Title
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The Post-Katrina Era
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It is impossible for me, as it is for most Americans, to watch the horror and suffering from Hurricane Katrina and not feel physically sore, pained, bereft, empty, heart-broken. And angry.

The Katrina Tragedy should become a watershed in American politics. This was when the usually invisible people suddenly appeared in all the anguish of their lives — the impoverished, the old, the infirm, the kids, and the low-wage workers with no cars, no tvs, no credit cards. They showed up on America’s doorsteps, entered the living rooms, and stayed.

Katrina will not go away soon, and she has the power to change America.

The moral of Katrina is mostly being missed. It is not just a failure of execution (William Kristol), or that bad things just happen (Laura Bush). It was not just indifference by the President, or a lack of accountability, or a failure of federal-state communication, or corrupt appointments in FEMA, or the cutting of budgets for fixing levees, or the inexcusable absence of the National Guard off in Iraq. It was all of these and more, but they are the effects, not the cause.

The cause was political through and through — a matter of values and principles. The progressive-liberal values are America’s values, and we need to go back to them.

The heart of progressive-liberal values is simple: empathy (caring about and for people) and responsibility (acting responsibly on that empathy). These values translate into a simple principle: Use the common wealth for the common good to better all our lives. In short, promoting the common good is the central role of government.

The right-wing conservatives now in power have the opposite values and principles. Their main value is Rely on individual discipline and initiative. The central principle: Government has no useful role. The only common good is the sum of individual goods.
It’s the difference between *We’re-all-in-this-together* and *You’re-on-your-own-buddy*.

It’s the difference between *Every citizen is entitled to protection* and *You’re only entitled to what you can afford*.

It’s the difference between connection and separation.

It is this difference in moral and political philosophy that lies behind the tragedy of Katrina.

1. **A lack of empathy and responsibility accounts for Bush’s indifference and the government’s delay in response, as well as the failure to plan for the security of the most vulnerable: the poor, the infirm, the aged, the children.**

2. **Eliminating as much as possible of the role of government accounts for the demotion of FEMA from cabinet rank, for Michael Brown’s view that FEMA was a federal entitlement program to be cut, for the budget cuts in levee repair, for placing more responsibility on state and local government than they could handle, for the failure to fully employ the military, and for the lax regulation of toxic waste dumps contributing to a “toxic stew.”**

This was not just incompetence (though there was plenty of it), not just a natural disaster (though nature played its part), not just Bush (though he is accountable). This is a failure of moral and political philosophy — a deadly failure. That is the deep truth behind this human tragedy humanly caused.

It is a truth that needs to be told starting now – over and over. There can be no delay. The Bush administration is busy framing it in its own way: bad things just happen, it’s no one’s fault; the federal government did the best it could — the problem was at the state and local level; we’ll rebuild and everything will be okay; the people being shipped out will have better lives elsewhere, and jobs in WalMart! Unless the real truth is told starting now, the American people will accept it for lack of an alternative.

The Democratic response so far is playing right into Bush’s framing. By delaying a response for fear it will be called “partisan,” the Democratic leadership is allowing Bush to frame the tragedy. And once it is framed, it is hard to reframe! It is time to start now.
Hurricane Katrina should also form the context in which to judge whether John Roberts is fit to be Chief Justice of the United States. The reason is simple: The Katrina Tragedy raises the most central issues of moral and political principles that will govern the future of this country. Katrina stands to be even more traumatic to America than 911.

The failure of conservative principles in the Katrina Tragedy should, in the Post-Katrina Era, invalidate those principles — and it should invalidate the right of George Bush to foist them on the country for the next 30 years. John Roberts, as Chief Justice of a conservative court, would have enormous powers to impose on the nation those invalid principles.

Do not be fooled by the arguments of “strict construction”, “narrow interpretation,” and the avoidance of “judicial activism” that will be brought forth in the hearings. What Roberts is brilliant at is the use of “narrow interpretations” to have maximal causal effect. Narrow interpretation, in his hands, can serve the purpose of radical conservative judicial activism.

Consider a small example, the Case of the Hapless Toad. The Constitution empowers Congress to regulate “commerce … among the several states.” This clause has been interpreted by the Court to make it the constitutional basis for much of civil rights legislation and all major environmental laws. Over the past decade, the Court has been diminishing the powers of the federal government over the environment by limiting the scope of that clause, even limiting the application of the Clean Water Act. A completely narrow interpretation could eliminate all environmental laws (e.g., clean water and air, habitat protection) and threaten our civil rights.

Roberts has written in favor such a narrow interpretation. The case concerned a developer who wanted to build a large housing tract in California that would destroy one of the last remaining breeding grounds of the arroyo southwestern toad, threatening its continued existence. The U.S. Courts of Appeals on Washington, D.C., upheld the right to life of the toad species under the Endangered Species Act. But Roberts, in a July 2003 opinion, wrote that the Interstate Commerce Clause, on which the Endangered Species act is based, should not apply to “a hapless toad that, for reasons of its own, lives its entire life in California.” Such a narrowing would threaten the legal basis of the Endangered Species Act. Anti-discrimination legislation is also based on the Interstate Commerce Clause. What about
discrimination wholly within one state? Were Roberts to apply a similar narrowing criterion, much of anti-discrimination law would go out the window.

The point is simple. Narrow interpretations can have massive causal effects and be a form of radical judicial activism in the conservative cause.

After the Katrina Tragedy, we cannot afford a radically activist Chief Justice with the same philosophy that has failed America so badly. The ultimate moral and political issues apply in both cases. John Roberts as Chief Justice would be a danger to our democracy and possibly to our very lives.