

DISASTER ASSISTANCE AND LEGAL ACCOUNTABILITY: CARE AND SURVEILLANCE

Susan M. Sterett

ABSTRACT

Extreme events are the occasion for many people's encounters with climate change. Though causation is complex and no one event is directly attributable to climate change, when we consider Cassandra, we can consider what people encounter in assistance after an extreme event. This chapter takes the case of assistance to displaced people after Katrina to explore how care and surveillance were intertwined. Methods include analysis of government documents as well as interviews. When we consider assistance people receive, we often focus on the intended assistance and how it worked or did not. Evaluation is difficult, not least because criteria for determining what it means to work are uncertain. However, if we include the process of gaining assistance as part of the experience, we broaden concerns from the instrumental outcomes to the mixed messages people get in assistance. Assistance appears in a context, where the most vulnerable people have reasons to mistrust government and nonprofits, and where in the United States assistance has come intertwined with

Special Issue: Cassandra's Curse: The Law and Foreseeable Future Disasters
Studies in Law, Politics, and Society, Volume 68, 95–123
Copyright © 2015 by Emerald Group Publishing Limited
All rights of reproduction in any form reserved
ISSN: 1059-4337/doi:10.1108/S1059-433720150000068004

supervisory rules, a focus on getting people to work, and a need to manage criminal histories. Trust in government may be limited, emergency care can operate outside ordinary legal frameworks when providers are new, and legal accountability for assistance may be experienced as confining, despite caregivers' intent.

Keywords: Disaster legal accountability; surveillance; displaced people

To me, one silly task is like another.
 I bare the shambling tricks of lust and pride.
 This flesh will never give a child its mother,—
 Song, like a wing, tears through my breast, my side,
 And madness chooses out my voice again,
 Again: I am the chosen no hand saves:
 The shrieking heaven lifted over men,
 Not the dumb earth, wherein they set their graves.

(Cassandra, by Louise Bogan, <http://www.poetryfoundation.org/poem/178040>)

Reprinted by permission of Farrar, Straus and Giroux.

Cassandra needed salvation herself, and no one saved her. She was subject to Apollo's "tricks of lust and pride," and that's what led to her ability to prophecy. Both the ability to prophecy and her lack of persuasiveness were her curse. Her curse resulted from men's violence, beginning with Apollo's bitterness when she resisted his seduction. Had she yielded to him because of his powers, it would have been rape. In Cassandra's world, women's experiences of trickery are meaningless, and being ignored is enough to drive one mad. The madness chooses her; her lack of agency in either the harm done to her or her prophecies could not be plainer.

Cassandra requires that we incorporate her injuries as part of law, prophecy, and disaster; she is not outside what she sees. Her injuries were Apollo's curse: *both* foretelling the future *and* no one believing her. The model for disaster relief and mobilization has historically been war and civil defense (Rozario, 2007). The practices of humanitarian relief rely upon both military command structures and the militarization of relief (Fassin & Pandolfi, 2010; McFalls, 2010), distributing assistance through command rather than through aspiring to legality, or accountability through courts and rules. Relief, relief camps, and the military responsible

for relief all bring to mind the importance of including sexual violence as part of the story of prophecy and disaster. Violence is one response to trauma, including the trauma of being displaced from home. The United States military is both on the forefront of climate change adaptation in the United States (National Research Council, 2010, 2013), and recently in the headlines for the pervasiveness of sexual assault within its ranks (Department of Defense Sexual Assault Prevention and Response Office, 2013). The caretakers can enact what Patrick Roberts, following Hannah Arendt, calls “administrative evil,” harming both the people they are charged with caring for and their own colleagues (Roberts, 2013). By opening with a retelling of Cassandra, I invite us to remember the centrality of people and harm every stage of disaster, including adaptation, mitigation, or response, and how much we are a part of what we assess. The disasters come, Cassandra tells us, and adaptation to circumstances, mitigation of harm, and response to disaster prove crucial.¹

For that reason, turning to the legal/political ground into which disaster falls can illuminate legal structures, in addition to cumulating information for each disaster. Legal structures are unlikely to be completely unsettled by disaster. Where a disaster puts new demands on courts, bureaucratic policymaking, rules, and voluntary agencies, they are likely to respond with more or less than the same concerns they have had in other fields. The ‘state of exception’ (Agamben, 2005) acts as an already existing state. While outlining some themes this approach leads us toward, the chapter that will draw on illustrations from displacement after Hurricane Katrina. Including the framework of law that already exists and drawing conclusions from that can be helpful as we look to the future. Sticking close to areas where we have substantial data makes foretelling the future a less unlikely business. Sticking close to what we know can also allow seeing points where it would be possible to intervene and improve.

This chapter relies upon interpretation of meanings by participants at multiple levels. The research site is not clearly delineated precisely because the field under examination is emergent and changeable (Yanow & Schwartz-Shea, 2014). The process of response to disaster is dynamic; the field within which disaster works is likely to remain more stable than any one response. The project contributes to building theory; whether the practice in a particular disaster will later generalize is not the point (Schwartz-Shea & Yanow, 2012). Without changing practices well beyond disaster, the basic issues concerning individual responsibility and surveillance are likely to persist.

INDIVIDUALIZATION, SURVEILLANCE, AND JURIDIFICATION

In interpreting a response to disaster by already existing legal institutions and practices, this chapter will focus on three elements in disaster response. First, individual responsibility and surveillance often accompany the care that response to disaster is to exemplify. Legal responses in much of law have called upon *individuals* to be responsible for themselves and their actions, and to be ready to respond to any problem, including in preparation for disaster (O'Malley, 2013; Silbey, 2005). Understanding problems as resting in individual action is a way of understanding a problem that is deeply embedded in American culture (Gusfield, 1981), including in the American legal system. Floods and earthquakes can make it impossible for state assistance to get in, lending support to the principle that Ready.gov teaches, that the "first seventy-two hours are on you," or the first three days after a disaster is the responsibility of the people themselves.

The focus on individual responsibility cuts off causal stories that could contribute to complex understandings of why things happen as they do, making individuals responsible for their own fate (Ewick & Silbey, 1995). Lawsuits after harms provide retrospective accountability, sometimes useful in the future. I will draw examples primarily from responses given by displaced people after Hurricane Katrina, focusing on coordination of voluntary and state assistance. Given the expectation of more displacement, we can expect similar problems will arise.

Focusing on assistance for displaced people can illuminate help well beyond the domestic disasters that are the focus of concern in this collection. After Hurricane Katrina, assistance relied on a model drawn from services for refugees (Sterett, 2012a, 2012b). The mixture of state and voluntary assistance will persist for refugees as well. In the absence of extensive legal aid, voluntary agencies also provide assistance to immigrants who might want to regularize their status. Knowing what voluntary agencies under stress can do illuminates the assistance voluntary agencies are increasingly called upon to provide as well (Bloemraad & Gleeson, 2012).

Next, juridification, or the use of legal rules and appeal to courts structures accountability. Courts and legal rules have been crucial in supervising response to disaster, and they are part of the story of what states do. Since courts are asked to allocate responsibility after something happens in common law countries, courts have been asked to respond to disaster. Courts are to bring legality to governing, including process and reasons.

Emergency means states govern in exception, and courts mean states are to govern through reflection and reason. What happens in working out that tension is an empirical question. Courts and rights are increasingly evoked in governing, both in supranational legal instruments such as the Guidelines on Internal Displacement (Kalin, 2008), and in high courts and supranational courts that are charged with implementing rights. Courts work backward when deciding compensation claims. They also decide other questions relevant to mitigation of harm and adaptation to hazards, including how national states regulate, how local governments make zoning decisions, and how insurance companies include or exclude claims.

This chapter will remind us of the tension in law as the articulated principle in the courts and as the practices used to implement accountability and reference to rules.

LAW AS PRACTICE

As law and society scholarship has long demonstrated, law works, at least, at two registers. First, upper-level courts in a hierarchy announce decisions that other organizations are then to follow. The Supreme Court in the United States, the European Court of Human Rights, the Supreme Court in Britain, the Supreme Court of Canada in Ottawa all state principles. They sometimes focus on what is right under the law, and they get press. Other times, they focus on processes, giving state administrators an opportunity to revise what they have done to comply with the law. In either case, when we do focus on law, it is how law is the articulation by those who are at the top of a hierarchy of final decisions. In that model of analyzing law, we can learn how those in the upper reaches of national policymaking state what must be done, who is right and wrong, and who is to be compensated when things go wrong and when disaster strikes. Courts articulate rules and provide exemptions from rules for national security. From this perspective, we see final decisions, losses, and victories. Appellate courts tell administrators what to do, and they declare some things right and other things wrong. They enable state power, including acting in disaster (Burton, 2008; Dauber, 2013).

At another level, organizations transform legal proclamations from the upper reaches of legal institutions into the law that people experience every day. People mobilize the law, bringing claims to court, using filings, documents, and information gathered from clients, to publicize claims and try

to gain settlements, whatever the eventual pronouncements from upper level courts might be. People apply for benefits, decide what to do when officials tell them it would be wise to clear brush, get rid of standing water, fix a sidewalk, adopt solar power, or evacuate an area (Sarat, 1990; Shaw, Robbins, & Jones, 2010; Thaler & Sunstein, 2009; Valverde, 2011). Decisions from upper-level institutions are remade in a field of people and organizations who decide what to do with a decision. In this world of the “everyday state” (Painter, 2006) decisions seldom are final and organizations look for paths and support for what they do rather than following orders. High-level court decisions are most likely to translate into action when another branch of government is an ally, for example.

After Katrina, private law firms and public interest organizations sued for more federal money to support housing assistance for people who had been long displaced. Local governments had many displaced people who would still remain in their cities once the federal government stopped the money since rental housing, public housing, and housing in poorer areas where many were homeowners in New Orleans was not being rebuilt, and housing advocacy groups saw it as a way to address housing needs, however short term (Sterett, 2009). The local governments did not have programs to pay for housing, and more people were likely to remain homeless. They needed to extend the distribution of money from the federal government (Sterett, 2009). The confluence of these two levels – where people and organizations mobilize the law, ask for rulings from authoritative courts, and then take those rulings to where they might help distribute benefits or change administrative practices – make up the law people experience in disaster.

In this second register of law, where people and organizations make legal rules and decisions meaningful, decisions are part of a world in which response to disaster has a history that can evoke mistrust. The mistrust is a cautionary tale that could change the place of law and surveillance in adapting to changing conditions and responding to disaster. We can only know what those court decisions mean by tracing the law through legal and quasi-legal officials who act upon law. Therefore, bureaucratic practices, including efforts to develop fairness across cases, accountability, and care are all part of the law as well.

The Future and the Present: Modesty through Extending Where we Know

Cassandra’s unusual ability to tell the future is a myth born out of her personal disaster. We might wish to avoid that curse. Yet our desire to tell the

future persists, and warnings about how unlikely we are to be right and how fortunate we are not to have that ability have their spokespeople. As Charles Mackay said in 1841, human beings have been given the gift of NOT knowing the future most of the time, and everywhere people have not recognized that gift and instead “endeavoured to trace the events of unborn centuries” (Mackay, 1841). We have learned that we are most likely to be correct in modest claims about near future events, in areas in which we have extensive experience and a plethora of data, and recognizing that claims are probabilistic rather than a matter of certainty (Clarke, 1999; Silver, 2012; Tetlock, 2006). No one can anticipate a sudden intervention – an asteroid, a large earthquake, a huge volcanic explosion. Even if we could, or accurately anticipate when and where likely events will, precisely, strike, most of us have other things on our minds. People have families to care for daily, and that trumps worrying about potential, low-probability events. People have a hard time caring about events that are slow-moving rather than sudden. Individuals also have a hard time worrying too much about events that do not have a person easy to imagine as the wrongdoer (Roberts, 2009). We can, however, trace what happened in an event. For all these reasons, we can expect disaster to continue, making it particularly useful to trace what has happened as a way of understanding what might happen.

ASSISTANCE AND ACCOUNTABILITY FOR DISPLACED PEOPLE AFTER HURRICANE KATRINA

For the rest of the chapter, I will illustrate how people engage the law after a disaster by drawing from a project on legal accountability of state bureaucracies for people displaced after Hurricane Katrina (Sterett, 2009, 2012a, 2012b). The sudden spectacle of the event draws most of the public attention in disaster (Birkland, 1997); the events are horrifying and disrupt our daily routine. That draws most attention to where disasters happen: to the coasts, or to the site of a tornado. Those two points – attention to the sudden event, and to the site of disaster – lead us to neglect the long response to disaster, and to people who are out of place after disaster (Sapat & Esnard, 2013). Yet both are part of the disaster, as evidenced, for example, by the UN Guidelines on Internal Displacement (Kalin, 2008), and the recognition from around the world where millions of people are displaced after disaster. Even explaining return takes place as more central

than the people who may remain scattered (Aldrich, 2010). People resettle by figuring out what family they can draw upon, as well as what they can do through rules; the law facilitates calling a place home and longing for it, or going back, or resettling. The Guidelines on Internal Displacement not only recognize that people are displaced; they affirm that states must allow people to choose where they live after disaster, whether to return to the home they left or to find a new place. Finally, focusing on people displaced after disaster allows us to see how law works when people and organizations are less stressed than they are at the site of disaster in the immediate moment.

For this project, we interviewed people who were displaced to Denver after Hurricane Katrina. We interviewed caseworkers and attended meetings with nongovernmental organizations and volunteers who were delivering services to those who were displaced. We interviewed in teams of two; interviewers were often young white women, and we were all strangers to those we interviewed. The response for displaced people was new to the people who came together in Denver, including those that provided and received services. It changed frequently, and people who did not work for FEMA were providing information about it to evacuees who had little reason to be certain FEMA and volunteers were not working together, and every reason to want to find a way to ensure they got the benefits they needed. We heard the stories that people wanted to tell in their uncertain, stressful circumstances.

We also gathered newspaper reports, both local and national, and we analyzed government documents and tracked lawsuits. More than 4,000 households were displaced to the metropolitan Denver area and even by May of 2006, more than 2,000 households were registered with FEMA in the Denver metropolitan area (Federal Emergency Management Agency, 2006). Colorado received federal funds that paid for emergency housing and rent, and the support of caseworkers paid for from a federal grant to the United Methodist Committee on Relief (Sterett, 2012b). FEMA changed policy housing while class action suits, that made their way through the federal courts; changes usually applied in Denver as well (Sterett, 2009). FEMA officials worked with voluntary agencies to help coordinate response, just as they did in other disasters. Some FEMA officials had experience in voluntary organizations in disaster. In other words, Colorado had experience with providing services to individuals, though not at the level of Katrina, yet helping did not strain local services as much as response in the Gulf Coast or in Houston did. This chapter will draw on interviews with caseworkers about the

coordination of assistance and about the experience of collective emergency housing provided immediately after disaster.

Surveillance and Care Far from the Storm

The first task that emergency managers and volunteers took on in Denver after Katrina was setting up emergency housing for those who would come by government plane (Sterett, 2012a, 2012b). The hope for all was that the misery made evident in the news coverage in Katrina (Dawson, 2012) could be made better in a city far away with sympathetic volunteers, professionalized charities, and emergency managers, some who had once lived in New Orleans or had family there. As caseworkers began to help, they were to coordinate assistance through a casework system that allowed caseworkers from many agencies to share information.

Racial injustice grounds mistrust in the United States, including unequal access to resources after disaster (Tierney, 2006). Within the United States, medical experts, for example, have had a history of working in communities of color without informed consent, doing harm, and without compensation (Skloot, 2011). In the United States, the response to the Great Mississippi flood of 1927 was very racially discriminatory; the Red Cross provided relief differentially, African American people stranded on levees were starved and then press-ganged into providing relief for white people (Barry, 1998). Women have experienced disaster through responsibility for family, and men and women often have different interpretations of their responsibility and that of the state and charity in disaster (Fothergill, 2003). The rules operating through state bureaucracies now are to apply equally when distributing benefits. Gaining assistance requires knowing how to work the rules, which can contribute to ongoing inequality after disaster.

Trying to lessen mistrust in response to disaster, emergency managers work on inclusion of volunteers by demographic groups. When people were displaced after Katrina, churches with many African American members organized to help in Denver; the churches had not had a history of working in disaster. Differences in expectations about how organizations would work could make working together an ongoing challenge. Emergent organizations based in churches act from God's love, and believe in the importance of prayer and sharing that love (Sterett & Reich, 2007). Professional organizations are not as familiar with that language used at

work, and the professionalized religious organizations have nondiscrimination rules regarding provision of services.

Protection also polices. Governments police in disaster, believing that victims of disaster must be contained for their own protection or because officials interpret the victims themselves are a threat to order. Drawing people together makes visible the victimization that in turn draws sympathy, donations, and support for assistance. However, containment also makes victimization central in a way that reduces people's lives to an event. Without the visibility that the event and the containment creates, the sympathy for assistance could be harder to mobilize. However, the containment also polices and places the focus on victimization. The containment that was most visible after Katrina was in New Orleans and in Houston. It is iconic in response to disaster; it *is* the disaster, and when the group of victims is less visible, so is the disaster.

After Katrina evacuees who came to Denver were housed in a college dormitory that was about to be repurposed. Its use as a home for evacuees would be its last use. Volunteers and businesses hurried over Labor Day weekend in 2005 to make the building warm and welcoming, and to ensure the plumbing worked. People painted, put together furniture, and put blankets on beds; a local company redid the plumbing. The dormitory had rooms that locked, and each room would be allocated to a family; the dorm provided much more privacy than the usual shelter in a school gymnasium, with rows of cots. Volunteers were proud of what they did. Evacuees were greeted by volunteers and state workers as they arrived on buses after they had been brought to a local air force base by government plane. They had come from the New Orleans airport or the Superdome and had had no change of clothing or access to bathing for days. They had also not been told where they were going. Some were pleased and relieved when they could guess, and others were outraged at having been moved with no information about where they were going. How they had been treated did not accord with international guidelines on displacement, which require consent; no one framed criticism in international human rights terms (Sterett, 2012b). Volunteers greeted people off the bus as they arrived at the dormitory from the air force base. A service center helped with FEMA registration, donations, and family services.

More people came in cars or via buses than had been sent without their consent. Because they were not all in one place and did not all come together, they did not exemplify all of the relief in local coverage as the people in the dorm did. Indeed, it was hard to capture people who came on their own at all in public imagery. A city in Colorado that did not house

people in a dormitory did not get the same attention in the newspaper, though the service of getting people into housing that was not emergency shelter was just what managers aspired to. Because people kept moving, the numbers of FEMA registrants was actually higher in Denver in May 2006 than it was in February, both long after the dorm had closed. Over 2,000 households were registered with FEMA in the Denver metropolitan area in May 2006, with each registrant representing a household. By then, the press coverage was sparse. Coverage concerned individuals who were being cut off of assistance or who had improved their lives by getting off of assistance.

In the early period, the visibility of victims came with containment. A chain link fence went around the perimeter of the campus where people were first housed. Evacuees were given identification cards to show they were staying in the dorm. Voluntary organizations tried to put together a way of credentialing volunteers who could be admitted to the grounds. The guards were there to protect the evacuees from those who might want to prey on them, the press was told. There were many homeless people in the area who were not entitled to the housing after disaster, and they had to be kept out. Still, the photographs and the experience could evoke camps in public news commentary (Carman, *Denver Post*, Sept 7, 2005). According to the press at the time there had been rampant looting and personal violence and crime in post-Katrina New Orleans; protection overlapped with policing of people who were far from home. Indeed, pictures that became iconic in criticizing the press depicted the different portrayal of a white and a black person gathering goods in New Orleans in the immediate aftermath. Even volunteers worried that without supervision, the street crime that they saw as rampant in New Orleans would come to Denver via the nearby commercial street. The dormitory could not and did not house everyone who came to Denver after Katrina. One person captured the double meaning of care and imprisonment within a few short sentences. When asked what he thought of the dorm, John answered:

It was a place where I could go in the close the door and get on my knees and thank God for bein' alive and pray for my family. It was like, we didn't have to stay on there, but I didn't know anywhere to go. They fed us what they wanted us to eat. Half the time it was good, half the time it wasn't. We had a certain time to eat. We was constantly guarded. It was like a prison camp per se, you know?... They always provided food, enough, it just didn't feel right. I felt like a prisoner. In prison, they provide enough food.

He could report being grateful for the place, and for the door that closed, a rarity in emergency disaster shelter. At the very same time, he

could report that the dorm felt like a prison. The imprisonment so common in the United States might have been more on the minds of the evacuees than of the volunteers, aid workers, and government workers, making the emphasis on care and containment different. Another evacuee, Sarah, did not explain the food and service as imprisonment:

The Lowry shelter was comforting, it was comforting, because you had breakfast, lunch, and dinner, and you could take a snack. They provided you with cold drinks and water. They acclimated you to the climate. They provided medical care if that's what you needed. In the cafeteria they had Social Security, food stamps, old age pension, all the social services was in one place. I had never seen anything like that. And then you had bus service to wherever you wanted to go. People was comin' to the community center, to the dorm, offerin' jobs, clothes, work, house.

Some eventually had to be “loved out the door” of the dormitory, as one volunteer put it, because the dormitory had to close after six weeks and moving was hard.

The dormitory and assistance center with its perimeter fence also made the disaster in Denver look like what the world has come to expect in the depiction of humanitarian disasters around the globe: people in camps, and restricted freedom of movement. The camp is the paradigm of both militarization and humanitarian assistance after disaster. Protection could be protection of or protection from, and survivors could look like perpetrators. The privacy people were afforded inside of the dormitory also made it more difficult to supervise than the usual Red Cross shelter, which relies on many cots in one large room. The Red Cross also believed that not only was it more difficult to supervise; the very comfort would make it very difficult to close.

Those who came later to Denver when there was no space in the dormitory reported being disappointed, and explained the failure of disaster assistance as a problem of not having moved quickly enough. The federal government had offered cash cards to help evacuees with immediate needs; not everyone got those cards for no very clear reason except that getting the cards out was part of the logistical challenges that met the federal government after Hurricane Katrina. Nevertheless, people who knew others had received things they had not ascribed their inability to get debit cards or other donations to not having been at the center when it was all on offer. As Mary, who came on her own after the dormitory had closed, put it:

When I got here [the dormitory] was closed. I missed everything. And all the help, and I mean, I came directly from the shelter to here So far, I feel like – just like I missed [the dormitory], I missed it, if you came to Colorado after [the dormitory] closed, you missed out. You missed out on the same thing that you were promised. We were

promised a lot of things that the damn folks never – I think if I would have gotten food the first week I was here inside this apartment, I would probably have been able to maintain. I got nothing. I make too much. I had to go to the food stamps office three days. Hell, I never been on food stamps. But you know, I mean, I didn't have any food. I had to go three days to listen to this lady talk about her kids not wanting to go to school. Every day I came in there, three days I went in there. "You need to bring this back." "You coulda told me that the first time." The second day I go in, "You didn't bring this. You need one more thing." She just wanted to get me the hell out. They didn't care whether I was from Hurricane Katrina or anything – after [the dormitory]. They didn't care.

After disaster, one can need law in a way not experienced before. To be forced into law when one has lost one's home brings new legal identities: as a victim, as a displaced person, as a supplicant before charities or the state.² Disaster and the requirement that one qualify for assistance by having been affected by the disaster reduces identities to that of a victim of disaster (Fassin & Rechtman, 2009), when people might have been thinking about moving anyway, or when the disaster is one part of a complex story about why one is in Denver with or without family members, with or without a job. People who fled the storm were not only disaster victims, nor was it all anyone wanted to be; the assistance and the interest in disaster kept people disaster victims who needed to choose where to live. Yet people did not believe they could ever return, especially those who rented. Whatever their previous stance had been, some people found themselves "against the law" (Ewick & Silbey, 1998) entangled in conflicting strands over which they felt they had little control.

Coming to law evokes both the protection of the state and being subject to surveillance in the benefits, not only in the imagery of housing for the displaced. People who had shared housing outside of state categories and without recognition suddenly could find that identity was a problem when trying to stay qualified for rental assistance. Early on FEMA smoothed out procedures to accommodate both that individuals had to be held responsible for spending money properly AND that few had received any instructions on how to spend emergency money that came to them shortly after the disaster. People were supposed to document that they had spent the first large checks they had received on housing. They hadn't necessarily, or they couldn't document it. FEMA allowed people to sign affirmations stating they had spent the money appropriately without showing receipts. The story of relief required deserving victims and bureaucratic accountability. Improving the story of bureaucratic accountability required making the stories of money received match the need for bureaucratic accountability.

Although we separate out forms of assistance, particularly because disaster assistance is temporary, people do not experience assistance that way. In bureaucratic legal terms, food stamps are not part of disaster assistance. For people who need both after displacement, they are entangled. Helping in disaster meant getting people all the assistance they needed, and that's how the one stop system was set up at the site in Denver. To Mary, the difficulty of making food stamps work for her was a problem of disaster assistance. People bring an understanding what the law means for them and whether it is something that could help them deal with trouble. What the law means could be general and about the law as a whole (Ewick & Silbey, 1998), or it could be specific to a field (Marshall & Barclay, 2003). People transfer what they learn from one field to another (Levitsky, 2008). Many people displaced by Hurricane Katrina had been on disability insurance or veterans' benefits. Not only did those benefits shape how easily people could resettle in a new area without a job. They also shaped people's understandings of the new individual assistance for which they were eligible.

The individual assistance itself was confusing because it did and did not look like other benefit programs. The money could only be spent on housing, and it ended when people used the maximum amount, not when they had reestablished themselves or gotten their homes back or did not need anything anymore. For people who were accustomed to work or benefits payments that did not end if there wasn't a comprehensible reason that had something to do with time or with what they had done, to have the program end when they still needed housing was difficult to explain. To people who had been homeless in Denver and not in the storm, suddenly new housing was available to people who seemed no more needy than they were. One could have been in New Orleans a brief time, or have been planning on moving and putting it off, and been entitled to housing assistance when local homeless people were not. To the press and to far-away housing policy advocates, the special status of people displaced from the Gulf Coast made sense. The special concern with disaster victims need not to a homeless person, who is in a shelter. Individualization of responsibility in law meant that the official story could not be that the money was confusing or that it is impossible not to take advantage of free money.

ACCOUNTABILITY AND SURVEILLANCE: IMPERFECT TECHNOLOGIES

The United States welfare state has developed technology to enforce individual accountability for clients of Temporary Assistance to Needy

Families (TANF), a program that is both most stigmatized and one of the least generous in the United States. Technology has allowed tracking of the money that people get (Gilliom, 2001). That is the field into which individual assistance for rent for evacuees entered. In addition, contracted caseworkers were responsible for tracking donations and ensuring their value did not duplicate state benefits. The Coordinated Assistance Network (CAN) was a large database that was to track all the donations that came in. It would allow people to find out the resources that were available – a donated car, perhaps some furniture after the initial donations were done – and, in turn, to ensure that people did not get duplicated benefits. If someone had bought a replacement vehicle with their state benefits they could not then get a donated one; anyone who had received a donated car could not then buy a replacement car with their state benefits. Statutory compensation is for replacement of uninsured lost goods. That means donations do not necessarily supplement lost goods, though neither states nor the federal government necessarily want donated goods back that may be owed because they were duplicated. Anyone who got a car should not get another one, an example that was easily cited because its necessity outstripped its availability. A car was much needed in a sprawling western city when people were settling everywhere. It was not often available.

However, CAN was difficult to work. As explained by one of the people responsible for developing case management:

Right now, they tell me, in CAN, they've got about two million pieces of information in there. And so this thing has been stretched so bad since they started it, but it still – the concept is good, and the mechanism is working out bugs and glitches as it comes along. It's coming along, it really is. And so the concept is if you're here, and you're getting help, as you're getting help that's disaster related, and you decide to move back with family, you have more family support back in Tennessee, then the next agency that you come in contact there can pull it back up and see everything you got here. Or, by the way, you found out everything that you got on your way to get to Colorado. And what we try to do with the attorneys, and they're still arguing, we wanna download some of the basic FEMA information on what you were eligible for, if you got an offer of an SBA (Small Business Administration) loan. Or, the reason you got denied is you haven't sent back your SBA paperwork. The case manager, that would be helpful information they need to know. And so we're still working on that part. That's a legal part. The concept has been approved, but the attorneys being so nervous with the privacy act, we understand that, too. It's a big issue.

Even within a framework of care, private donations and state benefits and supervision of both were deeply entangled. The caseworkers were paid out of a private grant made by the federal government, and donations were private. The FEMA records were federal. So were SBA loans.

CAN required caseworkers or volunteers associated with them to do data entry, something no one enjoyed doing. It was not what volunteers had signed up for, yet it was the work that most needed doing. The need could continue as long as people were receiving benefits, yet interest in the disaster by the volunteers flagged as it moved its way off the national public agenda, which disasters always do rather rapidly. It required the computer system to coordinate well across agencies, which it did not. It required a clear wall between the federal government and the caseworkers, yet it would be helpful to import information FEMA could provide. It also required that it be possible to track the recipients of aid, and there was no way to get a list of people. When the Government Accountability Office evaluated casework after Katrina, it faulted the coordination of assistance and what the caseworkers had done (GAO, 2009). People had not tried hard enough.

The computer system aspired to be but was not a vast national connected system. Working it simply to make sure people did not get something twice required superhuman interest in bureaucratic accountability and policing people as well as a high tolerance for tracking donations, something few caseworkers or volunteers had. Furthermore, as the quotation above illustrates, privacy concerns meant it could not coordinate completely. Case workers and managers were aware of privacy concerns, and could be all the more nervous for that. These stories could readily spin into ones of legal accountability and lawsuits. The person quoted above went on:

The federal privacy act is one of the most stringent ones, even more stringent than the state or – see, agencies also have a confidentiality agreement, and states usually do, too, but this federal one is written so strict, and there are some heavy duty payment. And if you violate it, I mean, you can't say you didn't. They can take you to court and sue you, you're gonna lose. And also, too, if you did, you could be charged with the misdemeanor crime of violating that, as well the fine that goes with – with every, probably 100 people, that's 100 times five, 500,000 dollar fine. And 500 – and so, that's what they're – that's probably a reason, too, we can't share some of this stuff.

Law could be feared as a surveillance mechanism for the caseworkers too, not by the bureaucracy but by clients imagined to be capable of bringing a lawsuit, or by the police.

What was available was never enough and it was easy for the wrong people to get goods. Also, how could anyone possibly know about every kind of help? No one could figure out how to solve that problem. Government information was separate from what the charities had, which meant there was no easy way to import citizens into the assistance

database, nor would that make it easier to do the tangled tracking of both government payments and donations that was supposed to happen. The care that went with managing donations assumed donations greater than need, a ready match between donation and need, and a perfect technology that is simply not the experience of those who worked with the system (Reich, 2008).

Eventually, recipients were cut off for potentially being ineligible for funds, and sometimes investigated for fraud. FEMA could ask for benefits that had been paid incorrectly to be returned. It's hard to know how much they tried to do that. People did get cut off, sometimes for incomprehensible reasons that no one explained. Applying for benefits can bring to light previous legal problems; after disaster one was ineligible for assistance if one had other unpaid federal obligations, such as federal student loans, or if one could not document that one had lived in the flooded area. Since disaster is only one part of the reason people move, and people could have been in New Orleans temporarily, or thinking of moving anyway, it could be hard for other people who needed housing help to distinguish between themselves and evacuees. Yet one claimed assistance legally and one did not. People who had shared housing before the storm could find themselves out of help when one person in the household claimed the money first. Although FEMA was to pay to everyone who needed housing, even if households split up, that did not translate perfectly into practice. If one succeeded in making a claim, FEMA could later cut one off or pursue someone for fraud. Even once officials had corrected their practices and allowed rent for more than one member of a household, caseworkers reported that only one person could be paid for replacement of goods. The person who got the claim in first won.

What can we learn in this encounter with the protection/supervision interface? We have a particular image of what response to disaster looks like, and it includes mass housing. Mass emergency housing is visible, and draws the sympathy that Michele Dauber found to be crucial to the public relations campaign for assistance in the New Deal (Dauber, 2013). Need and assistance extend beyond the visible, yet tracking anything more than individual stories is difficult once the mass need is gone. Furthermore, the need of those who were not in the mass housing was easy to miss. Finally, supervision of caseworkers appealed to a fear of the law as something that made one's work impossible. Both caseworkers and those who might get too much would experience their faults as individual, not the result of a system that mandated both privacy and surveillance. Nor was fraud in

claiming assistance by a homeless person a problem with demarcating disaster from every other tragic reason one might be homeless.

Responses to disaster happen in an already-existing legal field that organizes claims into the categories people and organizations understand. The surveillance that the press and some evacuees noticed – both in the event and in accounting for how individuals spent money – echoes the protection, surveillance, and criminalization in other disasters. The risk is it can be tied to individual responsibility and punishment. Anticipating mass shootings, for example, could bring a response focused on punishment, on harm reduction through managing guns, or one focused on mental health. The United States practice of mass incarceration makes punishment the available response to many problems. In the United States, protection in schools has brought a police presence that makes small infractions of the rules visible to state officials in a way that disrupts the supervision students otherwise do of each other (Kupchik, 2010; Monahan & Torres, 2010). Young men who write rap lyrics have been prosecuted and convicted for their threats (Nielsen & Kubrin, 2014). Threat assessment requires assessing how threatening an individual is, and threatening individuals in the United States are incarcerated.

When experts govern in disaster, they can respond as though the people in crisis need to be policed, and as though assistance has to emphasize order at least as much as it does care. Militaries deliver humanitarian assistance, making militarism and containment a likely framework for response. The need for assistance and the political need to provide it leads governments and nongovernmental organizations to act quickly, which means it is difficult to act consistently across cases, following rules that ensure like treatment.

The imperative to act quickly in disasters presents an empirical puzzle. We live in an increasingly juridified world, with the force of court decisions, rules, and the people who reference them exerting a strong enough gravitational pull to shape fields. States in disaster are supposed to cut through the red tape, and to help people immediately, and police people. When and where do people invoke rules? Or court decisions? Or international humanitarian guidelines? Since law is part of the world in which it acts, we could expect that it's likely to become intertwined with mandates to act.

I next turn Cassandra in the direction that legal accountability in compensation after disaster works: backwards. I will do so in the context of juridification, or the worldwide expansion of the use of judiciaries and legal frameworks in handling difficult problems (Bilchner & Molinder, 2008; Hirschl, 2004; Slaughter, 2004).

JURIDIFICATION

Judiciaries get invited into many different problems. When judiciaries make pronouncements at the elite level of law, they can do so to protect rights of groups and individuals. They can also act as agents of the central state, ensuring their policies are enforced to the extent that it is possible to tell what those policies are (Shapiro, 1986). Litigation reorganizes political fields and increases law as a reference point for politics (Silverstein, 2007). While many issues come before the courts, judiciaries in the United States have been more reluctant to make expensive, high profile orders, after federal district courts did just that with regard to prisons and schools (Cooper, 1988). Legal institutions are notably reluctant to make orders against central government policies, or orders that would be so costly as to damage an industry; in turn, political elites contain decisions via limiting them and taking time to apply them (Conant, 2002; Haines, 2009; Hirschl, 2004; Keck, 2007; Sterett, 1997).³ Courts do not impose orders from outside the world they govern; judges gather information about what to order from what people and organizations are already doing, and they often make orders based on what industries explain are best practices (Edelman, Uggen, & Erlanger, 1999). Furthermore, cases take years to work their way through court as appeals courts reconsider not only lower courts but what they themselves have done on an issue (see e.g., *In re Katrina Canal Breaches*, 2012). Delay itself can make the prospect of compensation less than heartening.

At the same time, reference to courts and what lawyers will do with rules can be a central part of the process, even when orders are not final. A field can become *juridified*, that is with inclusion of courts and reference to rules in governing, and yet the rules may not change outcomes rather than the process of what central political authorities mean to do. Because decisions require follow-through, court decisions are seldom the final word on a problem. In law in practice, we seldom have final decisions. We just choose where to end the story.

The relatively advantaged “haves” come out ahead in litigation because institutional repeat players can choose which cases to settle, which to appeal, and how to resist decisions, a finding robust across policy domains, including that of disaster assistance (Fortun, 2004; Galanter, 1974). Sometimes the relative ‘have nots’ can come together as a group and litigate collective claims and pursue implementation. Then, we sometimes see instrumental change in the law (Epp, 1998). Litigation has more than instrumental effects; people use litigation to educate public, to tell stories,

and to change conversations, and sometimes to change what legislatures do as well (Keck, 2009). Where people can use courts that way in disaster litigation, we see effects spiraling outward; those effects may not be, though, to compensate the victims of disaster.

Courts often keep their options open for decisions in the future, especially when they work with a system of precedent. If precedent is to bind courts for the future, and the future is unknowable, they had best ensure that they have not bound themselves to something that can turn out to be untenable (Shapiro, 1972). For example, after Hurricane Katrina, lawsuits in the federal courts were to hold the federal government accountable for how it was distributing individual assistance. The reasons FEMA gave for terminating people were opaque, they processed cases slowly, and they made incorrect decisions concerning the damage to homes in New Orleans. The federal courts held that FEMA could be sued, and it was not exempt under sovereign immunity. It could still escape liability for any particular decision (Sterett, 2009). The federal government was held not liable for causing the damage to New Orleans via having built the Mississippi River Gulf Outlet, which had channeled storm surge into the city, though the case dragged its way through the federal courts and brought newsworthy condemning language from judges along the way (*In re Katrina Canal Breaches*, 2012). Decisions to hold FEMA accountable for its decision-making processes in individual assistance were made moot when FEMA changed its policy by extending payments, or when decisions were appealed they were overturned or otherwise decided so that they would not set a precedent useful to those harmed by extreme weather events in the future (Sterett, 2009).

When courts allocate responsibility after an event, they do so by *looking backward* to what has already happened. Tracing disasters to broad scale changes in climate or harms to toxins is probabilistic. Poisons raise illnesses in an exposed group above the base rate before the exposure; that's a much more cautious statement than saying one thing caused another. As communities build in vulnerable areas, people are more exposed to extreme weather events, which in turn can cause more harm. Accountability after the fact in litigation has found probabilistic reasoning difficult to accommodate in litigation concerning responsibility for disasters from mass poisonings, whether through drugs or poisons governments or businesses use. Uneasiness with the ability to attribute causation of a particular event to policies has led courts to force settlement around the harms associated with the use of Agent Orange in Vietnam, for example (Schuck, 1987). We can expect something similar in climate change. Probabilistic reasoning is also

difficult to accommodate in the individualization that courts often do in attributing responsibility.

What *has happened* is not a probability distribution; the event makes what the courts are doing different from what risk managers do. An event can be contested concerning who was harmed, how they were harmed, and how well states or corporations are taking responsibility for harm and compensating people (Cassels, 1993; Fortun, 2004). Still, some event *happened*. Courts have proven more likely to *think through individual stories and the choices individuals make* in assessing harms including employment discrimination and personal injury law (Engel & McCann, 2009; Haltom & McCann, 2004; Nelson & Bridges, 1999). Legal reasoning has often worked through a story one can tell, where one person or organization did something that caused a harm that courts can then remedy (Ewick & Silbey, 1995; Ewick & Silbey, 2003; Stryker, Docka-Filipek, & Wald, 2012). In law, the causal story told after industrial disasters is one of human error: someone forgot to make sure a door was unlocked, or forgot to follow a safety procedure (Fortun, 2004; Perrow, 1984). In complex systems, failure usually happens at multiple points. Human error is consistent with the story of individualizing responsibility discussed above.

The causal stories we tell, including in law, take the form of “hegemonic tales” or “subversive stories” (Ewick & Silbey, 1995). Patricia Ewick and Susan Silbey argue that hegemonic tales and subversive stories are alternative ways people interpret what has happened to them, and these alternative frameworks are embedded in law. “Hegemonic tales” cut off inquiry into causation that link the immediate problem to structures and multiagent, interlocking explanations of why harm came about (Ewick & Silbey, 1995). Causal storytelling is cut off long before the complex stories are told, and the responsibility is or is not placed in the lap of the agent who is before the law. In climate stories, the weather brought about a storm surge that flooded a city, not the interlocking, multiagent building out into marshlands and out into coastlines, the decision to build channels that allow storm surge to flood a city, or, in Manhattan, the long-ago depletion of oyster beds that had once moderated storm surges. The Mississippi River Outlet provided a perfect channel for storm surge from hurricanes to rush into New Orleans, flooding the city (Freudenberg, Gramling, Laska, & Erikson, 2009). Thinking through anecdotes and individual responsibility reinforces the temptation in disaster to ascribe problems to individual error. In the United States, the failure of state infrastructure that allowed levees to fail leads to exemption by way of sovereign immunity.

In governing what other state agencies have done, legal institutions in common law countries often focus on process: were the rules followed, did people receive notice of what was going to happen, and did they have a chance to produce evidence relevant to the decisions made about them. That is what the courts did concerning housing assistance for people displaced after Katrina (Sterett, 2009). To move from the elite level of law declaring legal principles to the law that comes to life, political alliances can make decisions about process effective. Local governments needed the federal money to continue to flow after Katrina, which meant the lawyers and advocacy groups were not trying to extract money from the federal government for poor people by themselves. Court decisions are sometimes an effort to hold administrative agencies accountable to following their own rules in a way that the political leaders would agree with; court can help the central government rather than fight it.

Court decisions that try to hold states accountable for how they provide relief can be vacated on appeal, or crafted to be limited to the individual disaster, particularly because disaster relief is so idiosyncratic. Some disasters bring temporary trailers in which people can live, others rental payments, and some replacement of goods for those without insurance. States claim sovereign immunity, so that they cannot be held responsible for how they distribute aid or for policies that facilitated disaster.

Climate related events such as hurricanes and droughts are weather events that are familiar to people. They are not new. The weather just seems to happen, making the common sense stories of causation as a background characteristic and without a human agent especially accessible. The weather-related disasters we have been facing have been completely familiar for centuries, even if the causal story told in the tension between the happenstance of where a storm lands and broader climate change is not.

CONCLUSION: DISASTER IN LEGAL FIELDS

Fires and floods and shootings are not new; they have moved and sometimes drawn more victims. In the Global North they no longer devastate the cities that were the sites of the terrifying urban fires that occasioned fire insurance, fire companies, compensation for them, and building codes (Novak, 1996). We build in dangerous areas, and we build projects that increase the chance of catastrophe after storms. Fire insurance emerged out of the devastating London fire in the seventeenth century, and regulating to

manage fire to ensure an adequate response was at the heart of local building regulation and payments to firemen's pensions in the nineteenth century United States (Novak, 1996; Sterett, 2003). In the United States, programs to provide seeds to farmers in the nineteenth century after drought and plagues of locusts were the subject of litigation; the programs were challenged for using tax money unconstitutionally. Most of the time, the state courts held the programs constitutional. Courts in the Midwest that wouldn't respond to farmers would have been in an untenable position, and disaster relief had a long history in the United States (Sterett, 2003). These programs have a long history (Dauber, 2013). Getting people started again or compensating has long been politically appealing.

Adaptation and response to disaster require a different approach to risk from the old age, disability and mothers' pensions that have drawn most social welfare scholarship. Early social welfare advocates treated these risks as a knowable probability distribution. People will get old, or they will get injured and become unable to work at jobs for which they are qualified (Beck, 1992). The risks of injury and death from unspectacular events that do not result from society-wide catastrophe are still widespread; people still get old, and injured, and need unemployment payments or disability payments. Welfare states still design rules to distribute this assistance, and to plan on how to pay for it. Nevertheless, these injuries and deaths do not attract the same attention that disasters do, whether those disasters are hurricanes, tsunamis, or bombs (Birkland, 1997). Risk management tells us we can control risk even if we cannot, for it is the job of risk managers to manage it (Clarke, 1999). We do not manage uncertainty. We might try to reduce it. Instead, we manage everything around it: we wish to ensure that communities are prepared for uncertainties.

The rights-in-courts framework emergent in international governance and so familiar in the United States informs response as well. Indeed, there is a lively debate about whether to call people refugees when they have been displaced in part as the result of environmental problems (McAdam, 2010). Instruments from the United Nations promise rights for refugees and there is an international infrastructure to follow through on those rights. The debate over calling people environmental refugees centers on whether that is an appropriate use of the term refugee when causation is so difficult to ascribe, when the refugee system of relief is overburdened by those who have fled war and genocide, and when the internal guidelines on displaced people would seem to serve the purpose better than conventions on refugees (Kromm & Sturgis, 2008; Piguet, 2013).

Rights are often subject to the ‘myth of rights,’ (Scheingold, 1974) or the belief that rights are self-executing and will solve problems by being invoked; instead, rights work best where people and organizations mobilize to enforce them. International human rights or guidelines also require local translation and mobilization (Merry, 2006). Guidelines on internal displacement open the possibility of organizing a social field around questions of displacement. Organizing also requires that people find a way to gather, and define their interests in common; when people are dispersed and do not organize via tools that allow being dispersed, such as social media, the costs to forming a movement are high.

Expectations around disaster enter an already existing field of governance. The individualization, surveillance, and juridification that color legal responses outside disaster are frameworks that come to implementing disaster assistance. If we expect that people are only to suffer temporary setbacks, and all government-paid assistance except that for old age and disability (to speak to the United States welfare state) is temporary, then that will be true of disaster as well. The expectation that people should rely on their family members for assistance and build the human capital to allow them not to need social welfare payments will also color disaster assistance. Looking to what legal institutions can do requires understanding what they do in a broader organizational field, and from multiple points of view.

NOTES

1. For overviews of where gender has been included in the sociology of disaster and where it has not and why it is crucial, see (Enarson & Morrow, 1998) and (Enarson, 2012).
2. On law and the creation of new identities, see (Ewick & Silbey, 1998).
3. There continue to be exceptions. In the environmental field in the United States, see e.g. *Massachusetts v. E.P.A.* (2007).

ACKNOWLEDGMENTS

I am grateful for support from the National Science Foundation, including SES-1051408 and CMMI-0555117. I am also grateful for comments on earlier drafts from the editors of *Studies in Law, Politics and Society*, including

the editors of the special issue. Lorita Daniels and Anne Zobell assisted with final research.

REFERENCES

- Agamben, G. (2005). *Stato die eccezione*. [State of exception]. Chicago, IL: University of Chicago Press.
- Aldrich, D. P. (2010). Fixing recovery: Social capital in post-crisis resilience. *Journal of Homeland Security*. Available at: http://works.bepress.com/daniel_aldrich/7
- Barry, J. (1998). *Rising tide: The great Mississippi flood of 1927 and how it changed America*. New York, NY: Simon and Schuster.
- Beck, U. (1992). *The risk society*. Thousand Oaks, CA: Sage.
- Bilchner, L. C., & Molinder, A. (2008). Mapping juridification. *European Law Journal*, 14(1), 36–54.
- Birkland, T. A. (1997). *After disaster*. Washington, DC: Georgetown University Press.
- Bloemraad, I., & Gleeson, S. (2012). Making the case for organizational presence: Civic inclusion, access to resources and formal community organizations. In M. P. Smith & M. McQuarrie (Eds.), *Remaking urban citizenship* (pp. 109–135). New Brunswick, NJ: Transaction Publishers.
- Burton, L. (2008). The constitutional roots of all-hazards policy, management, and law. *Journal of Homeland Security and Emergency Management*, 5(1). Available at: <http://www.bepress.com/jhsem/vol5/iss1/35>
- Carman, D. (2005). Evacuees stories are moving but fence isn't. *Denver Post*, September 7, p. B1.
- Cassels, J. (1993). *The uncertain promise of law: Lessons from Bhopal*. Buffalo, NY: University of Toronto Press.
- Clarke, L. B. (1999). *Mission improbable: Using fantasy documents to tame disaster*. Chicago, IL: University of Chicago Press.
- Conant, L. J. (2002). *Justice contained: Law and politics in the European union*. Ithaca, NY: Cornell University Press.
- Cooper, P. J. (1988). *Hard judicial choices: Federal district court judges and state and local officials*. New York, NY: Oxford University Press.
- Dauber, M. L. (2013). *The sympathetic state: Disaster relief and the origins of the American welfare state*. Chicago, IL: University of Chicago Press.
- Dawson, M. C. (2012). Racial tragedies, political hope, and the tasks of American political science. *Perspectives on Politics*, 10(3), 669–674.
- Department of Defense Sexual Assault Prevention and Response Office. (2013). *Annual report on sexual assault FY 12* (Vol. 1). Washington, DC: Department of Defense.
- Edelman, L. B., Uggan, C., & Erlanger, H. S. (1999). The endogeneity of legal regulation: Grievance procedures as rational myth. *American Journal of Sociology*, 105(2), 406–454.
- Enarson, E. P. (2012). *Women confronting natural disaster: From vulnerability to resilience*. Boulder, CO: Lynne Rienner Publishers.
- Enarson, E. P., & Morrow, B. H. (1998). *The gendered terrain of disaster: Through women's eyes*. Westport, CT: Praeger.

- Engel, D. M., & McCann, M. W. (2009). *Fault lines: Tort law as cultural practice*. Stanford, CA: Stanford Law Books.
- Epp, C. R. (1998). *The rights revolution: Lawyers, activists, and supreme courts in comparative perspective*. Chicago, IL: University of Chicago Press.
- Ewick, P., & Silbey, S. (2003). Narrating social structure: Stories of resistance to legal authority. *American Journal of Sociology*, 108(6), 1328–1372.
- Ewick, P., & Silbey, S. S. (1995). Subversive stories and hegemonic tales: Toward a sociology of narrative. *Law and Society Review*, 29(2), 25–197.
- Ewick, P., & Silbey, S. S. (1998). *The common place of law: Stories from everyday life*. Chicago, IL: University of Chicago Press.
- Fassin, D., & Pandolfi, M. (2010). *Contemporary states of emergency: The politics of military and humanitarian interventions*. New York, NY: Zone Books.
- Fassin, D., & Rechtman, R. (2009). *The empire of trauma: An inquiry into the condition of victimhood*. Princeton, NJ: Princeton University Press.
- Federal Emergency Management Agency. (2006). *Reported mailing addresses of Katrina/Rita applicants from Louisiana, Mississippi, Alabama and Texas disasters as of 05-12-06*. Washington, DC.
- Fortun, K. (2004). *Advocacy after Bhopal*. Chicago, IL: University of Chicago Press.
- Fothergill, A. (2003). The stigma of charity: Gender, class and disaster assistance. *Sociological Quarterly*, 44(4), 659.
- Freudenberg, W. R., Gramling, R. B., Laska, S., & Erikson, K. (2009). *Catastrophe in the making: The engineering of Katrina and the disasters of tomorrow*. Washington, DC: Shearwater Press.
- Galanter, M. (1974). Why the “haves” come out ahead: Speculations on the limits of legal change. *Law and Society Review*, 9(1), 95–160.
- Gilliom, J. (2001). *Overseers of the poor: Surveillance, resistance, and the limits of privacy*. Chicago, IL: University of Chicago Press.
- Government Accountability Office [GAO]. (2009). *Disaster assistance: Greater coordination and an evaluation of programs' outcomes could improve disaster case management* No. GAO-09-561. Washington, DC: Government Printing Office.
- Gusfield, J. R. (1981). *The culture of public problems: Drinking-driving and the symbolic order*. Chicago, IL: University of Chicago Press.
- Haines, F. (2009). Regulatory failures and regulatory solutions: A characteristic analysis of the aftermath of disaster. *Law and Social Inquiry*, 34(1), 31–60.
- Haltom, W., & McCann, M. W. (2004). *Distorting the law: Politics, media, and the litigation crisis*. Chicago, IL: University of Chicago Press.
- Hirschl, R. (2004). *Towards juristocracy: The origins and consequences of the new constitutionalism*. Cambridge, MA: Harvard University Press.
- In re Katrina Canal Breaches 696 F. 3d 436 (2012) (5th Circuit).
- Kalin, W. (2008). *Guiding principles on internal displacement: Annotations*. Washington, DC: The American Society of International Law.
- Keck, T. M. (2007). Party politics or judicial independence? The regime politics literature hits the law schools. *Law & Social Inquiry*, 32(2), 511–544.
- Keck, T. M. (2009). Beyond backlash: Assessing the impact of judicial decisions on LGBT rights. *Law & Society Review*, 43(1), 151–186.

- Kromm, C., & Sturgis, S. (2008, January). Hurricane Katrina and the guiding principles on internal displacement: A global human rights perspective on a national disaster. Institute for Southern Studies.
- Kupchik, A. (2010). *Homeroom security: School discipline in an age of fear*. New York, NY: New York University Press.
- Levitsky, S. R. (2008). 'What rights': The construction of political claims to American health care entitlements. *Law & Society Review*, 42(3), 551–590.
- Mackay, C. (1841). *Extraordinary delusions and the madness of crowds*. New York, NY: Dover Publications.
- Marshall, A., & Barclay, S. (2003). In their own words: How ordinary people construct the legal world. *Law & Social Inquiry*, 28(3), 617–628.
- Massachusetts v. E.P.A.* 549 U.S. 497 (2007).
- McAdam, J. (2010). *Climate change and displacement: Multidisciplinary perspectives*. Oxford: Hart Publishing.
- McFalls, L. (2010). Benevolent dictatorship: The formal logic of humanitarian government. In D. Fassin & M. Pandolfi (Eds.), *Contemporary states of emergency: The politics of military and humanitarian interventions* (pp. 317–334). New York, NY: Zone Books.
- Merry, S. E. (2006). *Human rights and gender violence: Translating international law into local justice*. Chicago, IL: University of Chicago Press.
- Monahan, T., & Torres, R. D. (2010). *Schools under surveillance: Cultures of control in public education*. New Brunswick, NJ: Rutgers University Press.
- National Research Council. (2010). *National security implications of climate change for U.S. Naval forces*. Washington, DC: National Academies Press.
- National Research Council Committee on Assessing the Impacts of Climate Change on Social and Political Stress. (2013). *Climate and social stress: Implications for security analysis*. Washington, DC: National Academies Press.
- Nelson, R. L., & Bridges, W. P. (1999). *Legalizing gender inequality: Courts, markets, and unequal pay for women in America*. Cambridge: Cambridge University Press.
- Nielsen, E., & Kubrin, C. E. (2014). Rap lyrics on trial. *The New York Times*, January 13, p. A27.
- Novak, W. J. (1996). *The people's welfare: Law and regulation in nineteenth-century America*. Chapel Hill, NC: University of North Carolina Press.
- O'Malley, P. (2013). Uncertain governance and resilient subjects in the risk society. *Onati Socio-Legal Series*, 3(2), 180–195.
- Painter, J. (2006). Prosaic geographies of stateness. *Political Geography*, 25(7), 752–774.
- Perrow, C. (1984). *Normal accidents: Living with high-risk technologies*. New York, NY: Basic Books.
- Piguet, E. (2013). From “primitive migration” to “climate refugees”: The curious fate of the natural environment in migration studies. *Annals of the Association of American Geographers*, 103(1), 148–162.
- Reich, J. (2008). “The can't of CAN.” Paper presented at the annual meeting of the American Sociology Association.
- Roberts, P. (2009). A capacity for mitigation as the next frontier in homeland security. *Political Science Quarterly*, 124(1), 127–142.
- Roberts, P. (2013). *Disasters and the American state*. New York, NY: Cambridge University Press.
- Roberts, P. S. (2006). FEMA and the prospects for reputation-based autonomy. *Studies in American Political Development*, 20(01), 57.

- Rozario, K. (2007). *The culture of calamity: Disaster and the making of modern America*. Chicago, IL: University of Chicago Press.
- Sapat, A., & Esnard, A. (2013). Trans-boundary impacts of the 2010 Haiti earthquake disaster: Focus on legal dilemmas in South Florida. *Onati Socio-Legal Series*, 3(2), 254–276.
- Sarat, A. (1990). ‘... The law is all over’: Power, resistance and the legal consciousness of the welfare poor. *Yale Journal of Law and the Humanities*, 2, 343.
- Scheingold, S. A. (1974). *The politics of rights: Lawyers, public policy, and political change*. New Haven, CT: Yale University Press.
- Schuck, P. H. (1987). *Agent orange on trial: Mass toxic disasters in the courts* (Enl ed.). Cambridge, MA: Belknap Press of Harvard University Press.
- Schwartz-Shea, P., & Yanow, D. (2012). *Interpretive research design: Concepts and processes*. *Routledge series on interpretive methods*. New York, NY: Routledge.
- Shapiro, M. (1972). Toward a theory of *stare decisis*. *Journal of Legal Studies*, 1(1), 125–134.
- Shapiro, M. M. (1986). *Courts, a comparative and political analysis* (Paperback ed.). Chicago, IL: University of Chicago Press.
- Shaw, I. G. R., Robbins, P. F., & Jones, J. P. (2010). A bug’s life and the spatial ontologies of mosquito management. *Annals of the Association of American Geographers*, 100(2), 373–388.
- Silbey, S. S. (2005). After legal consciousness. *Annual Review of Law and Social Science*, 1, 323–368.
- Silver, N. (2012). *The signal and the noise: Why most predictions fail – but some don’t*. New York, NY: Penguin Press.
- Silverstein, H. (2007). *Girls on the stand: How courts fail pregnant minors*. New York, NY: New York University Press.
- Skloot, R. (2011). *The immortal life of Henrietta Lacks*. Fort Collins, CO: Poudre River Public Library District.
- Slaughter, A. (2004). *A new world order*. Princeton, NJ: Princeton University Press.
- Sterett, S. (2009). New Orleans everywhere: Bureaucratic accountability and housing policy after Katrina. In J. Lezaun & A. Sarat (Eds.), *Catastrophe: Law, politics and the humanitarian impulse* (pp. 83–115).
- Sterett, S. (2012a). State policy and disaster assistance: Listening to women. In E. David & E. Enarson (Eds.), *The women of Katrina: How gender, race, and class matter in an American disaster* (pp. 118–129).
- Sterett, S., & Reich, J. (2007). Prayer and social welfare. In H. Potter, T. A. Fuller, M. Adya, & D. Austin (Eds.), *Racing the storm: Racial implications and lessons learned from Hurricane Katrina* (p. 135). Lexington, KY: Lexington Books.
- Sterett, S. M. (1997). *Creating constitutionalism?: The politics of legal expertise and administrative law in England and Wales*. Ann Arbor, MI: University of Michigan Press.
- Sterett, S. M. (2003). *Public pensions: Gender and civic service in the states, 1850–1937*. Ithaca, NY: Cornell University Press.
- Sterett, S. M. (2012b). Need and citizenship after disaster. *Natural Hazards Review*, 13(3), 233–245.
- Stryker, R., Docka-Filipek, D., & Wald, P. (2012). Employment discrimination law and industrial psychology: Social science as social authority and the co-production of law and science. *Law and Social Inquiry*, 37(4), 777–814.
- Tetlock, P. E. (2006). *Expert political judgment*. Princeton, NJ: Princeton University Press.

- Thaler, R. H., & Sunstein, C. R. (2009). *Nudge: Improving decisions about health, wealth, and happiness* (Update ed.). New York, NY: Penguin Books.
- Tierney, K. (2006). Social inequality, hazards and disaster. In R. Daniels, D. F. Kettl, & H. Kunreuther (Eds.), *On risk and disaster: Lessons from Hurricane Katrina* (pp. 109–128). Philadelphia, PA: University of Pennsylvania Press.
- Valverde, M. (2011). Seeing like a city: The dialectic of modern and premodern ways of seeing in urban governance. *Law and Society Review*, 45(2), 277–312.
- Yanow, D., & Schwartz-Shea, P. (2014). *Interpretation and method: Empirical research methods and the interpretive turn* (2nd ed.). Armonk, NY: M.E. Sharp, Inc.

(C) Emerald Group Publishing