and policy: when place is not specifically mentioned, that omission reflects a belief that place is irrelevant.

Law and policy tend to seek generalities. After all, we want laws and policies to have broad, societal applicability rather than narrow, individualized applicability. As in empirical studies, in some instances place indeed may be irrelevant. But places are not interchangeable in the manner that some seem to suggest, nor are places a mere neutral backdrop. Place has more widespread relevance than currently tends to be recognized.

## I. THE URBAN ASSUMPTION

The degree to which we underplay and undermine the significance of place in law and policy is quite remarkable. Despite the perils of generalization, attempts to minimize differences and to find commonality tend to predominate.<sup>1</sup> Place inserts specificity and

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<sup>1</sup> See Paul Schiff Berman, *Towards a Cosmopolitan Vision of Conflict of Laws: Redefining Governmental Interests in a Global Era*, 153 U. PA. L. REV. 1819, 1861 (2005).

[I]n order to create a set of universal legal norms that overrides local variation, one needs to presuppose a world citizenry devoid of both particularist ties and normative discussion about the relative importance of such ties. Thus, universalism can cut off debate about

boundaries into discussions that are seeking generalities—and thus serves potentially to limit relevance and applicability. Not only are laws and policies typically viewed without regard to place, but current discussions of diasporas and globalization inherently undercut place with their emphasis on dispersion and consistent reach. A perhaps unintended consequence of heralding globalization is the homogenization of place, in which place is viewed as interchangeable, a mere neutral backdrop without independent significance.

To some degree, seeking universality and commonality is understandable and practical. After all, if too many variables are introduced, a formula, program, or approach becomes too case-specific to have any real utility. But there is also a danger that we may sometimes carry unexamined generalizations too far, resulting in unjustified assumptions of similarities that do not, in fact, exist. It is these unjustified assumptions of similarities without regard to place that form the focus of this paper.

Ignoring place has benefits. In particular, ignoring place reduces the number of factors that must be taken into account, with a concomitant sense (even if that sense is false) of greater consistency and cohesion. Thus, ignoring place tends to promote contentions that seek unity, consistency, and sameness.

However, ignoring place carries perils as well. Ignoring place doesn't make it go away. When no distinctions are drawn, and all are treated as if place were consistent or irrelevant, the lack of distinction carries its own assumptions—assumptions drawn from majority or dominant perspectives. Just as is true of assumptions of maleness and whiteness absent other factors or indicators, similar assumptions adhere with respect to place.

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the nature of overlapping communities just as surely as territorialism or parochialism does.

One specific assumption with respect to place is the assumption of an urban location. Approximately eighty percent of the population of the United States lives in urban areas,<sup>2</sup> so an urban assumption will often be correct. But an urban assumption presumes, in the twenty percent of instances involving a non-urban setting, that a non-urban location makes no difference. Unquestionably, in some circumstances the urban versus non-urban distinction does not matter. For example, the premeditated killing of another without justification or excuse is a homicide, regardless of whether the killing occurred in an urban or non-urban area. But in other instances, assuming uniformity of place can lead to unjustified or erroneous conclusions.

I have previously written about urban—or “anti-rural”—bias,<sup>3</sup> and in those writings I have observed that urban bias in law and policy is wide-ranging.<sup>4</sup> Indeed, the urban assumption—urbanity as the assumed point of reference—is a fact of life in the United States.<sup>5</sup> Anecdotally, it takes little to note the prevalence of urban-related, as

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<sup>2</sup> STATE PROFILES: THE POPULATION AND ECONOMY OF EACH U.S. STATE 3 (Courtenay M. Slater & Martha G. Davis eds., 1st ed. 1999) (“About 80 percent of the U.S. population lived in metropolitan areas in 1997.”). Although “urban” and “rural” are common terms, I (and many others) have repeatedly observed that the two terms fall on a continuum and elude clear definition. Debra Lyn Bassett, *Ruralism*, 88 IOWA L. REV. 273, 287-88 (2003) [hereinafter Bassett, *Ruralism*] (“The terms ‘urban’ and ‘rural’ have imprecise and potentially overlapping definitions . . . . [A] community’s population, standing alone, will not sufficiently differentiate a ‘rural’ area from an ‘urban’ or ‘suburban’ one.”).

<sup>3</sup> See Debra Lyn Bassett, *The Rural Venue*, 57 ALA. L. REV. 939 (2006) [hereinafter Bassett, *Rural Venue*]; Debra Lyn Bassett, *Distancing Rural Poverty*, 13 GEO. J. POVERTY L. & POL’Y 3 (2006) [hereinafter Bassett, *Distancing Rural Poverty*]; Bassett, *Ruralism*, *supra* note 2; Debra Lyn Bassett, *The Hidden Bias in Diversity Jurisdiction*, 81 WASH. U. L.Q. 119 (2003); Debra Lyn Bassett, *The Politics of the Rural Vote*, 35 ARIZ. ST. L.J. 743 (2003) [hereinafter Bassett, *Rural Vote*].

<sup>4</sup> See, e.g., Bassett, *Ruralism*, *supra* note 2, at 323; see *id.* at 327 (noting urban bias “in a variety of . . . federal laws [and] policies . . . reach[ing] into a broad range of areas”); see also Katherine Porter, *Going Broke the Hard Way: The Economics of Rural Failure*, 2005 WIS. L. REV. 969, 972 (urging the “consider[ation of] rural perspectives in studies of various legal fields”).

<sup>5</sup> See KNOWING YOUR PLACE: RURAL IDENTITY AND CULTURAL HIERARCHY 3-4 (Barbara Ching & Gerald W. Creed eds., 1997) (“[T]he urban has come to be the assumed reference when terms are used that could in theory refer to both rural and urban subjects”).

contrasted with rural-related, news stories. One commentator has suggested that due to media deadlines, journalists naturally and necessarily tend to select subjects that are nearby, and news stations are located in urban population centers.<sup>6</sup> However, we need rely neither on anecdotal evidence nor on assumptions or suppositions. A 2002 study by the W.K. Kellogg Foundation undertook a systematic study of news coverage, finding both that there is relatively little media coverage of rural America and that the little coverage given tends to be negative.<sup>7</sup>

We saw this phenomenon in the context of Hurricane Katrina. Although the television networks and newspaper accounts reported extensively on the devastation wreaked by Hurricanes Katrina and Rita, place bore an unacknowledged impact on these reports: The media's attention centered on urban areas, to the near-exclusion of rural areas. In particular, the plight of the hurricane victims who lived in the urban area of New Orleans received massive, ongoing coverage, whereas the plight of the hurricane victims who lived in the remote rural areas of Mississippi, Louisiana, and Alabama did not.

One tempting rationalization for the media focus on urban areas and urban events is the reality that urban areas and events typically involve larger numbers of people, and therefore may be justified as more newsworthy, more relevant, more credible, or as carrying more significance. But there is an undercurrent, or perhaps more accurately, an

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<sup>6</sup> Barry C. Feld, *Race, Politics and Juvenile Justice: The Warren Court and the Conservative "Backlash,"* 87 MINN. L. REV. 1447, 1533 (2003).

<sup>7</sup> W.K. Kellogg Found., *Perceptions of Rural America: Media Coverage* 32-33 (2003), available at [http://www.wkkf.org/Pubs/FoodRur/MediaCoverage\\_00253\\_03795.pdf](http://www.wkkf.org/Pubs/FoodRur/MediaCoverage_00253_03795.pdf) (noting that rural coverage "was notable for its absence," and that "on the rare occasions in which it appeared, it was frequently used in connection with records of criminal activity. A remarkable seventy-eight percent of discussions of rural life on television news dealt with crime").

underbelly to this rationalization: An urban focus and urban emphasis amounts to an urban bias—according a greater value to urban areas and urban dwellers, and a lesser value to rural areas and rural dwellers.

Urban bias is also seen in American culture more generally. In addition to negative rural stereotyping in film, literature, and television specifically,<sup>8</sup> urban bias dictates trends, fashion, music, and more generally, simply what is seen as being desirable.<sup>9</sup> Indeed, many define “culture” in terms that, by definition, exclude rural areas. Defining “culture” as the existence within a geographical area of such amenities as a symphony, opera, ballet, museums, and live theater correspondingly defines those communities without those amenities as lacking culture. In describing American culture and looking to the characteristics or behavior typical of Americans, urban bias results in descriptions of urban culture.<sup>10</sup>

But urban bias has an impact beyond greater public visibility and trend-setting—urban bias has an economic impact as well. Two areas illustrating this economic impact are federal programs and poverty.

#### A. *Federal Programs and Services*

The urban assumption in the federal government begins at the beginning—with how “urban” and “rural” are defined. The Census Bureau provides a specific definition

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<sup>8</sup> See Bassett, *Ruralism*, *supra* note 2, at 292-99.

<sup>9</sup> *Id.* at 314 n.184 (“[R]ural dwellers, . . . unlike urban dwellers, are unlikely to be perceived as ‘cool’ or as trend-setters.”).

<sup>10</sup> See RALPH A. WEISHEIT ET AL., *CRIME AND POLICING IN RURAL AND SMALL-TOWN AMERICA* 2 (2d ed. 1999) (“[C]ontemporary American culture is considered not only homogenous, but an urban culture.”); Craig A. Arnold, *Ignoring the Rural Underclass: The Biases of Federal Housing Policy*, 2 *STAN. L. & POL’Y REV.* 191, 195 (1990) (noting “an American cultural bias toward that which is urban. This bias is created by a pervasive belief in the rightness and inevitability of urbanization.”).



for “urban.”<sup>11</sup> However, the Census Bureau’s definition of “rural” is simply what is left over—that which is not “urban” is remaindered as “rural.”<sup>12</sup>

More disturbingly, the federal government’s urban assumption results in urban-centricity such that the urban focus not only overshadows, but genuinely does not care about that which is rural. Urban-centricity translates into differential federal funding. According to the Consolidated Federal Funds Report for 2001, the federal government returned \$6,131 on a per capita basis to urban areas, but \$6,020 to rural areas—a \$5.5 billion rural disadvantage annually.<sup>13</sup> The rural disadvantage also extends to community development and resources. Urban community development receives two to five times more federal funding, per capita, than rural community development.<sup>14</sup> In 2001, federal spending on rural, as contrasted with urban, community resources was \$286 per person less—a \$14.1 billion rural disadvantage.<sup>15</sup>

In discussing federal spending with respect to rural areas, typically the discussion eventually turns to farm subsidies, because farm subsidies are widely cast as the federal government’s sop to rural areas. A 2001 study found—to no one’s surprise—that most

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<sup>11</sup> See U.S. Census Bureau, *Census 2000 Urban and Rural Classification*, available at [http://www.census.gov/geo/www/ua/ua\\_2k.html](http://www.census.gov/geo/www/ua/ua_2k.html) (providing a detailed definition of “urban”).

<sup>12</sup> See *id.*; see also JANET M. FITCHEN, *ENDANGERED SPACES, ENDURING PLACES: CHANGE, IDENTITY, AND SURVIVAL IN RURAL AMERICA* 246 (1991) (“The official definition assigned to rural America is a definition by exclusion: Essentially, that which is not metropolitan America is rural America.”); WEISHEIT ET AL., *supra* note 10, at 183-84 (“A negative definition of rural defines it implicitly by the absence of certain conditions or community attributes that are viewed as distinctively urban. In these terms, rural is defined by default as not-urban—i.e., whatever remains after urban areas have been designated.”) (emphasis omitted).

<sup>13</sup> Nat’l Rural Network, *Why Rural Matters II: The Rural Impact of the Administration’s FY07 Budget Proposal* 4 (Mar. 2006), available at <http://www.rupri.org/ruralPolicy/publications/2007budgetanalysis.pdf>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

Americans associate “rural” with farming and agriculture.<sup>16</sup> Accordingly, farm subsidies could be a good method for addressing rural needs if it weren’t for one small problem: the vast majority of rural dwellers neither live on farms nor make their living by working on farms. According to a 2006 report sponsored by The Carsey Institute at the University of New Hampshire, only 6.5 percent of the rural labor force is engaged in farming.<sup>17</sup>

The fact that more than ninety percent of rural dwellers are neither farm dwellers nor farm workers has been known for some time. In treating farm subsidies as meeting the needs of rural dwellers, lawmakers are relying not on facts, but on outdated rural stereotypes.<sup>18</sup> This overshadowing of rural issues by urban issues occurs in another economic area—that of poverty.

#### *B. Poverty*

Inner-city homelessness and poverty often predominate in discussions and images of poverty in the United States. Commentators have noted urban bias with respect to poverty both in the United States and in other countries.<sup>19</sup> As an initial matter, urban bias results in a focus on urban poverty rather than rural poverty.<sup>20</sup> Although urban poverty is

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<sup>16</sup> See W.K. Kellogg Found., *Perceptions of Rural America 2-3* (2001), available at <http://www.wkcf.org/pubs/FoodRur/pub2973.pdf> (“[T]he overwhelming majority of people in our study—both rural and non-rural—believe agriculture is the dominant industry of rural America. When asked to name the main industries of rural America, nearly all respondents name agriculture, farming, or ranching.”).

<sup>17</sup> REPORTS ON RURAL AMERICA: KENNETH JOHNSON, DEMOGRAPHIC TRENDS IN RURAL AND SMALL TOWN AMERICA 7 (Carsey Inst. 2006), available at [http://www.carseyinstitute.unh.edu/documents/Demographics\\_complete\\_file.pdf](http://www.carseyinstitute.unh.edu/documents/Demographics_complete_file.pdf).

<sup>18</sup> See *id.*

<sup>19</sup> See generally MICHAEL LIPTON, WHY POOR PEOPLE STAY POOR: URBAN BIAS IN WORLD DEVELOPMENT (1976) (discussing urban bias with respect to poverty worldwide).

<sup>20</sup> See RURAL SOC. SOC’Y TASK FORCE ON PERSISTENT RURAL POVERTY, PERSISTENT POVERTY IN RURAL AMERICA 175 (Westview Press, 1993) (“Considering the amount of attention devoted to the problem of urban poverty, it is perplexing that rural poverty seldom attracts much notice. Official poverty rates are consistently higher in rural areas, regardless of race.”); Kenneth L. Deavers & Robert A. Hoppe, *The Rural*

certainly problematic and worthy of attention, the focus on urban poverty overshadows the reality that rates of poverty are consistently higher in rural areas—and have been every year since 1959.<sup>21</sup>

Place is the most important factor in determining the likelihood that someone will live in poverty. Rural dwellers are significantly more likely to be poor than non-rural dwellers.<sup>22</sup> Of all the counties with poverty rates above the national level, approximately eighty-four percent are rural. Moreover, more than eighty rural counties have poverty rates of more than thirty percent. Twelve of those eighty counties have poverty rates above forty percent. In fact, counties with “extreme poverty rates” are disproportionately concentrated in rural areas.<sup>23</sup>

Poverty rates are highest in the most rural areas,<sup>24</sup> and rural areas have a disproportionately large portion of the poor.<sup>25</sup> Not only is the level of poverty striking in

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*Poor: The Past as Prologue, in RURAL POLICIES FOR THE 1990S* 85, 88 (Cornelia B. Flora & James A. Christenson eds., 1991) (“The American public generally perceives poverty as an urban problem. . . . However, the incidence of poverty is actually higher in nonmetro areas.”).

<sup>21</sup> See U.S. Dep’t of Agric., Econ. Res. Serv., *Rural Income, Poverty, and Welfare: Rural Poverty* (Nov. 10, 2004), available at <http://www.ers.usda.gov/briefing/IncomePovertyWelfare/ruralpoverty/> (“Nonmetro poverty has been higher than metro in every year since 1959.”); see also *id.* (noting that in 2003, the urban poverty rate was 12.1 percent, while the rural poverty rate was 14.2 percent).

<sup>22</sup> See David A. Cotter, *Addressing Person and Place to Alleviate Rural Poverty*, PERSPECTIVES ON POVERTY, POL’Y & PLACE (RUPRI Rural Poverty Res. Ctr.), Aug. 2003, at 9 (noting that this is the case “even after accounting for a considerable array of household and labor market variables”); Bruce Weber & Leif Jensen, *Poverty and Place: A Critical Review of Rural Poverty Literature* (RUPRI Rural Poverty Res. Ctr., Working Paper Series), June 2004, at 20 (“[T]here is something about living in a rural area that increases one’s odds of being poor. This conclusion holds even when one controls for individual and household characteristics.”).

<sup>23</sup> HOUS. ASSISTANCE COUNCIL, *TAKING STOCK: RURAL PEOPLE, POVERTY, AND HOUSING AT THE TURN OF THE 21ST CENTURY* 20-21 (2002), available at <http://ruralhome.org/pubs/hsganalysis/ts2000/index.htm>; see also RURAL POVERTY RES. CTR., *WHAT ARE PERSISTENT POVERTY COUNTIES?*, available at <http://www.rpronline.org> (explaining that “[p]ersistent [p]overty [c]ounties are those that have had poverty rates of 20% or higher in every decennial census between 1970 and 2000,” and noting that 88%—340 of the 386 persistent poverty counties—are rural).

<sup>24</sup> See U.S. Dep’t of Agric., Econ. Res. Serv., Rural Dev. Res. Report No. 100, *Rural Poverty at a Glance* 4 (2004).

rural areas—of the 250 poorest counties in America, 244 are rural<sup>26</sup>—but poverty becomes more acute in more remote rural areas. Poverty and place have a direct and proportional relationship: the more rural the place, the higher the likelihood of poverty.<sup>27</sup>

Despite place’s significant contribution to poverty, laws and policies aimed at ameliorating poverty have persisted in pursuing person-based, rather than place-based, approaches.<sup>28</sup> This failure to consider place in our laws and policies is not restricted to poverty, but is seen more generally.

## II. LAWS, POLICIES, AND THE IMPACT OF PLACE

The urban assumption has a pervasive influence on law and policy.<sup>29</sup> When lawmakers and policymakers approach law and legal issues from an exclusively urban

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<sup>25</sup> See J. Dennis Murray & Peter A. Keller, *Psychology and Rural America: Current Status and Future Directions*, 46 AM. PSYCHOLOGIST 220, 222 (1991); Ann R. Tickamyer & Cynthia M. Duncan, *Poverty and Opportunity Structure in Rural America*, 16 ANN. REV. SOC. 67, 68 (1990).

<sup>26</sup> ELIZABETH BEESON & MARTY STRANGE, WHY RURAL MATTERS: THE NEED FOR EVERY STATE TO TAKE ACTION ON RURAL EDUCATION 1-2 (2000), available at [http://www.mrea-mt.org/rural\\_matters.html](http://www.mrea-mt.org/rural_matters.html); see also OSHA GRAY DAVIDSON, BROKEN HEARTLAND: THE RISE OF AMERICA’S RURAL GHETTO 77 (Univ. of Iowa Press 1996) (noting that of the 150 worst “Hunger Counties” in the United States, 97% are in rural areas).

<sup>27</sup> See Kathleen K. Miller & Bruce A. Weber, *How Do Persistent Poverty Dynamics and Demographics Vary Across the Rural-Urban Continuum?*, MEASURING RURAL DIVERSITY, Jan. 2004, at 6, available at [http://srdc.msstate.edu/measuring/series/miller\\_weber.pdf](http://srdc.msstate.edu/measuring/series/miller_weber.pdf) (“Poverty rates are highest in more remote rural counties and lowest in metro counties.”).

<sup>28</sup> See Bassett, *Distancing Rural Poverty*, *supra* note 3, at 27-28.

Policies and remedies concerning rural poverty typically are “person-based,” targeting individuals or households and involving programs such as food stamps, Aid to Families with Dependent Children (AFDC), housing vouchers, training, and job counseling. . . . Yet these “person-based” programs, despite providing some benefit, have eradicated neither urban nor rural poverty. Particularly in light of the geographical and racial concentration of poverty in some areas, a second look is warranted at “place-based” policies and programs such as subsidies, business tax credits, and other tax incentives which target particular poor areas and neighborhoods.

*Id.* See generally *id.* at 26-31.

<sup>29</sup> See David Freshwater, *Rural America at the Turn of the Century: One Analyst’s Perspective*, 15 RURAL AM. 2, 3 (Sept. 2000), available at

perspective, this urban assumption necessarily infects the resulting proposals, programs, policies, and legislation.

As a general matter, the urban assumption is pernicious because it is unrecognized and unacknowledged, resulting in invalid generalizations. One example of an invalid generalization resulting from urban bias comes from the use of urban models in designing policies and programs. Because rural areas often are not considered separately—because the unique needs and characteristics of remote rural areas are not always considered—urban models are often employed in designing policies and programs, even when the intended beneficiaries of those policies and programs include rural dwellers. In designing policies that include the delivery of services, an urban focus or urban model might lead a policymaker to make the assumption that service recipients will effectively and efficiently receive their benefits, and administrative and distribution costs will be lower, by using a centralized location. This assumption, although widely true for urban areas, is largely untrue for rural areas, where smaller, more geographically dispersed populations, typically lacking any form of mass transit, require lengthy travel to get to so-called “centralized” locations.

The urban assumption adopts “economies of scale” as the primary form of distribution. However, the concept of “economies of scale” itself reflects urban bias. “Economies of scale,” by definition, require more demand or larger numbers in order to achieve such economies. Such an approach, of course, works just fine in urban areas, but often is lacking in rural areas with few residents, especially when the rural area is both remote from other population centers and its population is widely dispersed.

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<http://www.ers.usda.gov/publications/ruralamerica/sep2000/sep2000c.pdf> (“Congress, dominated by urban interests, focuses on urban issues and often ignores the effects of policies on rural areas.”).

More broadly, America has embraced economic models and rationales that tend to reward urban areas and tend to penalize rural areas. Such economic concepts as “economies of scale,” “profitability,” “cost effectiveness,” “cost-benefit analyses,” and “market efficiencies” create justifications for deregulation, privatization, and the promotion of business interests in both law and policy. But rural markets are unlikely to satisfy any of these economic-based concepts. Rural markets tend to be remote, dispersed, and sparsely populated. A dispersed population is more expensive to serve than a concentrated one. Remote and sparsely populated communities often translate into higher transportation costs with concomitant decreases in profitability, cost effectiveness, and market efficiencies.

Moreover, an urban assumption overlooks a number of rural practical realities. Differing practical realities of place exist for urban versus rural areas, such that the everyday assumptions held by urban dwellers often are inapplicable to rural dwellers. In particular, there are different practical realities with respect to the availability of technology, communications, and transportation for urban and rural areas.

Although urban dwellers are accustomed to, and therefore assume, the ready availability of telephone service, Internet access, and transportation, these assumptions are often untrue for those who live in remote rural areas. In remote rural areas, if one cannot afford telephone service or if one’s service is disrupted, a neighbor’s telephone or pay phone may be several miles away, and cell phone service may not be available at all. In many remote rural areas high-speed Internet access is unavailable,<sup>30</sup> and dial-up

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<sup>30</sup> See MARK DRABENSTOTT & KATHARINE H. SHEAFF, EXPLORING POLICY OPTIONS FOR A NEW RURAL AMERICA: A CONFERENCE SUMMARY 3 (2001), available at <http://www.kc.frb.org/PUBLICAT/Exploring/RC01DRAB.pdf> (“Much of rural America still lacks high-speed Internet access”); see also Cheryl A. Tritt, PLI Order No. 6911, *Telecommunications Future*, 852

Internet access not only requires telephone service, but often is available only through a long-distance call.<sup>31</sup> Urban dwellers may assume ready access to television, but cable television is not available to all rural dwellers, and without cable, many rural homes are located too far from television stations to obtain any signal. Urban dwellers tend to assume that transportation is readily available. However, many rural dwellers own older, unreliable vehicles,<sup>32</sup> and unlike urban areas, back-up forms of transportation—such as taxicabs, subways, buses, or light rail—often do not exist. Indeed, forty percent of all rural residents live in counties that have no public transportation.<sup>33</sup> Moreover, most

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PLI/Pat 85, 91 (Dec. 2005) (“[T]he available data shows that rural areas are significantly less likely to receive broadband services than urban areas”).

<sup>31</sup> See TVA RURAL STUDIES, OTA FOLLOW-UP CONFERENCE REPORT: RURAL AMERICA AT THE CROSSROADS 4 (2001), available at [http://www.rural.org/workshops/rural\\_telecom/OTA\\_followup\\_report.pdf](http://www.rural.org/workshops/rural_telecom/OTA_followup_report.pdf) (“[L]ong-distance calls tend to account for a higher percentage of rural customers’ calls since they must call outside of their local exchange more often than urban customers in order to reach a variety of businesses and services. The situation is exacerbated by the need to call long distance to gain access to advanced services like Internet, e-mail, or telephone support.”); see also *id.* at 70 (“Internet access does not favor the remote user; urban users can obtain network services and Internet access with a local phone call, whereas rural users typically must pay a long-distance charge for the same access.”).

<sup>32</sup> See *Transportation Barriers to Employment of Low-Income People* (Univ. of Wis., Center for Community Econ. Dev.), 1998, at 1, available at <http://www.aae.wisc.edu/pubs/cenews/docs/ce258.txt> (noting that “[e]ven when ownership occurs, there are many questions about vehicle reliability and function”).

<sup>33</sup> Thomas D. Rowley, *Rural Disabled Struggle for Independence*, RURAL MONITOR NEWSLETTER 1 (Fall 2003), available at [http://www.raconline.org/newsletter/web/Fall03\\_vol10-2.html](http://www.raconline.org/newsletter/web/Fall03_vol10-2.html). See Timothy Baldwin, *The Constitutional Right to Travel: Are Some Forms of Transportation More Equal than Others?*, 1 NW. J. L. & SOC. POL’Y 213, 213 (2006) (“Few roads, particularly in suburban and rural communities, offer any form of public transportation.”); Nina Glasgow, *Older Americans’ Patterns of Driving and Using Other Transportation*, 15 RURAL AM. 26, 26 (Sept. 2000), available at <http://www.ers.usda.gov/publications/ruralamerica/sep2000/sep2000f.pdf> (“[P]ublic transit and paratransit services (door-to-door transportation designed for older and disabled individuals who are unable to use public transit) are limited or lacking in many, especially rural, communities.”); Eileen S. Stommes & Dennis M. Brown, *Transportation in Rural America: Issues for the 21st Century*, 16 RURAL AM. 2, 4 (Mar. 2002), available at <http://www.ers.usda.gov/publications/ruralamerica/ra164/ra164b.pdf> (“Rural public transit, the rural analogue to bus service in metro areas, is available in approximately half of the rural counties nationwide . . . . Few are found in the most rural, isolated areas.”); see also Am. Pub. Transp. Ass’n, *Public Transportation: Wherever Life Takes You*, available at [http://www.publictransportation.org/reports/asp/mobility\\_rural.asp](http://www.publictransportation.org/reports/asp/mobility_rural.asp) (noting that 41 percent of rural community residents have no access to transit).

urban areas have ready access to an airport, whereas nearly eighty-three percent of rural counties are beyond commuting distance to a major airport.<sup>34</sup>

The urban perspective assumes the availability of choices, whether in shopping, health care, education, employment, or housing. In many rural areas, there is no local shopping, there is no local doctor or hospital, there is no local school, there is no large employer, and there are no housing projects. Obtaining medical care, or even just shopping for groceries, may require traveling several miles or several hundred miles, with only one option then available. Moreover, the lack of market competition often results in higher prices.<sup>35</sup> Education may require a long bus ride to another community.<sup>36</sup> Even when some choice is available, the options tend to be much more limited in rural areas.<sup>37</sup>

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<sup>34</sup> See Fred Gale & Dennis Brown, *How Important is Airport Access for Rural Businesses?*, 15 RURAL AM. 16, 17 (Sept. 2000), available at <http://www.ers.usda.gov/publications/ruralamerica/sep2000/sep2000e.pdf> (“Over 1,900 nonmetro counties (of nearly 2,300 total) are not within easy commuting distance of a major airport.”); see also *id.* at 16 (all “hub” airports—large, medium, and small—are located in metropolitan areas).

<sup>35</sup> See Phil R. Kaufman, *Rural Poor Have Less Access to Supermarkets, Large Grocery Stores*, 13 RURAL DEV. PERSPECTIVES 19, 19 (1999), available at <http://www.ers.usda.gov/publications/rdp/rdp1098/rdp1098c.pdf> (noting that “more distant [rural] households may face significantly higher food prices to the extent that supermarkets and other large retail food outlets are not accessible to them”).

<sup>36</sup> See CRAIG HOWLEY, *THE RURAL SCHOOL BUS RIDE IN FIVE STATES: A REPORT TO THE RURAL SCHOOL AND COMMUNITY TRUST* at i (2001), available at <http://oak.cats.ohiou.edu/~howleyc/bus2.htm> (finding that in 85 percent of the rural elementary schools studied, the one-way duration of school bus rides exceeded 30 minutes, and that in 25 percent of those rural schools, the one-way duration exceeded 60 minutes); see also LORNA JIMERSON, *RURAL SCHOOL AND CMTY. TRUST, SLOW MOTION: TRAVELING BY SCHOOL BUS IN CONSOLIDATED DISTRICTS IN WEST VIRGINIA* 7 (2007), available at <http://www.ruraledu.org> (noting that due to school consolidations, 31.1% of students riding a school bus travel an hour or more *each way*).

<sup>37</sup> The lack of options is seen even in shopping for groceries. See Lois Wright Morton & Troy C. Blanchard, *Starved for Access: Life in Rural America’s Food Deserts*, RURAL REALITIES, available at <http://www.ruralsociology.org/pubs/RuralRealities/Issue4.html> (“Some rural areas . . . are . . . ‘food deserts’—areas with limited, if any, grocery stores. . . . Filling the void in some parts of rural America are convenience stores and gas stations, which charge a premium for a limited range of food choices, often with low nutritional value.”).



Thus, the difference between urban and rural areas is more than merely population density and the geographical distance between them: place is not uniform and interchangeable, but instead carries potentially serious issues of access and availability.

When laws and policies omit any references to place, this omission permits the urban assumption to prevail. In some instances, an urban assumption does not matter because place truly is irrelevant. In other instances, however, laws and policies may carry unexamined generalizations too far, resulting in unjustified assumptions of similarities that do not, in fact, exist.

The urban assumption's impact on federal programs, poverty, and laws and policies, come together with particular force in the area of disability. The next Part discusses this intersection of place and disability generally, and then examines the additional issues raised in the context of disasters.

### III. PLACE, DISABILITY, AND DISASTERS

#### A. *The Intersection of Place and Disability*

Nearly twenty percent of the U.S. population suffers from a disability, which includes impairments of a physical, mental, sensory, and cognitive nature.<sup>38</sup> Although the percentage of disabled individuals is remarkably constant across urban and rural

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<sup>38</sup> Jeanne Argoff & Harilyn Rousso, *Hardest Hit and Least Protected*, FOUND. NEWS & COMMENTARY, (2005), available at <http://foundationnews.org/CME/article.cfm?ID=3489>; see also Univ. of Mont. Rural Inst., *Rural Facts: Update on the Demography of Rural Disability Part One: Rural and Urban*, Apr. 2005, available at <http://rtc.ruralinstitute.umt.edu/RuDis/RuDemography.htm>

As does rural, 'disability' has many definitions. The 2000 U.S. Census classified a person as having a disability if any of the following conditions were true: 1. A person aged five or older reported a long-lasting sensory, physical, mental or self-care disability; 2. A person aged 16 or older reported difficulty going outside the home because of a physical, mental, or emotional condition lasting six months or more; or 3. A person aged 16 to 64 reported difficulty working at a job or business because of a physical, mental, or emotional condition lasting six months or more.

areas,<sup>39</sup> the impact of a disability is exacerbated by poverty and place. “Access is the major issue for people with disabilities—access to health care, housing, transportation, education, and employment. Inaccessibility is oppression.”<sup>40</sup> As discussed above, restrictions on the availability of technology, communications, and transportation increase vulnerability—as do lower levels of education and income. According to one report, “[p]eople with disabilities are more likely to be poor than any other minority group in the country,”<sup>41</sup> and, as discussed earlier, poverty bears a direct relationship to place.

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<sup>39</sup> Univ. of Mont. Rural Inst., *supra* note 38 (reflecting disability percentages of 19.2% in urban areas and 19.9% in rural areas).

<sup>40</sup> BRAD BERNIER & LINDA GONZALES, ISSUES IN RURAL INDEPENDENT LIVING, at 56, available at [http://eric.ed.gov/ERICDocs/data/ericdocs2/content\\_storage\\_01/0000000b/80/24/92/4f.pdf](http://eric.ed.gov/ERICDocs/data/ericdocs2/content_storage_01/0000000b/80/24/92/4f.pdf).

<sup>41</sup> Nat’l Council on Disability, *The Needs of People with Psychiatric Disabilities During and After Hurricanes Katrina and Rita: Position Paper and Recommendations*, July 7, 2006, available at <http://www.ncd.gov/newsroom/publications/2006/peopleneeds.htm> [hereinafter Nat’l Council on Disability, *Psychiatric Disabilities*].

It is relatively simple to make the causal connection between disability and poverty. Individuals with disabilities are often excluded from the labor market. Fears of increased costs, inflexibility in considering necessary accommodations, and outright prejudice, all contributed to an artificially small job market for people with disabilities. Even when included, people with disabilities often work fewer hours and in lower-paying or lower-skilled positions.”

Dan Atkins & Christie Guisti, *The Confluence of Poverty and Disability*, available at <http://www.housingforall.org/rop0304%20poverty%20and%20disability.pdf>; see also Bernier & Gonzales, *supra* note 39, at 56 (“[M]ost people with disabilities are unemployed or impoverished”); Susan S. Lang, *Federal Policies Keep People with Disabilities in a “Poverty Trap,” Say Cornell Experts in Urging Major Reforms*, Cornell Univ. News Serv., Aug. 31, 2005, available at <http://www.news.cornell.edu/stories/Aug05/disability.poverty.ssl.html>

Under federal rules, people with disabilities must be unemployed in order to receive benefits. But the support they receive isn’t enough to keep them out of poverty. If they do work to supplement their income, they are penalized by losing benefits. . . . Working-age Americans with disabilities are more than twice as likely to live in poverty than other Americans.

see also Atkins & Guisti, *supra*, at 6 (“For those who are so disabled that competitive work is an impossibility, Social Security Disability Insurance and Supplemental Security Income are most often relied upon. However, federal benefits do not provide a living wage, making poverty an inevitability.”).

Although there are many types and forms of disability, many physical and psychological disabilities require medical oversight—which raises another problem of both access and availability for many remote rural areas. Rural areas often lack quality medical care—fewer than nine percent of the nation’s physicians practice in rural areas, even though rural dwellers comprise more than twenty percent of America’s population.<sup>42</sup> Rural areas simply lack the financial and community resources to recruit and retain adequate numbers of medical professionals.<sup>43</sup>

Due to the inadequate number of facilities and physicians, rural hospitals and practitioners have little choice but to focus on general medicine<sup>44</sup>—specialists are largely the province of urban areas because rural areas lack the incentives and the client base to support them. Those with mental disabilities face even greater problems: In 1999, eighty-seven percent of the designated Mental Health Professional Shortage Areas in the United States were rural.<sup>45</sup> The shortage of rural mental health professionals necessarily

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<sup>42</sup> See Patrick H. DeLeon, Mary Wakefield & Kristofer J. Hagglund, *The Behavioral Health Care Needs of Rural Communities in the 21st Century*, in RURAL BEHAVIORAL HEALTH CARE: AN INTERDISCIPLINARY GUIDE 23, 26 (B. Hudnall Stamm ed., 2003).

<sup>43</sup> See Sue A. Kuba & Mary Beth Kenkel, *The Wellness of Women: Implications for the Rural Health Care Provider*, in PRACTICING PSYCHOLOGY IN RURAL SETTINGS: HOSPITAL PRIVILEGES AND COLLABORATIVE CARE 113, 123 (Jerry A. Morris ed., 1997) (noting the problems of “physician burnout and difficulties in retaining physicians in rural areas”); see also B. Hudnall Stamm et al., *Introduction*, in RURAL BEHAVIORAL HEALTH CARE: AN INTERDISCIPLINARY GUIDE 3, 8 (B. Hudnall Stamm ed., 2003) (“People living in rural and frontier areas need health care, but it can be difficult to recruit and retain professionals to provide that care.”).

<sup>44</sup> See James H. Bray, Michael F. Enright & John Rogers, *Collaboration with Primary Care Physicians*, in PRACTICING PSYCHOLOGY IN RURAL SETTINGS: HOSPITAL PRIVILEGES AND COLLABORATIVE CARE 55, 57 (Jerry A. Morris ed., 1997) (noting that “rural physicians . . . do not have ready access to specialists or colleagues to share responsibility for patient care”).

<sup>45</sup> See Larry Gamm, Sarah Stone & Stephanie Pittman, *Mental Health and Mental Disorders—A Rural Challenge*, available at <http://www.srph.tamhsc.edu/centers/rhp2010/08Volume1mentalhealth.htm>.

forces rural primary care physicians into serving mental health concerns.<sup>46</sup> Unfortunately, however, studies have concluded that “[p]rimary care physicians have a poor track record of detecting, accurately diagnosing, and appropriately treating or referring mental health and substance abuse problems. . . . In fact, the recognition rate of mental disorders by primary care physicians in hospital settings has been surveyed at from 10% to 50% . . .”<sup>47</sup>

Unlike the urban centers with multiple hospitals in close proximity, specialized psychiatric hospitals and day treatment facilities available minutes away, and a broad array of doctors of psychology and psychiatry available, rural hospitals often must rely on collaboration between a handful of general physicians and one or two psychologists or a part-time consulting psychiatrist who lives in a remote urban center.<sup>48</sup>

The shortage of rural physicians and mental health professionals is exacerbated by geographical dispersion and transportation issues that hinder the ability of rural dwellers to get to medical care.<sup>49</sup> As one study observed, rural communities that are adjacent to an urban center benefit from lower mortality rates,<sup>50</sup> as contrasted with more remote, isolated rural communities.

Thus, the burdens carried by those who are disabled often are exacerbated by accompanying issues of poverty and place. Despite the preference in our laws and

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<sup>46</sup> Bray et al., *supra* note 44, at 55 (“Particularly in rural areas, primary care physicians are usually the first medical professionals to encounter patients’ behavioral health problems.”); *see also* Univ. of Mont. Rural Inst., *supra* note 37 (“Given the shortage of rural mental health professionals, the primary-care doctor is often the main contact for mental health concerns”).

<sup>47</sup> Jerry A. Morris, *The Rural Psychologist in the Hospital Emergency Room*, in PRACTICING PSYCHOLOGY IN RURAL SETTINGS: HOSPITAL PRIVILEGES AND COLLABORATIVE CARE 81, 85 (Jerry A. Morris ed., 1997).

<sup>48</sup> *Id.*

<sup>49</sup> Bray et al., *supra* note 44, at 61 (noting that in rural communities, “people often have to travel great distances over difficult terrain to receive care”).

<sup>50</sup> Lois Wright Morton, *Spatial Patterns of Rural Mortality*, in CRITICAL ISSUES IN RURAL HEALTH 37, 40 (Nina Glasgow et al. eds., 2004).

policies to avoid place-specific references, place often carries a significance that renders its omission a furtherance of urban bias, and a corresponding detriment to rural areas. In particular, and as relevant to this conference, place in fact puts some citizens at higher risks during natural disasters and hinders their ability to recover from such disasters.

### *B. The Vulnerability of the Rural Disabled in Disasters*

Natural disasters raise the spectre of particularly disastrous consequences for the disabled. Whether in the context of hurricanes, tornadoes, earthquakes, wildfires, tsunamis, floods, avalanches, or other natural disasters, such disasters tend to implicate the necessity for flight and flexibility.<sup>51</sup> For the physically disabled, the ability to flee may be severely circumscribed by the availability of a handicapped-accessible van—or by the availability of a sufficiently strong non-disabled person to carry the individual to the attic, to the storm cellar, or down the stairs of a high-rise building. For the mentally disabled, the ability to flee may be limited by comprehension issues, by fear of the outside world, or by outsiders' often irrational fear of the mentally ill. Lacking alternatives and financial resources, the disabled can easily become trapped in their homes. And even if the disabled obtain the assistance needed to physically escape from a disaster, their ongoing need for medical care, prescription medicine, or psychiatric treatment can present difficult, almost insurmountable, issues.

As Hurricane Katrina powerfully illustrated, place carries profound significance both for disability law and for the disabled. Twenty-five percent of Katrina's evacuees

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<sup>51</sup> See Nat'l Council on Disability, *Saving Lives: Including People with Disabilities in Emergency Planning*, Apr. 2005, available at [http://www.ncd.gov/newsroom/publications/2005/saving\\_lives.htm](http://www.ncd.gov/newsroom/publications/2005/saving_lives.htm) [hereinafter Nat'l Council on Disability, *Saving Lives*] (“Disaster preparedness and emergency response systems are typically designed for people without disabilities, for whom escape or rescue involves walking, running, driving, seeing, hearing, and quickly responding to directions”).

were disabled<sup>52</sup>—a proportion that is itself twenty-five percent higher than the nineteen to twenty percent that we would expect.

[T]he mounting evidence demonstrates that the hurricanes did not affect everyone in their path equally. People with disabilities, who often have the fewest resources and the greatest barriers to evacuation, were among the hardest hit . . . . [O]f the 61 percent of people who did not evacuate before Katrina hit, 38 percent said they were either physically unable to leave or had to care for someone who was physically unable to leave.<sup>53</sup>

The evacuation of disabled residents during Hurricane Katrina was hampered by the failure to include the disabled in disaster planning.<sup>54</sup> Despite a number of other disasters offering lessons to be learned—9/11 in New York, hurricane experiences in Florida, and earthquakes in California, among others—and despite the fact that the danger of flooding in New Orleans was well known, the same omissions in disaster planning with respect to the disabled occur over and over again.

The same access mistakes appear to be made repeatedly in disaster management activities. Lessons learned after a disaster about reducing access barriers following disasters are not integrated into subsequent practice. Such barriers include access to physical plants, communications, and programs in recovery centers; other structures and buildings used in connection with disaster operations such as first aid stations, mass feeding areas, portable payphone stations, portable toilets, temporary housing; and shelters, which may present barriers to identification, access, management, training, and services.<sup>55</sup>

The inadequacies of disaster planning are particularly exacerbated in the context of psychiatric disabilities. There is a tendency to associate “disabled” with “wheelchair,” such that many other forms of disability, including deafness, blindness, and psychiatric

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<sup>52</sup> See Information on Disability for Empowerment, Advocacy and Support, *Katrina Disability Information*, Feb. 2007, available at <http://katrinadisability.info>.

<sup>53</sup> Argoff & Rousso, *supra* note 38.

<sup>54</sup> See Nat’l Council on Disability, *Psychiatric Disabilities*, *supra* note 41.

<sup>55</sup> Nat’l Council on Disability, *Saving Lives*, *supra* note 51.

issues, receive even less attention in disaster planning. Hurricane Katrina provided some horrifying examples of discrimination, mismanagement, and lack of accountability against the mentally disabled, including emergency shelters that refused entry to the mentally disabled; group home residents who were lost by emergency officials; and mentally disabled evacuees who were institutionalized inappropriately.<sup>56</sup>

Individuals with psychiatric disabilities experienced discrimination both during Hurricane Katrina's evacuation efforts<sup>57</sup> as well as when they attempted to seek refuge in emergency shelters; many people died or unnecessarily suffered traumatic experiences.<sup>58</sup>

First responders and emergency managers such as shelter operators often violated the civil rights requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. As a result, people with disabilities did not have access to critical services and relief. Some of the most common forms of discrimination included: People with disabilities were segregated from the general population in some shelters while other shelters simply refused to let them enter. People with psychiatric disabilities were denied access to housing and other services because of erroneous fears and stereotypes of people with psychiatric disabilities.

[D]isaster response plans often did not include protocols to evacuate people with psychiatric disabilities. During evacuations, emergency officials physically lost residents of group homes and psychiatric facilities, many of whom are still missing. Others have not or cannot return home because essential supports have not been restored or because the cost of

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<sup>56</sup> Nat'l Council on Disability, *Psychiatric Disabilities*, *supra* note 41.

Some people with psychiatric disabilities were sent to state psychiatric institutions or jails when all they needed was a medication refill. . . . A recurring theme was that people with psychiatric disabilities were placed in nursing homes and institutions, not because they required that level of care, but because there was nowhere else for them to go, or because they needed medications that the shelters did not have.

*See also id.* ("One Mississippi advocate reported that American Red Cross shelters were only opened in urban areas, not rural areas, in Mississippi.")

<sup>57</sup> *See, e.g., id.* ("Evacuees with disabilities had a difficult time conveying the trauma caused by the unexpected arrival of uniformed officers who ordered them out of their homes and sometimes forcibly removed them.")

<sup>58</sup> *Id.*

living has increased too much. When people with psychiatric disabilities arrived at evacuation locations—ranging from state parks to churches—those locations often were not prepared to meet the medical and mental health needs of the evacuees with psychiatric disabilities. Many people with psychiatric disabilities never made it to evacuation shelters because they were inappropriately and involuntarily institutionalized. Some of these people still have not been discharged, despite evaluations that indicate they should be.<sup>59</sup>

The reality that most laws and policies do not address place was seen in another Katrina-specific example. The State of Louisiana’s Hurricane Evacuation and Sheltering Plan, as it existed at the time of Hurricanes Katrina and Rita, noted some of the problems in evacuating New Orleans, but did not take note of the problems unique to evacuating rural areas, leaving both the acknowledgement of such issues and the planning to address such issues to the local parishes.<sup>60</sup> And, in a recurring theme, emergency shelters tend to be centrally located, which in rural areas necessarily means that shelters are geographically spread out and require a reliable means of transportation to get there.<sup>61</sup>

Even when the disabled were safely evacuated, other issues arose during recovery efforts that illustrate, not just the risk, but the reality of forgetting the disabled in disaster planning and recovery. For example, despite the disproportionate impact of the hurricanes upon disabled individuals, it took a lawsuit to make the Federal Emergency Management Agency (FEMA) provide trailers that were accessible for those with a physical disability. The lawsuit, which settled in September 2006, required FEMA to

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<sup>59</sup> *Id.*

<sup>60</sup> State of Louisiana, *Southeast La. Hurricane Evacuation and Sheltering Plan*, Jan. 2000, at II-1 to II-4.

<sup>61</sup> *Id.* at VI-1.



provide trailers with accessibility features for those who are disabled, including ramps, wider doorways, and grab bars, as well as lower appliances, sinks, and cabinets.<sup>62</sup>

The repeated failure to include the disabled in discussions concerning disaster planning risks the health and the very lives of the disabled. The tension and fear created by a disaster situation rises exponentially for the disabled, who, depending on their particular disability, may have limitations regarding their mobility, comprehension, or coping abilities. These problems can be exacerbated in rural areas, where technology, communications, transportation, and health care are not always available to the same degree and in the same manner as in urban areas. Accessibility, availability, and options can be serious issues in rural areas—essentially handicapping rural areas at the outset, and thereby imposing an additional handicapping condition on disabled individuals living in such rural areas. These underlying issues of accessibility, availability, and options necessitate additional attention to “place” in terms of the disabled generally, and in the context of disaster planning specifically.

Unfortunately, disaster planning is not the only area in which place carries an impact. Place also plays a role in disaster recovery. Following the major hurricanes of 2005, low-income households generally, and rural households in particular, have suffered disadvantages during the subsequent recovery efforts due to choices in laws and policies that disregard the impact of place. In the United States, private property insurance and individual savings are the primary financial resources for repairing and rebuilding. But full insurance coverage and financial reserves tend to be the province of those with strong financial resources, not those who are barely scraping by.

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<sup>62</sup> See *Brou v. FEMA*, No. 06-0838 (E.D. La. 2006), available at [http://www.fema.gov/pdf/library/brou\\_fema.pdf](http://www.fema.gov/pdf/library/brou_fema.pdf).

Relying on an approach to recovery that is market- and insurance-driven disadvantages low-income and rural households—both homeowners and renters—because they are more likely to lack insurance, to have inadequate insurance, and to lack important insurance options, such as flood, hurricane, or earthquake coverage, full replacement value coverage, and coverage for temporary housing expenses.<sup>63</sup>

Of the 5.9 million people living in the counties declared eligible for individual hurricane assistance, 1.6 million of them—or twenty-seven percent—were in rural areas.<sup>64</sup> The median family income of the rural victims was about one-fourth lower and the poverty rate about one-third higher than for the urban victims.<sup>65</sup>

The American dream is home ownership. However, low-income families are often funneled into homes that are older, built in more vulnerable areas, constructed with lower quality materials or poorly built, and constructed under older, less stringent building codes, particularly in rural areas.<sup>66</sup> Mobile homes provide the opportunity for home ownership at a dramatically lower cost than traditional housing.<sup>67</sup> Most cities have

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<sup>63</sup> See Walter Gillis Peacock & Chris Girard, *Ethnic and Racial Inequalities in Hurricane Damage and Insurance Settlements*, in HURRICANE ANDREW: ETHNICITY, GENDER AND THE SOCIOLOGY OF DISASTERS 171, 180 (Walter Gillis Peacock et al. eds., 1997).

<sup>64</sup> See Rural School & Cmty. Trust, *Hidden Rural Realities of Hurricane Katrina*, Sept. 2006, available at [http://www.ruraledu.org/site/c.beJMIZOCiRH/b.2059003/apps/nl/content.asp?content\\_id=%7B50A94578-EBF2-4B5F-ACD7-DEB4C04C541B%7D&notoc=1](http://www.ruraledu.org/site/c.beJMIZOCiRH/b.2059003/apps/nl/content.asp?content_id=%7B50A94578-EBF2-4B5F-ACD7-DEB4C04C541B%7D&notoc=1).

<sup>65</sup> *Id.*

<sup>66</sup> See R. Bolin & L. Stanford, *The Northridge Earthquake: Community-Based Approaches at Unmet Recovery Needs*, 22 DISASTERS 21, 38 (1998); Hous. Assistance Council, *supra* note 23.

<sup>67</sup> See Lori Nitschke, *Manufactured Homes a Big Factor in Rural Homeownership in U.S.*, Population Reference Bureau, Mar. 2004, available at <http://www.prb.org/Template.cfm?Section=PRB&template=/ContentManagement/ContentDisplay.cfm&ContentID=10117> (“[T]he median value of manufactured homes was \$31,200, according to the latest census, compared with \$119,600 for all owner-occupied homes”). See generally Lance George & Milana Barr, *Moving Home: Manufactured Housing in Rural America*, Hous. Assistance Council, Dec. 2005, available at <http://www.knowledgeplex.org/showdoc.html?id=137748> (“Mobile homes, manufactured homes, trailers—by whatever name, these units are an important part of rural America’s housing landscape . . .

restrictions regarding mobile homes, but rural areas tend to be more lenient. However, mobile homes create an additional vulnerability—mobile homes are less sturdy than traditional housing and more susceptible to extensive damage in natural disasters.<sup>68</sup> Rural residents in Katrina’s path were more than twice as likely as their urban counterparts to live in mobile homes.<sup>69</sup> Nearly one-fourth of housing units in the rural disaster areas were mobile homes, compared with one-tenth of those in the urban disaster areas.<sup>70</sup>

Disadvantages to rural households persist into the legal system’s bankruptcy provisions. Amendments in 2005 to the bankruptcy laws restrict access to bankruptcy as a method of discharging debt and starting fresh.<sup>71</sup> A recent study concluded that rural households filing for bankruptcy earn significantly lower incomes and have higher debt-to-income ratios than urban households filing for bankruptcy.<sup>72</sup> In addition to these financial disadvantages, the new bankruptcy laws require debtors to undergo credit

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[W]ith less than one-quarter of the nation’s homes, rural areas contain half of all U.S. manufactured homes.”).

<sup>68</sup> See Philip Rosenbloom, *Homeowners, and Tenants Too: Mobile Homeowners Face Unique, Yet Familiar, Challenges*, Nat’l Hous. Inst., Jul./Aug. 2000, available at <http://www.nhi.org/online/issues/112/rosenbloom.html> (“One of the most well-known safety issues particular to mobile homes is their trouble resisting severe weather conditions, such as tornadoes, hurricanes, and flooding. A recent study by FEMA’s Building Performance Assessment Team indicates that no mobile home can withstand even a medium-grade tornado.”).

<sup>69</sup> See Rogelio Saenz & Walter G. Peacock, *Rural People, Rural Places: The Hidden Costs of Hurricane Katrina*, RURAL REALITIES, 2006, at 6, available at <http://www.ruralsociology.org/pubs/RuralRealities/Issue1.html>.

<sup>70</sup> *Id.*

<sup>71</sup> See BAPCPA Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (2005) (codified at 11 U.S.C. §§ 101–1502).

<sup>72</sup> See Porter, *supra* note 4, at 998, 1001.

counseling and complete a personal financial management course.<sup>73</sup> These new provisions are particularly burdensome for rural households—credit counseling agencies do not tend to exist in remote rural areas, and completing a personal financial management course is likely to require travel to a more urban area.<sup>74</sup>

Higher rates of poverty, as well as geographical isolation and dispersion and lack of public transportation, all render rural populations more vulnerable to natural disasters. The greater vulnerabilities for low income and rural households translate into an increased likelihood of insufficient insurance, inadequate insurance settlements, and less government assistance to repair and rebuild. When we factor in the additional factor of disability, we see still greater vulnerability.

## CONCLUSION

Despite the desire for laws and policies with broad societal applicability, the failure to account for “place” can create false generalities. Urban assumptions regarding technology, communication, and transportation—as well as accessibility, availability, and options more generally—are largely untrue for rural areas, especially remote rural areas. In particular, place puts rural dwellers, and especially disabled rural dwellers, at higher risks during natural disasters and hinders their recovery. As was seen in during Hurricanes Katrina and Rita, the failure to include the special considerations of the rural and the disabled in disaster planning has the potential for life-threatening consequences.

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<sup>73</sup> See BAPCPA, Pub. L. No. 109-8, §§ 105-106, 119 Stat. 36-37 (2006) (codified at 11 U.S.C. §§ 109(h)(1), 111(a)).

<sup>74</sup> Porter, *supra* note 4, at 1023-24.