



Post-tsunami Relief and Rehabilitation:  
**A Violation of Human Rights**

Housing and Land Rights Network  
HABITAT INTERNATIONAL COALITION



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# Post-tsunami Relief and Rehabilitation: A Violation of Human Rights

Report of a Fact-finding Mission  
to Tsunami-affected Areas of  
Tamil Nadu, India  
and Sri Lanka



South Asia Regional Programme  
Housing and Land Rights Network  
HABITAT INTERNATIONAL COALITION  
August 2005

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This report is dedicated to them. To their strength, their resilience, their endurance, their spirit, their patience, and most of all their hope. May their rights be recognised and upheld, and may their hope see light.

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# List of Abbreviations

AWF	Affected Women's Forum
CCZ	Coastal Conservation Zone
CEDAW	Convention for the Elimination of All Forms of Discrimination against Women
CERD	International Convention on Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRZ	Coastal Regulation Zone
DFID	UK Department for International Development
GO	Government Order
HIC	Habitat International Coalition
HLRN	Housing and Land Rights Network
HRAH	human right to adequate housing
ICESCR	International Covenant on Economic Social and Cultural Rights
ILO	International Labour Organisation
INGO	international non-government organisation
INR	Indian rupee
IOM	International Organisation for Migration
km	kilometre
LKR	Sri Lankan rupee
LTTE	Liberation Tigers of Tamil Eelam
m	metre
MoU	memorandum of understanding
NGO	non-government organisation
Rs.	rupees
TAFOR	Task Force for Relief
TAFREN	Task Force for Rebuilding the Nation
TRO	Tamil's Rehabilitation Organisation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNICEF	United Nations International Children's Emergency Fund
USD	United States dollar

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# Executive Summary

**A**fter receiving reports on the inadequacy of relief and rehabilitation measures for tsunami-survivors in both India and Sri Lanka, especially in terms of housing, the Housing and Land Rights Network (South Asia Regional Programme) decided to undertake a visit to the areas to investigate the conditions. The fact-finding mission to Tamil Nadu, India and Sri Lanka was conducted in the months of June and July 2005. The primary aim of this mission was to evaluate whether human rights standards were being used and enforced in developing adequate housing for the survivors. Our study not only confirmed what we had heard, but further revealed glaring discrepancies between what was being reported and what was actually happening with regard to relief and rehabilitation in the tsunami-impacted areas.

## **Main Findings**

1. Relief and rehabilitation processes across Tamil Nadu and Sri Lanka have been carried out with a glaring disregard for the human rights of all survivors, including their right to equality/ non-discrimination, right to livelihood, right to food, right to health, right to participation and information, right to adequate housing, right to dignity, and the right to security.
  2. Despite the outpouring of aid, benefits had not reached all affected people.
  3. Relief assistance and compensation had not entirely been based on a comprehensive needs assessment.
  4. Women suffered the greatest brunt of the tsunami disaster, but relief and rehabilitation policies instead of addressing their concerns often served to increase discrimination against them. Most relief and rehabilitation has been carried out in a gender-neutral manner. Furthermore, violence against women was a common complaint at many sites.
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5. Relief and rehabilitation policies had not taken into account special needs of vulnerable populations including women, children, migrants, refugees, internally displaced persons, minorities, and disabled people. Further, most measures lacked cultural sensitivity and were often not suited to meet local conditions.
6. Affected people's right to participate in relief and rehabilitation planning and implementation was not being respected. People were not being provided with adequate and timely information. Confusion regarding relevant government policies and appropriate responsible agencies was rampant.
7. There was no effective mechanism to ensure timely implementation and monitoring of the disbursement of relief assistance and compensation, and to ensure accountability of government and non-government agencies.
8. Government efforts in Tamil Nadu and Sri Lanka seemed focused towards rebuilding infrastructure, rather than on restoring people's lives and livelihoods.
9. The right to adequate housing of the survivors was being violated in most places in Tamil Nadu and Sri Lanka, not just by the government, but also by international and other relief and voluntary agencies. Temporary housing shelters had been constructed with poor and inadequate materials, and with a lack of consideration for adequate location, habitability, sanitation, security and culture. Seven months later, in some areas in Sri Lanka, people were still living in tents and had not moved in to temporary housing. Plans for permanent housing in most parts of Tamil Nadu and Sri Lanka had still not been initiated.
10. Livelihoods of affected people had still not been restored, and in many areas, people had not been able to resume work. This had resulted in despair, frustration, and insecurity.
11. Hunger and malnutrition were severe among many survivors. Poor health conditions were rampant in almost all temporary housing sites. Most of these arose from the faulty construction of settlements, and included heat-related boils and skin rashes, chicken pox, respiratory disorders, fever and insect bites.
12. Services including food, water and sanitation for the affected people had been severely compromised.
13. Post-disaster trauma and depression were widespread, but adequate counselling facilities, especially for children, were missing.
14. Overall, a holistic approach and response mechanism to the tsunami disaster was lacking.

There is an urgent need for all agencies—be they government, non-government, international, local or faith-based—to adhere to internationally



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accepted human rights standards and develop a strong rights-based approach to relief and rehabilitation work. The right to humanitarian relief must also be recognised and upheld as a basic human right.

Post-tsunami rehabilitation efforts need to urgently focus on the provision of adequate permanent housing and on comprehensive livelihood restoration. Holistic and long-term solutions must be integral to all rehabilitation packages. Furthermore, tsunami survivors should not be merely viewed as helpless victims but should be actively included in all decision-making processes that concern them. Concerted efforts must be made to ensure that their needs are met, that their human rights are protected and fulfilled, and their dignity is upheld.

# Introduction

The earthquake and resulting tsunami of 26 December 2004 that hit 12 countries of the Indian Ocean reportedly killed over 285,000 people (reported buried or missing), negatively affected the basic needs and livelihoods of five million people, and caused extensive damage to infrastructure. The majority of the people affected by the earthquake and the tsunami had fisheries and farm-based livelihoods or were employed in associated enterprises. While fisheries were hit the worst, crop and livestock also suffered substantial losses. About five million people are reported to be homeless, while according to the Red Cross, more than 1.6 million people have been displaced.

In South Asia, the tsunami brought devastation all along the coast of Sri Lanka, while in India the worst hit were the state of Tamil Nadu and the Andaman and Nicobar Islands. Coastal Andhra Pradesh and Kerala also experienced significant damage.

In Tamil Nadu, 1.5 lakh (150,000) people in 33 fishing hamlets in 13 districts have been directly and indirectly affected by the tsunami. Loss and damage to housing is an estimated USD 228 million.<sup>1</sup> At least 647,556 persons were displaced and moved into emergency shelters.<sup>2</sup>

In Sri Lanka, the tsunami killed over 35,000 people, destroyed over 99,000 homes, left over 800,000 people homeless, damaged natural ecosystems, and caused widespread destruction and devastation. Vulnerable groups, such as fisher communities living close to the shore, bore the brunt of the tidal waves.<sup>3</sup> By striking the conflict-ridden northeast area of the country, the tsunami compounded previously existing vulnerabilities and tensions. Sri Lanka has never faced a natural disaster on the scale of the December 2004 tsunami, and the country was still trying to come to grips with the devastation, loss and complexities unleashed by it.

## Fact-Finding Mission to Tamil Nadu, India and Sri Lanka

The purpose of this fact-finding mission undertaken by the Housing and Land Rights Network's South Asia Regional Programme (HLRN-SARP) to Tamil Nadu in southern India and coastal Sri Lanka was to specifically look

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<sup>1</sup> "Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program," United Nations Country Team, India(March 2005).

<sup>2</sup> "Tsunami: India Situation Update," World Health Organisation (3 March 2005).

<sup>3</sup> The percentage of the coastal population affected ranged from an estimated 35% in Kilinochchi to 80% in Mullaitivu and 78% in Ampara coastal district divisions, compared to the southern Districts of Galle, Matara, and Hambantota, where less than 20% of the coastal population was affected, though scattered pockets suffered severe damage.

at temporary housing conditions and plans for permanent housing. While it is impossible to separate the critical issues facing tsunami survivors, we tried to focus on analysing whether their right to adequate housing was being upheld.

Our main goal was to assess whether human rights standards were being used and enforced in developing temporary housing for the survivors and if not, how these could be incorporated in permanent housing plans and future rehabilitation work. As explained later in the report, the benchmark used is that of “adequate housing,” which goes well beyond the perception of housing as a mere roof and four walls. The right to adequate housing has been developed using the indivisibility of rights approach. It incorporates multiple related elements and is integrally related to the rights to life, livelihood, food, health, sanitation, participation and information, and land and natural resources.

The fact-finding mission to the tsunami-affected areas of Tamil Nadu, India was conducted from 24 June to 1 July by Malavika Vartak and Shivani Chaudhry from Housing and Land Rights Network, and R. Sreedhar from Environics. The Sri Lankan mission took place from 25 to 31 July, and the team consisted of Malavika Vartak and Shivani Chaudhry.

In Tamil Nadu the team visited the following sites: Tazhanguda, Devanampattinam, Sonamkuppam, Chidambaram, Surya Nagar, MGR Thittu and Pillumedu, in Cuddalore District; Palayar, in Pudukottai District; Akkaraipettai, Serudhur and Velankanni, in Nagapattinam District; Nagercoil, Melamanakudy, Keezhamanakudy, Veerabagupathy, Kottilpadu and Mutom, in Kanyakumari District; Kargil Nagar, Pattinapakam and Srinivasapuram, in Chennai District; Pudu Nemellikuppam and Sadras, in Kanchipuram District.

In Sri Lanka we visited the provinces of Galle in the south, and Batticalao and Ampara in the northeast. The sites visited include: Magalle, Akurala, Galagoda, Katugoda 5C Camp, and Peraliya, in Galle province; Thiraimadu and Paddy Marketing Board in Batticalao province; and Kalmunai, Akkaraipattu, Periyaniavalai, and Kannagigramam, in Ampara province.

We visited relief camps, “emergency” shelters and temporary housing “settlements” as well as two permanent housing sites. Discussions, conversations and interviews were held with survivors including affected communities and displaced people, and with activists, members of social movements, NGO representatives, local government officials and representatives of international agencies. In Sri Lanka, we held three workshops with civil society groups where participants shared experiences and the team explained the elements of the right to adequate housing with the aim of strengthening local advocacy efforts.

The first part of the report presents some of the overarching concerns in post-tsunami relief and rehabilitation. It then assesses housing and land conditions

at the sites visited in Tamil Nadu and Sri Lanka against standards articulated under the human right to adequate housing. Finally, it makes specific recommendations toward ensuring that the human rights and dignity of individuals and communities are upheld in all rehabilitation programmes with a view to informing plans relating to permanent housing and livelihood restoration.



*Homes and Lives Ripped Apart...*

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## General Overview

The tragedy of the December 2004 tsunami has been responded to with an overwhelming outpouring of relief assistance from around the world. Despite the large amount of funds and the involvement of multiple relief agencies, unfortunately, in many cases, aid is not reaching those who most need it. Instead the survivors continue to face marginalisation, vulnerability and uncertainty. The victims of the tsunami sadly have been reduced to statistics, to faces on magazine and book covers, and to sources of income for others. The disaster, in a cruel way has unleashed a wave of opportunistic forces trying to capitalise on the grief and misery of thousands. From contractors to painters, from construction and cement companies to service providers, and from state agencies to international consultants, there are many earning profits as relief and rehabilitation work continues.

One of the most significant factors underlying the failure of adequate and need-based rehabilitation is the widely held perception of relief as “charity” and the survivors as “victims.” Unless the right to humanitarian relief is recognised as a human right of the affected, and unless a strong and well-articulated rights-based approach underlies all relief and rehabilitation work, benefits will continue to evade those who most need them. Humanitarian relief and rehabilitation must also serve to protect the dignity of, and guarantee inter-related rights of, affected individuals and communities. The right to get assistance from the state and other institutions without any discrimination based on caste, ethnicity, religion and gender is premised essentially on the right to life with dignity.

Our team visited Tamil Nadu exactly six months after, and Sri Lanka seven months after, the ill-fated day of 26 December 2004, only to find multiple human-induced disasters in the making.

The overarching problems faced by communities across both countries include a severe lack of information being made available to the affected people; the absence of community consultation; a lack of coordinated relief work; the glaring lack of accountability from both government and non-government organisations (NGOs); and a clear disregard for the human rights

of the affected populations. This is manifest in the subhuman conditions that people are being forced to live in as they await plans for permanent housing to be developed. Gender concerns have not been focused on, and neither have special needs of vulnerable populations such as refugees, widows, disabled people, minorities and children. There is also an apparent disparity in the treatment of different districts and ethnic communities who survived the tsunami.

In all affected communities, the two overriding issues demanding urgent consideration were housing and livelihood restoration.

A holistic understanding of the crisis and response to it is also missing. Approaches that integrate livelihood, housing and health, are lacking in rehabilitation activities as are mechanisms for accountability and monitoring. The pervasive non-adherence to human rights standards across all relief and rehabilitation work—be it by government or international agencies—was alarming.

Some of the overarching critical issues that emerged during the fact-finding missions to both countries are briefly described below.

## **Violation of Human Rights**

As mentioned earlier, the “charity” approach that government and non-government agencies use in relief and rehabilitation work lies at the core of human rights violations taking place in this context. This is compounded by the lack of coordination between multiple agencies—government, local and international—and has resulted in a gross neglect of the tsunami survivors’ human rights. The current scenario of rehabilitation in the tsunami-impacted areas is rife with confusion over long-term rebuilding needs, with little attention given to the issue of basic human rights in the planning and implementation of rehabilitation and reconstruction. Human rights of affected persons that have been violated in the process range from the right to be consulted about all issues affecting survivors, including any eventual relocation, to the right to express one’s grievances to appropriate authorities. The right to security and the right to non-discrimination are other examples of rights that, at best, have been unevenly applied. The rights of those who are especially vulnerable, such as women, children, refugees, migrants, the disabled and the elderly, also have been ignored, along with the rights to livelihood, food and adequate housing. Given the indivisibility of rights, these deficiencies point to a need to ensure that local officials and others involved in local rehabilitation are sufficiently aware of the human rights implications of the programmes or services they administer.

The complete disregard for human rights standards, be it in housing or livelihood compensation, reflects an abrogation of both India’s and Sri Lanka’s international obligations as well as their national constitutional commitments. Both countries have ratified the major international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR),

International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Rights of the Child (CRC) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).<sup>4</sup> This marks a binding obligation on both countries' governments to uphold the standards and principles of human rights enumerated in these treaties.

The international agencies involved in relief and rehabilitation also must work within the international human rights framework. Several UN Declarations and guidelines that apply to disasters, relief, and vulnerable populations also must be adhered to. This includes the UN Guiding Principles on Internally Displaced Persons. Most international organisations also have their own institutional mandates that should be followed keeping in mind a rights-based approach. The promotion and respect for human rights of the tsunami-affected people is one area where most agencies have failed, and this is one area where rectification must be immediate.

### **Lack of Information, Consultation and Community Participation**

Whether in the case of relief or rehabilitation, the absence of community participation in the process is obvious.

Relief continues to be ad hoc and does not seem to be meeting the needs of the people. This is largely because survivors are not involved in the rehabilitation processes. A lot of the complaints with temporary housing, restoration of livelihoods and inadequacy of relief material would have been resolved had the community been consulted.

A lack of information or in some cases the existence of conflicting information, paralyzes decision-making, especially when local authorities are not clear as to what decision-making powers they have been granted. People do not know about their entitlements, neither do they have clarity on various policies and government orders. This has resulted in insecurity, anger and frustration.

In Tamil Nadu, after the tsunami, most of the village *panchayats* (governing councils) of affected fishing villages have been dispersed. As a result, in several villages there was no local body to raise issues faced by the community or to negotiate for adequate relief and rehabilitation. In cases where communities had managed to regroup they had also been able to get increased benefits for their village as in the case of Sadras South and Pudu Nemellikuppam (Kanchipuram District).

It is unfortunate that in spite of principles of human rights and humanitarian standards calling for active participation of the community, little had been done toward this. Both government and non-government agencies are culpable of not having consulted communities regarding their needs, their fears, their preferences and their opinions on relocation, resettlement and housing.<sup>5</sup>

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<sup>4</sup> India has signed but not ratified.

<sup>5</sup> Refer to section on Human Right to Adequate Housing for more details on lack of participation and consultation.

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## **Lack of Accountability, Transparency and Coordination**

### **Role of Government**

An overall lackadaisical government attitude seems to pervade all rehabilitation and reconstruction work in Tamil Nadu and Sri Lanka. Multiple international agencies seem to have a freehold over rehabilitation work with minimal state control. While this could be a positive sign, in this particular case it has resulted in a lack of accountability on behalf of the various actors involved and irresponsibility and inaction on the part of the governments.

### **Tamil Nadu**

While much has been written about the efficient role of the Tamil Nadu government in dealing with the effects of the tsunami, there is much that has not been said. It is true that the government has been efficient in certain areas like in providing basic services such as electricity and water. It also has issued several Government Orders addressing a range of issues. However, when it comes to taking responsibility for housing and livelihood restoration, the government has faltered. As a coordinating agency, it has acted poorly, resulting in mismanagement of funds, duplication of work in some areas, and leaving people without rehabilitation in other areas.

So far, the aim of the Tamil Nadu government seems to have been to let NGOs and voluntary agencies come forward and provide services as much as possible, including in the form of temporary shelters, schools, crèches and medical services. The government had stepped in only in cases where there were no well-funded NGOs. Most government money apparently is being reserved for larger infrastructural expenses. In Cuddalore, the District Rural Development Agency had received INR 44.71 lakhs (INR 4,471,000) for tsunami relief, but had only spent INR 1.4 lakhs (INR 140,000), leaving close to INR 43 lakhs (INR 4,300,000) unspent.

The state government seemed to be more eager to seek support from multilateral agencies, and on drawing greater resources from the central government to spend at its discretion.

Ranvir Prasad, Additional Collector of Nagapattinam said that the government had provided 25% of the temporary shelters in Nagapattinam. A point in favour of the Nagapattinam local administration was that the District Collector and his staff were easy to approach. People could bring in their complaints and present them to the Nagapattinam officials. However, that was not apparent throughout the state.

In Sadras South, people said they had written two letters to the Collector with their complaints. While they received an acknowledgement slip for the first letter, stating that their concerns would be dealt with in a month, no action was taken. This prompted them to write another letter; a reply is still awaited as of this publication date. In Kanchipuram District, 47 villages had formed



a committee to try and pressure the government to respond to their concerns. One woman from the same site said that the government had never visited them or sought their feedback. Even about important issues like government orders, they only received bits of information from NGOs as and when it was provided.

The almost complete shunning of government responsibility has generated a peculiar situation in the state. With the numerous government and non-government agencies and international organisations involved, there was a lot of confusion regarding the appropriate authority responsible for various components of rehabilitation. In several cases, groups had constructed inadequate temporary structures and had left, leaving no avenue open to the people for registering their complaints when the shelters started leaking or decomposing (due to the poor quality tar sheeting used). As these shelters had been built by NGOs, the government refused to take responsibility for the inadequacies.

We also heard that settlements and communities with leaders close to the ruling party had received far greater benefits than larger, interior settlements with little political clout.

### **Sri Lanka**

“The government is just sitting on funds. We can’t trust the government any more. We have not received anything from the government in the last seven months. Therefore we are asking INGOs for funds to continue our work.”

— Tsunami survivor in Batticalao

While it is understandable that the government was overwhelmed by the disaster and might have floundered initially, there is no justifiable excuse as to why it has not been able to take on a more responsible and efficient role seven months later.

The Sri Lankan government, like the Tamil Nadu government, seemed very willing to allow NGOs and other agencies to carry out relief and rehabilitation work with minimal monitoring. Affected people complained of the lack of competence in government mechanisms. The government had not brought in new officers or hired new people effectively to respond to the changed situation. Divisional Secretariats were short staffed and had inadequate resources. In some cases the Divisional Secretariats did not have vehicles to travel to the affected areas and meet people and assess their needs and local conditions. Many of them seemed unaware of the existence of camps within their areas of jurisdiction.

There seemed to be a lack of coordination among the various arms of the government. Decision making was highly centralised, and government officials at local levels had little room to negotiate. In addition, there were reports that the policy-making authority of certain coordination bodies, such

as Task Force for Rebuilding the Nation (TAFREN), often conflicted with that of the various line ministries, resulting in confusion in many districts. The absence of a national disaster policy had ensured the absence of an effective procedure to address the emergency.

A common complaint of people and NGOs was the lack of transparency in the expenditure of tsunami funds, leading to allegations of corruption. Allegedly, a large amount of funds received by Sri Lanka for post-tsunami reconstruction was deposited in the personal account of the Prime Minister. This led to a case against him and, although there was a court order to transfer the money to a public account, reports indicate that the transfer order remains unexecuted to date.

#### **Collapse of Joint Mechanism**

In June 2005, Sri Lankan President Chandrika Kumaratunga agreed to the establishment of a joint body with the Liberation Tigers of Tamil Eelam (LTTE) for tsunami reconstruction in the north and east of the island. The Post Tsunami Operation Management Structure (P-TOMS), commonly called the joint mechanism, was set up after a Sri Lanka donor conference in mid-May indicated that much of the promised USD 3 billion in aid depended on a resumption of peace talks.

The former main ally of Sri Lanka's ruling People's Liberation Front (JVP) coalition, however filed a case in the Supreme Court in early July, claiming that their fundamental rights had been violated by the president's decision to enter the deal with the LTTE. On 15 July, the Sri Lankan Supreme Court issued an interim injunction, restraining the key operational clauses of the agreement between Colombo and the LTTE. The court, however, did not strike down the Memorandum of Understanding on the P-TOMS structure, which the JVP sought to annul.

While this keeps the agreement afloat, the interim verdict has curtailed its regional operational mechanism. The case will be taken up for hearing again on 12 September 2005.

### **Role of NGOs and other Voluntary Agencies**

The prominent role played by NGOs and voluntary agencies (which are often only accountable to their donors) in post-tsunami reconstruction work has contributed to relief and rehabilitation being understood as charity, not as a right and, thereby, the dilution of accountability and transparency standards. While people feel more confident to ask questions and demand records for expenses from their local and state government agencies, with voluntary actors they are hesitant. This makes the impending need for operational standards and a code of conduct for all relief and rehabilitation agencies even more critical.

The tsunami brought with it a wave of NGO and voluntary workers from all over the world to both Tamil Nadu and Sri Lanka. Several organisations with little previous local knowledge or experience now have a significant presence in the region. Unfortunately, there is no effective mechanism that can hold them accountable or question their role in relief and rehabilitation. NGOs and other relief agencies have been given a near free hand to operate with

minimum government interference or mechanisms for complaints or grievance redress. On the other hand, the apparent competition among groups to “adopt” villages and promote their work is a likely cause for minimal questioning of government policies by the NGO community.

Another major problem prevalent throughout Tamil Nadu and Sri Lanka was the lack of coordination between the various non-government agencies involved in rehabilitation work, as well as a lack of coordination between government and non-government actors.

### **Tamil Nadu**

Across Tamil Nadu, people complained that most agencies had built shelters or provided initial assistance after which there had been no contact with the community for feedback on whether they had actually benefited from the assistance. In Kottilpadu (Kanyakumari District), people did not even know how to contact members of the NGO responsible for constructing the shelters (Society for Social Change and Development—SCAD) with their grievances. In Akkaraipettai (Nagapattinam District), temporary shelters had been built by World Vision, Sevai, Global Uplift USA and Japan Platform. Again, however, a sustained involvement of these groups with the communities in order to assess their needs, problems, and living conditions was missing.

In Kanyakumari, the strong role of the Church (through various bishops and dioceses) had further complicated the situation. The Church is apparently the biggest recipient of foreign aid in the area. Right after the tsunami struck, the Church took on the immediate role of providing relief. The government got involved in the setting up of relief camps only after the fourth day. In the second week after the tsunami, apparently the diocese “allotted” villages to interested NGOs (based on information provided and financial ability), as a result of which, several local NGOs were left out. This led to protests and complaints to the District Collector that catalysed greater government involvement in the area. Like NGOs, all religious entities—not just church-based ones—involved in relief and rehabilitation work lack a basic mechanism to ensure accountability to the communities. The coordinating role played by the Church, instead of the government, also highlights a failure of state machinery to respond to the disaster.

In Nagapattinam, agencies like South Indian Federation of Fishermen Societies (SIFFS) claimed that there were excess boats, but we met people who complained that they had not received any boats as livelihood compensation. Further south in Kanyakumari, there was also a serious shortage of boats. The argument of SIFFS that the boats are in excess and that the coast is over-fished, does not consider the fact that traditional fisher folk use only a narrow strip as compared to the huge exclusive economic zone of the country.

Another issue that emerged was the lack of coordination between the various actors. In Tamil Nadu, despite the apparent close working relationship and

*embeddedness* of the government and NGOs, in practice, their efforts lacked effective coordination.

In Veerabagupathy (Kanyakumari District), one temporary housing site featured 37 houses built by the government, and 38 by Churches Auxiliary for Social Action (CASA) with different materials and facilities. The resulting differences in operations and outcomes caused unnecessary rifts within the community. The government shelters did not have thatch under the roofing, which made them much hotter, but they had plastic sheeting to protect from the rain. The CASA structures, on the other hand, had thatch, but no plastic/tarpaulin sheets and no brick reinforcement around the house to prevent flooding. The government had provided the people with fans, while those being catered for by CASA did not have fans.

The close relationship between government and non-government actors, while positive at one level, is problematic on another, since most large—especially international—NGOs do not seem to have considered or questioned government prescriptions/regulations (or the lack thereof) for housing or other relief and rehabilitation work. Most groups accepted the Tamil Nadu government decision to build temporary housing with tar sheeting, even though it was known not to be durable, waterproof or heat resistant. Very few groups challenged this by suggesting alternative, safer housing materials. Apparently, no one raised questions about size of the shelters, distances among the shelters, and layout for the temporary settlements. Very few organisations such as Oxfam and Tamil Nadu Women’s Collective built temporary shelters out of thatch, which is cooler and more suitable to the local conditions and culture of the people.

## **Sri Lanka**

A similar situation prevailed in Sri Lanka. In many of the sites visited, we heard complaints that NGOs had promised rehabilitation services, but had failed to deliver. In some cases, NGOs were helping only a few members of the community, while overlooking others, due to limited funds, thereby creating rifts and competition for aid among the people. For instance, in Galagoda (Galle Province), one relief organisation had approached the community, saying it had money to rebuild 50 houses for a village of 250 families. In Periyaniavalai (Ampara Province), the American Mission Church had announced that it would build permanent houses only for those with title deeds to the land that they occupied in the original village. That meant that several families would be left out of the relief and reconstruction planning, due to the implementing agency’s legalism, rather than either a rights-based or needs-based approach.

Even though in places like Ampara, local government officials claimed to be meeting regularly with NGOs, in practice, the level of coordination among the multiple agencies leaves much to be desired. Like in India, post-tsunami work is largely driven by local and international non-government organisations

(INGOs). The advent of INGOs, characterised by little local knowledge and huge resources, has led to many INGOs co-opting staff from local NGOs and paying them much higher salaries, but leaving the local groups helpless at a time when they most need the support. In most situations, the local groups are the ones best equipped to work in the field, as they have a sound understanding of local conditions, history and politics, as well as experience working with the communities. While international organisations might bring in needed expertise and resources, they should work closely with local groups to ensure sensitivity and efficiency in relief and rehabilitation work.

From NGOs to government agencies and international relief organisations, there was a glaring need for coordination and better communication in planning. In Galagoda (Galle Province), people complained that relief had been ad hoc and not well organised. No proper system was in place and there was an apparent lack of coordination between NGOs and the government. At the Dissanayake Medical Student's Hostel in Magalle (Galle Province), people testified that they had not received any NGO assistance. Two local nuns had provided some help while government officials had merely visited them on several occasions seeking information, ostensibly for construction of homes. The community said they were made to fill around 15–20 forms as a part of this exercise but still had no information on plans for permanent houses.

In other sites, multiple NGOs in the same area had built shelters of different materials and different sizes resulting in dissatisfaction among the people. For example in Thiraimadu (Batticalao Province), the Tamil's Rehabilitation Organisation (TRO) had built tin and concrete shelters, while Oxfam had built tin-and-thatch shelters, and World Vision had built shelters just of tin. Similarly in Kannagigramam, Akkaraipattu (Ampara Province), International Organisation for Migration (IOM), Affected Women's Forum (AWF) and Mahashakti had built shelters of different sizes and materials in the same settlement area. Additionally, shelters were randomly allocated to people without much process or planning. As mentioned earlier, relief aid was often ad hoc, with agencies providing what they had or what they thought people needed, rather than being based on any rationale or needs assessment.

For relief and rehabilitation to be effective and useful, it must involve better coordination and distribution mechanisms. Otherwise, as is often the case, it is more of a self-aggrandising, feel-good experience for the agencies involved without necessarily benefiting the people for whom the effort was intended.

## **Women's Concerns**

A critical but largely unnoticed issue in relief and reconstruction work is the endemic discrimination against women. The particular needs of women appear to have been largely neglected in the tsunami disaster response to date. This appears to be due to agencies' prevailing gender insensitivity and the absence of direct consultations with women.

It is a well-known fact that women are among the worst sufferers in any disaster. But in Tamil Nadu and Sri Lanka, post-tsunami relief and rehabilitation programmes have largely been carried out in a gender-neutral and often patriarchal manner. Issues such as sanitation, privacy, land and personal security and gender-based violence urgently need to be addressed in both countries.

### **Skewed Sex Ratio and Underage Marriages**

Many more women than men died in the tsunami in both Sri Lanka and India, resulting in an unbalanced current sex ratio. While there are some surviving women-only households and many widowed heads of households, overall, men outnumber women in tsunami-hit areas. This was leading to several problems, including an increase in under-age marriages for girls, especially in the eastern province of Sri Lanka. This trend was more evident when the girl had lost her mother. Locals complained that the close proximity of houses was leading to increased interaction among the sexes and premarital pregnancies, which was also contributing to underage marriages.<sup>6</sup> Men who lost their wives, in some cases, had married their wives' younger unmarried sisters. Also, since parents did not have enough money or food, they were marrying off young daughters as a way to decrease their "burden." In some cases where dowry was not demanded, it was viewed as an added incentive. In other cases, young girls were forced into marriage in order to become registered as a separate household to receive more post-tsunami relief assistance. Girls who had been orphaned by the tsunami seemed most vulnerable.

### **Gender Neutral Government Policies**

Most policies and government orders (GOs) issued after the tsunami tend to be gender neutral. The only one in which women's concerns have been retained is the Tamil Nadu GO on housing, which specifies that all new houses be registered in the names of both men and women. However, the Government of Sri Lanka Assistance Policy and Implementation Guidelines on Housing and Township Development (2005) fail to address gender concerns. For instance, the Guidelines refer to household-driven reconstruction, but do not define households, leading to the application of arbitrary criteria for relief benefits.

Similarly with compensation money, women's marginalisation in the process is manifest. While the government has set up bank accounts to transfer money to the affected people, it has done so exclusively in the names of men, not women. Even in cases where the original house/land was in the woman's name, the compensation money was deposited in the name of the man. Reportedly, in order to overcome a problem with the situation where the woman is the owner and her husband gets the compensation money, banks in the northeast of Sri Lanka have asked women to sign a letter relinquishing their rights to the house and land in favour of their husbands.

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<sup>6</sup> The legal age for marriage in Sri Lanka is 18 years for both sexes; while, in India, it is 18 for girls and 21 for boys.

## Gender-insensitive Relief Distribution

In Tamil Nadu, most families received only *dhotis* and *saris*,<sup>7</sup> but no undergarments or sanitary napkins for women. Special needs of pregnant and lactating mothers were also ignored in the relief process. Compensation was generally handed out to male members of the family who, in many cases, did not share it with the women.

## Lack of Consultation with Women

Women have not been included in decision making about damage assessment, allocation of plots, land surveys, or design of shelters and permanent houses. Due to a lack of information, displaced women tend to be confused and anxious about resettlement plans and reconstruction projects.<sup>8</sup>

## Children's Concerns

Loss of one or both parents, loss of siblings, relocation, witnessing traumatic events, adjusting to a new environment, sudden suspension of school and the breakdown of familiar secure social webs of interaction all tend to have severe psychological, emotional and social consequences on children. Yet children's special needs were not being taken into account in most resettlement areas. While counselling had been provided by some agencies, in most areas it had stopped, and long-term therapy and education were not an area of focus. Efforts at providing some sort of emotional support for young children were also lacking.

Sexual abuse of children was a grave concern in overcrowded camps and living quarters. For orphaned children forced to live with relatives, the conditions were often not adequate in terms of space, entitlements, and emotional support. Many orphaned children were not considered as eligible to receive assistance, which was a direct form of discrimination against them. Orphaned children are also increasingly vulnerable to trafficking.

## Tamil Nadu

In some shelters, children had no place to play, while, in others, like Akkaraipettai (Nagapattinam), the crèche was located next to the common toilets, creating a sanitary and health hazard. Shelters reflected no consideration on required space for study and private spaces for children, particularly those in high schools, thereby significantly affecting scholastic performance. Other shelters, such as the ones in Kanchipuram, were located adjacent to highways, and

<sup>7</sup> The dhoti is a rectangular piece of cloth worn by Indian men, while the sari is a common form of clothing worn by Indian women.

<sup>8</sup> Recent studies by IWID in Chennai, SNEHA in Nagapattinam, INFORM in Colombo and Women's Coalition for Disaster Management in Batticalao, Sri Lanka also bring to light gender-discrimination in tsunami relief and rehabilitation. See next section on Human Right to Adequate Housing for more on women's concerns.



Temporary settlement located by highway in Kanchipuram

mothers feared deeply for the safety of their young ones. Special psychological counselling for children had not been provided for in any of the shelters.

Children's education had also suffered with many schools having shut down and resettlement sites being located far away from schools, forcing many children to drop out.

## **Sri Lanka**

Over 1,000 children are estimated to have been orphaned by the tsunami in Sri Lanka. While Part II of the Tsunami (Special Provisions) Act, No. 16 of 2005, which entered into force on 13 June 2005, especially provides for the care and custody of children and young persons orphaned or left with a single parent after the tsunami, it does not adequately address other serious concerns such as the psychological impacts of the tsunami on children. It has revised adoption rules, and holds the National Child Protection Authority (NCPA) as the legal guardian of every child who is orphaned or left with a single parent and who is placed under foster care by that parent.

In cases where electoral lists were used to determine eligibility for compensation, children's names were excluded, causing problems and denials of service during relief assistance.

People complained that the Thiraimadu resettlement site (Batticalao Province) was like a desert, with no trees and no shade for children to play under. It was also adjacent to the railway tracks and, therefore, a dangerous place for little children.

Children's education also had suffered greatly. Incidents of violence reported in some sites aggravated the psychological impacts on children, as many of them were war victims and refugees, and had already witnessed a lot of trauma.

Child-friendly spaces, including adequate and safe play areas, continued education with proximity to schools and sustained special counselling facilities are urgently needed to restore the lost childhoods of the tsunami-affected children.<sup>9</sup>

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<sup>9</sup> See next section on Human Right to Adequate Housing for more on education.



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# Human Right to Adequate Housing

Adequate housing has been recognised as a distinct human right since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. Further articulation of the human right to adequate housing (HRAH) can be found in the International Covenant on Economic Social and Cultural Rights (ICESCR). Its Article 11 (1) provides that:

State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate...housing and to the continuous improvement of living conditions.

The UN Committee on Economic Social and Cultural Rights had legally defined the normative and legal content, as well as state obligations to this right in its General Comment 4, entitled “The right to adequate housing.” Consistent with the Covenant’s Article 2, the Committee detailed how progressive realization of this right is required under international public law, but also recognised that deliberate or negligent retrogression of housing conditions is a violation of the Covenant. General Comment No. 4 specifies the state’s minimum core obligations to ensure progressive realization of the right. These minimum core obligations are categorized as follows:

1. Legal Security of Tenure: There should be protection against forced eviction and harassment.
2. Availability of services, materials, facilities and infrastructure: Facilities essential to health, security, comfort and nutrition must be made available. These facilities include but are not limited to, safe drinking water, sanitation and washing facilities and energy for cooking, heating and lighting.
3. Affordability: Expenditures for housing should be commensurate with income levels, as basic needs should not be compromised.
4. Habitability: There should be adequate space and protection from the elements. Conditions conducive to disease and structural hazards should be eliminated.
5. Accessibility: All should have access to adequate housing.

6. Location: Adequate housing must allow for access to employment options, healthcare, schools and other social services. There must not be excessive financial demands on the household with respect to transportation.
7. Cultural Adequacy: The housing configuration must not compromise cultural expression.

Law, legal opinion and international jurisprudence have widely recognised that the human right to adequate housing (HRAH), as briefly articulated above, is inextricably linked to several other human rights, including the rights to life, health, adequate food, decent work, information, gender equality, security of person and a safe and healthy environment. It is also true that the violation of any of these rights often has an adverse impact on HRAH, and vice versa.

Recognising the indivisibility of all human rights and the experience of various social movements working on housing rights, Habitat International Coalition—Housing and Land Rights Network (HIC-HLRN) has clustered the core components of HRAH mentioned in General Comment 4 and other sources of law into the following entitlements and provisions:

1. Security of tenure, freedom from dispossession
2. Public goods & services
3. Environmental natural resources (including land and water)
4. Affordability
5. Accessibility (physical)
6. Habitability
7. Location
8. Cultural appropriateness
9. Participation and self-expression
10. Education, information, capability and capacity building
11. Movement, resettlement, restitution, rehabilitation, return and compensation
12. Security (physical), privacy

These entitlements have been used as standards for assessing and monitoring HRAH in several instances, while recognising that each component may not always emerge as a distinct category, but may overlap or be inextricably linked to another component.

In the context of the present study on the tsunami-hit regions of Tamil Nadu, in India and Sri Lanka, “affordability” did not emerge as an independent issue, but was featured as a significant concern when linked with location of the house and access to public goods and services. Similarly “security of tenure” was more of an issue in the case of permanent housing, which in many cases,

until now, was still in the planning stage. Resettlement did not emerge independently, but came up in the context of accessibility.

As a result, for the purpose of the present study, only the following components were used as criteria for investigation:

1. Security of tenure
2. Access to public goods and services
3. Access to natural resources
4. Habitability
5. Accessibility
6. Location
7. Cultural appropriateness
8. Information, participation and capacity building
9. Physical security and privacy

Additionally, HRAH and its corresponding state obligations also are recognised in several other internationally binding human rights treaties, including the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC) and the International Convention on Elimination of All Forms of Racial Discrimination (CERD). The provisions and protections articulated in these treaties also informed the present assessment.

## Overview

In both Tamil Nadu and Sri Lanka, it was evident that no acceptable or comprehensive human rights standards or policies were being used for housing. Although both governments had issued guidelines for housing—albeit weak and not based on a rights framework—these were not being followed. Agencies interested in housing were designing their own models, which the government seemed to approve without hesitation. Many NGOs claimed to be using the SPHERE Guidelines,<sup>10</sup> but there was no visible evidence of this.

In most areas, plans for permanent housing had not been developed. People seemed unaware about the location or timeframe for the completion and allocation permanent housing. The flawed and insensitive policy of replacing one house for one house, irrespective of original house size and irrespective of the number of people or households living in the original house existed in both Tamil Nadu and Sri Lanka.

Lack of concern for socio-economic issues permeates most processes and plans related to housing. The impact of housing allotments on social relationships was also being ignored. Some families were forced to live together while others had been made to split up. This caused various

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<sup>10</sup> A voluntary list of guidelines for disaster management prepared by a coalition of civil society organisations.

complexities ranging from insecurity to distrust. Conflicts between families were also on the rise due to differential treatment of people and the lack of uniformity in the size and use of materials in temporary shelters. Where relocation was inevitable, measures should have been taken to minimise community disintegration while taking into account community preferences.

The strong connection between livelihoods and housing was largely ignored in both countries. Efforts to match beneficiaries to resettlement locations (e.g. fishers to available lands nearest the sea) were not apparent.

### **Tamil Nadu**

According to the Tamil Nadu government, the effects of the tsunami had rendered around one lakh (100,000) families homeless.

It was clear that temporary shelters were built without much thought and in a hurry to meet an emergency need. A Government Order (G.O. Ms. 10) urging that all displaced people be removed from relief camps and relocated in temporary shelters by January 14, led to a great rush in construction of temporary housing. However, this could not be an excuse for poor quality housing, especially when people were still living in these haphazardly built structures six months later. Plans for permanent housing were still premature and in most areas had not been initiated. Given the laxity, lack of priority, and the interplay of a host of contentious issues involving several actors, it seems that communities will be forced to live in these temporary shelters for easily another six to eight months.

These “cattle sheds” were completely unfit for human habitation, and violated the dignity and human rights of men, women and children. The complete lack of consideration in building these structures reflects more than mere neglect.

It reflects an unspoken, unarticulated conceptual understanding that housing for the poor/displaced means slums. All temporary shelters we visited, whether built by NGOs or the government, resembled slums. Line housing was the norm with space, ventilation and location being severely compromised. The perpetuated mindset behind such housing design is disturbing and points to an issue that needs to be examined and rectified urgently.

While the government claimed to have developed an updated checklist for assessing the situation in temporary shelters, there was no evidence of it being used. Information from the District Collector’s office in Nagapattinam



*Line housing built of 'tar sheets' at the temporary settlement in Serudhur, Nagapattinam, Tamil Nadu*



Temporary housing built of tin, thatch and plastic sheets in Sadras SouthTamil Nadu

revealed that 44 NGOs were already involved in plans for the reconstruction of permanent shelters. The government claimed to have identified 204 hectares while the number of permanent shelters needed was estimated at 21,000. While the government estimates that most permanent housing will be ready by the end of the year, from the slow pace of progress we witnessed, it is unlikely that this goal will be met.

Government guidelines for permanent housing do not lay down any minimum norms or human rights standards. The Tamil Nadu Government Order 172 only specifies the size of the houses (between 300 – 325 square feet) and the minimum cost (INR 1.5 lakhs or

INR 150,000) per house. Any interested private or non-government agency willing to meet these conditions is encouraged to sign a memorandum of understanding (MoU) with the government and can go ahead with housing construction.<sup>11</sup> Several peoples' groups have criticised the MoU and a campaign is on in Kanyakumari to challenge it.<sup>12</sup>

### Sri Lanka

According to information received, nearly 150,000 houses were completely or partially damaged in Sri Lanka. Most of these were located along the coast. For people who lost their houses and all their belongings, the allocation of suitable alternate accommodation should have been a top priority of all relief agencies. Yet, despite sufficient funding, adequate housing needs of tsunami survivors had not been met. Not even seven months after the disaster struck.

*"It is going to be very difficult to live here. Two years is a long time, but we have no choice. And it is better than 16 families living in one small room."*

— Woman in TRO shelter, Thiraimadu (Batticalao Province) who had moved into the temporary shelter the previous night, after having spent the last seven months living in a classroom.

Government officials and politicians had followed a policy of either ignoring the housing issue, evading it, or offering ad hoc solutions to their supporters. None of these were acceptable solutions to the massive problems of housing and resettlement created by the tsunami.

The Temporary Accommodation Programme (TAP) Unit set up under the Ministry of Public Security and Law and Order to deal with the issue of

<sup>11</sup> See Annex II for a copy of the MoU.

<sup>12</sup> This includes Rural Uplift Centre, Praxis, and Sisters of Holy Cross, among other groups.

temporary housing in the post-tsunami process has been active as of March 2005, in Colombo. TAP offices, however, were set up in the tsunami-affected districts only at the end of March 2005. Officers at the district level maintained that their unit bore no responsibility for construction of temporary shelters carried out prior to their establishment. Therefore no avenues of redress existed for people who were accommodated in unsuitable housing and locations prior to the existence of the TAP.

Furthermore, the role of TAP is merely advisory. Nearly all construction of temporary shelters in Sri Lanka had been undertaken by NGOs or by foreign governments or international agencies. Each one had its own housing model. Earlier on, the government set norm was LKR 20–80,000 per temporary shelter; now it was around LKR 45–60,000 per house. The government had set a 40% midline benchmark. If the house was more than 40% damaged, the government agreed to pay LKR 250,000. If it was more than 40% damaged, the government agreed to pay LKR 100,000. But proof of title and ownership were required before compensation money was awarded, which in many cases was impossible since people lost most of their documents in the disaster.

The major problem in Sri Lanka was that the process for allocating and building temporary housing had been painfully slow and uncoordinated, with people languishing in emergency shelters for up to seven months. The timeframe for both emergency and temporary housing was constantly being extended—flouting all internationally accepted norms—for a range of reasons ranging from a lack of concern and priority, a lack of participation and consultation with the affected communities, and a lack of coordination and planning. Government sources said that a shortage of wood on the island led to severe delays as imported timber needed to clear Sri Lankan customs.

But alternate local materials could have been used to build decent shelters for the people. The Task Force for Relief (TAFOR) stated that it expected all families living in emergency shelters, except those in uncleared areas, to move to transitional houses by the 15<sup>th</sup> of July, but in several areas, such as the Paddy Marketing Board in Batticalao, people were still living in inhumane conditions in tents and inside large storage halls, while in Magalle (Galle Province) they were still living in an overcrowded university hostel.

In some areas, people were being provided temporary housing seven months after the tsunami. We witnessed an elaborate “handing over” ceremony in



*Survivors moving into the temporary housing settlement at Thiraimadu (Batticalao), Sri Lanka on 28 July 2005*

Thiraimadu (Batticalao Province), organised by the Tamil's Rehabilitation Organisation (TRO), during which families were allotted temporary shelters. High security and fleets of vehicles—belonging to government, UN and international NGOs—dominated the landscape, while the tsunami survivors moved around seemingly resigning to their fate of having to live in these “shelters” for the next 2–3 years. But for all of them, these were still better than the classrooms in which 16 families had been living in for the last seven months.

The confusion over the actual number of persons and families requiring relocation and housing was a matter of concern. Transitional accommodation was being provided in the form of tents or in one-room huts or sheds only to those who had homes within the buffer zone. Many of these structures had been established by various NGOs on the original sites of houses destroyed by the tsunami, including within the 100-metre zone, as well as on land allocated by the government on a temporary basis, or, in some cases, donated by individuals. All shelters visited were inadequate in terms of material, location, size, ventilation, space, sanitation and facilities. Many temporary housing settlements, such as Thiraimadu (Batticalao Province), were situated far out with no transport facilities. But overall, there seemed to be more consideration for space between houses than in Tamil Nadu.

All parties interested in building permanent houses needed to submit plans to the Urban Development Authority (UDA) to obtain its approval. TAFREN then signed a MoU with the concerned civil society organisations, and then informed the district level officials. According to the UDA website, the Sri Lankan Treasury had allocated USD 330 million to UDA for relief and rehabilitation. Of this, USD 120 million was allocated for rebuilding and constructing new housing. The department guidelines stated that the minimum size of a house would be 500 square feet and would cost LKR 400,000. Beyond this, the government did not check whether any human rights guidelines were being used in developing plans for permanent housing.

With the government, private sector and NGOs/INGOs involved in construction, decisions to determine locations and mechanisms for obtaining approval for projects, including setting and maintaining standards for type and quality of housing, still need to be systematized. The state authorities bear the responsibility to address these issues carefully.

Given the poor condition of housing mentioned above, in both Tamil Nadu and Sri Lanka, it is important to examine each relevant component of HRAH and measure the housing situation against this criterion.

## **Security of Tenure**

### **International Legal Basis**

Universal Declaration on Human Rights Article 17;  
International Covenant on Economic, Social and Cultural Rights, Article 11;  
International Covenant on Civil and Political Rights, Article 1

Legal security of tenure is the most obvious and widely understood component of HRAH. It provides protection from forced eviction, harassment and other threats. It also effectively guarantees access to, use of, and control over, land, property and housing. However, distinct from forced eviction cases, security of tenure in the post-tsunami resettlement scenario raises various levels of concern, ranging from prior tenure being threatened to uncertainty of legal tenure over new housing.

The tsunami greatly affected communities who traditionally lived close to the coast. With new concerns over safety and new state regulations restricting habitation in coastal zones and the creation of statutory “buffer zones,” coastal communities are experiencing rising levels of tenure insecurity.

While citing the issue of safety, both national governments have declared renewed enforcement of existing laws and the introduction of new rules and regulations governing housing and construction along the coast. Although safety of communities is paramount, the coastal regulations and their enforcement raise equally serious concerns over issues like livelihood and sustenance. While requiring people to relocate for public safety reasons is permissible under international law, proper compensation must be offered and the process must not be arbitrary or discriminatory. Imposing a uniform buffer zone and restricting access to livelihoods, could result in a series of injustices to the affected communities and long-term social conflicts.

### **Tamil Nadu**

The principle regulation governing land use along coastal areas in India is the *Coastal Regulation Zone (CRZ) Notification* of 1991, which subsequently underwent amendments.

The CRZ Notification restricts dwellings and other residential activity within 500 metres of the high tide line with a view to create a buffer zone to protect against such disasters. Post- tsunami, the government has declared its intention to rigorously enforce this regulation; thereby, generating a huge outcry from fishing communities and much debate on the practicality of this legislation. Implementation of the CRZ Regulation would imply the relocation of several hundreds of communities previously living along Tamil Nadu’s coast and would violate the customary rights of fishing communities to the land by the coast.

Due to renewed enforcement of the Coastal Regulation Zone policy, a number of those who held legal security of tenure over coastal land and properties prior to the tsunami, are being forced to relinquish them to the state under the guise of safety concerns.

In Sadras South (Kanchipuram District), the government asked the community to sign a MoU to relinquish their coastal land rights, but the people refused. This was their land, they insisted. They held *pattas* (titles) over it and, even



though they were keen to move a little further from the coast for safety reasons, they were not willing to give up their rights unless they were first allocated alternate land with legal security of tenure.

Apart from the issue of CRZ, security of tenure also relates to other concerns of housing and land. Residents of the temporary housing site in Arokiapuram (Kanyakumari District) were in a precarious position, since their temporary shelters had been built on private land allotted to them for two months. As the period had elapsed, the landowner was demanding the land back. Although, at the time of this assessment, residents of Arokiapuram had managed to negotiate for more time, the absence of any progress on permanent housing for them made them vulnerable to forced eviction.

When assessing this situation from a rights perspective, it is clear that the state's duty is to protect the residents of Arokiapuram from eviction and to negotiate a settlement with the private landowner, thus ensuring that the temporary shelters are allowed to remain on the site till permanent housing is provided.

Security of tenure is a major concern in the case of permanent housing. Although the Government of Tamil Nadu has issued a Government Order (GO 172) stating that all titles for new housing should be issued jointly in the name of the husband and wife in the family with a view to ensuring protection from eviction for women, there are other serious concerns regarding the implementation of this order.<sup>13</sup>

In several cases, NGOs—and not the state—had purchased land for constructing permanent structures. For instance, the Ramakrishna Mission had purchased land and started constructing permanent houses in Surya Nagar in Cuddalore District. Unfortunately the Mission had issued titles to the house and land only in the name of male heads of household, in complete violation of the GO. This scenario is likely to be repeated, especially since a lot of the rehabilitation work has been left to private parties and NGOs alone.

The lack of awareness among implementing agencies and affected people of this GO and other decisions that support a human rights approach, is also likely to perpetuate existing inequalities. It is, therefore, the duty of the state to implement and monitor HRAH and ensure that all actors in the rehabilitation process work within the human rights framework.

### **Sri Lanka**

Since 26 December 2004, the authorities have established several guidelines restricting access to the coastal zone. The government justifies these regulations in the interest of coastal communities' safety. In Sri Lanka, three agencies have issued orders related to the buffer zone: the National Physical Planning Department (NPPD) of the Ministry of Urban Development and Water

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<sup>13</sup> "The title of the house will be given in the joint names of the wife and husband if one of them is not alive, in the name of the survivor and the eldest child." See Annex I for Government Order No. 172.

Supply, the Urban Development Authority (UDA) and the Task Force for Rebuilding the Nation (TAFREN).<sup>14</sup> The TAFREN guidelines establish two different geographic buffer zones:

- Zone 1: 100 metres landward from the mean high water line (coastal belt within the Killinochchi, Mannar, Puttalam, Gampaha, Colombo, Kalutara, Galle, Matara, Hambantota Districts);
- Zone 2: 200 metres landward from the mean high water line (coastal belt within the Jaffna, Mullaitivu, Trincomalee, Batticaloa and Ampara Districts).<sup>15</sup>

The new guidelines impose a strict ban on dwellings within 100/200 metres of the beachfront, but fishers are allowed to set up structures related to fishing and storing facilities, including fishing harbours, within this area. Reconstruction of damaged houses within the 100/200 metre Coastal Conservation Zone (CCZ) is also not permitted.

In Peraliya (Galle Province), several families, including K.P.W. Rani's family, were facing imminent eviction. Danish Peoples Aid had built temporary shelters for them on private land. The landowners were asking them to vacate the area, as they wanted to rebuild their own house on that site. Recently, the landowners had threatened to call the police to evict the families. With no progress on permanent housing, no response from the government and no further contact with Danish Peoples Aid, Rani's family and others in this temporary settlement had been left to fend for themselves and were highly vulnerable.

It is the duty of the state to negotiate with the landowners and protect people such as Rani from harassment and forced eviction, and to ensure that their housing and land, whether temporary or permanent, is secure in every way.

In all three provinces of Galle, Batticaloa and Ampara, security of tenure was seriously lacking for those living in rented accommodation before the tsunami. While landlords had been compensated, tenants had not received any compensation for loss of household goods and were not entitled to permanent housing. Thus, the lack of recognition of legal security of tenure by the state of several hundred tenants was leading to a further violation of not only their HRAH but also their right to relief and rehabilitation.

## Access to Public Goods and Services

### International Legal Basis:

Universal Declaration on Human Rights, Article 8  
International Covenant on Economic, Social and Cultural Rights, Article 12  
Convention on Rights of the Child, Article 39

<sup>14</sup> See Annex IV for more details on these regulations.

<sup>15</sup> "Consultation on the Proposed Coastal Zone: Issues for Discussion" (Organised by the Centre for Policy Alternatives in collaboration with the Konrad Adenauer Foundation, March 2005)

Housing as understood from a human rights perspective goes well beyond four walls and a roof. Experience has shown that the mere provision of a structure, no matter how secure, does not result in the fulfilment of HRAH. Without access to water, electricity, sanitation facilities, waste disposal, health care and education, housing is meaningless. The services provided must be adequate and must be based on the needs of the community. The government must regulate service distribution to ensure non-discrimination and to prevent corruption. Where private agencies are contracted to provide services, the government must monitor their functioning to ensure that the rights of the people are not compromised in any way. Despite the existence of international and national legal commitments, in both Tamil Nadu and Sri Lanka, access to basic services was not uniform and severely lacking.

## **Tamil Nadu**

### ***Electricity***

While all sites visited in Tamil Nadu had facilities for electricity supply, the amount received was less than required. For instance, in MGR Thittu (Cuddalore District), a temporary housing site hailed as a model site by the district administration of Cuddalore, residents complained about erratic electricity supply. They testified that in the evenings, the voltage was often too low to use even a light bulb. In Chennai too in the Pattinapakam/ Srinivasapuram area near Marina Beach, women complained about irregular electricity supply and very low voltage.

### ***Water***

Almost every resettlement colony had water storage tanks provided by UN agencies and NGOs. These were replenished on a daily basis with water brought in tankers. There were no individual water connections, but a few community taps and hand pumps had been set up at every site. In MGR Thittu (Cuddalore District), where the local municipal authority was supplying water, women complained that it was in short supply. Every morning they had to line up to fill buckets since the water supply lasted for only about ten minutes. This resulted in considerable distress for the community, especially for those who could not get any water. Currently an NGO was supplementing the regular water supply through water tankers. We found that little effort was made to locate sources of water in the surrounding areas. Only in the Sadras South resettlement colony in Kanchipuram, due to efforts of the village *panchayat* (governing council), resources had been pooled and a tube well had been installed.

### ***Sanitation***

While toilets had been provided in all the resettlement colonies that we visited, most of these were rarely used due to the absence of water near by, and due to their inadequate and slipshod construction. In places where people had no

other option but to use these toilets, they complained of dirty and unhygienic conditions caused by lack of sufficient water and drainage facilities. In several cases, as in Pudu Nemellikuppam (Kanchipuram District) or Tazhanguda (Cuddalore District), the toilets were too narrow, too closely set, and did not provide required privacy. In Akkaraipettai (Nagapattinam District), an NGO had built an open-air community toilet for children, which was also lying unused due to its inappropriateness. In Pudu Nemellikuppam, the community had used plastic sheeting to create a few small bathing areas for women in the space between two houses as no bathrooms had been provided for them. While speaking



*Open-air children's toilet in Akkaraipettai, Nagapattinam*

of permanent housing, people were very emphatic about the unacceptability of common toilets and the need for private toilets for every family. In the Kargil Nagar resettlement colony in north Chennai, which housed more than 2,500 families, there was no separate bathing area for women and, hence, they were forced to bathe inside their tents. This was a violation of multiple rights, including their right to privacy, water and sanitation.

Solid waste management was poor in most of the sites that we visited. In Tazhanguda (Cuddalore District), we saw a large open well full of waste and stagnating water that posed a health risk to the community by exposing them to a variety of illnesses, including cholera and typhoid. To make up for the deficiency of solid waste management services by the district administration, a local NGO had recently taken on the task of employing the community in cleaning the village. In the Akkaraipettai resettlement site (Nagapattinam District), due to the absence of a garbage disposal system, people were forced to dump garbage behind the last row of houses on the site. This created innumerable problems for families living close to the dump. Women complained that the waste entered their homes every time it rained. Flies and mosquitoes were also a common menace in these homes. In Kargil Nagar (north Chennai), large open drains and the absence of proper solid waste management facilities were a major health hazard.



*Unusable toilets in Akkaraipettai, Nagapattinam.*

While speaking of permanent housing, people were very emphatic about the unacceptability of common toilets and the need for private toilets for every family. In the Kargil Nagar resettlement colony in north Chennai, which housed more than 2,500 families, there was no separate bathing area for women and, hence, they were forced to bathe inside their tents. This was a violation of multiple rights, including their right to privacy, water and sanitation.



*Lack of adequate sanitation and solid waste management at the Akkaraipettai resettlement site in Nagapattinam, Tamil Nadu*

### **Health Services**

Inadequate housing conditions were the cause of most health disorders in all sites that we visited.

The heat-trapping nature of the tar sheet sheds was giving rise to boils, prickly heat and rashes among people. Due to the absence of flooring in nearly all shelters, there were a large number of insects inside and people complained of bites. In Sadras South (Kanchipuram District), people pointed out that the tar coating on the roofs melted with the heat, causing skin burns and injuries when it fell on them. Recently, outbreaks of chicken pox and viral fever had also been reported.

Lack of ventilation and inadequate space for cooking was causing respiratory disorders, especially among women and children. Doctors visited the sites infrequently. Women's health issues were also not being adequately addressed.

In most sites we learned that government doctors would visit around once every two weeks. Government nurses made more frequent visits to the sites. At sites like Serudhur (Nagapattinam District), the Velankanni Church was providing medical services. In Akkaraipettai (Nagapattinam District), women complained that doctors visited their site frequently only in the first three months after the tsunami. In Kargil Nagar (north Chennai), women informed us that doctors only treated common ailments on their visits, but for illnesses of a more serious nature, people were asked to visit larger hospitals. Since earning capacity had reduced drastically after the tsunami, most people found it very hard to access health services in larger hospitals. At the Keezhamanakudy resettlement site (Kanyakumari District), we met a few doctors who said that most health complaints in the area related to fever, which was caused by the change in weather, rather than due to poor services provided in the resettlement colony.

In all sites, there seemed to be a large gap in the provision of mental health services. The tsunami has had a severe psychological and emotional impact on the affected people, especially on many elderly women and children. The sudden loss of family members and homes had instilled fear and a sense of pervading insecurity. Since most of those affected belonged to fishing communities, the idea that the sea, which was their provider had caused so much destruction was also difficult to reconcile with. As we visited several villages exactly six months after the tsunami (26 June), we were witness to high levels of fear and anxiety among the affected people. In Sonamkuppam

(Cuddalore District) and in Nagapattinam, some women said that they continued to hear the sound of the tsunami wave. In many resettlement sites, women said that they took turns staying awake at night to keep watch and reassure their children. Several local NGOs that we met with said that mental health and counselling had received very little attention in the relief and rehabilitation package. The Tamil Nadu Village Nurses Association, which did exemplary work in the initial period, was not given due recognition and support to extend its efforts. While some counsellors from the National Institute of Mental Health and Neurological Sciences in Bangalore had visited a few sites, there was a need for continued counselling and engagement with the community. Another common complaint was that most NGO counsellors were not medically trained and were thus ill equipped to handle the needs of the community. Despite the apparent need for counselling, most agencies had suspended these services, believing that communities did not need them any more. Special counselling for children had also been ignored.

### ***Adequate Food***

With most people still not fully employed and not able to earn enough due to the loss of their livelihoods, and with the suspension of relief rations and food aid, food was a critical but unmet need of all tsunami survivors.

While almost all affected people in the resettlement sites that we visited had been given temporary ration cards, as per a Government Order (Ms. No. 380), food continued to be a problem, due to the lack of purchasing power. Since livelihoods had not been restored and food aid had been discontinued 3–4 months after the tsunami, food was a serious concern in several resettlement sites. For instance, at the Palayar resettlement site (Pudukottai District), shortage of food was an urgent complaint of the community. Since the people living at this site were mostly labourers and not boat owners, they had not been provided with livelihood compensation or boats. Due to a difference of opinion with the boat owners, most members of the community had not been able to go back to work and, therefore, were on the brink of starvation. A young mother lamented: “If we had been allowed to die, it would have been much better, but now we will die of starvation.”

Nutritional intake had also suffered in the post-tsunami scenario. Women in Sadras South (Kanchipuram District) said that for the first month they did not get any fish to eat. Given that fish is their staple, most found it very difficult to cope with the change in diet. Malnutrition was visible among most tsunami survivors with serious implications, particularly for children and menstruating and pregnant women.

Due to the lack of restoration of livelihoods and the poor living conditions of most survivors, NGOs felt that they were unable to proceed to the rehabilitation phase in the assistance cycle but, instead, would have to go back to the relief phase and recommence with distribution of essential items like food, medicines and clothing.

### ***Access to Education***

Even though a government order (GO Ms. 33) exempts tsunami-affected children from paying fees, children's education has been affected with schools being washed away or shut down, and the relocation of communities to sites where there are no schools.

In many of the resettlement colonies that we visited, children had resumed going to school. A few schools were close to where the community had been relocated. Eight-year-old Jagneshwari in Tazhanguda (Cuddalore District), however, was unable to attend school as she had lost her birth certificate in the tsunami and the local school insisted on the document as a precondition for admission. In the Veerabagupathy resettlement site (Kanyakumari District), parents complained that the school was very far from their current location and taking a bus placed an additional burden on the meagre income of the family.

In Kargil Nagar (north Chennai), women said that three fires in the past month had destroyed everything that they owned, including their children's school books and uniforms. Economic hardship further discouraged them from sending their children, especially their daughters, to school. While an NGO had arranged a bus to ferry students to and from school, they were concerned as to how long this service would last. Once it stopped, parents said they would not be able to afford the high transportation costs.

Lost family earnings had also made it difficult to support higher education for children. Given conditions of economic and social distress, higher education was a concern that girls voiced, especially in Kanyakumari and Kanchipuram. In Keezhamanakudy (Kanyakumari District), an adolescent girl was in tears; although she had passed her grade 12 examinations with good marks, she couldn't afford the fees for college. In Sadras South (Kanchipuram) too, a physically challenged girl who had secured admission to a nursing course was in distress, as she needed financial assistance. Fortunately for her, an NGO took cognisance and promised support.

It is, therefore, evident that without proper provision of facilities like electricity, water, sanitation, health care and access to food, HRAH cannot be deemed to be fulfilled. Much more needs to be done in this component for resettlement to adhere to human rights standards.

### **Sri Lanka**

The situation was similar, if not worse, when it came to access to public goods and services at temporary housing sites in Sri Lanka. The role of the state seemed to be minimal in provision of these services.

#### ***Electricity***

One of the most common complaints against temporary housing provided across Sri Lanka was the absence of electricity supply. This not only made

living there extremely difficult, but had also become a serious security issue for the women, as apparent in Peraliya (Galle Province). Similarly, while meeting with women's groups in Batticaloa, it was evident that lack of electricity had a severe impact on women's mobility and security at night, especially when using toilets. In several places as in Seegaran (Galle Province), people had managed to access electricity supply from overhead wires, but this being considered illegal, could be suspended at any time.

The Paddy Marketing Board site in Batticaloa had street lighting, but no electrical connections inside the tents or the large halls where people had been living for the last seven months. Even in the newly inaugurated temporary housing site at Thiraimadu, while there was a socket for one light bulb in every shelter, electricity supply still had not been provided and was a cause for concern. Women said that without electricity, it would be very difficult for their children to study at night. In Periyaniavalai as in Kalmunai and Kannagiramam (Ampara Province), the absence of electricity supply was a major concern.

### ***Water***

In Galle Province, people complained that water shortages were acute. Water was mainly supplied through tankers at the temporary housing sites, and supply was both insufficient and irregular. Interviews with affected people at Peraliya (Galle Province) confirmed the same. In the eastern provinces of Batticaloa and Ampara too, water supply was one of the major problems faced by tsunami-affected communities. International NGOs such as CARE and Action Contra la Faim were supplying water in tankers. Little effort was made to find local sources of water or to extend municipal supply lines to the resettlement sites.

In Seenigama (Galle Province) where permanent houses were being constructed, and at sites like Kannagiramam in Akkaraipattu (Ampara Province), while municipal authorities were providing water, it was not enough to meet the needs of the entire community.

### ***Sanitation***

Both sanitation and solid waste management facilities at the temporary housing settlements were poor. In Magalle (Galle Province), where 55 families from Lovigahawatte were housed in the Dissanayake Medical Student's hostel, residents complained that all the six toilets made available for their use were not in working condition. In Katugoda (Galle Province), one toilet had been provided for 43 families by the local Muslim youth organisation. There was also no space for women to bathe. In Peraliya (Galle Province), women complained that the few toilets that had been built were located very far away from their houses and due to the absence of electricity they were afraid to use them at night. In the eastern provinces of Batticaloa and Ampara too, inadequate toilet and bathing facilities were a major concern of affected communities. In Thiraimadu (Batticaloa Province), women seemed to be uncomfortable with shared toilets.



At the Paddy Marketing Board relief camp in Akkaraipattu (Ampara Province), although there were separate toilets for men and women, the 110 families living there for over seven months had to share eight toilets. In several other sites, the ratio of the number of families to a toilet varied from 5–7. The absence of proper solid waste management also meant that there was often a strong stench of waste matter at some resettlement sites. Women complained that this situation was particularly bad in the Sinhalavidyalaya playground shelter and in Shakthimugam in Akkaraipattu.

### ***Health Services***

Like in Tamil Nadu, most of the health problems faced by tsunami-affected people arose from inadequate housing conditions. The lack of space, ventilation and proper solid waste management contributed to rapid spread of illnesses in the community. Intense heat aggravated by the faulty material used to construct houses, gave rise to skin diseases, boils and rashes. People also complained of chicken pox, eye infections and diarrhoea.

The lack of flooring in temporary shelters increased people's exposure and vulnerability to bites from ants, insects and, in some cases, even scorpions. Residents reported that in Dharmasangaripuram (Ampara Province), people were suffering from headaches and body aches, as the tin shelters were heat-trapping devices. In Peraliya (Galle), people said they were still afraid of the water and of the threat of future tsunamis, which is why they slept inside the sheds even though it was unbearably hot. For pregnant women it was very difficult to manage in these small sheds with the intense heat and lack of space for delivery and care for their newborn babies.

Health services were irregular, and in several resettlement colonies like in Peraliya (Galle Province), Paddy Marketing Board and Kannagigramam (Ampara Province), doctors and nurses rarely paid visits. In Batticaloa, women complained that in most cases doctors were from overseas. As a result, communication was very difficult. The interpreters were often male, and they did not feel comfortable discussing personal health problems with them. People at the Thiraimadu site bemoaned the fact that there were no medical services available nearby and since the town was several kilometres away, they worried that in times of emergency they would not be able to access health care.

Post-disaster trauma is often the most commonly experienced but least addressed health issue. Mental health continued to be an area of official neglect. In spite of the existence of psychiatric disorders, counselling in most sites had stopped, and where it was being provided, was not adequate as very few of the counsellors were professional therapists. CARE, International Organisation for Migration (IOM) and UNICEF had been providing some counselling, although in some places it was more irregular than others.

In Seenigama (Galle Province), the Foundation of Goodness had set up facilities for training and recreation, including a swimming pool for children but unfortunately had not offered counselling services. In Thiraimadu (Batticaloa

Province), youth from the Sri Lankan Red Cross claimed to be working on psycho-social issues in the temporary shelters. Since they were not professionally trained, their role was merely to report cases that needed psychological support to relevant authorities. According to them, most people were out of the initial depression and trauma stage, and at that time only a few women from the area were undergoing psychological counselling.

### ***Adequate Food***

Malnutrition is severe among most tsunami survivors. In Sri Lanka, the major agency responsible for food relief has been the World Food Programme (WFP), but it provided only dry rations such as rice, flour, sugar and oil. People had to scramble to get other provisions like spices and vegetables. Although the government promised to give LKR 5,000 for six months to each family that lost its livelihood, across the country, families received this amount for only two months. In some areas, a third instalment had been announced, but had not been delivered. With livelihoods still not restored and compensation inadequate, food continued to be a major concern.

In Katugoda (Galle Province), one of the major grievances of the women of the community was that they had no money to buy food. The government had issued “tsunami food stamps” to all families. That provided them with cash of LKR 200 and food provisions worth LKR 175 per week, but this was still not sufficient to feed the entire family. In some places, this was sufficient to buy only rice and sugar, while in others it was only used to buy oil. With the regular ration card people could avail of dry food worth LKR 350 a month. Prices and availability of provisions varied from area to area.

Women in Batticaloa said that food shortage coupled with the inadequacy of food stamps to meet the needs of the family was a factor contributing to the high incidence of under-age marriages of girls in the post-tsunami scenario. Another criticism was that people often received expired food packets. This not only made the food inedible but also posed a severe health risk. One man complained that they had received low-quality, powdery rice. Residents of the Paddy Marketing Board shelter pointed out the absence of a needs assessment by the Batticaloa Divisional Secretariat as it randomly distributed Maggi noodles and Nespray (milk powder), showing little regard for people’s food habits and needs.

In Kannagigramam (Ampara Province), people testified that initially, they had received sufficient food aid, but that had long stopped. The tsunami food stamp did not meet their requirements. Some had not received the stamp for the last two months. Rice was very expensive here at LKR 40 per kilo, and at the local ration shop, only North American flour, not rice, was available.

### ***Access to Education***

As in Tamil Nadu, in several places in the tsunami-hit regions of Sri Lanka, affected children had resumed going to school. In many cases schools were

accessible. Resettlement sites like Kannagigramam in Akkaraipattu and Thiraimadu in Batticaloa, however, were located very far from the town. The lack of public transport made it impossible for parents to send their children to school. In Kannagigramam, with the school located at a distance of 20 kilometres, children had to first take a three-wheeler to the nearest bus stop and then take a bus to the school. Transport to and from school cost close to LKR 100 per day, which was too expensive for most families. They also said that the school suffered from a severe shortage of teachers.

In Nindhoor Karaitevu in Akkaraipattu, an NGO had initiated a cash-for-work programme, which also employed 16-year olds. According to Sri Lankan law, children under the age of 18 cannot be employed. The incentive of earning money had resulted in several children opting out of school.

In Kalmunai (Ampara Province), four schools were destroyed by the tsunami, and an NGO had started evening classes for the children. These were held from 1:00 to 4:00 pm, but this was a bad time, as it cut into their lunch hour. The children also felt sleepy due to the afternoon heat. Some schools were trying to promote the mid-day meal scheme, but children still fell asleep in the afternoons. Other organisations were also helping to restore educational facilities for children. UNICEF had set up a temporary school in Kurukkalmadan village called Kalaivany Mahavidyalaya, which ran classes from Grade 1 through Grade 12, as well as A-levels. The Southern Tsunami Trust in Galle had established scholarships for 220 school children from the most affected families. This would cover their education costs for 3 years, and provide school books, uniforms and psychological counselling.

The state response to children's needs, however, is not adequate, and in most areas children are still suffering from suspension of education and closure of schools.

## **Access to Natural Resources – Land**

### **International Legal Basis**

#### *Natural Resources:*

International Covenant on Economic, Social and Cultural Rights,  
Articles 1 (2) and 12

#### *Land:*

Universal Declaration of Human Rights, Article 1  
International Covenant on Economic, Social and Cultural Rights, Article 2  
International Convention for the Elimination of All Forms of Racial  
Discrimination, Article 1  
Committee on Economic, Social and Cultural Rights,  
General Comments 4 and 12  
Habitat II Agenda

Land and other natural resources are vital to life, livelihood, access to food and adequate housing. The right to land is a fundamental human right, but was not being given the importance it deserved. The state must ensure equitable access to, and distribution of land, and where necessary implement land reforms to ensure that marginalised and vulnerable groups are not left out. Similarly, every community must have access to natural resources necessary for its survival and livelihood, including *inter alia*, fuel, fodder, water and building materials. Access to natural resources must be sufficient to meet community needs and the state and other actors must effectively regulate distribution and ensure the efficient delivery of the same.

The disruption resulting from the 100–200 metre buffer zone in India and Sri Lanka has raised serious concerns about where communities will be able to rebuild their homes and how this will impact their livelihoods and access to land and other natural resources. Local geographic realities further complicate relocation plans.

### **Tamil Nadu**

Integral to the issue of permanent housing is that of land. With intentions to build houses only beyond 500 metres of the high tide line, the government is faced with the challenge of acquiring land for the communities and then initiating construction or giving it to NGOs to build houses. While a few NGOs were involved in negotiations for purchasing land, most of them were not keen to get involved in this issue. In many cases, the land already belonged to the state so the question of private actors entering the fray was precluded. To add to the imbroglio, was the role of the Church and land owned by the Church in the southern district of Kanyakumari.

Consultations and interviews across the state revealed that identifying land for construction of permanent houses was the primary problem. The general view was that there was enough land available, and if the government imposed the Land Ceiling Act, a large amount of land would be freed up for public housing and relocation purposes.

The government specified that it would give land free of cost at the rate of three cents<sup>16</sup> in rural areas, and one and a half cents in municipal areas. The Government Order however states that not more than INR 1200 will be spent per cent. With land price differentials across the state, having a fixed rate for the entire state was unrealistic and unworkable. For instance in Tirunelveli, land costs INR 5,000 a cent, while in Kanyakumari land is significantly more expensive at INR 15,000 for each cent.

A young group of church-affiliated youth in Kanyakumari explained that the issue of financing for land was a big problem. At the proposed rate, the total government spending on land purchase in that area was estimated to be INR 20 lakhs (2,000,000). But the actual cost of purchasing land was INR 45 lakhs (4,500,000). The group said they were trying to get NGOs (rather than the government) to fill this gap of INR 25 lakh (2,500,000), but with little success.

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<sup>16</sup> “Cent” is a unit of land measurement; 1 cent equals around 40 square metres.

Most NGOs and donors could not fund land purchase, as their money was already earmarked for specific rehabilitation-related services. Meeting the cost differentials for land purchase was a severe constraint in moving ahead with permanent housing, especially where land cost more than what the government was willing to pay.

In cases where construction of permanent housing had begun, it was only on land bought by NGOs for the community, as in Surya Nagar (Cuddalore District), or where the community had pooled its savings and purchased communal land for housing, as in Veerabagupathy. Clearly, the government was not giving the land issue the priority it deserved, possibly because of the contentions surrounding it and also because it hoped that NGOs would take the lead in buying land for communities. Unfortunately it was the affected people who were caught between government apathy and NGO inability.

### **Sri Lanka**

One of the greatest impediments to providing permanent housing in Sri Lanka has been the lack of a clear and well-defined policy or mechanism for land acquisition and redistribution. This includes a lack of coordination between NGOs and the government. Some NGOs were willing to build houses, but the government was not providing them with the required land. In some areas the unavailability of land posed serious problems in terms of where people would be relocated to, while in others, the inappropriateness of allocated land, such as its rocky composition or low-lying location, made it unsuitable for housing construction. Legal procedures for acquiring land tended to be long, leading to corruption in many places. The government was, therefore, resorting to buying land from private owners.

Shreyani's parent's home in Akurala village (Galle Province) was within 100 metres of the coast. Even though their house was completely destroyed, they had received no compensation for it. They had been promised a house on land elsewhere, but had no idea as to where this would be located. Until then, they were just waiting. In Thiraimadu, the government had allocated some private barren land for temporary housing, but since it was private land, people were not permitted to plant trees on it even though they were expected to live there for 2–3 years.

In the eastern province, land had still not been identified nor had any plans for permanent housing been discussed. Land was expensive, and one acre cost around LKR 15 million. In Kalmunai (Ampara Province), people had organised various forms of protest, including a “cook-out” in the middle of the road, as part of a campaign for permanent housing and land. A lot of the land in the northeast allocated for temporary housing is low lying. Families living in Thiraimadu were worried about flooding during the October monsoon. Some government officials suggested raising the land before permanent housing was constructed, but if this was done, many fear that it will cause flooding in the rest of the town. Holistic solutions need to be developed in order to make sure that no community faces any negative impacts.

Land and livelihood are becoming subjects of grave concern. For fishing communities, living far away from the coast is unimaginable, as they need to be able to see the sea and decide when to go out fishing. Thiraimadu is located around 10 km from the coast, making it impossible for the fishers to earn a living. “How can we be expected to travel 10 km everyday?” they lament.

Across the northeast coast of Sri Lanka, women have a tradition of owning land. Muslim women obtain land at the time of their marriage, while Tamils also give land/houses as dowry. Muslims and Tamils follow a matrilineal system for property inheritance, unlike the Sinhalese. However, this practice is not followed when houses and land are allocated as compensation.

In situations where both husband and wife are survivors, new titles are generally given to “heads of households,” who are perceived to be men, or, at best, women may have joint titles, but never sole title. This is a clear case of denying women their original rights over land and housing.

## Habitability

### International Legal Basis:

Universal Declaration on Human Rights, Article 12

International Covenant on Economic, Social and Cultural Rights, Article 12

Committee on Economic, Social and Cultural Rights General Comment 4

Adequate housing must provide the space required to live in dignity and peace. It must also provide protection from natural elements, structural hazards and disease vectors that are threats to health and well-being. The fact that housing has to, at least, be habitable is commonly understood. However, more often than not, housing provided as part of a resettlement package is found to be grossly lacking in standards of habitability.

Habitability is conditioned by a variety of factors including the material used, the nature of the area, space and design. It also has to provide protection from the elements and ensure a healthy living environment.

## Tamil Nadu

### *Housing Materials*

One of the most common grievances was regarding the material used in construction of temporary shelters. As per government regulations, temporary structures were supposed to have been built from fireproof material at a minimum cost of INR 8000 per structure. Despite a mention in government orders that local models could be developed, almost 95% of temporary shelters across the state had been constructed using “tar sheets.” These sheets are essentially one-inch thick corrugated sheets made of cardboard and other fibre and painted over with tar.

An almost constant refrain against the use of tar sheets was that they trapped heat and thus made living inside the structures unbearable. As a result, in almost all the resettlement sites where tar sheeting was used, people preferred to cook and sleep outdoors. Due to the intense heat and humidity inside the temporary structures, many women and children had developed boils on their skin and scalps.

In some cases, as in Serudhur in Nagapattinam District, while men slept in the common open area, women and children slept in nearby temples, schools or community halls. Sleeping in the open also brought with it related insecurities, especially for women and adolescent girls. Tar sheet housing proved to have little resistance against the rain and everywhere that it had been used, people complained of leaking roofs and decomposing structures. On the night of 22 June, a fire broke out in Kargil Nagar (north Chennai), completely gutting 1,662 homes made of tar sheets. This incident not only raised questions about the quality of tar felt used but also made it amply clear that simply using so-called fire resistant material without paying attention to the layout of the settlement was not an adequate safeguard against fire.



*The Second Tragedy: After a fire gutted the entire temporary housing site in Kargil Nagar in North Chennai, people were living in tents made of saris and bed sheets.*

In all sites where tar sheeting had been used, communities complained that the smell of the tar was so nauseating that they could not enter the shelters for the first month or so. As the heat and humidity got worse, so did the shelters, and in some cases the tar melted and dripped into homes. In some shelters, black plastic sheets had been wrapped over the roof to make them waterproof and also to prevent the roof sheets from flying off, thereby increasing heat retention. It was only after constant complaints from residents that some NGOs and the local administration involved agreed to provide a layer of thatch over the existing tar sheet roofs in the hope that this would alleviate some of the heat-related suffering.

In several shelters as in Keezha-manakudy (Kanyakumari District), Sonamkuppam (Cuddalore District) and Palayar (Pudukottai District), fans had been provided, but people said they did not help mitigate the heat, because they only circulated the hot air. In Akkaraipettai, though fans had been provided, they did not work. Since the tar sheets were very light, they tore easily. This lack of durability had resulted in early damage to a number of shelters. Furthermore, women complained that the tar sheets failed to provide privacy from the next shelter. In many shelters, as in Sadras South (Kanchipuram),

it was very easy to move aside or tear the common sheet walls and look into the next house.

There were few exceptions to the use of tar sheet in temporary shelters, and these too were no better in terms of reducing heat or providing protection from the rain. In fact they were also completely inadequate and violated the affected peoples' right to adequate housing. In Tazhanguda (Cuddalore District), the local District Rural Development Agency had built tin shelters, while in MGR Thittu, a Delhi-based NGO, EFICOR, had constructed temporary structures with concrete slabs and tin roofs. In Sonamkuppam (Cuddalore District), World Vision and Japan Platform had used cement sheets, supposedly containing asbestos. Thatch, which is the most suitable material for the local climate and lifestyles of the people, had only been used in the construction of very few shelters in the entire state. These had been built by Oxfam, Tamil Nadu Women's Collective and Rotary, in Kanchipuram District.



*Temporary line housing built of tar sheets in Tamil Nadu clearly showing the inadequacy and poor durability of the material used.*

### ***Layout and Design***

Apart from the defective material used, the inadequate design of the structure and layout of the resettlement site added to the uninhabitable character of the temporary houses, thereby constituting a violation of the right to adequate housing.

All the resettlement sites that we visited, with the exception of Veerabagupathy in Kanyakumari District, seemed to have been planned with the idea of an urban slum in mind. Structures were built in straight rows with less than four feet space between two rows. In most cases there was no space between houses as they were built as line houses with common partitions. In areas where some space had been provided, it was not more than one or two feet. As clearly seen in the case of Kargil Nagar, it was the layout of the settlement and the lack of space between structures that eventually became a fire hazard.

In Kottilpadu (Kanyakumari District), most of the temporary shelters built by the NGO called Social Change and Development (SCAD), were lying vacant as the resettlement site was located so close to the shore that during high tide waves came right up to the last row of houses. Those who had relatives elsewhere, or could afford rented accommodation had moved away; only those with no option were still staying there. SCAD had also built a community





*Overcrowded living conditions in the temporary housing settlement at Akkaraipettai (Nagapattinam), Tamil Nadu due to a severe lack of space inside and between houses*



*A woman stands outside her temporary shelter in Serudhur, Nagapattinam.*

kitchen very close to the sea that lay unutilised, since it did not meet the cooking needs and culture of the community.

Several resettlement sites like Akkaraipettai, Pillumedu, Palayar, Veerabagupathy and Kargil Nagar were built in low-lying areas and, therefore, flooded with the slightest rain. The absence of proper flooring for the structures also made them susceptible to flooding.

Space was another major concern at all resettlement sites. All temporary housing consisted of one-room structures irrespective of family size. While in most cases the size was 8 x 10 feet, in Sadras South (Kanchipuram District), the structures were 10 x 10 feet in size, while in Melamanakudy (Kanyakumari District), they were 12 x 12 feet. At all sites, women and men complained about the inadequate size of the shelter. Women and adolescent girls were most affected, as the tiny shelters allowed no space for privacy.

In most settlements, the displaced women residents complained of inadequate place to even change their clothes. They found it especially difficult during menstruation. The lack of privacy also made women and girls more vulnerable to violence and abuse.

At the resettlement site in Pillumedu in Cuddalore, an NGO called CREED had provided an extra three-square-foot space and a small partition in the houses of families with adolescent girls. In several resettlement sites, including in Sadras South (Kanchipuram District) and Akkaraipettai (Nagapattinam District), the partition wall between two temporary housing units did not reach all the way up to the ceiling, thus, making it possible to look into the neighbouring house. Almost all temporary structures, except a few houses in Keezhamanakudy (Kanyakumari), were shoe-box like shelters with no windows and little ventilation.

## **Sri Lanka**

### ***Housing Materials***

In Sri Lanka, unlike in Tamil Nadu, a variety of materials had been used to construct temporary structures. In fact, many people were still living in structures that were more akin to relief camps than temporary settlements. At several points along the Galle road, people were still living

in what seemed like tents left behind by tourists. In Katugoda 5 C Camp (Galle Province), all of the 42 families had been living for the past seven months in tents provided by the Italian government and the local mosque. The blue plastic tents trapped heat and did not allow any air to enter. Tents were also used in some parts of the east coast. Those living in the large hall of the Paddy Marketing Board in Akkaraipattu (Ampara Province) had put up makeshift partitions with plastic sheets, while others living on the grounds of the site had been provided with tents that showed signs of wear and tear.



*Interior of a temporary housing structure in Tamil Nadu. Most shelters were used to store belongings as the inappropriate material, small size, and intense heat makes them uninhabitable.*

In Periyaniavalai in Ampara, people were living in blue plastic tents provided by Samaritan's Purse. In all tent-housing sites, residents complained that the intense heat and absence of ventilation rendered the structures uninhabitable. They also explained that the tents could not withstand the monsoons, and leaked every time it rained. They were not windproof either; they flapped around noisily, and sometimes collapsed or blew off under a strong wind, especially in areas near the coast.

In several places in Galle District, including in Peraliya, the temporary structures had wooden walls and tin roofs. Only a few had windows, while most were box-like structures. Once again, residents complained of severe heat and claustrophobic conditions. Many women reported that, although they preferred to sleep in the open, they had to sleep inside for safety reasons.

In Batticaloa, most of the temporary shelters had been built in Thiraimadu. Several organisations, including Oxfam, World Vision and Tamil's Rehabilitation Organisation (TRO), were involved in their construction. Most people who had moved into the TRO shelter on 27 July had previously been living in the Central College School, with 16 families to a classroom. After being subjected to live in a classroom for seven months, people had been moved into structures made mainly out of tin and tar sheeting. Both tin and tar sheets are known to trap heat and, like in Tamil Nadu, could make the houses uninhabitable. Although the TRO shelters had cement flooring, cracks were visible in some places on the first day. At another site in



*Seven months after the tsunami, people were still living in plastic tents at the Katugoda 5 C Camp in Galle, Sri Lanka*



*Temporary housing constructed of tin and plastic sheets – Periyaniavalai (Ampara), Sri Lanka. Flooring has not been provided and the shelters are built on the sand. The lack of provisions for cooking forces women to cook outside the shelters.*

Thiraimadu, people had rejected shelters made purely of tin on grounds of uninhabitability, including excess heat. The responsible organisation (World Vision) was in the process of rebuilding the shelters with thatch.

### ***Design and Layout***

Unlike in Tamil Nadu, not all temporary housing settlements in Sri Lanka had been designed in a slum like fashion. In several cases, especially in western Sri Lanka, temporary structures had been built at the site of the original homes, thus keeping to the layout of the original village and also ensuring that there was sufficient space between houses. On the east coast however, there were large resettlement colonies in

Thiraimadu (Batticalao Province) and Akkaraipattu (Ampara Province). In some parts of Akkaraipattu, including in temporary settlements at the Methodist Church, Kalmunai Believer's Home and Kannagigramam, temporary housing was akin to line houses with a common partition wall between two houses. Line housing was extremely unpopular among residents as it provided very little privacy and minimal space for cooking, for children to play and for other community activities. In some settlements there was not even enough space to dry clothes. People were very unhappy with the cramped living conditions.



*Line housing built of tin and thatch in Kannagigramam (Ampara), Sri Lanka*

In Thiraimadu, houses constructed by TRO were designed in a way that the concrete and tin walls did not go all the way up to the roof but stopped two feet short. This gap was then covered by a wire mesh, which provided for ventilation but gave little privacy to the inhabitants. The gaps in the mesh were also large and did not provide protection against flies, mosquitoes and other small insects.

Size of houses varied according to the resettlement site and the organisation involved. For instance in Kannagigramam (Ampara Province), where three organisations – IOM, Affected Women's Forum and Mahashakti were involved in providing houses, the size of the

structure varied greatly from 10 x 12 feet to 10 x 15 feet and 16 x 20 feet. In Thiraimadu too, house size, design and layout varied according to the organisation involved. This variation without any rationale had created dissatisfaction between groups.

In Magalle in Galle Province, 55 families from Lovigahawatte were living at the Dissanayake Medical Students' Hostel since January. Originally meant for a single student, each 8 x 10-foot room housed a family of six or seven members. The rooms were poorly lit and ventilated.



*Interior of a TRO shelter at Thiraimadu, Batticalao. The wire gauze fails to provide privacy, while the tar sheet roof and tin walls trap heat.*

As mentioned earlier, several of the temporary housing sites in Sri Lanka, including Thiraimadu, were located on low-lying areas which were susceptible to flooding. People consistently complained that not only did the houses leak when it rained, but it was also impossible to live in them as water and mud entered their homes.

## Accessibility

### International Legal Basis:

Convention on Elimination of all forms of Discrimination against Women,  
Article 14.2

Convention on Rights of the Child, Article 16.1

As a component of the human right to adequate housing (HRAH), accessibility requires that everyone have access to housing and its related components. Historically disadvantaged groups, in particular, must be allowed full and sustained access to adequate housing and resources, including land. The state and other actors involved must take all elements of the HRAH into account and ensure equality of the entitlement to reasonable physical access. In both Tamil Nadu and Sri Lanka, however, many have been displaced families and individuals have been left out of the relief-and-rehabilitation process.

## Tamil Nadu

Many of the temporary structures that we visited failed to meet the accessibility criteria. Lists of affected people prepared soon after the tsunami were apparently very rigid and did not accommodate those who were away from the village or missing at the time of preparation of the lists. As a result,

in several resettlement sites, including Kargil Nagar, Pattinapakam and Srinivasapuram (Chennai), Sonamkuppam (Cuddalore District) and Palayar (Pudukottai District), a number of families had been completely left out of relief and rehabilitation. In the case of Pudu Nemellikuppam (Kanchipuram District), only 48 of the 61 families were on the Revenue Department list, but the villagers had decided that whatever relief they got would be shared among everyone in the village. This, in turn placed, an added burden on the affected people who were already dealing with meagre resources.

While evaluating loss, no individual household-based assessment had been carried out. As a result, as seen in the case of Tazhanguda (Cuddalore District), relief was distributed uniformly, irrespective of the loss incurred by families.

Post-disaster relief programmes could have been used as a means to undo certain traditional injustices but, unfortunately, few had availed of this opportunity. While most widows and women-headed households had been given their own temporary shelters, single adult women were not counted as separate units in relief operations, and were expected to share the space with their siblings and families.

While those whose homes had been completely destroyed by the tsunami were provided with temporary shelters, there was little attention given to repair of damaged homes. For instance, several homes in Devanampattinam (Cuddalore District), Akkaraipettai (Nagapattinam) and Keezhamanakudy (Kanyakumari), though still standing, had been severely damaged. These houses were not safe for living and needed reinforcement. There was, however, little done by the government or the NGOs to support families seeking to repair damaged homes. Families living in damaged homes built under the Indira Awas Yojana (a government-sponsored rural housing scheme) in Kanyakumari District, were not eligible for the same benefits as others and were told that they would have to wait their turn to be supported to repair their homes.

### **Sri Lanka**

In Sri Lanka, accessibility was a serious concern in the case of refugees from the war era. Several hundreds had been displaced twice over as seen in the eastern coast of Sri Lanka, thereby greatly exacerbating their plight and heightening socio-political and ethnic tensions. The second displacement also raised a variety of issues including peoples right to return to their original places as well as the status of government issued permits *vis-à-vis* title deeds to land.

In Batticaloa as well as in Ampara, refugees from the war of over a decade ago had been resettled within the 200-metre buffer zone and had been given “permits” as proof of residence. However, as these permits did not have the same status in law as title deeds, people with permits were unable to reconstruct their homes *in situ*, as seen in the case of 45 families in Thiruchendur (Batticalao). In many cases families had lost their permits along

with other belongings in the tsunami and were unable to avail of housing provided by the government and NGOs.

In Periyaniavalai (Ampara Province), once again the issue of lack of permits had denied around 25 families access to adequate housing. While some permit holders had registered their names in the village and on the voters' list as proof of residence, others were still fighting for their right to housing. They had approached the *gram niladhari* (local administrative officer) for inclusion of their names but were still awaiting a response. In the meantime, much anxiety had been caused when the American Mission Church and other non-government organisations involved in permanent housing had made possession of a title deed and not permit as the criteria for eligibility to permanent housing. The permit holders did not own land; they only had access and use rights, while the deed holders were those with ownership titles.

In Batticaloa, Madina, a Muslim woman spoke about the odd situation being faced by 58 families from Ollikulam and Seegaran villages. During the 1990 war, they were relocated to the coastal town of Kattankudy, which was one of the worst affected by the tsunami. Since they lost everything in the tsunami, they moved back to their original villages of Ollikulam and Seegaran. When they approached the local village officials and Divisional Secretary for ration cards, the officials refused on the grounds that they were no longer considered residents. Instead, the officials demanded that they go back and live in Kattankudy if they wanted to access relief. The government agreed to provide them with housing in Kattankudy, but only 17 of the 58 families accepted this proposition. The rest of them were afraid of living so close to the coast. Thus, they were left to fend for themselves without any security or guarantee of equal access to housing.

The state as well as other actors involved in rehabilitation must make sure that members of minority communities, internally displaced persons and migrants are not discriminated against or denied equal access to housing.

## Location

### International Legal Basis:

International Covenant on Economic, Social and Cultural Rights, Article 12  
Committee on Economic, Social and Cultural Rights General Comment 4

Adequate housing must be in a suitable location that enables access to employment, primary health-care, food, education and other social services and civic amenities. In addition, the location must be safe, particularly from environmental hazards and pollutants.

In the tsunami-impacted areas of Tamil Nadu and Sri Lanka, location of both temporary and permanent housing sites was a major concern among affected communities.

## Tamil Nadu

Since most of the houses lost in the tsunami belonged to the fishing community, the location of resettlement sites must be conducive to their needs.

Coastal communities depend on fishing for their livelihoods and it is imperative that they continue to live close to the coast. Fishing communities felt that the renewed enforcement of the Coastal Regulatory Zone (CRZ) precluded their customary right to the coast. After a sustained three-month campaign by fisher peoples' movements, the Tamil Nadu government acceded to some of their demands by recognising in GO 172 that "fisher people have to remain close to the sea for their livelihood." Despite this acknowledgment, the GO lays down stipulations that are still considered quite contentious.

While the government has permitted *in situ* construction of houses within 200 metres of the high tide line (HTL) and allowed people to rebuild existing houses, it will not assist them. However, if they choose to move beyond 200 metres, they are eligible for a new house from the government. Catamarans, boats and nets can be stored within the 200-metre buffer zone. Between 200 and 500 metres of the HTL, the government has agreed to repair and build new houses based on people's preferences. The same applies to houses located beyond 500 metres of the HTL. The catch is that "in all cases where new houses are given, the old site and the old house will have to be relinquished to the Government by a legally acceptable document" (GO 172, 5).

In Sadras South (Kanchipuram District), people complained that they were being pressured to relinquish their land rights before any alternate land or housing had been provided to them. This had spurred the village *panchayat* (governing council) to negotiate with the authorities to allow people to retain their rights over coastal land while giving them permanent housing further inland.

*"Where can we go now? We have only known the sea and would like to live close to it."*

— Arun Kumar (age 13, Devanampattinam, Cuddalore District)

For many fisher families, moving beyond 200 metres was not feasible, as there was not enough available land near the coast. With no government support for housing within 200 metres, most of them did not have the finances to pay for rebuilding their damaged houses. Moreover, the majority of houses located less than 200 metres of the HTL had been completely destroyed and were beyond repair. For such people, the situation was grim. There was no guarantee that alternate housing would be provided within 200 and 500 metres of the coast. Most of the sites for relocation tended to be very far from the coast. This created a huge dilemma for the fishing community, as it would mean losing their livelihood. In Nagapattinam, fishermen expressed their woes stating that they needed to live in a place from where they could see the sea

because decisions on when to fish were determined entirely by tidal and weather conditions. It was impossible for them to carry out fishing activities when they were far from the coast. Everywhere we went, including in Devanampattinam, people were very concerned that sites for permanent housing would be at a great distance from the sea. Surya Nagar (Cuddalore District) where the Ramakrishna Mission was constructing permanent houses was located at more than a kilometre from the sea. As Kalavati, one of the would-be residents of Surya Nagar, said, “we will feel safe when we move here but we won’t be able to see the sea which is essential for our livelihood.” Kargil Nagar in north Chennai, is situated five kilometres from the coast. This made it very difficult and expensive for fishermen to carry their fishing gear every morning to the coast. Due to the unviable nature of the location, some fishing families tried going back to their original sites but were sent back to Kargil Nagar.

One problem with the buffer zone regulations is that they do not pay much attention to the issue of elevation. Some elevated areas closer to the coast could be safe, depending on the topography of the area but the government has overlooked this in its regulations.

Fishing communities were divided over the enforcement of the CRZ regulation. While many were afraid of living on the coast and were willing to be relocated to safer sites, others were against it saying that any future disaster would undoubtedly affect them since they spent most of their time out at sea. Many felt it was better to be allowed to live close to the sea and earn a decent income to support their families, rather than having to relocate and being “safe” but having to starve due to a collapse of livelihood activities.

Increased transportation cost from the new relocation sites was something that most fishing communities felt they could not afford. Similarly, if they had to live miles away from the coast, they were not comfortable leaving their boats and nets unattended on the shore without being able to watch over them.

In some cases, communities felt that, under the guise of safety regulations, the government was displacing them for commercial reasons. In Chennai, attempts were made to evict the fishing community of Anna Nagar (Kasimedu) from their houses along the coast even though these were not destroyed. The people felt this move was taken in order to broaden the road, which is a major thoroughfare to the port. Similarly they feared that the cleared beach area would be leased out to large hotels and bring in tourist revenue for the government. An NGO called Karunalaya filed a case on behalf of the community, after which the High Court issued a stay order on the eviction.

Location of both temporary and permanent housing must be decided in close consultation with the affected communities to ensure that their needs and rights are not compromised.



## Sri Lanka

While several temporary structures in Sri Lanka were built at the site of original villages, large resettlement sites such as Thiraimadu (Batticalao) and Kannagigramam (Ampara) were located very far away from the town and caused multiple inconveniences for the residents.

In Thiraimadu, people complained that since they were located very far away from the town, access to education, food and health care was a big concern. There was only one small provision store at their site and the closest ration store was more than five kilometres away. Had they been provided with bicycles, or if the site were connected to the town by bus, their worries would have decreased considerably.

Several families living in tents at the Paddy Marketing Board site (Batticalao) had been allotted homes in Thiraimadu but had refused to move there due to the inappropriate location of the site. They would only consider relocating there if at least two bus services a day were provided. The situation in Kannagigramam (Ampara) was similar. Located several kilometres away from the main town, residents found it very difficult to commute and also to send their children to school. Children had to change several modes of transport before they could reach their school.

The government has banned construction of houses within the 100/200-metre buffer zone but stated that it would provide people with free houses of a minimum size of 500 square feet in close proximity to their original location. For the owners of damaged houses outside the buffer zone, the government agreed to provide grants and concessionary loans for rebuilding purposes. Apart from dwellings, all other structures are allowed within the 200-metre zone. How this regulation applies to hotels and the tourism industry is yet to be seen. In most cases, large hotels have been reconstructed within the buffer zone and show no signs of relocating. The regulation also makes provisions for some housing projects within 200 metres of the beach if they are above the five metre contour area.

Implementation of the Coastal Conservation Zone (CCZ) guidelines was already fraught with tension and their application seemed ad hoc, with the fishing communities bearing the greatest brunt. Fishing communities were divided about the new regulations. Some of them were willing to be relocated at a reasonable distance from the coast, as long as they had easy access to the beach and a way of keeping their boats and gear safely. Many preferred it claiming that they would be able to fish better when they were confident that their families were safe. They were of the opinion that the area vacated by them should not be given to any other party and those with legal entitlements over the land wanted to keep it, even if they moved away to another site.

Minorities displaced by the tsunami had specific concerns that were often not factored into plans for resettlement. They feared being relocated to areas where they would have to integrate with communities that had no previous

experience of coexistence with them. For instance, in Nugaduwa, the Muslims had been promised alternate land but the new site was in a Sinhala area, which was likely to give rise to complications. In particular, the community was concerned that such a move would deprive them of access to their places of worship. In order for a site to be inhabitable as a Muslim village, they said they needed a mosque, a school, and a cemetery. Furthermore, many Muslims live in joint families and the small sized temporary shelters were not adequate to accommodate them all.

Rehabilitation must address such concerns of communities especially when they belong to a minority group, and ensure that concrete steps are taken to allay all fears of potential communal or ethnic tension that may arise from relocation.

## **Cultural Appropriateness**

Housing design and site location should be determined in harmony with communities' cultural preferences and attributes. The state and other involved actors must enable cultural expression and diversity, and should ensure the participation of all cultural/religious groups in planning.

An often forgotten component, cultural adequacy is very critical to the promotion, protection and fulfilment of HRAH.

## **Tamil Nadu**

### **International Legal Basis:**

International Covenant on Economic, Social and Cultural Rights, Article 11  
Committee on Economic, Social and Cultural Rights General Comment 4  
Convention on Elimination of Racial Discrimination, Article 1

Temporary housing built of tar sheeting in Tamil Nadu was culturally inappropriate in a number of ways. Not only was it completely unsuitable for tropical climates, but the use of tar sheets had ignored local social arrangements and interdependence of communities. Women from the mason community are the ones who traditionally made thatch for roofing. With the use of tar sheets the livelihood of women of the local community has been adversely affected.

Fisherwomen in Sadras South (Kanchipuram) complained that the layout of the temporary settlement did not give them adequate space to dry fish catch, which in turn affected fish sales and jeopardised their livelihood. The provision of a community kitchen on the beach in Kottilpadu (Kanyakumari) was another culturally inappropriate decision. The tar sheet shed that had small concrete pits located right next to one another was lying unused, as families rarely cooked in this manner. Instead women were using either kerosene stoves or firewood and were cooking outside their homes. The lack of



*Unused community kitchen built by SCAD in Kottilpadu, Kanyakumari*

consideration for the location of bathrooms is another glaring example of cultural inadequacy. While people preferred toilets to be located outside their homes, they did not want them miles out as this made them unsafe and inaccessible.

Temporary shelters built without any space between houses, and permanent settlements that are being constructed as geometric models with parallel rows of houses, tend to completely disregard the culture of community. They do not provide space for social interaction between people and completely ignore the original set up of villages. People normally live in clusters and have large communal spaces in between for community activities and interaction. Making them live in parallel and perpendicular lines destroys their ways of interaction and fails to recreate a feeling of a village community.

Several such examples came up during our visit and it was clear that these issues could have been easily resolved if only the local community had been consulted and their active participation had been sought in the planning and construction of housing.

### **Sri Lanka**

In Sri Lanka too, several features at resettlement sites demonstrated that people's cultural needs had not been taken into consideration. In most sites, women complained about common toilets and common bathing areas for men and women. In Thiraimadu, some bathing areas had two tube well pumps next to one another, implying that two women were expected to bathe at the same time, which is culturally not a practice among the women.



*Bathing area for women in Thiraimadu, Batticalao*

In Nugaduwa in eastern Sri Lanka, plans to settle a Muslim community of 250 families on 4 acres of land were rejected by the community as these plans did not take into consideration space for their cultural needs including a mosque, a *madrassa* (school) and burial ground. Cultural and religious needs of all communities—Buddhist, Christian, Tamil and Muslim—must be taken into consideration when designing

resettlement sites. New resettlement sites like Thiraimadu, because of their distance and secluded location also denied people access to their places of worship. With over 1,600 families being made to live in the same area, adequate provisions and opportunities for cultural expression must be provided while making sure that different communities' traditions and sensitivities are respected.

## Participation and Information

### International Legal Basis:

#### *Information*

International Covenant on Civil and Political Rights, Article 18  
International Covenant on Economic, Social and Cultural Rights, Article 15  
Committee on Economic, Social and Cultural Rights General Comment 4

#### *Participation*

International Covenant on Civil and Political Rights, Articles 21, 22, 25  
Convention on the Elimination of All Forms of Racial Discrimination, Article 1  
Committee on Economic, Social and Cultural Rights General Comment 4

Individuals and communities must have equal and timely access to appropriate data, documents and intellectual resources that impact their right to adequate housing. Access to appropriate data means being informed about related infrastructure, planning design, availability of services and natural resources as well as potential hazards and other factors that affect this right.

Similarly at all levels of the decision-making process in respect to the provision of and right to adequate housing, individuals and communities must be able to express their views and opinions, and must be consulted and allowed to contribute substantively to such processes. The state must ensure equal access to decision-making processes through supporting legislation and efficient implementation.

While the rights to participation and information are pre-conditions for the realisation of the right to adequate housing, across Tamil Nadu and Sri Lanka we witnessed a complete violation of both rights. Local communities were generally kept in the dark regarding plans for both temporary and permanent housing. Their input in the development of these plans had been absent. Most communities had not been consulted about what they need or would like in a permanent house. Most of them were unaware about the location of their permanent home and how long they would have to wait for it. To deny people the right to express their opinions and to deny them the right to participate in the design of houses that they would be living in, greatly violates their right to adequate housing. Without people's participation, it is unlikely that the housing they receive will be truly adequate in meeting their needs.

## Tamil Nadu

At the time of our visit, levels of frustration across the state were high, as six months had lapsed since the tsunami. Community-based housing is a model that should be promoted across the state, but very few of the agencies involved seemed to be concerned about this. Even where communities had seen a plan for a house, they had no idea what it would look like when constructed and found it hard to fathom the reality from an architectural drawing.

It is obvious that if communities had been consulted, they would have chosen thatch over tar sheeting for the construction of temporary shelters. They would have also built each shelter a little larger with a partition to allow for some privacy. However, the community had no say in the material, design or location of temporary shelters. This was one reason for their strong discontent.

In Kargil Nagar (north Chennai), while the proposed plan for permanent housing is to construct multi-storey houses, most people indicated that they wanted single-storey and single unit houses. Since there have been no consultations with them, it is unlikely that their wishes will be met. In this regard, the level of helplessness among the survivors is strikingly disturbing. Kargil Nagar is a very low-lying area, making it susceptible to floods and water logging. Before any construction of permanent housing is undertaken, it has to be raised to sea level. While work on this site takes place, the people have to relocate to another site, Ennore Gate, which is even further from the coast and without adequate facilities. This move, again, is against their will. At the Ennore Gate site, they will be provided with what is being called “semi-permanent” housing. A voluntary agency, Don Bosco, will be constructing these semi-permanent houses as they said they do not have the money for building permanent houses. The people will be expected to live in these semi-permanent structures of 10 x 15 feet for around one or two years, until permanent housing for them is ready. Apart from the complete lack of community say in any of these decisions, this raises another grave issue: constant and forced relocation against the will of the people.

In Devanampattinam, differences between the government and a religious group over the apparent publicity that a film actor was receiving for his efforts, led to an impasse where after having promised them permanent houses, the religious group has withdrawn, leaving the community in great uncertainty.

A few attempts, however, are being made at developing community housing. In Nagercoil, an NGO called Praxis, in collaboration with Habitat Technology Group (Trivandrum) and Architecture and Development (France) is working on developing consultative housing models, which will then be built by the community in Veerabagupathy (Kanyakumari District). The house models are inspired by designs of British architect Laurie Baker. The groups have planned several consultations with the community, and some construction has already commenced.

The Ramakrishna Mission in collaboration with the Eenadu group had purchased 9.5 acres of land in Surya Nagar in Chidambaram (Cuddalore

District), and was in the process of building 104 houses. Each house of 312 square feet on a plot of 1,800 square feet was being built with scope for further expansion, if the family so desired. Villagers were shown a life size model of the house and only after they approved did construction of the other houses begin.

In Akkaraipettai (Nagapattinam) as in most other sites, frustration and uncertainty were high as there had still been no talk of permanent housing. People were keen to go back to their original location on the coast and repair their houses, or quickly build new houses in the same area. They felt that, even if they were vulnerable, it was better living on the coast than in the uninhabitable temporary settlements. When questioned about the kind of house they would like, everyone said they would like cement or brick houses. In Sonamkuppam (Cuddalore District) the women said they wanted a decent place where they could sleep in peace. They also said they wanted brick houses, but with thatch roofs.

## **Sri Lanka**

With regard to participation, information and consultation, the situation in Sri Lanka mirrored that of Tamil Nadu.

In Thiraimadu, despite agencies taking seven months to build temporary shelters, peoples' participation in the design and planning had been completely absent. When asked how she would have designed the house, Kamala said she would not have used tin and would have made sure it had proper walls on all sides so that people could not look in. Nevertheless, she added that since she didn't have the money, she had no choice but to accept what was given to her.

In Seenigama (Galle Province), Foundation of Goodness had built several permanent houses. While the houses were spacious and well designed, people had not been consulted about the design or material. The only choice they were given was regarding the colour of the paint on the outside walls.

Apart from one woman at the Paddy Marketing Board shelter in Batticalao who said they were in discussion with Oxfam on the materials and design for temporary shelters, across the country, people's participation was missing in all processes related to housing and livelihood restoration as well as in distribution of relief and other assistance.

## **Physical Security**

### **International Legal Basis:**

Universal Declaration on Human Rights, Article 12  
International Covenant on Civil and Political Rights, Article 11  
Committee on Economic, Social and Cultural Rights General Comment 4  
Convention on Elimination of All Forms of Racial Discrimination, Article 5 (e)

Every man, woman, youth and child has the right to live in a secure place and be protected from threats or acts that compromise their mental and/or physical well-being or integrity. The state and other involved actors must address the security needs of the community, in particular, the needs of women, the elderly, the disabled, children and other vulnerable individuals and groups.

Housing must instil a sense of security in the community if it is to be evaluated from a rights perspective. Safety and security of women has been largely compromised in most emergency shelters and temporary housing sites. While domestic violence, rape, including marital rape and sexual abuse are on the rise, they are often not reported. The need for special women's cells in police stations and improved security at the sites is urgent.

### **Tamil Nadu**

Veerabagupathy, in Kanyakumari District, is a village of masons belonging to the dalit community. This was one of the few non-fishing villages that lost houses in the tsunami. Currently the community is located in the midst of the locally dominant and powerful *Nadar* community. When asked about relations with the neighbouring community, women here said that they were afraid to comment on the issue since they were just 75 families surrounded by over 2,000 families from the dominant caste group. While suitable location does not mean that housing settlements should be segregated or homogenous, it is the responsibility of the state to ensure that communities feel safe by undertaking confidence-building measures.

Relocation to new areas has also been a reason for a sense of insecurity among communities. Kanaga, a mother of five in Kargil Nagar (north Chennai), said that before the tsunami she felt free to go anywhere in the city to sell fish from her original home. But after they had moved to Kargil Nagar she felt the need to stay at home since her children, especially her daughters were not secure. She said that unlike earlier, in many families one parent now stayed back to look after the children while the other went out to earn a livelihood. Concerns of safety of children were echoed across communities, especially since many of the temporary housing sites were very close to main roads.

### **Lack of Privacy and Security for Women**

The small size of shelters and close proximity of temporary housing, often built as line houses, meant that women lacked privacy, especially for changing their clothes and meeting other basic needs. This had also increased sexual abuse of women. The absence of separate bathrooms and inadequate space for bathing was a major complaint in all sites visited. In Pudu Nemellikuppam and Pillumedu, women were so desperate that they had covered the area in between the temporary housing sheds with plastic sheeting and were using it to bathe. Shared bathrooms often located at a distance from the shelters, also posed risks to their physical security, especially at night.

*"You are a woman, you can understand what we are going through... There is no place to change here... Men, women, children, cooking vessels, we are all cramped into this small space... There is no privacy... There is not enough food, not enough work... We have nothing left..."*

— A Woman in Keezhamanakudy, Tamil Nadu

## Sri Lanka

As mentioned earlier in the report, the question of security for women as well as for migrants, war refugees and minorities was critical.

In one relief camp in Batticalao, a Special Task Force (STF) officer who was on duty guarding the premises was attacked with a hand grenade by some unknown assailants (supposedly of the LTTE). This not only injured two people in the camp but also resulted in a crackdown, which included violence against members of the camp by the STF. As a result, residents asked for withdrawal of security personnel. They said they did not need any security, as they had no valuable possessions to guard and felt safer without the presence of the STF.

## Lack of Privacy and Security for Women

Since there was no electricity in most shelters, women did not feel safe walking the distance to public toilets at night. In some settlements, separate toilets for women were missing. In Thiraimadu (Batticalao), the bathing area built for women did not allow privacy for an individual bather. In some shelters the severe heat forced women to sleep outside, but they were worried about their safety. Some of them chose to suffer the heat and claustrophobic environment inside the shelters rather than risk their safety by sleeping outdoors.

Even for women living in their original houses, in some places like Peraliya (Galle Province), the walls and doors were badly damaged and had not been rebuilt. That made them feel unsafe at night.

Disputes over relief money were also reported. In the Zahira College relief camp in Batticalao, a woman was burnt by her husband over a dispute that emerged over the use of LKR 5,000 that they received as compensation. All the relief money was generally handed to men, as women are not considered heads of their families. Consequently, in some cases money was spent on liquor and contributed to the problem of alcoholism and violence against women. This was a widespread complaint across Tamil Nadu and Sri Lanka. Women in Batticalao also reported several instances of domestic



*Space in between two shelters being used by women for bathing, due to lack of bathrooms for women in the temporary housing settlement of Pudu Nemellikuppam, Cuddalore, Tamil Nadu*



violence based on suspicions of adultery. They felt that the close proximity of the houses in the settlement colonies made women more vulnerable to suspicion and therefore to domestic violence.

In the northeast of Sri Lanka, some women raised the issue of the lack of Tamil speaking police officers. Women need to be able to communicate with the police, especially women officers in order to express their problems and register their complaints. They found it difficult to talk about their problems in a situation where the police personnel did not speak Tamil and the interpreter was male.

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# Impact of the Tsunami on Livelihoods

**W**hile the purpose of this fact-finding mission was to focus on housing conditions, the indivisibility of rights makes it impossible to ignore other correlated rights. Like housing, the issue of livelihoods emerged as a grave one in Tamil Nadu and Sri Lanka. This is why we have included this brief chapter on the major livelihood issues being faced by tsunami survivors. Furthermore, the right to adequate housing is integrally linked to the right to livelihood and one cannot be viewed in isolation from the other.

The tsunami destroyed not just thousands of lives but also annihilated the livelihoods of hundreds of thousands of coastal inhabitants leaving them distraught, miserable and frustrated. Sadly, a refrain we heard from some survivors across both Sri Lanka and India was “we wish the tsunami had taken us away rather than leave us alive to suffer like this.” Despite all the relief money and despite government and NGO claims of having restored livelihoods, many people are still unemployed, many are still awaiting compensation, and many are struggling to survive with the derisory amounts they have been given.

Where livelihoods have been lost, psychological ailments, including insecurity and depression are common. This in turn affects social and interpersonal relationships, including family and community ties. Several people have lost their capacity to work due to injuries and disabilities brought on by the tsunami. With no work available and many still waiting for normalcy to return to their lives, despair, frustration and lethargy are on the rise.

## **Tamil Nadu**

According to the Government of India, overall damages due to the tsunami have been assessed at approximately USD 2.56 billion. The largest damages occurred in fisheries, housing and infrastructure. Overall losses are estimated at USD 410 million. The most affected areas include coastal fisheries, agriculture and micro-enterprise. It is estimated that 83,788 boats were damaged, 31,755 livestock were lost, and 39,035 hectares of crops were spoilt.

Most of the communities we visited were coastal fishing communities and those dependent on fishing, such as fish sellers and assistants to boat owners. These are the most affected as they lost everything. Though other communities like agriculturalists have also suffered greatly, they are being given minimal attention in rehabilitation efforts.

### **Inadequate Compensation Package**

While detailed compensation packages have been announced by the government (Government Order 57) and livelihood restoration is much spoken about on the agenda of all relief and rehabilitation agencies, the visit to the affected areas revealed that in many areas affected people had not received any livelihood compensation. Others had received only partial compensation that was not enough for them to resume regular work and make a normal living. Earnings were still nowhere close to pre-tsunami days.

The government provided INR 4,000 per family in the first month after the tsunami and then INR 1,000 for the next three months. Most people complained that this was insufficient to take care of a family of four or five members; it was not even enough to feed them. While most families of the deceased received INR 1 lakh (100,000) from the government, some had still to receive this amount.

### **Lack of Specific Compensation for Livelihood Loss**

Although the government announced that those who had lost their livelihoods, in particular their boats, would be provided INR 32,000 as compensation, many were still waiting for this amount. In some cases where a boat owner had died, this amount was not paid to his widow since it was assumed that she would not need the boat. Discrepancies and gender discrimination in compensation packages were rampant throughout.

In Kottilpadu (Kanyakumari District), we learned that families had received only INR 12,000 as compensation as opposed to the promised INR 32,000. Some got catamarans instead of fibreglass boats. In Keezhamanakudy (Kanyakumari District), the initial compensation provided by the government was INR 10,000 per family and then INR 5,000 was given later for net replacement. Some families received INR 20,000 for catamarans. The cost of one fibreglass boat and engine is INR 52,500 while that of a trawler is INR 3 lakhs (300,000). It is thus evident that the cash provided as compensation was not enough to buy new boats. Another predicament with cash compensation was that it was not always used specifically for livelihood restoration but was often spent on alcohol and other items.

In Srinivasapuram in Chennai, people were given tokens that had to be submitted in order to claim compensation. They complained that a lot of their working time was lost in running from pillar to post to obtain their due compensation.

### **Incomplete Lists of the Affected**

There has been criticism that a narrow definition had been used for “affected communities” that left out many who were actually suffering. Even when there was no contention as to who the affected persons were, instances abound where names were missing from lists prepared by government officials. Most of these lists were compiled soon after the tsunami disaster when all were not present at the sites. In Sonamkuppam (Cuddalore District), people mentioned that they were hesitant to resume their normal activities because they were never sure when someone might come with relief aid or to prepare records; they were afraid they would lose out if they were not present at such a time. In some hamlets, people complained that the actual victims had been left out while others were claiming their benefits.

### **Lack of a Comprehensive Loss and Needs Assessment**

From conversations at temporary shelters, it was clear that very often relief agencies were providing aid on an ad hoc basis. This seemed to be determined by availability of supplies or their own perceptions of what was required, rather than on a comprehensive loss/ needs assessment that took into account the community’s priority needs. Apart from boats and catamarans, fishers also need nets and support material like storage vessels and drying aids in order to resume their normal activities. Few organisations were focusing on providing such livelihood accessories.

### **Uncoordinated Distribution of Relief**

In most areas where boats had been given, these were provided by NGOs. But again, this was not done on an assessment of community needs but rather on resources available with the NGO. For instance, in Sadras South (Kanchipuram), of the 181 families belonging to the fishers’ society, only 60 had been recognised as having lost out in the tsunami. Each of these 60 families had received INR 10,000 as compensation but they distributed it equally among themselves so each family got only INR 3,000 each, which was nominal.

A well-known fact about fishing communities is that they are a very tightly knit community. In instances where enough boats had not been given, as in Akkaraipettai (Nagapattinam), the fishermen would take turns to go out to sea and share the catch. In some other cases, fishermen had not resumed fishing, because not enough fishing gear was available for the entire community and they were not sure how to divide the boats or the work. Many felt helpless. Selvarani, a fish seller pointed out, “only if my husband fishes do I have food.” Those who used to work as hired labour on larger boats had lost their jobs. Since they didn’t own any boats or property, they were not considered for compensation.

A strikingly disturbing feature of most compensation policies is that of maintaining the status quo: the poorest had nothing, so they received nothing.

*“We can be proud that all across the fishing community, we share the benefits that we receive.”*

— A woman in Sadras South (Kanchipuram District)

### **Displacement and Relocation**

For fishing communities, the sea is their life and fishing is their livelihood. Displacing them to inland sites results in increased transportation costs, as they have to commute longer distances to the coast. It also creates a problem of safety, as they are unable to leave catamarans and boats on the beach. Moreover, when they cannot see the sea it makes it difficult for them to monitor sea conditions and make decisions regarding when to fish.

In Chennai, the community of labourers dependent on fishing had been relocated to Kargil Nagar situated at five kilometres from the coast. In a shared auto-rickshaw, it cost them INR 40 to make a round-trip to the coast. None of them could afford this additional expense, especially when their income had been reduced to nil.

### **Inappropriate Alternatives**

Several groups were discussing alternative livelihoods for fishermen in view of the fact that many were still fearful of the sea. However, this was not a practical proposition as the majority of fishermen were keen to resume fishing. For women too, alternate options were being explored, but these must cater to their preferences and needs and should not merely be imposed on them. Some actors were also introducing new schemes for income generation. In Tazhanguda (Cuddalore District), an NGO was paying INR 80 per person per day for cleaning the village, while in Velankanni, a “cash for work” programme had been launched by DFID and was targeted at removing rubble and debris from the beach.

### **Lack of Sufficient Attention to Non-fishing Livelihoods**

Not that the fishing community had been well catered for, but other small-scale self-employed daily workers and agricultural labourers felt that while minimal attention had been given to fishing communities, they had been completely ignored in processes for the restoration of livelihoods.

In Devanampattinam (Cuddalore District), an old single woman’s shop had been completely destroyed by the tsunami, but she had yet to receive any compensation for her loss. With contributions from a few community members, she had managed to set up a little shack, but was unaware

of any government compensation package and about her future ability to earn a living.

The tsunami has affected standing crops and spoiled cultivable land (due to sea water intrusion) in all the impacted districts.

### **Lack of Savings**

June to August is normally a lean fishing period, due to the monsoons. Families normally make it through this period with savings from the other months. After the tsunami, they had not been able to fish as normal, so they had no money reserve to pull them through this lean period.

Nagapattinam Additional District Collector Ranvir Prasad mentioned that he had stopped the INR 1,000 per month compensation from June, as he felt it was time for people to get back on their feet. He added that, if they continued to receive this money, they would not be instigated to resume normal work. Given the grim reality of the survivors, this seemed premature and unjustified.



*Fishermen trying to get back to sea*

### **Sri Lanka**

According to estimates of the International Labour Organisation (ILO), at least 200,000 members of the labour force had been affected by the tsunami with an equal number belonging to the informal sector. The tsunami took not just lives and property, but completely decimated coastal fishing communities who contributed 2.5% to the country's national income. Nearly 90% of fisher folk had been seriously affected, having lost their boats, fishing nets and homes. Nearly 80% per cent of the 30,000 fishing vessels in the country were completely destroyed. The bulk of boats destroyed or damaged were small non-motorized boats owned and operated by the poorest of the community. There were an estimated 8000 small boats in Sri Lanka, all of which need to be replaced.<sup>17</sup>

Despite the presence of large international actors in relief and rehabilitation, even seven months after the tragedy most people had not resumed their livelihoods.

<sup>17</sup> "Rebuilding Fisheries Livelihoods in Sri Lanka Post-tsunami," Concept Note, ITDG South Asia, January 2005, at: [http://www.itdg.org/docs/region\\_south\\_asia/rebuilding-fisheries-livelihoods-\(draft\).pdf](http://www.itdg.org/docs/region_south_asia/rebuilding-fisheries-livelihoods-(draft).pdf) (last visited 14 August 2005).

### **Failure to Provide Adequate Compensation**

The government announced in a circular that LKR 5000 a month would be given for six months to all those who had lost their jobs. But people received this amount for only two months (across the country, at all sites visited). In some areas, a third instalment had been announced, but hadn't been received. Complaints of corruption and of unaffected families claiming benefits, were common. For example, some of those involved in coral mining had managed to get themselves listed as affected fishers with the aim of demanding greater compensation. Effective monitoring mechanisms to ensure that compensation reached the needy were absent.

In Thiraimadu, a fishing family griped that they had not been given boats or nets and had no other source of income. They were surviving by pawning their little jewellery. Some of them were involved in construction of temporary shelters, clearing the area and in building fences and roads at the site and earned a daily wage (LKR 400) for their labour.

### **Lack of Comprehensive Needs Assessment**

Lagoon fishers in Akkaraipattu reported that Cordaid had given them boats for deep-sea fishing, which were of no use to them. Despite complaints, their issues had not been addressed, and the unusable boats were being stored in a yard.

In Thiraimadu, the opposite had occurred. Deep-sea fishers had received boats suitable only for fishing in small lagoons. That was because agencies were not involved in conducting a real assessment of people's needs nor were they providing materials suitable to their traditional livelihoods.

### **Lack of Coordination in Relief Disbursement**

In Peraliya (Galle Province) some fishers received boats from an NGO, but no nets, so they could not resume their daily work. In most sites, the fishing families had not received any fishing equipment, despite the involvement of several NGOs. Some widows had received sewing machines but many of them did not know how to sew.

Kunabalasundar, originally from Navalady village and now relocated to Thiraimadu, testified that, while some women in her community had been given sewing machines, she had been left out. She was very keen to get a sewing machine, as her daughter could sew and supplement the family income. Cases of duplication of efforts were also reported. For instance, some families in Galle had received no information related to housing, while just one family had been allotted three houses (one for each family member). As in India, there existed the problem of undistributed boats and of boats being claimed by non-fishers. There were reports that some people in the community were not fishing any more, as they found it easier to just claim compensation.

## **Daily Wage Earners**

Those who earned daily wages by working for others in the fishing sector had suffered greatly. A boat owner who employed five people on his boat might have received compensation money for loss of his boat, but the five people who had been rendered unemployed as a result of the loss of his boat were not being considered for livelihood compensation.

## **Coercion to Non-traditional Fishing Means**

In the North, light coast fishing has been the tradition. However, post-tsunami, multilateral development banks were pushing for local survivors to convert to mechanized fishing. In the past, the tradition of fisher people on the west coast was to lay out nets and then auction their catch on the coast, but with the growing number of trawlers, this tradition was dying out. The trend now was to sell catch at high sea and store it in ice boxes. This resulted in not much fish reaching the shore, causing losses for small fishers and sellers. In particular, it negatively impacted women who were traditionally responsible for selling the catch.

The argument in support of trawler fishing is that the fishermen generate more money. However, this does not necessarily translate into the family making more money, as increased earnings are not always shared with the women. Rather, they tend to lose their independent income from selling fish on the shore themselves.

## **Lack of Sufficient Attention to Non-fishing Livelihoods**

Non-fishing communities such as carpenters, masons, clerks, vegetable and fruit vendors, and other small self-employed workers have also suffered greatly. While they were not getting the same attention as the fishing community, they too had lost their means of earning their living. KPW Rani in Peraliya (Galle Province) used to stitch clothes but lost her sewing machine. Her one surviving son was engaged in making handicrafts (miniature boats with bamboo), but was not earning enough to sustain the family.

## **Lost Documents**

In Tamil Nadu and Sri Lanka, many people lost valuable documents such as birth certificates, national identity cards, educational certificates, house deeds and titles, ration cards and voter registration cards. That has complicated proof of ownership of housing for compensation and alternate housing, and is also negatively impacting those seeking school and college admissions and new jobs.

## **Lack of Attention to Women's Livelihood Concerns**

In most cases, when speaking about livelihoods, governments and NGOs tend to think of male-driven jobs and of compensation and livelihood restoration for



men. While more men might have lost livelihoods and their capacity for earning income, many economically active women had also lost out and must be provided for in livelihood restoration programmes.

Special attention must be given to women-headed households, widows and single women. Many women who previously owned houses and land had lost their economic power, which also affected their social relationships within the family and community.

### **Tamil Nadu**

In some hamlets in Tamil Nadu, vessels used by women for selling fish and sewing machines were washed away, but they were not being considered as losses eligible for compensation. Where livelihood concerns of women were being included and programmes for computer training and tailoring had been initiated, the women were not always in favour of them. While some women were exploring alternate income-generation options such as setting up petty shops, the process was not simple as a license was required from the village *panchayat* (governing council). In Keezhamanakudy (Kanyakumari District), it cost INR 5,000 to set up a shop, which the women could not afford at this stage.

### **Sri Lanka**

In Thiraimadu, women who had lost sewing machines had not received alternate ones. At the Methodist church shelter in Akkaraipattu, women used to sell vegetables and fruit, and used to grind spices like chillies and sell them in the local market. They also provided breakfast food such as string hoppers to nearby restaurants. Since they had moved to this temporary shelter, they had not been able to resume their livelihood activities, as there was no space to cook or prepare their products.

Women seem to be the worst affected, as they have not received any livelihood compensation, neither are they being considered eligible for it. Only some of them were given sewing machines and cycles.

# Recommendations

The report has tried to highlight some of the flaws in the current operative mechanisms of governments and non-government agencies involved in relief and rehabilitation in the tsunami-affected areas of India and Sri Lanka. The aim of this report, however, is not merely to identify shortcomings, but also to pose concrete suggestions that promote solutions through the application of the human rights framework in all relief and rehabilitation work. Since reconstruction in both countries is at the temporary housing stage, we hope that the following recommendations are incorporated to remedy some past mistakes and ensure that they are not repeated when plans for permanent housing are made and implemented.

In order to address many of the concerns raised by this fact-finding mission, it is absolutely necessary that all the actors accept that the rehabilitation efforts, particularly those involving temporary shelters and the accompanying facilities, have violated human dignity. It is this admission that will enable the agencies to learn and seek appropriate solutions.

The agencies involved in rehabilitation should also accept the fact that the fisher community has evolved its mores from a sea-based livelihood and culture that, in many senses, differs from the mainstream thinking of the administration and other agencies.<sup>18</sup> The relief agencies must recognize that durable and culturally appropriate solutions can only be achieved through greater participation of the affected communities.

All agencies must also recognise that so far rehabilitation efforts have been more to their convenience and competence than what is actually needed. Needs and rights-based efforts would require far greater changes in their own thinking and practice.

## **Recommendations to Government of India, State Government of Tamil Nadu, and Government of Sri Lanka:**

1. All relief and rehabilitation plans must meet national and international human rights standards, in particular the rights to life, livelihood, health,

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<sup>18</sup> The fisher people of Tamil Nadu have been seeking recognition as “adivasis,” as sea tribes and, therefore, protection under the Fifth Schedule of the Indian Constitution.

food, information, dignity, equality, freedom of association and movement, and adequate housing.<sup>19</sup>

2. Based on these standards, every person irrespective of race, class, caste, linguistic group, ethnicity, sex, sexual orientation, marital status, disability and age, at every rehabilitation site/ permanent housing colony for tsunami survivor must have:
  - Adequate housing;
  - Adequate food and resources to access food;
  - Adequate health care facilities, including psychological counselling;
  - Access to education;
  - Access to livelihood options;
  - Opportunity for participation and representation;
  - Access to protection against violence:
    - There should be women police personnel in every resettlement site;
    - Access to judicial remedy;
    - All other rights normally available to citizens of the particular country.
3. Government efforts in Tamil Nadu and Sri Lanka seem focused toward rebuilding infrastructure, rather than on restoring people's lives and livelihoods. Equal attention must be given to rebuilding people's lives and livelihoods and to addressing the environmental, psychological and social dimensions of the tsunami, apart from the physical infrastructural losses.
4. The government should ensure that relief assistance and compensation is based on a comprehensive needs assessment that takes into account a holistic assessment of the losses incurred:
  - Men and women should be equally eligible for the collection of compensation money;
  - Refugees and internally displaced persons affected by the tsunami must be given special attention;
  - Special measures to address children's needs, especially of those who have lost one or both parents in the tsunami, should be incorporated in all relief and rehabilitation plans. It is imperative that these measures are primarily based on the perspective of children's rights.
5. The government must provide people with adequate and timely information on:
  - Relief and reconstruction plans and processes;
  - Funds received and amount disbursed;

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<sup>19</sup> See Habitat International Coalition – Housing and Land Rights Network and People's Movement for Human Rights Learning, "Compilation of International Human Rights Standards in Post-disaster Relief and Rehabilitation". (New Delhi: HIC-HLRN and PDHRE, August 2005).

- Responsible authorities/ agencies in the relief and rehabilitation work.
6. Information must be made available in local languages and through appropriate media with a view of reaching the maximum number of people in every community:
    - Special steps must be taken so that all information reaches marginalized sections, including women, children, minorities, the elderly and the disabled.
  7. Affected people's right to participate in relief and rehabilitation planning and implementation must be respected and promoted:
    - Relief and rehabilitation requires assessment as well as monitoring and should involve local governing bodies. Joint task forces comprising of affected people and members of the implementing agency should be set up for the purpose;
    - Existing bodies of local governance should be remodelled with a view to ensuring proportionate representation of all sections of society, including women, religious and ethnic minorities and dalits;
    - Where older governing bodies have dispersed, the government should create new governing bodies for every local community on the lines mentioned above.
  8. The government should set up special mechanisms to ensure timely implementation and monitoring of the disbursement of relief assistance and compensation:
    - Grievance redress mechanisms should be set up at the lowest administrative levels with adequate powers to address problems that may arise in the course of the relief and rehabilitation process;
    - Special mechanisms to assess relief and rehabilitation work of government and non-government agencies vis-à-vis human rights standards should be set up.
  9. A National Disaster Policy that specifies responsible government agencies and their functions should be passed in both countries to ensure timely and coordinated response to future disasters. Disaster management committees should be set up at state and district levels with their powers and responsibilities duly explained.

**General Recommendations to NGOs, International Relief Agencies, Donors, other Voluntary Agencies and Multilateral Development Banks:**

The HLRN team appreciates the intentions of most of the actors involved in relief and rehabilitation, and commends the efforts of some. Nevertheless, despite an apparent display of goodwill, on the whole, there is much to be

desired and improved. Below is a general list of recommendations to local and international NGOs and relief agencies:

1. Relief and rehabilitation must be recognised and upheld as an inalienable right of all affected people.
2. Access to relief and rehabilitation should not be contingent upon gender, caste, class, race, age, proof of residence and location of the original house, etc.
3. Survivors must not be viewed merely as helpless victims but as people responsible for their future and must be included in all plans and processes for rehabilitation.
4. All relief and rehabilitation work must be based on a comprehensive assessment of needs, factoring in the special needs of all marginalised groups including women, children, ethnic and other minorities.
5. For international agencies, it is imperative to understand local cultural dynamics and socio-political interactions before engaging with the communities.
6. Agencies must follow internationally accepted human rights standards and principles in their work. A rights-based approach must underlie all relief and rehabilitation work and the principles of non-discrimination, equality, and gender-sensitivity must be upheld. Rehabilitation should look into the long-term needs and rights of individuals and communities.
7. Rehabilitation policies must be culturally sensitive and well suited to meet local conditions.
8. The special concerns of women must be met, and relief and rehabilitation must be gender-sensitive. While keeping in tune with the local culture, agencies should not perpetuate discrimination against women and other vulnerable groups such as minorities and migrants.
9. Language must be given due attention. All information must be made available in the local language and through media that will reach the largest number of people.
10. Information should be made available on food packets and medicines that are distributed, so that people are aware of what they are consuming.
11. When relief and aid workers visit a site, they must be accompanied by adept interpreters. When dealing with women, agencies must ensure that the interpreter is also a woman.
12. Equal access to aid must be ensured by registering men, women and children individually. Women should be able to collect food and other aid independently from male heads of household.
13. All agencies involved in reconstruction and rehabilitation must develop a code of operation for all their staff and workers. This must include

accountability to the people they are working for. In cases where temporary shelters have been built by agencies, they must be responsible for follow-up, inspection and regular checks of the sites. A staff person should visit the site regularly and establish a grievance mechanism for the people to use.

14. NGOs and international agencies should ensure that the human rights framework informs all government guidelines and stipulations on relief and rehabilitation.
15. All agencies—government and non-government—must operate on the principle of cooperation. This should involve regular meetings and information sharing as well as coordination to ensure that their policies are not conflicting, duplicative or negating of one another.

There is a clear and urgent need to come up with guidelines based on the international human rights framework that go beyond the “SPHERE Guidelines,” and articulate certain minimum standards on space, facilities and infrastructure for post-disaster relief and rehabilitation work. There is also an urgent need to define concepts such as “temporary” and “permanent” housing not only in terms of their attributes but also in terms of a broad timeline for their provision.

**Recommendations to Governments, NGOs, International Relief Agencies, Donors, other Voluntary Agencies and Multilateral Development Banks, to Address Problems in Temporary Housing:**

While we believe that application of the human rights framework can address the variety of issues and complaints that have come to our notice, the following recommendations are targeted toward redressing some of the major grievances of people living in temporary houses:

1. Human rights standards must be used while building temporary shelters to make sure that they meet the conditions of “adequacy” enumerated above.
2. Where temporary shelters are still being constructed, especially in Sri Lanka, consultations must be held with the communities involved to make sure that their needs are incorporated into the design and material used.
3. In shelters that are already being subject to wear and tear, leakages, breakages and cracks, repair should be immediately undertaken and the materials should be improved. For instance, where possible, tar sheeting should be replaced with thatch in Tamil Nadu, especially if people are expected to stay there longer than a month.
4. Space provided in temporary shelters must be increased after consultations with the particular community.
5. Every shelter should have a partition to provide some space and privacy for women.

6. Temporary shelters should not be built in areas that are low-lying and susceptible to flooding. Wherever built in such low-lying areas, the inhabitants should be relocated before the winter monsoons.
7. Temporary shelters should not be built on private land where the residents are vulnerable to eviction.
8. All temporary shelters must have access to water, sanitation, and solid waste management and electricity facilities.
9. Separate toilets should be built for women closer to the shelters, lighting in temporary camps should be improved, and fuel and water sources (for which women and girls typically are responsible) should be provided in the camps.
10. Outlets for subsidised rations through the public distribution system should be located in the vicinity of the temporary housing colony.
11. Healthcare facilities and protocols that ensure privacy, safety and confidentiality must be provided. Women healthcare providers should be present where possible, and women or gender-sensitive interpreters should accompany doctors and nurses who do not speak the local language.
12. Trained psychological counsellors must visit all temporary housing sites on a regular basis.
13. Temporary housing sites should not be located too far from the town and in case this is inevitable, the site should be connected by subsidised and regular public transport.
14. Crèches should be established at all resettlement sites.
15. All resettlement sites should be located not more than 2 kilometres away from a primary school and should be connected by subsidised public transport to local schools and colleges.
16. Government agencies and NGOs that construct temporary shelters must visit them regularly and perform site inspections while following a comprehensive checklist to ensure that people are living in habitable conditions, and also to hear their complaints and redress them.

**Recommendations to Governments, NGOs, International Relief Agencies, Donors, other Voluntary Agencies and Multilateral Development Banks regarding Permanent Housing and Land:**

1. It is of utmost importance that permanent housing meets international housing rights standards and provides for security of tenure, affordability, accessibility, habitability, access to public goods and services, access to land, location, cultural adequacy, and physical security and privacy.

2. Timely and clear information must be made available to all in the local language and through a variety of media with a view to reaching all marginalized sections of the community.
3. All decisions regarding the size and design of the house and layout of the colony should be taken after consultation with the community. Care should be taken to ensure meaningful participation of the marginalized sections of the community including women, those belonging to ethnic and religious minorities, dalits, the elderly and the disabled.
4. Construction and design of the permanent house should allow for extensions if the family so desires at a later stage.
5. Number of family members in a house must be considered when building and allocating new houses. Extended families that lived in one large house cannot be given the same space meant for a single family. Instead, it should be adequate for their needs.
6. Communities should not be arbitrarily divided on the basis of the 50 houses per agency norm as proposed by the Tamil Nadu government.
7. In Sri Lanka, special concessionary provisions should be made to support vulnerable families who may not be able to carry out construction of their homes within six months (as stipulated by the Assistance Policy and Implementation Guidelines on Housing and Township Development), especially women-headed households.
8. The issue regarding the buffer zone (200 metres in India; and in Sri Lanka, 100 metres in the west and south, and 200 metres in the north and east) needs to be resolved through a process of close and intensive consultation with the affected communities.
9. Efforts must be made to ensure that members of fishing communities are able to live close enough to the sea to be able to continue their livelihood and to have access to their boats and nets.
10. Since most of the post-tsunami resettlement will take place on state land, it is imperative that the state takes urgent steps to amend outdated patriarchal land laws and the administrative practices carried out under them, so that women can have equal access to land ownership. Women must be granted joint ownership for state land allocated and state land must not be allocated only to the head of household (currently defined as the male). If the land was in a man's name before the tsunami, new property rights must be given in joint ownership.

Similarly, if the land and house was in a man's name before the tsunami, certificates given to households for the purpose of reconstructing damaged houses should be given in joint ownership to him and his wife (or daughter if the wife has died);



11. Customary law in the east of Sri Lanka should be respected as it allows for property to be inherited from mother to daughter. Given the inherent inequality and discrimination that women suffer, it is recommended that in cases where land was owned by a woman before the tsunami, the resettlement land titles should be given to women.
  - If the land belonged to a woman who died, the land in resettlement areas should be given to the daughters.
  - If the land and house was in a woman's name before the tsunami, certificates given to households for the purpose of reconstructing damaged houses, should be given in the woman's name.
12. People who were living outside the buffer zone, without permit or land titles, or on rent for many years, should be eligible for a house or other assistance.
13. Those who were living in rented accommodation must also be provided alternative housing.
14. The community should be involved in construction activity. District level committees should be formed to monitor all construction work, including the quality of material used and to check for discrepancies.
15. Houses must be constructed using socially and culturally appropriate processes and infrastructure designs, and should be disaster-sensitive and eco-friendly. Local materials favoured by the people should be used as far as possible.
16. All new housing should be accessible to people with disabilities and to senior citizens.
17. Permanent housing must look into socio-cultural dynamics and issues of ethnicity.

**Recommendations to Governments, NGOs, International Relief Agencies, Donors, other Voluntary Agencies and Multilateral Development Banks regarding Livelihoods:**

1. Compensation for lost livelihoods must be based on a comprehensive needs assessment and must be well coordinated and well planned to minimise duplication, to avoid arbitrariness and negligence, and to ensure that benefits reach the needy so they are able to resume working and earning again.
2. Opportunities should be provided not just to help people regain their pre-tsunami levels of living, but also to improve their lives where possible.
3. The government must provide not just boats or just nets but both to the affected fishers in order to enable them to resume their fishing activities. According to the Fisher Peoples' Movement's Tsunami Relief and

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Rehabilitation Programme (FMTR&RP) of Tamil Nadu, two to three tonnes of fishing nets will be needed in each village to initiate fishing activities. Boats provided must be suitable to the waters that they will be used in.

4. Livelihood restoration must also consider support and alternatives for surviving female family members of fishermen who will not continue with fishing as their main livelihood.
5. Rehabilitation and reconstruction must also benefit economically active women of all ages and social groups.
6. A gender analysis should be included in all empirical assessments.
7. Women's income generating options should be incorporated in livelihood rebuilding plans. For instance, provision for self-employed/ home-based women workers must be incorporated in rehabilitation plans.
8. Measures to support women's multiple responsibilities as economic providers and family workers should be supported.
9. Access to grants and loans to re-build lost livelihoods and to replace damaged or destroyed tools, workspace, equipment, supplies, credit, capital, markets and other economic resources must be made available.
10. Special guarantees must be given to orphaned boys and girls to be recognised as separate and independent units and to enable them to receive entitlements to land and compensation so that they are not merely absorbed into the family units who have temporary guardianship.
11. Coordination bodies should pay particular attention to how the needs of the tsunami-affected population are being addressed in the different districts. The principles of equity and avoidance of increased tensions should guide how these needs are addressed, particularly in Sri Lanka.
12. Security of social support systems should be restored to enable people to work collectively as communities.
13. Instead of penalizing the poorer villagers and settlements close to seashores, governments should protect all coastline populations by establishing reliable early warning systems using the most recent technologies and communications systems.
14. Fishing communities should have free access to the coast and be able to leave their equipment on the beach.
15. Rehabilitation and resourcing of local boat builders should be emphasized.
16. Bicycles should be provided to families living in remote sites where there is no public transportation, and to women to facilitate their fish sales.

## Tamil Nadu Government Order related to Housing

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**Government of Tamil Nadu  
Revenue (NC III) Department  
G.O. Ms. No. 172**

Dated: 30-3-2005

Read:

- 1) G.O. Ms.No.25, Revenue (NC.III) Dept., dated 13.1.2005.
- 2) G.O. Ms. No. 26, Revenue (NC.III) Dept., dated 13.1.2005.

### **ORDER**

1. The Tsunami that struck the Tamil Nadu Coast on 26.12.2004 affected the entire coastal economy of the State in 13 districts destroying thousands of houses and resulted in enormous loss of lives and property.
2. The Government has ensured that every affected section of the population viz., agriculturists, small business owners, destitutes, widows, orphaned children, school and college students has been given necessary assistance. Government have also ensured that the essential needs of livelihood have been extended to all the affected families.
3. The Government of Tamil Nadu in the Government orders read above have set out guidelines for the participation of NGOs, Public Sector Undertakings, Corporate Houses and Rehabilitation organisations in this massive reconstruction venture and many agencies have responded positively. The State Relief Commissioner has also communicated a model MOU to be entered into with these organisational and designs and specifications of permanent houses developed by experts to the Collectors.
4. While the prime objective of the Government is to provide properly built houses in safe location to the affected families, Government also recognises that the fishermen people have to remain close to the sea for their livelihood. After taking note of the various regulations under the Coastal Regulation Zone Notifications issued by the Government of India, the Government of Tamil Nadu have formulated the following policy for

the implementation of a massive housing reconstruction programme for the tsunami-affected families.

5. The Tsunami Housing Reconstruction Programme envisages the construction of about 1,30,000 concrete houses at an approximate cost of Rs. 1,50,000/- each. Each house will have 300-325 square feet (sq. ft.) of built-up space. The houses will be having all disaster-resistant features. The lay out will have adequate infrastructure facilities like water supply, streetlights, roads, rainwater harvesting structures, drains, community centre, Noon-meal centre etc. In Chennai and Thiruvallur multi-storied tenements would be built by Tamil Nadu Slum Clearance Board. Each tenement will have 235-250 sq. ft. area and will be built at an approximate cost of Rs.1,50,000/- each. Adequate infrastructure would be provided in these settlements by the Tamil Nadu Slum Clearance Board at additional cost wherever necessary. The entire programme is likely to cost Rs. 1950 crores. It is expected that Government of India and the World Bank will provide substantial assistance for this programme.
6. Guidelines for the Programme:

While constructing new houses, the following guidelines shall be kept in view:

- a) *Houses located within 200 metres of the High Tide Line*
  - (i) As per the Coastal Regulation Zone notifications, only repair of structures authorized prior to 1991 is permissible and no new construction is possible. Therefore, all the house owners of fully damaged and partly damaged Kutchha and pucca houses within 200 mts. of the High Tide Line, will be given the choice to go beyond 200 mts. and get a newly constructed house worth Rs.1.50 lakh free of cost.
  - (ii) Those who do not choose to do so will be permitted to undertake the repairs on their own in the existing locations, but they will not be eligible for any assistance from the Government.
  - (iii) Even for houses, which are not damaged, the owners would be given the option of getting a new house beyond 200 mts. If they are not willing, they will be allowed to continue in the existing locations.
- b) *Houses located between 200 metres and 500 metres of the High Tide Line*
  - (i) For the fully / partly damaged Kutchha and fully damaged pucca houses in the area between 200 to 500 mts. of the High Tide Line, new houses would be constructed beyond 500 mts. of the High Tide Line based on the willingness of the house-owners.
  - (ii) If they are not willing to move beyond 500 mts. of the High Tide Line, the houses for them will be constructed in the existing locations.

- (iii) For the repair of partly damaged pucca houses, financial assistance will be provided on the following scale based on the assessment of the damage by a technical team nominated by the District Collector consisting of Civil Engineers/Diploma holders from at least two Government departments and a private Civil Engineering Consultant.

*Extent of Damage Grant of Assistance*

If the value of the damage is up to Rs. 20,000: full grant of amount up to Rs. 20,000.

If the value of the damage is between Rs. 20,001 to Rs.50, 000: Rs. 20,000 + 75% of the damage above Rs.20,000/-.

If the value of the damage is above Rs.50,000: A minimum assistance of Rs.42,500/- + 50% of the damage above Rs.50,000 subject to a maximum of Rs.75,000.

*c) Houses located beyond 500 metres of the High Tide Line*

- (i) The procedure followed in respect of houses located between 200 to 500 mts of the High Tide Line will be applicable in the case of kutchha houses fully or partly damaged and pucca houses fully damaged located beyond 500 mts. of the High Tide Line.
- (ii) For repair of partly damaged pucca houses in this area, financial assistance will be provided on the same basis as indicated in b(iii) above.

*d) Other General Guidelines*

1. The land for the houses will be given free of cost by the Government at the rate of 3 cents in rural areas and one and a half cents in municipal areas.
2. Priority will be given for non-governmental organisations, Public Sector Undertakings, Corporate Houses and Rehabilitation organisations to reconstruct and repair houses with their own money.
3. Where NGOs/other organisations do not come forward to construct new houses or repair existing houses the house owners will be permitted to construct/repair the houses themselves with financial assistance from the Government, subject to the financial ceilings and the technical specifications given by Government. District Collectors will render all the necessary assistance to the house owners/NGOs/ etc., to facilitate speedy construction.
4. Wherever the beneficiaries are unable to construct the house themselves with financial assistance from the Government and the NGOs are also not forthcoming, the Government will build the houses.

5. In all cases where new houses are given, the old site and the old house will have to be relinquished to the Government by a legally acceptable document. The District Collectors will ensure that these documents are properly registered and brought to Government account.
6. The areas so vacated because of new construction will be entered in the Prohibitory Order book and maintained for public purposes. Fisher people will be permitted to keep boats, nets etc. in these areas. Separate sheds, locker rooms etc. may be put up in these locations by Government/NGOs on a temporary basis as per CRZ guidelines.
7. The new houses should conform to the specifications developed by technical experts already communicated to the District Collectors from the State Relief Commissioner's office.
8. All the new houses will be insured for 10 years at the cost of the executing agency. The cost will be included as part of the Project cost.
9. The title of the house will be given in the joint names of the wife and husband if one of them is not alive, in the name of the survivor and the eldest child. The houses cannot be alienated / mortgaged/sold for ten years. Any transfer of the share of the wife's property to the husband will be declared void.
10. The Collectors are permitted to make small changes during implementation depending upon the local conditions and the wishes of the people. While making such changes, they should consult the village level Tsunami Rehabilitation Supervisory Committees already constituted and as far as practicable such changes should be applied uniformly to all the new houses in the habitation. The Special Commissioner and Commissioner of Revenue Administration /the State Relief Commissioner may issue supplemental instructions/ clarifications wherever necessary.

**(BY ORDER OF THE GOVERNOR) LAKSHMI PRANESH,  
CHIEF SECRETARY TO GOVERNMENT.**

To

The State Relief Commissioner / Special Commissioner and  
Commissioner of Revenue Administration, Chepauk, Chennai-5;

The Development Commissioner and Principal Secretary to Government,  
Finance Department, Chennai-9

The Secretary to Government, Rural Development Department,  
Chennai-9;

The Secretary to Government, Municipal Administration and Water Supply Department, Chennai-9;

The Secretary to Government, Animal Husbandry and Fisheries Department, Chennai-9;

The Secretary to Government, Social Welfare and Noon Meal Programme Dept., Chennai-9;

The Secretary to Government, Housing and Urban Development Department, Chennai-9;

The Secretary to Government, Public Works Department, Chennai-9;  
The Secretary to Government, Transport Department, Chennai-9;  
The Secretary to Government, Health and Family Welfare Department, Chennai-9;

The Secretary to Government, Highways Department, Chennai-9;  
The District Collectors of Tiruvallur, Chennai, Kancheepuram, Villupuram, Cuddalore, Nagapattinam, Tiruvarur, Thanjavur, Pudukkottai, Ramanathapuram, Thoothukudi, Tirunelveli and Kanniyakumari;

The Commissioner, Corporation of Chennai, Chennai-3;

The Director of Fisheries, Chennai-5;

The Director of Rural Development, Chennai-104;

The Chairman and Managing Director, TWAD Board, Chennai

copy to

The Finance (BG.I, II, Revenue, Ways and Means) Dept. Chennai-9;  
s.f./s.c.

/ Forwarded by Order /

# Government of Tamil Nadu

## Memorandum of Understanding

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### Memorandum of Understanding

between

Collector ..... District, Tamil Nadu

and

Non Governmental Organisation / Voluntary Agency / Private-Public Enterprise/  
Rehabilitation Organisation / Trust

The Tsunami that struck the Tamil Nadu Coastal Districts on 26th December 2004 has left behind a trail of devastation, incalculable loss of life and property and has snatched away the livelihood of lakhs of people. There is an urgent need for rehabilitation and reconstruction in the Tsunami affected area of \_\_\_\_\_ District.

This MoU is being entered into between the Collector of \_\_\_\_\_ District [hereinafter referred to as **FIRST PART**] and \_\_\_\_\_ < NGO / Voluntary Agency / Private-Public Enterprise / Rehabilitation Organisation / Trust > [hereinafter referred to as **SECOND PART**], who jointly wish to respond to specific objectives as per the rehabilitation strategy enunciated by the Government of Tamil Nadu.

\_\_\_\_\_ < NGO / Voluntary Agency / Private-Public Enterprise / Rehabilitation Organisation / Trust > has identified \_\_\_\_\_ villages in \_\_\_\_\_ taluk where it intends to support rehabilitation and reconstruction initiatives in partnership with the Government of Tamil Nadu as per the guidelines specified by the Government of Tamil Nadu.

**NOW THIS MEMORANDUM OF UNDERSTANDING WITNESSETH AS FOLLOWS:**

#### **NATURE AND SCOPE OF THE WORK**

(1) The **SECOND PART** undertakes to construct ..... number of permanent houses and / or associated infrastructural facilities such as Water



Supply, Sanitation, Waste Water/Solid Waste Management, Rain Water Harvesting facilities, other ecological features, Roads, Community Centres, School Buildings, Fish and Farm Produce Market Yards, Village Information / Communication Centres, etc. as set out more particularly in the Schedule to this Memorandum of Understanding to the families of the victims affected by tsunami in ..... Villages .....Taluk, in ..... District in accordance with the type design and habitat layout of such quality as approved by the Local Panchayat, and the District Collector in consultation with the beneficiaries especially women based on the overall technical guidelines for disaster resistant buildings specified by the Special Commissioner and Commissioner of Revenue Administration. The **FIRST PART undertakes** the responsibility of providing water, power and other utility connections as may be found expedient with respect to the site conditions up to the periphery of the habitats as per the existing rules and regulations in force.

### **ENGAGEMENT OF AGENCIES**

(2) It shall be the responsibility of the **SECOND PART** to engage only construction agencies with qualified Engineering Personnel with past experience in construction activities and to build the permanent houses in accordance with the rules / regulations / guidelines as laid down by the Special Commissioner and Commissioner of Revenue Administration and the District Planning Authority and the **SECOND PART** will undertake the construction of the houses along with the infrastructure facilities in accordance with the layout or building plan approved by the above mentioned authorities.

### **INVOLVEMENT OF FACILITATING AND TECHNICAL SUPPORT ORGANISATIONS:**

(3) The **SECOND PART** shall be at liberty to identify and engage such NGOs or voluntary organisations with proven expertise and track record in construction activity and / or in socially productive work with community participation in similar projects elsewhere in the State or country for the purpose of achieving the task as a joint exercise in a transparent and participative manner. The **SECOND PART** shall also be at liberty to involve similar technical support organisations which have developed and proved their expertise in livelihood issues and / or in constructing special type of houses or buildings which are earthquake / cyclone-resistant and shall also educate the potential beneficiaries to undertake such repairs as may be warranted in course of their occupation of the building after the allotment. If any complaints are received by the **FIRST PART** on the role of these subcontracted agencies in terms of quality of works, schedule not being met, being a cause of local unrest or distrust with local population, lack of coordination, or in being involved in religious activities or any activities which affect public interest then the **SECOND PART** agrees to make alternative arrangements to replace such agencies. The decision of the **FIRST PART** in this regard shall be final.

#### **LAND AND OWNERSHIP:**

(4) The **FIRST PART** shall provide the land required for the purpose of construction of the permanent houses and / or associated infrastructure free of cost to the **SECOND PART** to enable them to construct houses for the victims affected by the tsunami in the above mentioned location. The ownership of the land shall vest with the Government of Tamil Nadu and the **FIRST PART** shall reserve the right to transfer the ownership of the land to the victims in such manner and at such time as it deems fit.

#### **IDENTIFICATION OF THE BENEFICIARIES:**

(5) The **FIRST PART** shall identify the beneficiaries in consultation with the **SECOND PART** and the decision of the **FIRST PART** with respect to the selection of beneficiaries shall be final and the **SECOND PART** shall not withdraw from the commitment made on that ground or any other ground that militates against the noble purpose of associating the public spirited bodies with the relief and rehabilitation measures of tsunami victims. The **FIRST PART** shall take into account the views of the local Panchayat or any other local body or the committee for supervising relief and rehabilitation formed by the District Collector at the Panchayat / Ward level in finalising the list of beneficiaries. The **FIRST PART** shall, as far as practicable, identify the prospective owners in advance and link them with specific sites so that the beneficiaries can also participate in the construction activities to the extent possible.

#### **EQUAL TREATMENT TO ALL:**

(6) The **SECOND PART** shall not insist on providing permanent houses or infrastructure facilities in the selected and allotted areas only to certain class or classes of families on ground of caste, community, creed, religion, language etc. and shall be bound to undertake the project without any discrimination.

#### **FUNDS FOR THE PROJECT:**

(7) The **SECOND PART** shall invest the requisite amount to undertake the above house construction activity and the provision of infrastructure facilities in terms of <G.O.Ms.25, Revenue (NC.III) Department dated 13.1.2005> OR <G.O.Ms. 26, Revenue (NC.III) Department dated 13.1.2005> and agree to abide by all such conditions and covenants as may be stipulated by the Government of Tamil Nadu from time to time in the larger interest of the welfare of the tsunami victims. Without prejudice to any other guidelines in this regard, the **SECOND PART** shall involve the local beneficiaries in the programme and make use of locally available materials to the extent feasible.

#### **SEPARATE BANK ACCOUNT AND ACCOUNTS OF THE PROJECT:**

(8) The **SECOND PART** shall open a separate bank account and maintain separate statement of accounts for funding the above-mentioned activities and be subject to audit by a qualified Chartered Accountant or by a firm of Chartered Accountants.

#### **SCHEDULE OF ACTIVITIES:**

(9) The **SECOND PART** shall give a “**schedule of plan of activities**” indicating the time of the commencement of the work, various time bound and preset milestones of achievement either in the form of “**PERT**” chart or in any form of work plan with an undertaking to abide by the target date of completion of the work. The **FIRST PART** shall have the right to review the schedule of the activities or PERT chart so presented by the **SECOND PART** and modify or vary or alter the schedule of activities in consultation with the **SECOND PART** and fix the time of commencement, course of progress and completion of work/project as may be warranted and the decision of the **FIRST PART** shall be binding on the **SECOND PART**.

#### **ACCESS TO INSPECTION OF THE WORKS:**

(10) The rebuilding activities of the affected area shall be commenced and completed within the time, as may be stipulated by the **FIRST PART** and the **FIRST PART** shall have a right of inspection of the progress of the work and quality of the materials used in the construction either by himself or through any authorised person/persons with or without prior notice to the **SECOND PART** as the circumstances may demand and the **SECOND PART** is bound to provide all facilities and access to such inspection.

#### **FACILITIES BY THE DISTRICT ADMINISTRATION:**

(11) The **SECOND PART** will be provided by the **FIRST PART** all non-monetary facilities such as local body / Government agency clearances for the purpose of accomplishing the above noble task without any violation of the existing rules and regulations with respect to the construction and building activities.

#### **JOINT REVIEW OF PROGRESS:**

(12) The **FIRST PART** and **SECOND PART** shall jointly review the progress of work at such periodicity as may be found convenient and expedient in the interest of the progress of the work preferably once in a fortnight and in any case the interval between two successive reviews should not be more than a month. The Second Part shall provide all such information as may be sought for by the First Part in such a format as may be prescribed by the First Part either at such interval of time or at any time as may be required by the First Part. The **FIRST PART** and **SECOND PART** shall agree to nominate an

independent Technical Consultant for the purpose of conducting third party auditing and appraisal of the progress of the works and fulfillment of the respective obligations on either part in the course of the progress of the work and during the currency of the MoU.

#### **INCOMPLETE WORKS AND COST RECOVERY:**

(13) In the unlikely event of the **SECOND PART** not performing the committed obligations such as noncompletion of work as per the agreed schedule under this Memorandum of Understanding within such time as may be prescribed by the **FIRST PART** and in such a manner as may be laid down, it shall be lawful for the **FIRST PART** to take over the incomplete work under “**as is where is**” condition sans any liability on the **FIRST PART** after issue of notice not exceeding seven days.

The **FIRST PART** shall also take such action as may be deemed fit to debar and blacklist the **SECOND PART** from undertaking such work in future anywhere in the country and also from claiming any tax exemptions, concessions etc. under the provisions of any act in force under the State and Central Acts.

#### **INSPECTION AND TAKING OVER:**

(14) The **SECOND PART** shall intimate the completion of the construction of houses with provision of infrastructure facilities agreed to be undertaken to the **FIRST PART** within the time as may be laid down by the **FIRST PART** and shall arrange to remove all the debris and building materials scattered around the construction area and dispose of them at its cost and shall take steps to keep the project area clean and neat. The **FIRST PART** shall cause inspection of the constructed houses and the infrastructure established and only on being satisfied of the construction, will arrange to take over the building and infrastructure from the **SECOND PART** with the handing / taking over certificate in writing and signed by both the parts in the presence of the President of the Village Panchayat or any other public representative as may be decided by the **FIRST PART**.

#### **MAINTENANCE OF PUBLIC PEACE AND COMMUNAL HARMONY:**

(15) The **SECOND PART** or any one claiming to possess due authorization of **SECOND PART** shall not indulge, either by himself / herself or through any agencies or organisation or bodies of individuals or in any mode or form of any organisation, in any kind of religious or political or communal activities, especially such activities that will incite or will have the potential to cause hatred or disharmony or both in the minds of the residents or beneficiaries of the area on ground that the **SECOND PART** has invested in the construction of the permanent houses with or without associated infrastructure for the benefit of the allottees of the houses.

(16) The **SECOND PART** shall not be permitted to construct any places of worship of any size and in any manner or form in the village allotted to the **SECOND PART** for the abovementioned purpose. In the event of any violation of this condition, the **FIRST PART** shall immediately terminate the work being done by the **SECOND PART** and shall take appropriate action to complete the remaining work without any liability for the work done.

**FURNISHING OF FALSE INFORMATION:**

(17) If any information furnished by the **SECOND PART** is found to be false or incorrect at any time during the course of the implementation of the above project, the **FIRST PART** shall have the right to terminate the Memorandum of Understanding with prior notice **not exceeding seven days** and in the interest of the Rehabilitation measures to step in and take over the unfinished work including the associated infrastructure facilities without any legal liability to the **FIRST PART** and carry on the above noble task from such resources or by such agencies as may be deemed expedient in the given circumstances.

**MATTERS NOT COVERED BY THE MOU:**

(18) With respect to all residuary matters not specifically covered by the MOU, the instructions of the Special Commissioner and Commissioner of Revenue

Administration / State Relief Commissioner shall be final and binding on both the parties.

**ACTS OF GOD AND SUPERVENING IMPOSSIBILITIES:**

(19) “**Force majeure**” clause: Neither party shall be liable to the other for any loss, delay, or any damage occasioned by or arising out of acts of God such as but not restricted to unprecedented flood, volcanic eruptions, earthquake or tsunami or any other convulsion of nature and other acts such as but not restricted to invasion, act of foreign countries, hostilities, or warlike operations before or after the declaration of war, rebellion, military or usurpation of power which prevents performance under the MoU and which could not have been foreseen or avoided.

**AMENDMENTS TO MOU:**

(20) It shall be lawful for the **FIRST PART** to amend, vary, alter, modify, change, revise and redraw either in part or in full any terms and conditions of the MOU, in the interest of the project works, with the mutual discussion and consent of the **SECOND PART**.

**THIRD PARTY ADJUDICATION:**

(21) Should there arise any dispute or difference of opinion with respect to any issue connected with the above mentioned activities, it shall be referred

to a committee headed by the Special Commissioner and Commissioner of Land Administration, Chennai - 5 comprising a representative from NGOs and a prominent public personality who has a record of social work to be nominated by the Government for adjudication the decision of which shall be final and be binding on the both the parts. None of the provisions of Arbitration Act shall be applicable in case of any disputes.

**PROHIBITION OF CIVIL SUITS:**

(22) The **SECOND PART** shall undertake that he shall not resort to any civil suit or any legal action against the **FIRST PART** with respect to any issues connected with the performance and discharge of any obligation under this MoU.

**Period of MoU**

(23) This MoU is for a period till the activities mentioned in the MoU are carried out.

IN WITNESS WHEREOF the parties hereto have set and subscribed their respective hands and seals the day..... and year .....

On behalf of < NGO / On behalf of Government of Voluntary Agencies / Tamil Nadu / Private-Public Enterprise / Rehabilitation Organisation/Trust >

Authorised Signatory Collector of \_\_\_\_\_

District

Date:

Place:

WITNESSES: SIGNATURE:

- 1) Name & Designation
- Full Address:

WITNESSES: SIGNATURE:

- 2) Name & Designation
- Full Address:

## Government of Sri Lanka

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### **TECHNICAL ASSISTANCE ON RELIEF OPERATIONS IN TSUNAMI AFFECTED AREAS**

#### **GUIDELINES ON ERECTION OF TRANSIT CAMPS**

##### **Construction Section**

**Ministry of Housing and Construction Industry,  
Eastern Province Education and Irrigation Development.  
Tel./Fax: (011) 2863636**

**Dated 04.01.2005**

### **TECHNICAL GUIDELINES ON CONSTRUCTION OF TRANSIT CAMPS IN TSUNAMI AFFECTED AREAS**

#### **1. Determination of the nature of Transit Camp/s required -**

##### **Size:**

- Ascertain the number of the affected community and allocate 01 camp unit (10' x 15') for 5 – 8 persons or around 25 Sq.ft. per person

##### **Water Supply & Sanitation:**

- Water Supply -  
Allocate a water storage of 30 ltrs per person (01 day supply) for drinking & washing purposes.
- Toilets (Camp type) -  
Allocate 01 toilet unit for 20 persons (50% for males and 50% for Females)  
  
Accordingly, finalize the accommodation requirements of the Camp and the number of camps required.

## **2. Site Selection -**

The site should:

- a) be in close proximity to the displaced community but beyond the coastal reservation set out by the Coast Conservation Department (300 m from the coast);
- b) be preferably a levelled ground with a reasonably good soil condition;
- c) not be water-logging;
- d) preferably have the potential to upgrade to a future human settlement/s.

## **3. Erection -**

### **Site Preparation:**

- Demarcate the building area/s of the Camp/s on ground;
- Clear the site and remove all vegetative matter up to around 3 meters beyond the building area/s;
- Prepare the ground outside the camp/s to ensure proper disposal of storm water.

### **Foundation:**

- Follow the formulation details suggested to fix the frame on to the ground.

### **Floor:**

- Floor within the shelter and toilets should be raised at least 225 mm (9") above ground. In this ground, Sea sand may be used as the filling material and paving of bricks or blocks (laid on flat) may be used as the base floor. Masonry debris of the collapsed structures may also be used for both of the above purposes.

Floor should be provided with a semi-rough cement rendering.

### **Shelters:**

- Complete the erection of the shelter as per the details suggested in the erection details to erect the shelter, toilets and water tank structures.

### **Remarks -**

- It is strongly recommend that selection of site/s and erection of the shelter/s & other structures be carried out under the direction & supervision of experienced Technical personnel in order to ensure cost-effective utilization of resources;
- Due consideration should be given to the availability of motorable access to the site/s in order to facilitate delivery of relief aids;



Assistance from respective local authorities or the community leaders should be sought in case of any difficulties.

- Drinking water supply and sewerage & garbage disposal or any other hygienic needs should be arranged through the respective local Authority;
- When electricity mains supply is available temporary services connections should be obtained by the respective power supply authority to meet the minimum lighting requirements in the night (at least security lighting).

In other situations hurricane lamps should be used for this purpose.

- Building Materials required may be purchased at the prevailing market prices from the nearest sales outlet of the Building Materials Corporation under this Ministry.

**Inquiries –**

Contact Person	Telephone	Fax	Email
1. Advisory Desk (Director Construction/ Ministry of Housing & Const. Ind., EPE & ID)	2863636	2863636	<a href="mailto:pganepola@mhc.gov.lk">pganepola@mhc.gov.lk</a>
2. Director Buildings	2862588	2864771	
3. General Manager, National Housing Development Authority	2422394	2439982	

**TYPES OF TRANSIT CAMPS FOR TSUNAMI AFFECTED AREAS**

- Option – 1 - 16 Houses Unit**  
 Size : 100'x38' - (3800 Ft<sup>2</sup>)  
 Structure - 2" dia. G.I. Pipes  
 Walls - Corrugated G.I. Sheets  
 Roof - Corrugated G.I. Sheets  
 Facilities - 02 No. common kitchens, 06 No. common toilets  
 And water supply with storage tanks

Please refer Annex – I for sketch drawings

- Option – 2 - Modular House(Structure & roof only)**  
 Area - 438 sq. ft.  
 Structure - Pre cast concrete members  
 Walls - Temporary walling materials  
 Roof - Asbestos roofing sheets

Please refer Annex – II for sketch drawing and detail

This can be expanded with multiple modules

- 
3. **Option – 3** - **Modular House**
- Size - 10'x16' (160 Ft2)
  - Structure - 2"x2" and 2"x4" Timber Frames
  - Walls - G.I. Sheets
  - Roof - G.I. Sheets

Please refer Annex – III This can be expanded with multiple modules.

**Assistance that can be made available for immediate relief work.**

- Construction of temporary toilets
- Erection of temporary sheds and Canopies
- Condition reports of damaged government buildings
- Damage assessment of government buildings

## Details on Agency Orders Related to the Buffer zone in Sri Lanka

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- a) **The National Physical Planning Department (NPPD) of the Ministry of Urban Development and Water Supply establishes a vulnerable zone for the purposes of planning that is 1 kilometre in width from the mean high water mark and is divided into 3 strips as follows:**
- (i) *Strip One* – 100 metres from the mean high water mark (but 200 metres for the Eastern Province and 150m for certain other areas), within which no new construction will be permitted, except for port and harbour related activities, historic monuments and “tourism related structures” on a case-by-case basis.
  - (ii) *Strip Two* – 200 metres from the landward boundary of Strip One, which shall include historical monuments and buildings, harbour and port related activities, hotels and restaurants, fishing landing sites and ancillary facilities, fishing communities in “appropriate locations” and agriculture.
  - (iii) *Strip Three* – 700 metres from the landward boundary of Strip Two, which shall include activities that have been relocated from the other two strips and other activities that are needed for settlement and urban areas.
- b) **Urban Development Authority (UDA) Guidelines provide that the 1 kilometre wide stretch of land from the mean high tide line be developed, subject to the determination of the Coastal Conservation Department (CCD), as follows:**
- (i) *Strip 1* (100 metres landwards from the coastal line in the western half of the country from Point Pedro to Point Dondra, and 200 metres landwards from the coastal line in the eastern half of the country from Point Pedro to Point Dondra) will be limited to vegetation and parks, ports, fishery harbours and related developments and historical monuments and archaeological sites.
  - (ii) *Strip 2* (the area between the end of Strip 1 and 1 kilometres landwards from the mean high tide line) may be used for all permissible uses under development plans prepared by the relevant authorities.

**c) Task Force for Rebuilding the Nation (TAFREN) Notice stipulates:**

- (i) *Zone 1* – 100 metres landwards from the mean high water line (Coastal belt within the Killinochchi, Mannar, Puttalam, Gampaha, Colombo, Kalutara, Galle, Matara, Hambantota Districts)
- (ii) *Zone 2* – 200 metres landwards from the mean high water line (Coastal belt within the Jaffna, Mullaitivu, Trincomalee, Batticaloa and Ampara Districts)<sup>20</sup>

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<sup>20</sup> "Consultation on the Proposed Coastal Zone: Issues for Discussion" (Organised by the Centre for Policy Alternatives in collaboration with the Konrad Adenauer Foundation, March 2005.)  
See: [http://www.cpalanka.org/research\\_papers/Proposed\\_Coastal\\_Zone\\_Issues.pdf](http://www.cpalanka.org/research_papers/Proposed_Coastal_Zone_Issues.pdf)  
(last visited 6 August 2005)



# HOUSING AND LAND RIGHTS NETWORK

## *Habitat International Coalition*

### HIC-HLRN Publications

#### Fact-finding Reports

**Impact of War and Forced Evictions on Urbanization in Turkey: Violations of Housing Rights**

Fact-finding Report No. 1 (Istanbul: Habitat International Coalition (HIC), 1996)

**In Quest of Bhabrekar Nagar**

Fact-finding Report No. 2 [a report to enquire into demolitions in Mumbai, India] (Mumbai: HIC, 1997)

**Fact-finding Mission to Kenya on the Right to Adequate Housing: A Report on Slum Conditions, Evictions and Landlessness**

Fact-finding Report No. 3 (Nairobi: HIC-HLRN, Sub-Saharan Regional Programme,<sup>1</sup> 2001)

**Resettlement on Land of Bhutanese Refugees: A Report on New Threats to Repatriation**

Fact-finding Report No. 4 (New Delhi: HIC-HLRN, South Asia Regional Programme, 2002)

**Restructuring New Delhi's Urban Habitat: Building an Apartheid City?**

Fact-finding Report No. 5 [on the resettlement process of Delhi, India] (New Delhi: HIC-HLRN, South Asia Regional Programme, 2002)<sup>2</sup>

**Rebuilding from the Ruins: Listening to the Voices from Gujarat and Restoring People's Rights to Housing, Livelihood and Life**

Fact-finding Report No. 6 [on ethnic conflict in Gujarat, India] (New Delhi: HIC-HLRN, South Asia Regional Programme, and Youth for Unity and Voluntary Action, 2002)<sup>3</sup>

**The Impact of the 2002 Submergence on Housing and Land Rights in the Narmada Valley: Report of a Fact-finding Mission to Sardar Sarovar and Man Dam Projects**

Fact-finding Report No. 7 [on housing and land rights violations and inadequate rehabilitation] (New Delhi: HIC-HLRN, South Asia Regional Programme, 2003)

**Post-Tsunami Relief and Rehabilitation: A Violation of Human Rights**

Fact-finding Report No. 8 [mission to tsunami-affected areas of Tamil Nadu, India, and Sri Lanka] (New Delhi: HIC-HLRN, South Asia Regional Programme, 2005)

<sup>1</sup> In collaboration with Human Rights Monitoring Group (HURIMOG)

<sup>2</sup> In cooperation with Sajha Manch, New Delhi

<sup>3</sup> Mission conducted at the request of Citizen's Initiative, Ahmedabad

## **Thematic Publications**

### **Trade, Investment, Finance and Human Rights**

Essential Documents (Geneva: International NGO Committee on Human Rights in Trade and Investment—INCHRITI, 2001)

### **Children and Right to Adequate Housing: A Guide to International Legal Resources**

(New Delhi: HIC-HLRN, South Asia Regional Programme, and HAQ: Centre for Child Rights, 2002)

### **Anatomies of a Social Movement: Social Production of Habitat in the Middle East/North Africa**

(Cairo: HIC-HLRN, 2005)

### **International Human Rights Standards on Post-disaster Resettlement and Rehabilitation:**

[CD format] (New Delhi: HIC-HLRN, and People's Movement for Human Rights Learning—PDHRE, 2005)

## **Country Assessments**

### **Dispossessed: Land and Housing Rights in Tibet**

(New Delhi: Tibetan Centre for Human Rights and Democracy—TCHRD, in collaboration with HIC-HLRN, 2003)

### **Standing Up Against the Empire: A Palestine Guide: From Understanding to Action.**

[report of a seminar organized at the World Social Forum III, Porto Alegre, Brazil] (Cairo: HIC-HLRN, Middle East/North Africa, 2003)

### **Confronting Discrimination: Nomadic Communities in Rajasthan and their Rights to Land and Adequate Housing**

[working paper] (New Delhi: HIC-HLRN, South Asia Regional Programme, 2004)

### **Restoring Values: Institutional Challenges to Providing Restitution and Compensation for Iraqi Housing and Land Rights Victims**

[analysis of the Iraq Property Compensation Commission] (Cairo: HIC-HLRN, Middle East/North Africa, 2005)

## **Home in Iraq**

[a compilation of issues on the continuous housing and land rights crisis] (Cairo: HIC-HLRN, Middle East/North Africa, forthcoming 2005)

## **Tools and Techniques Series**

### **Community Action Planning: Processes – Ideas – Experiences**

[Manual for human rights based slum upgrading] (New Delhi: HIC-HLRN, South Asia Regional Programme, Youth for Unity and Voluntary Action, and People's Movement for Human Rights Learning—PDHRE, 2002)

### **Urgent Action: HLRN Guide to Practical Solidarity for Defending the Human Right to Adequate Housing**

**Action Urgente! Guide pour la Défense du Droit à un logement Suffisant par l'Action Solidaire**

### **¡Acción Urgente! Guía de Solidaridad Práctica para la Defensa del Derecho Humano a la Vivienda Adecuada**

Tools and Techniques Series No. 1 [methodology and training manual for the HLRN Urgent Action system] (Cairo: HIC-HLRN, Middle East/North Africa, 2003)

### **Housing and Land Rights “Toolkit”**

**“Juego de Herramientas” para los Derechos por la Vivienda y la Tierra**

Tools and Techniques Series No. 2 [manual of methodological guidance in CD format] (Cairo: HIC-HLRN, Global Programme, 2003).

## **Reports to UN Bodies**

### **Child in Search of the State**

[parallel report to the India country report on the implementation of the right to housing as enshrined in the Convention on the Rights of the Child] (New Delhi: HIC-HLRN, Laya, Human Rights Foundation, and Youth for Unity and Voluntary Action, 1998)

### **Composite of Economic, Social and Cultural Rights Conditions of the Indigenous Palestinian People under Israel's Jurisdiction and Control**

[joint parallel report to the UN Committee on Economic, Social and Cultural Rights] (Cairo: HIC-HLRN, Middle East/North Africa with seven other Palestinian, Israeli and international NGOs<sup>4</sup>, 2001)

<sup>4</sup> Adalah, the Legal Center for Arab Minority Rights in Israel; Association of Forty (Israel); Badil Resource Center for Palestinian Residence and Refugee Rights (Bethlehem); Boston University Civil Litigation Program (USA); LAW Society for the Protection of Human Rights and the Environment (Jerusalem); Palestinian Centre for Human Rights (Gaza); World Organization against Torture (Geneva, Switzerland).

**Implementation of the International Convention on the Rights of the Child: Issues affecting the Indigenous Palestinian People under the State of Israel's Jurisdiction and Control**

[joint parallel report to the UN Committee on the Rights of the Child] (Cairo: HIC-HLRN, Middle East/North Africa with three other Palestinian NGOs,<sup>5</sup> 2002)

**Human Right to Adequate Housing in India**

[joint parallel report to the UN Committee on Economic, Social and Cultural Rights] (New Delhi: HIC-HLRN, South Asia Regional Programme with Indian NGOs, 2002)

**Acts of Commission, Acts of Omission: Housing and Land Rights and the Indian State**

[joint parallel report to the UN Committee on Economic, Social and Cultural Rights] (New Delhi: HIC-HLRN, South Asia Regional Programme with Indian NGOs,<sup>6</sup> 2004)

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<sup>5</sup> Defence for Children International (Palestine); LAW Society for the Protection of Human Rights (Jerusalem), Al Mezan Center for Human Rights.

<sup>6</sup> National Forum for Forest People and Forest Workers, Muktidhara, Youth for Unity and Voluntary Action, Kalpavriksh, Sajha Manch, Citizen's Initiative, Narmada Bachao Andolon (Save Narmada Movement), and National Campaign for Dalit Human Rights.



Habitat International Coalition (HIC) is an independent, international, non-profit movement of over 450 members specialized in various aspects of human settlements. Members include NGOs, social movements, academic and research institutions, professional associations and like-minded individuals from 80 countries in both the North and South, all dedicated to the realization of the human right to adequate housing for all.

### Many of HIC's programmatic activities are managed through Thematic Structures:

- Housing and Land Rights Network (HLRN)
- Habitat and Environment Committee (HEC)
- Women and Shelter Network (HIC-WAS)
- Working Group on Housing Finance and Resource Mobilization
- Social Production Working Group

### What are HLRN's Objectives?

HLRN shares with general HIC, a set of objectives that bind and shape HLRN's commitment to communities struggling to secure housing and improve their habitat conditions. HLRN seeks to advocate the recognition, defence and full implementation of every human's right everywhere to a secure place to live in peace and dignity by:

- Promoting public awareness about human-settlement problems and needs globally
- Cooperating with UN human rights bodies to develop and monitor standards of the human right to adequate housing, as well as clarify states' obligations to respect, protect, promote and fulfill the right
- Defending the human rights of the homeless, poor and inadequately housed
- Upholding legal protection of the human right to housing as a first step to support communities pursuing housing solutions, including social production
- Providing a common platform for them to formulate strategies through social movements and progressive NGOs in the field of human settlements, and
- Advocating on their behalf in international forums

### To attain these objectives, HLRN member services include:

- Building local, regional and international member cooperation to form effective housing rights campaigns
- Human resource development, human rights education and training
- Enhancing self-representation skills and opportunities
- Action research and publication
- Exchanging and disseminating member experiences, best practices and strategies
- Advocacy and lobbying on behalf of victims
- Developing tools and techniques for professional monitoring of housing rights
- Urgent action against forced eviction and other violations

To become a member of HIC-HLRN log on to [www.hlrn.org](http://www.hlrn.org)



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