

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



Housing and Land Rights Network
HABITAT INTERNATIONAL COALITION

Coordination Office and Middle East/North Africa Program:

11 Tiba Street, 2nd Floor • Muhandisin, Cairo EGYPT

Tel./Fax: +20 (0)2 3760-0755 • E-mail: hlrn@hlrn.org / hic-mena@hic-mena.org

Web: www.hlrn.org / www.hic-mena.org

South Asian Regional Program:

B-28, Nizamuddin East • Delhi 110013 INDIA

Tel./ Fax: +91 (0)11 2435-8492 • E-mail: hic-sarp@hic-sarp.org

Latin America/Caribbean Program (LACP):

Tacuba No. 53, 1^{er} piso • Colonia Centro • 06000 México, D.F. MÉXICO

Tel: +52 (0)55 12 15 86 • Fax: +52 (0)55 12 38 42 • E-mail: hic-al@hic-al.org

Web: www.hic-al.org

Sub-Saharan Africa Program (SSAP):

P.O. Box 14550 • Nairobi KENYA

Tel: 254 (0)2 443-226/443-229/443-219 • Fax: +254 (0)2 444-643

E-mail: mazinst@mitsuminet.com • Web: www.mazinst.org

UN Liaison Office:

8, rue Gustave Moynier • 1202 Geneva SWITZERLAND

Tel./Fax: +41 (0)22 738-8167 • E-mail: hic-hrc@iprolink.ch

Title

Author: Editor:

Copyright © 2005 Housing and Land Rights Network

Printed in India by *El Ekhlass Press* •

Made possible with support from:

New Zealand AID

Acknowledgements

The Housing and Land Rights Network South Asia Regional Programme conducted this fact-finding mission in close coordination with partners in Tamil Nadu and Sri Lanka, who facilitated the fact-finding team's meetings and travel. The team is grateful to them for their time and invaluable assistance.

Tamil Nadu

In Chennai, we would like to thank Aruna, Beulah Azariah and Neelavalli at Initiatives: Women in Development (IWID); in Cuddalore, V. Nadansabapathy and the team at Centre for Rural Education and Economic Development (CREED); in Nagapattinam, Jesu Rathinam and Gandhimathy of Social Needs Education and Human Awareness (SNEHA); in Nagercoil, M. Valarmathi and Alex Tuscano and the team at Praxis, and A. Maria James and the team at Rural Uplift Centre. Peter Das, TSS Mani, and other members of Fisher Movements' Coordination of Tamil Nadu and Pondicherry (FIMCOTNP) provided the fact finders with useful information and insights. We are also grateful to our driver Vijay Prasad.

Sri Lanka

INFORM Centre for Human Rights and Documentation helped organise the team's entire trip in Sri Lanka. We are very grateful to Sunila Abeysekerra for her advice and help in coordinating the visit,

and to Udaya Kalupathirana for his insights on the company and his translation assistance.

In Galle, we would like to thank Keerti Hewa *Committee for Human Rights*; in Batticalao, the *Development Centre* and *Women's Coalition Management* and Sitralega Maunaguru, member *Advisory Council of the National Human Rights C Lanka*, and, in Akkaraipattu, Senthuraja and h *Lankan Organisations Networking for Development*

Special thanks to our driver Karu for his patience ar Tamil interpreters Vishwa Lingam and Renuka Rani

New Zealand AID (NZ AID) provided the funding for mission and publication of this report. We would acknowledge Suzanne Loughlin for her help in coord

Most of all we owe this report to the people of both Sri Lanka who opened their lives to us and share stories, and their dreams.

This report is dedicated to them. To their strength their endurance, their spirit, their patience, and most May their rights be recognised and upheld, and made light.

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
ICESCR	International Covenant on Economic Social and Cultural Rights
ILO	International Labour Organisation
INGO	International nongovernment 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	nongovernment organisation
RAH	right to adequate housing
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

Table of Contents

Executive Summary	1
Introduction	
General Overview	
Violation of Rights.....	4
Lack of Information, Consultation & Participation.....	4
Lack of Accountability, Trans Coordination.....	5
Women's Concerns.....	11
Right to Housing	4
Overview.....	15
1. Security Tenure.....	19
2. Access to public goods and services	
3. Access to natural resources	
4. Accessibility	
5. Habitability	
6. Location	
7. Cultural appropriateness	
8. Information and Participation	
9. Physical Security	
Impact of Tsunami on Livelihoods	
Recommendations	

Annexes:

- Annex I: Tamil Nadu Government Order 172
- Annex II: Tamil Nadu Government Memorandum of Understanding
- Annex III: Sri Lankan Government Temporary Housing Guidelines
- Annex IV: Notes on Buffer Zone in Sri Lanka

Executive Summary

After 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/ nondiscrimination, 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 international aid, relief efforts do not seem to be reaching the needy.
3. Relief assistance and compensation has been based on a comprehensive needs assessment.
4. Women bore the greatest brunt of the tsunami. Rehabilitation policies only have served to discriminate against them. Most relief measures were gender-insensitive. Further, the need for relief against women was a common complaint that was not visited.
5. Relief and rehabilitation policies had not taken into account the special needs of vulnerable populations such as children, migrants, refugees, internally displaced persons, minorities, and disabled people. Further, the policies were insensitive and were often not suited to local conditions.
6. Affected people's right to participate in rehabilitation planning and implementation was not respected. People were not provided with timely information. Confusion regarding government and responsible agencies was rampant.
7. There was no effective mechanism for the implementation and monitoring of the relief assistance and compensation, and to ensure the coordination of government and nongovernment agencies.
8. Government efforts in Tamil Nadu and Sri Lanka focused toward rebuilding infrastructure and restoring people's lives and livelihoods.
9. The right to adequate housing of the tsunami-affected was violated in most places in Tamil Nadu and Sri Lanka by the government, but also by international and voluntary agencies. Temporary housing has been constructed with poor and inadequate standards with a lack of consideration to address habitability, sanitation, security and cultural needs. Later, in some areas in Sri Lanka, people were moved into temporary housing and were living in makeshift structures. 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 find work. This resulted in despair, frustration, and a sense of hopelessness.

11. Hunger and malnutrition were severe among many survivors. Poor health conditions were rampant in many 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 missing.

There is an urgent need for all agencies—be they government, nongovernment, international, local or faith based—to adhere to internationally accepted human rights standards and develop a strong rights-based approach to relief and rehabilitation work. The right to humanitarian relief must be recognised and upheld as a basic human right. Similarly, tsunami survivors should not be merely viewed as helpless victims but should be actively included in all rehabilitation plans and processes. Efforts should be made to uphold their dignity and ensure the protection of their basic needs and rights.

Introduction

The earthquake and resulting tsunami of 26 December 2004 hit 12 countries of the Indian Ocean reportedly killed 2.3 million people (reported buried or missing), negatively impacted the needs and livelihoods of five million people, and caused significant damage to infrastructure. The majority of the people affected by the earthquake and the tsunami had fisheries as their primary livelihoods or were employed in associated sectors. In many areas, fisheries were hit the hardest, with significant crop and livestock losses. About five million people are estimated to be homeless, while according to the Red Cross, more than 10 million people have been displaced.

In South Asia, the tsunami brought devastation to the coastal regions of Sri Lanka, while in India the worst hit were the states of Tamil Nadu and the Andaman and Nicobar Islands. West Bengal, Orissa, Pradesh and Kerala also experienced significant damage.

In Tamil Nadu, 1.5 lakh (150,000) people in 33 districts have been directly and indirectly affected by the tsunami. Loss and damage to housing is an estimated 100,000 units.

million.¹ At least 647,556 persons were displaced and moved into emergency shelters.²

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.³ 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 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

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

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

³ 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.

Vartak and Shivani Chaudhry from Housing Network, and R. Sreedhar from Environics. The mission took place from 25 to 31 July, and the team was led by Malavika Vartak and Shivani Chaudhry.

In Tamil Nadu the team visited the following sites: Devanampattinam, Sonamkuppam, Chidambaram, MGR Thittu and Pillumedu, in Cuddalore District; Akkaraipettai, Serudhur and Nagapattinam, in Nagapattinam District; Nagercoil, Keezhamanakudy, Veerabagupathy, Kottilpuzha, in Kanyakumari District; Kargil Nagar, Srinivaspuram, Chennai District; Pudu Ner Sadras, in Kanchipuram District.

In Sri Lanka we visited the provinces of Galle, Batticalao and Ampara, in the northeast. The sites visited include: Galle–Magalle, Akurala, Galagoda Galle Camp, Peraliya, Pudukudirauppu; Batticalao–Tirupattur Marketing Board; and Ampara–Akaraipettai Periyaniavalai and Kannagigramam.

We visited relief camps, “emergency” shelter sites, and housing “settlements” as well as two permanent settlements. Discussions, conversations and interviews were held with survivors including affected communities and individuals, and with activists, members of social movements, representatives, local government officials and representatives of international agencies. In Sri Lanka, we held three focus group discussions where participants shared their experiences. The team explained the elements of the right to adequate housing and the aim of strengthening local advocacy efforts.

The first part of the report presents some of the findings and concerns in post-tsunami rehabilitation. It then discusses the housing and land conditions at the sites visited in Tamil Nadu and Sri Lanka against standards articulated under the right to adequate housing. Finally, it makes specific recommendations toward ensuring that the human rights and dignity of affected communities are upheld in all rehabilitation efforts, with a view to informing plans relating to permanent housing and livelihood restoration.

INSERT

IMAGE

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 as state and other institutions without any discrimination on the basis of caste, ethnicity, religion and gender is premised on the right to life with dignity.

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

The overarching problems faced by communities in both countries include a severe lack of information; the absence of consultation; a lack of coordinated relief work; the lack of accountability from both government and non-governmental organisations (NGOs); and a clear disregard for the needs of the affected populations. This is manifest in the conditions that people are being forced to live in. Plans for permanent housing to be developed have not been focused on, and neither have the needs of vulnerable populations such as refugees, women, people with disabilities, minorities and children. There is also an inequality in the treatment of different districts and ethnic groups that survived the tsunami.

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

A holistic understanding of the crisis and response is missing. Approaches that integrate livelihood, housing and rehabilitation are lacking in rehabilitation activities as are accountability and monitoring. The pervasive violation of human rights standards across all relief and rehabilitation efforts by government or international agencies—widespread and systemic—remains a major concern.

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

Violation of Human Rights

As mentioned earlier, the “charity” approach that non-governmental agencies use in relief and rehabilitation is at the core of human rights violations taking place. This is compounded by the lack of coordination between agencies—government, local and international—in a gross neglect of the tsunami survivors’ human rights. The current scenario of rehabilitation in the tsunami-affected areas is rife with confusion over long-term rebuilding.

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 nondiscrimination 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).⁴ 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.

⁴ India has signed but not ratified.

Lack of Information, Consultation and Participation

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

Relief continues to be ad hoc and does not see the needs of the people. This is largely because involved in the rehabilitation processes. A lot of with temporary housing, restoration of livelihood of relief material would have been resolved had been consulted.

A lack of information or in some cases the existing information, paralyses decision-making, especially authorities are not clear as to what decision-making have been granted. People do not know about it neither do they have clarity on various policies orders. This has resulted in insecurity, anger and

In Tamil Nadu, after the tsunami, most of the village (governing councils) of affected fishing villages dispersed. As a result, in several villages there is to raise issues faced by the community or adequate relief and rehabilitation. In cases where had managed to regroup they had also been able benefits for their village as in the case of Sadras Nemellikuppam (Kanchipuram District).

It is unfortunate that in spite of principles of humanitarian standards calling for active participation community, little had been done toward this. Both nongovernment agencies are culpable of not communities regarding their needs, their fears, and their opinions on relocation, resettlement and

Lack of Accountability, Transparency and Coordination

Role of Government

An overall lackadaisical government attitude seen rehabilitation and reconstruction work in Tamil Lanka. Multiple international agencies seem to over rehabilitation work with minimal state contro

⁵ Refer to section on Adequate Housing for more details on local consultation.

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 of 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 has stepped in only in cases where there are no well-funded NGOs. Most government money apparently is being reserved for larger infrastructural expenses. In Cuddalore, the team learned that the District Rural Development Agency had received INR 44.71 lakhs (INR 4,471,000) for tsunami relief, but only had 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 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 is that the District Collector and his staff are easy to approach. People can bring in their complaints and present them to the Nagapattinam officials. However, that is apparent not the case 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, formed a committee to try and pressure the respond to their concerns. One woman from th that the government had never visited them feedback. Even about important issues like gc they only received bits of information from NGC was provided.

The almost complete shunning of government generated a peculiar situation in the state. W government and nongovernment agencies ; organisations involved, there was a lot of confus appropriate authority responsible for various rehabilitation. In several cases, groups inadequate temporary structures and had left, le open to the people for registering their com shelters started leaking or decomposing (due to tar sheeting used). As these shelters had been to government refused to take responsibility for the

We also heard that settlements and commun close to the ruling party had received far great larger, interior settlements with little political clout

Sri Lanka

“The government is just sitting on fu the government any more. We l anything from the government i months. Therefore we are asking l.

Tsunami su

While it is understandable that the government v by the disaster and might have floundered initial is no justifiable excuse as to why it has not been more responsible and efficient role seven months

The Sri Lankan government, like the Tamil N seemed very willing to allow NGOs and other age relief and rehabilitation work with minimal mo people complained of the lack of competenc mechanisms. The government had not brought hired new people effectively to respond to the c Divisional Secretariats were short staffed and resources. For instance, the team heard test Divisional Secretariats often did not have vehicle

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 centralized, and government officials at local levels had little room to negotiate. In addition, the policy-making authority of certain coordination bodies, such as Task Force for Rebuilding the Nation (TAFREN), **versus** the policy-making authority of the various line ministries, was a source of 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 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, the team received information 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.

However, the former main ally of Sri Lanka's ruling People's Liberation Front (JVP) coalition sued in the Supreme Court in early July, claiming 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. That the LTTE is in control of two districts and parts of the other four northern and eastern districts affected by the tsunami has weighed in its interim order. 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 reconstruction work has contributed to relief work being understood as charity, not as a right to shelter, a dilution of accountability and transparency and a reluctance for people to feel more confident to ask questions and demand for expenses from their local and state governments. As voluntary actors they are hesitant. This makes the need for operational standards and a code of conduct for relief and rehabilitation agencies even more critical.

The tsunami brought with it a wave of NGO and voluntary agencies from all over the world to both Tamil Nadu and Sri Lanka. Many organisations with little previous local knowledge now have a significant presence in the region. Unfortunately, there is no effective mechanism that can hold them accountable. In Sri Lanka, relief agencies have been given a near free hand with a minimum government interference or mechanism for grievance redress. On the other hand, the approach of appointing groups to “adopt” villages and promote them has caused a cause for minimal questioning of government policies and community.

Another major problem prevalent throughout Tamil Nadu and Sri Lanka is the lack of coordination between government and nongovernment agencies involved in rehabilitation. This is a lack of coordination between government and voluntary actors.

Tamil Nadu

Across Tamil Nadu people complained that many shelters built or provided initial assistance after the tsunami. In many cases, there had been no contact with the community for feedback. In Kanyakumari District, people did not even know who the members of the NGO responsible for construction were. In Akkaraipettai (Nagapattinam District), shelters have been built by World Vision, Sevai, and Japan Platform. Again, however, a sustained contact between these groups with the communities in order to address their problems and living conditions was missing.

In Kanyakumari, the strong role of the Church (through various bishops and dioceses) has 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 lack 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 distinctions 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 inundation. 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 nongovernment 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 prescriptive (the lack thereof) for housing or other relief and reconstruction. Most groups accepted the Tamil Nadu government build temporary housing with tar sheeting, even though known not to be durable, waterproof or heat resistant. Some groups challenged this by suggesting alternative materials. Apparently, no one raised questions about shelters, distances among the shelters, and the quality of temporary settlements. Very few organisations such as the Tamil Nadu Women's Collective built temporary housing with thatch, which is cooler and more suitable to the climate and culture of the people.

Sri Lanka

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

Even though in places like Ampara, local government claimed to be meeting regularly with NGOs, in practice there was a lack of coordination among the multiple agencies involved. Like in India, post-tsunami work is largely dominated by international nongovernment organisations. The advent of INGOs, characterised by little local knowledge and resources, has led to many INGOs co-opting local NGOs, paying them much higher salaries, but leaving local groups helpless at a time when they most need help. In most situations, the local groups are the ones who should work in the field, as they have a sound understanding of the conditions, history and politics, as well as experience in working with the communities. While international organisations may have the needed expertise and resources, they should support local groups to ensure sensitivity and efficient 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 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 merely had 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 Kannagiramam, 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, **timely international venues and the rush of funding** remain self-aggrandising, feel-good **experiences** 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 **agency management's** prevailing gender insensitivity and the absence of direct consultations with women.

It is a well-known fact that women are among sufferers in any disaster, post-tsunami relief and Tamil Nadu and Sri Lanka, relief programmes I carried out in a gender-neutral and often pa Issues such as sanitation, privacy, land and pers gender-based violence urgently need to be a countries.

Skewed Sex Ratio and Underage Marriages

Many more women than men died in the tsunami and India. That fact has skewed the current s While there are some surviving women-only hous widowed heads of households, overall, men out the population. This is leading to several probl increase in under-age marriages for girls, especi province of Sri Lanka. The fact-finding team le testimonies that this trend is more evident wher her mother. Locals complained that the close pr is leading to increased interaction among the sex pregnancies, which also is contributing to unde Men who lost their wives, in some cases, have m younger unmarried sisters. Also, since parer enough money or food, they are marrying off yo a way to decrease their “burden.” In some case demanded, it is viewed as an added incentive young girls are forced into marriage in order to b as a separate household and receive more p assistance. Girls who have been orphaned by most vulnerable.

Gender Neutral Government Policies

Most policies and government orders (GOs) tsunami tend to be gender neutral. The only one concerns have been retained is the Tamil Nadu which specifies that all new houses be registere both men and women. However, the Governr Assistance Policy and Implementation Guideline Township Development (2005) fail to address For instance, the Guidelines refer to reconstruction, but does not define household application of arbitrary criteria for relief benefits.

⁶ The legal age for marriage in Sri Lanka is 18 years for both se 18 for girls and 21 for boys.

Similarly with compensation money, women's marginalization 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.

Gender-insensitive Relief Distribution

In Tamil Nadu, most families received only *dhotis*⁷ and *saris*, 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 to 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.⁸ Anxiety consistently dominated tsunami-affected mothers' discussions with the fact-finding team over child-rearing.⁹

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 are not being taken into account in most

⁷ The dhoti is a style of Indian men's wear. A rectangular piece of cloth, it is wrapped in a complex manner about the waist and legs and is usually white or cream in color, though black and darker hues are often used to create more vivid ensembles. There are more than 60 different ways of wearing a dhoti. However, the dhoti without underwear is not generally considered one of the acceptable variations.

⁸ 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.

⁹ See next section on *Right to Adequate Housing* for more on women's concerns.

resettlement areas. While counselling has been provided by NGOs and other agencies, in most areas it has stopped, and long-term education are not an area of focus. Efforts at providing emotional support for young children are also limited.

Sexual abuse of children is a grave concern in camps and living quarters. For orphaned children with relatives, the conditions may not be adequate in terms of space, entitlements and emotional support. Orphaned children are not considered as eligible to receive such support. This is a direct form of discrimination against them. Children are also increasingly vulnerable to trafficking.

Tamil Nadu

In some shelters, children had no place to play like Akkaraipettai (Nagapattinam), the crèche was not functional, the common toilets, creating a sanitary and health problem. Shelters reflected no consideration as to needs of children and private spaces for children, particularly those in urban shelters, thereby significantly affecting scholastic performance. Shelters, such as the ones in Kanchipuram, are located along highways, and mothers feared deeply for the safety of their children. Special psychological counselling for children was not provided for in any of the shelters.

Children's education has also suffered with many schools shut down and resettlement sites being located far 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 National Child Protection (Provisions) Act, No. 16 of 2005, which entered into force in June 2005, especially provides for the care and protection of children and young persons orphaned or left without parents after the tsunami. The statute is not adequate to address the tsunami's more-serious psychological effects. It does not provide for adoption rules, and holds the National Child Protection Commission (NCPA) as the legal guardian of every child who is orphaned or left with a single parent and who is placed under the care of that parent.

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

People complained that the Thiraimadu resettlement site (Batticalao Province) was desertlike, 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 also has had psychological impacts on children, as many of them are war victims and refugees, and already have witnessed a lot of trauma.

Child-friendly spaces, including adequate and safe areas in which to play, continued education with proximity to schools and sustained special-counselling facilities are urgently needed to restore the lost and precarious childhoods of the tsunami-affected children.¹⁰

¹⁰ See next section on Human Right to Adequate Housing for more on education.

Human Right to Adequate Housing

The 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 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 states that the state's minimum core obligations to ensure enjoyment of the right. These minimum core obligations are as follows:

1. Legal Security of Tenure: There should be no evictions without due process of law; against forced eviction and harassment;
2. Availability of services, materials, infrastructure: Facilities essential to health and nutrition must be made available. These facilities include but are not limited to, safe drinking water and washing facilities and energy for cooking and lighting;
3. Affordability: Expenditures for housing should be commensurate with income levels, as they should not be compromised;
4. Habitability: There should be adequate protection from the elements. Conditions should be such that disease and structural hazards should be avoided;
5. Accessibility: All should have access to adequate housing;
6. Location: Adequate housing must allow access to employment options, healthcare, schools and other services. There must not be excessive financial burden on the household with respect to transport costs;
7. Cultural Adequacy: The housing configuration should not compromise cultural expression.

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

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

- 1. Security of tenure, freedom from dispossession**
- 2. Public goods & services**
- 3. Environmental natural resources (including climate change)**

- 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, the fact-finding team found that “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 only 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. Accessibility
5. Habitability
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 the Elimination of All Forms of Racial Discrimination (ICERD) provisions and protections articulated in the present assessment.

Overview

In both Tamil Nadu and Sri Lanka, it was not clear that human rights standards were being used for housing. Although both countries issued guidelines for housing—albeit weak and not fully integrated into the rights framework—these were not being fully implemented. Local governments interested in housing were designing their own policies, and national government seemed to approve without hesitation. There was no visible evidence of the SHERE Guidelines,¹¹ which would be a visible evidence of this.

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

Lack of concern for socioeconomic issues and the impact of housing processes and plans related to housing. The impact of housing on social relationships is also being affected. Families are being forced to live together while others are forced to split up. This causes various complex issues such as insecurity to distrust. Conflicts between families arise due to differential treatment of people. There is a lack of uniformity in the size and use of materials in the new housing. Where relocation is inevitable, measures need to be taken to minimise community disintegration while taking into account community preferences.

The strong connection between livelihoods and housing is being ignored in both countries. Efforts to match resettlement locations (e.g. fishers to available sea) are not apparent.

Tamil Nadu

¹¹ A voluntary list of guidelines for disaster management prepared by various society organisations.

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

It is 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 cannot 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 are still premature and in most areas have 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” are completely unfit for human habitation, and violate 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.

INSERT IMAGE 18

While the government claims to have developed an updated checklist for assessing the situation in temporary shelters, there was no evidence of it being used. From the District Collector’s office in Nagapattinam, we learnt that 44 NGOs are already involved in plans for the reconstruction of permanent shelters. The government claims to have identified 204 hectares while the number of permanent shelters needed is 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.

Insert image 4 here

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, INR 150,000) per house. Any interested private or

nongovernment agency willing to meet the encouraged to sign a memorandum of understanding with the government and can go ahead with housing. Several peoples' groups have criticised the MoU. It is on in Kanyakumari to challenge it.¹³

Sri Lanka

According to information received, nearly 150,000 homes have been completely or partially damaged in Sri Lanka. Most were located along the coast. For people who lost their homes and all their belongings, the allocation of temporary accommodation should have been a top priority for government agencies. Yet, despite sufficient funding, adequate shelter for tsunami survivors have not been met. Not even a year 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 have folk either ignoring the housing issue, evading it, or offering no solutions to their supporters. None of these solutions to the massive problems of rehousing created by the tsunami.

The Temporary Accommodation Programme (TAP) under the Ministry of Public Security and Law & Order has been active as of March 2005, in Colombo. However, the offices were set up in the tsunami-affected areas only at the end of March 2005. Officers at these offices maintain that their unit bears no responsibility for the temporary shelters carried out prior to the tsunami. Therefore no avenues of redress exist for people who were accommodated in unsuitable housing and localities during the existence of the TAP.

¹² See Annex II for a copy of the MoU.

¹³ This includes Rural Uplift Centre, Praxis and Sisters of Hope groups.

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 is around LKR 45–60,000 per house. The government has set a 40% midline benchmark. If the house is more than 40% damaged, the government agreed to pay LKR 250,000. If it is more than 40% damaged, the government agreed to pay LKR 100,000. But proof of title and ownership are required before compensation money is awarded, which in many cases is impossible since people lost most of their documents in the disaster.

The major problem in Sri Lanka is that the process for allocating and building temporary housing has been painfully slow and uncoordinated, with people languishing in emergency shelters for up to seven months. The timeframe for both emergency and temporary housing is 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 say 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 15th 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 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.

Insert image 14 here

The confusion over the actual number of persons requiring relocation and rehousing remains a major challenge. Transitional accommodation is being provided to those who had homes within the buffer zone. And this has been done in tents or in one-room huts or sheds. Many of these are established by various NGOs on the original sites destroyed by the tsunami, including within the 100m buffer zone as well as on land allocated by the government on a temporary basis or, in some cases, donated by individuals. All these accommodations were inadequate in terms of materials, ventilation, space, sanitation and facilities.¹⁴ Some of the housing settlements, such as Thiraimadu (Battaramulla) are situated far out with no transport facilities. These settlements seemed to be more consideration for space between buildings than what we witnessed in Tamil Nadu.

All parties interested in building permanent housing are submitting plans to the Urban Development Authority (UDA) for approval. TAFREN then signs a MoU with the relevant community organisations, and then informs the district government. According to the UDA website, the Sri Lanka government allocated USD 330 million to UDA for relief and reconstruction and this, USD 120 million is allocated for rebuilding new housing. The department guidelines state that the maximum size of a house will be 500 square feet and will be built on a plot. Beyond this, the government does not check whether the housing rights guidelines are being used in developing permanent housing.

With the government, private sector and NGOs/INGOs involved in construction, decisions to determine locations and sites for construction, obtaining approval for projects, including setting standards for type and quality of housing, are not yet fully systematized. The state authorities bear the responsibility to address these issues carefully.

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

¹⁴ See next section on elements of adequate housing for more details.

Security of Tenure

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.

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

The tsunami has 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.

Both national governments often cite the safety and relocation issues, issuing declarations of 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 access restrictions and their enforcement raise equally serious concerns over 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 buffer zone, 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 rigorously to enforce this

regulation; thereby, generating a huge out communities and much debate on the pr legislation. Implementation of the CRZ Regulatio relocation of several hundreds of communities along Tamil Nadu's coast and would violate the of fishing communities to the land by the coast.

Due to renewed enforcement of the Coastal policy, a number of those who held legal secur coastal land and properties prior to the tsunami, to relinquish them to the state under the guise of

In Sadras South (Kanchipuram District), the asked the community to sign a MoU to relinquish rights, but the people have refused. This was insisted. They held *pattas* (titles) over it and, were keen to move a little further from the reasons, they were not willing to give up their were first allocated alternate land with legal secur

Apart from the issue of CRZ, security of tenu other concerns of housing and land. Residents housing site in Arokiapuram (Kanyakumari Di precarious position, since their temporary shelte on private land allotted to them for two months. elapsed, the landowner was demanding the lan at the time of this assessment, residents of managed to negotiate for more time, the absenc on permanent housing for them makes them vu eviction.

When assessing this situation from a rights pers that the state's duty is to protect the residents of. eviction and negotiate a settlement with the p thus, ensuring that the temporary shelters are on the site till permanent housing is provided.

Security of tenure is a major concern in the co housing. Although the Government of Tamil N Government Order (GO 172) stating that all titles should be issued jointly in the name of the husba family with a view to ensuring protection from ev there are other serious concerns regarding the this order.¹⁵

¹⁵ "The title of the house will be given in the joint names of the wif them is not alive, in the name of the survivor and the eldest Government Order No. 172.

In several cases, NGOs—and not the state—have purchased land for constructing permanent structures. For instance, the Ramakrishna Mission has purchased land and started constructing permanent houses in Surya Nagar in Cuddalore District. Unfortunately the Mission has 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 premises these regulations in the interest 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 Supply, the Urban Development Authority (UDA) and the Task Force for Rebuilding the Nation (TAFREN).¹⁶ 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).¹⁷

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) also is not permitted.

¹⁶ See Annex IV for more details on these regulations.

¹⁷ See http://www.cpalanka.org/research_papers/Proposed_Coastal_Zone_Issues.pdf (last visited 6 August 2005).

In Peraliya (Galle Province), several families, including K.P.W. Rani, are facing imminent eviction. Danish had constructed Mr. Rani's temporary house on the site. Landowners were asking them to vacate the area and to rebuild their own house on that site. Danish recently 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, the Rani family and others in this temporary settlement are vulnerable and have been left to fend for themselves.

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

In all three provinces of Galle, Batticaloa and Anuradhapura, legal security of tenure was seriously lacking for those who lost their homes and accommodation before the tsunami. While some have been compensated, the team learned that many have not received any compensation for loss of household assets and are not entitled to permanent housing. Thus, the lack of legal security of tenure by the state of several provinces was leading to a further violation of not only their right to housing but also their right to relief and rehabilitation.

Access to Public Goods and Services

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

Tamil Nadu***Electricity***

While all sites that we visited in Tamil Nadu had facilities for electricity supply, the amount received was far 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**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

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 resettlement 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 residences that we visited, most of these were rarely used due to lack of water near by, and due to their inadequate construction. In places where people had no other option to use these toilets, they complained of dirty conditions caused by lack of sufficient water supply facilities. In several cases, as in Pudukkottai (Kanchipuram District) or Tazhanguda (Cuddalore District), toilets were too narrow, too closely set, and did not provide required privacy. In Akkaraipettai (Nagapattinam District), an open-air community toilet for children had been built but was lying unused due to its inappropriateness. In Nemellikuppam, the community had used public spaces to create a few small bathing areas for women in their tents, as no bathrooms had been provided. In the absence of permanent housing, people were very vocal about the unacceptability of common toilets and the need for separate toilets for every family. In the Kargil Nagar residence (north Chennai), which housed more than 2,500 people, there was no separate bathing area for women and, hence, women had to bathe inside their tents. This was a violation of their right to privacy, water and sanitation.

INSERT IMAGE 10 (children's toilet)

Insert image 11 (unused toilet)

Solid waste management was poor in most of the residences visited. In Tazhanguda (Cuddalore District), we found the area well full of waste and stagnating water that posed a health risk to the community by exposing them to a variety of illnesses such as cholera and typhoid. To make up for the deficient solid waste management services by the district administration, the local government had recently taken on the task of employing teams to clean up and cleaning the village. In the Akkaraipettai residence (Nagapattinam District), due to the absence of a proper solid waste management system, people were forced to dump garbage both inside and outside of houses on the site. This created innumerable health hazards for families living close to the dump. Women could not enter their homes every time it rained as the water and mosquitoes were also a common menace in their tents. In Kargil Nagar (north Chennai), large open drains in the absence of proper solid waste management facilities were a major health hazard.

INSERT IMAGE 2

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 told us 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 also 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 has 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 at night to keep watch and reassure their children. NGOs that we met with said that mental health had received very little attention in the relief package. The Tamil Nadu Village Nurses Association's exemplary work of accompaniment in the initial period given due recognition and support to extend the work of some counsellors from the National Institute of Mental and Neurological Sciences in Bangalore had visited the community. Another common complaint was that the counsellors were not medically trained, but had undergone a course in counselling and were thus ill equipped to meet the needs of the community. Despite the availability of counselling, most agencies had suspended their work believing that communities did not need them and that counselling for children had also been ignored.

Adequate Food

With most people still not fully employed and their income not enough due to the loss of their livelihoods, the suspension of relief rations and food aid, food remained an unmet need of all tsunami survivors.

While almost all affected people in the resettlement sites visited had been given temporary rations under 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 after the tsunami, food was a serious concern at the resettlement sites. For instance, at the Palayar (Pudukottai District), shortage of food was an unmet need of the community. Since the people living at this site were labourers and not boat owners, they had not been able to receive livelihood compensation or boats. Due to a difficulty in negotiating with the boat owners, most members of the community had not been able to go back to work and, therefore, were suffering from starvation. A young mother lamented: "If we had died, it would have been much better, but no starvation."

Nutritional intake has also suffered in the post-tsunami period. Women in Sadras South (Kanchipuram District) in the first month they did not get any fish to eat. Given that fish is a staple, most found it very difficult to cope with this loss. Malnutrition was visible among most tsunami survivors.

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. Some 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 schoolbooks 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 have 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), the fact-finding team met with an adolescent girl in tears; although she had passed her grade 12 examination with good marks, she couldn't afford the fees for college. The team witnessed a similar case in Sadras South (Kanchipuram) where a physically challenged girl who had secured admission to a nursing course needed financial

assistance. Fortunately for her, an NGO took promised support.

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

Sri Lanka

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

Electricity

One of the most common complaints against temporary housing sites provided across Sri Lanka was the absence of electricity. This not only made living there extremely difficult but also became a serious security issue for the women in Peraliya (Galle Province). Similarly, while meeting with focus groups in Batticaloa, it was evident that lack of electricity had a severe impact on women's mobility and safety, especially when using toilets. In several places in Batticaloa (Galle Province), people had managed to access electricity from overhead wires, but this being considered unsafe, it was suspended at any time.

The Paddy Marketing Board site in Batticaloa had no electricity but no connections inside the tents or the large hall. People had been living there for the last seven months. Even at the inaugurated temporary housing site at Thiraimadurai, there was a socket for one light bulb in every shelter, but electricity had not been provided and was a cause for concern. For the team that, without electricity, it would be very difficult for children to study at night. In Periyaniavalai as well as in Kannagigramam (Ampara Province), the absence of electricity supply also was a major concern.

Water

In Galle Province, people complained that water supply was acute. Water was mainly supplied through temporary housing sites, and supply was both

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 by tanker. 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 Kannagigramam 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 most of them 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 Sinhala Vidyalaya playground shelter and in Shakhthimugam 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 camps. Heat aggravated by the faulty material used to build the shelters gave rise to skin diseases, boils and rashes. Residents complained of chicken pox, eye infections and diarrhoea.

The lack of flooring in temporary shelters increased exposure and vulnerability to bites from ants, insects and snakes, even scorpions. Residents reported to the team that in Dharmasangaripuram (Ampara Province), the shelters were suffering from headaches and body aches, and the roofs were heat-trapping devices. In Peraliya (Galle), the roofs were still afraid of the water and of the threat of rain, which is why they slept inside the sheds even when it was unbearably hot. For pregnant women it was 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 remote colonies like in Peraliya (Galle Province), Paddy and Kannagigramam (Ampara Province), doctors rarely paid visits. In Batticaloa, women complained that in some cases doctors were from overseas. As a result, language was very difficult. The interpreters were often not comfortable discussing personal health issues with them. People at the Thiraimadu site bemoaned that there were no medical services available nearby and since the site 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 reported but least addressed health issue. Mental health services were an area of official neglect. In spite of the existence of mental health disorders, counselling in most sites had stopped, and where it was being provided, was not adequate as very few staff were medically trained. CARE, International Organization for Migration (IOM) and UNICEF had been providing mental health counselling, although in some places it was mostly for women and children.

In Seenigama (Galle Province), the Foundation set up facilities for training and recreation, including a swimming pool for children but unfortunately had not provided other services. In Thiraimadu (Batticaloa Province), the team learned from the Sri Lankan Red Cross working on psychosocial support at the temporary shelters. Since they were not providing direct support, their role was merely to report cases that needed attention and support to relevant authorities. According to the

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 has 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 the food shortage and 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 it inedible but also posed a severe health risk. One man complained to the fact-finding team that the Batticaloa residents 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 it 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 shop, only North American flour, not rice, was available.

Access to Education

As in Tamil Nadu, in several places in the tsunami-affected Sri Lanka, affected children had resumed going to school. In some cases schools were accessible. Resettlement sites in Kannagigramam in Akkaraipattu and Thiraimalai, however, were located very far from the town. Lack of transport made it impossible for parents to send their children to school. In Kannagigramam, with the school located 20 kilometres away, children had to first take a three-wheeled nearest bus stop and then a bus to the school. The cost from school cost close to LKR 100 per day, which was expensive for most families. They also said that children suffered from a severe shortage of teachers.

In Nindhoor Karaitivu, in Akkaraipattu, an NGO had started a cash-for-work programme, which also employed children. According to Sri Lankan law, children under the age of 15 cannot be employed. The incentive of earning money was a reason for several children opting out of school.

In Kalmunai (Ampara Province), four schools were closed after the tsunami, and an NGO had started evening classes for affected children. These were held from 1:00 to 4:00 pm, which was a bad time, as it cut into their lunch hour. The children were sleepy due to the afternoon heat. Some schools had started to promote the mid-day meal scheme, but children were still asleep in the afternoons. Other organisations were working to restore educational facilities for children. UNICEF had started a temporary school in Kurukkalmadan village, Kurukkalmadan Mahavidyalaya, which ran classes from Grade 1 to Grade 12, as well as A-levels. The Southern Tsunami Relief Fund had established scholarships for 220 school children from affected families. This would cover their education for the next few years, including providing school books, stationery, and psychological counselling.

The state response to children's needs, however, was limited, and in most areas children are still suffering from the effects of education and closure of schools.

Access to Natural Resources – Land

International Legal Basis

54
Natural Resources:

International Covenant on Economic, Social and Cultural Rights, Articles 1 (2) and 25

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 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 are involved in negotiations for purchasing land, most of them are not keen to get involved in this issue. In many cases, the land already belongs to the state so the question of private actors entering the fray is precluded. To add to the imbroglio, is the role of the Church and land owned by the Church in the southern district of Kanyakumari.

The team's interviews and consultation across t that identifying land for construction of permaner primary problem. The general view was that tl land available, and if the government imposed Act, a large amount of land would be freed up l and relocation purposes.

The government has specified that it will give la the rate of three cents in rural areas, and one a municipal areas. With the land price differentials having a fixed rate for the entire state is unworkable. For instance in Tirunelveli, land c cent, while in Kanyakumari land is significantly n INR 15,000 for each cent. To have the same pac was unreasonable.

A young group of church-affiliated youth in Kanyx to the team the issue of financing for land as a Government Order states that not more than spent per cent. At this rate the total government purchase here is estimated to be INR 20 l. However, the actual cost of purchasing land (4,500,000). The group said they are trying to , than the government) to fill this gap of INR 25 but with little success.

Most NGOs and donors could not fund land p money was already earmarked for specific rel services. Meeting the cost differentials for land severe constraint in moving ahead with per especially where land cost more than what the willing to pay.

In cases where construction of permanent hous was only on land bought by NGOs for the comm Nagar (Cuddalore District), or where the commu savings and purchased communal land for Veerabagupathy. Clearly, the government was n issue the priority it deserved, possibly because c surrounding it and also because it is hoped that the lead in buying land for communities. Unfort affected people who were caught between gover 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, costing 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 a 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 is constructed but, if this is 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 unlike the Sinhalese. However, this practice is rare as houses and land are allocated as compensation.

In situations where both husband and wife are survivors are generally given to “heads of households,” which are to be men, or, at best, women may have joint title to the title. This is a clear case of denying women their 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

Adequate housing must provide needed space and peace. It must also provide protection from structural hazards and disease vectors that are threats to health and well-being. Although the fact that housing is habitable is commonly understood. However, much of the housing provided as part of a resettlement package is grossly lacking in standards of habitability.

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

Tamil Nadu

Housing Materials

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

In discussions with the team, residents refrained almost constantly against the use of tar sheets, as they trap heat and, therefore, make it unbearable to live inside the structures. 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, in 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.

On a recent visit to the site, the collector left after five minutes, saying he could not bear to stay there any longer. Despite this acknowledgement of the poor living conditions in Kargil Nagar, no concrete steps had been taken by the state administration to improve them.

INSERT IMAGE 8 (KARGIL NAGAR)

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 the structures 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 Keezhamanakudy (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 were tear off. This lack of durability had resulted in a number of shelters. Furthermore, women complaints failed to provide privacy from the next shelters, as in Sadras South (Kanchipuram), it move aside or tear the common sheet walls and house.

INSERT IMAGE 3

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

Layout and Design

Apart from the defective material used, the inadequate structure and layout of the resettlement sites of uninhabitable character of the temporary structures constituting a violation of the right to adequate housing.

All the resettlement sites that we visited with Veerabagupathy in Kanyakumari District, seem planned with the idea of an urban slum in mind built in straight rows with less than four feet space between rows. In most cases there was no space between were built as line houses with common partition some space had been provided, it was not more than four feet. As clearly seen in the case of Kargil Nagar of the settlement and the lack of space between eventually became a fire hazard.

INSERT IMAGE 9

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 kitchen very close to the sea that lay unutilized, 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 inundation.

Insert image 12

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.

Insert image 7

Sri Lanka

Housing Materials

In Sri Lanka, unlike in Tamil Nadu, a variety of materials were used to construct temporary structures. In fact, many people were still living in structures that were more akin to permanent than temporary settlements. At several points along the survey team encountered what seemed like tents left behind. In Katugoda 5 C Camp (Galle Province), all of the people had been living for the past seven months in tents provided by the Italian government and the local mosque. The tents were not well-ventilated, trapped heat and did not allow any air to enter. In Akkaraipattu (Ampara), used in some parts of the east coast. Those living in temporary structures of the Paddy Marketing Board in Akkaraipattu (Ampara) had put up makeshift partitions with plastic sheeting. The people living on the grounds of the site had been provided with temporary housing showed signs of wear and tear.

In Periyaniavalai in Ampara, people were living in temporary tents provided by Samaritan's Purse. In all of the areas, residents complained that the intense heat and lack of ventilation rendered the structures uninhabitable. One resident explained that the tents could not withstand the rain, they leaked every time it rained. They were not well-ventilated and would flap around noisily, and sometimes collapsed under a strong wind, especially in areas near the coast.

INSERT IMAGE 13

Insert image 5

In several places in Galle District, including in the coastal areas, temporary structures had wooden walls and tin roofs. Some had windows, while most were box-like structures. Residents complained of severe heat and poor ventilation conditions. Many women reported that, although they could sleep in the open, they had to sleep inside for safety.

In Batticaloa, most of the temporary shelters were constructed in Thiraimadu. Several organizations, including Oxfam and Tamil's Rehabilitation Organisation (TRO), were involved in constructing them. Most people who had moved to the shelter on 27 July previously had been living in temporary housing at Central College School, with 16 families to a room. Some had had to live in a classroom for seven months. The people had been moved into temporary housing made mainly of tin and tar sheeting. Both tin and tar sheets are known to be used in Tamil Nadu, could make the houses who

Although the TRO shelters had cement flooring, the fact finders observed cracks in some places on the first day. At another site in 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.

INSERT IMAGE 14

INSERT IMAGE 19

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 Believers 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.

INSERT IMAGE 6

In Thiraimadu, houses constructed by the 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.

Insert image 21

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 10x12 feet to 10x15 feet and

16x20 feet. In Thiraimadu too, house size, d varied according to the organisations involve without any rationale created dissatisfaction betw

In Magalle in Galle Province, the team of invest Dissanayake Medical Students' Hostel, where Lovigahawatte were housed since January. Orig single student, each 8x10-foot room now houses seven members. The rooms were poorly lit and v

As mentioned earlier, several of the temporary h Lanka, including Thiraimadu, are located on low- are susceptible to water logging. People t consistently that not only did the houses leak wh was also impossible to live in them as water and homes.

Accessibility

Formatted: English U.S.

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 right to adequate hou requires that everyone have access to housin components. Historically disadvantaged groups, be allowed full and sustained access to adequ resources, including land. The state and othe must take all housing-right elements into acc equality of the entitlement to reasonable physic: Tamil Nadu and Sri Lanka, however, many hav families and individuals have been left out rehabilitation process.

Tamil Nadu

Many of the temporary structures that we visited accessibility criteria. We found that lists of prepared soon after the tsunami were very accommodate people who were away from the at the time of preparation of the lists. As a resettlement sites, including Pattinapakam ar (Chennai), Kargil Nagar (north Chennai), (Cuddalore District) and Palayar (Pudukottai Dis

families had been completely left out of relief and rehabilitation. In the case of Pudu Nemellikuppam (Kanchipuram), only 48 of the 61 families were on the Revenue Department list, but the villagers had decided that whatever relief they obtained 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 has 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 could have been used as an opportunity to undo certain traditional injustices but, unfortunately, few have taken this opportunity. While most widows and women-headed households have been given their own temporary shelters, enumerators did not count single adult women as separate units in relief operations, and were expected to share the space with their siblings and their 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 has 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 a decade ago had been resettled within the 200-metre zone and had been given “permits” as proof of residence. In Batticaloa these permits did not have the same status in law as in Ampara; people with permits were unable to reconstruct their homes, as seen in the case of 45 families in Thiruchendikulam. In many cases families had lost their permits and their belongings in the tsunami and were unable to get replacements provided by the government and NGOs.

In Periyaniavalai (Ampara Province), once again, the lack of permits had denied around 25 families access to permanent 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 approached the *gram niladhari* (local administrative officer) to register their names but were still awaiting a response. In Batticaloa, the anxiety had been caused when the American Mission and other nongovernment organisations involved in reconstruction had made possession of a title deed another criterion for eligibility to permanent housing. The government did not own land; they only had access and use rights. Only permit holders are those with ownership titles.

In Batticaloa, Madina, a Muslim woman spoke of a difficult situation being faced by 58 families from Ollikulam and other villages. During the 1990 war, they were relocated to the town of Kattankudy, which was one of the worst affected areas in the tsunami. Since they lost everything in the tsunami, they returned back to their original villages of Ollikulam and other villages and they approached the local village officials and District Council for ration cards, the officials refused on the grounds that they were no longer considered residents. Instead, the officials said that they go back and live in Kattankudy if they can get relief. The government agreed to provide them with ration cards in Kattankudy, but only 17 of the 58 families accepted the proposition. The rest of them were afraid of living on the coast. Thus, they were left to fend for themselves and without security or guarantee of equal access to housing.

The state as well as other actors involved in reconstruction should make sure that members of minority communities, displaced persons and migrants are not discriminated against and 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, we found that 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 issuing GO 172 that recognises 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 could 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), people complain being pressured to relinquish their land rights because land or housing had been provided to them. This village *panchayat* (governing council) to the authorities to allow people to retain their rights while giving them permanent housing further inland.

“Where can we go now? We have only known to like to live close to it.”

Arun Kumar (age 13, Devanampattinam, District)

For many fisher families, moving beyond 200 metres was not feasible, as there was not enough available land. With no government support for housing within 200 metres of them did not have the finances to pay for damaged houses. In any case, the majority of houses within 200 metres of the HTL had been completely destroyed and are beyond repair. For such people, the situation was not a guarantee that alternate housing would be provided within 200 and 500 metres of the coast. Most of the sites tended to be very far from the coast. This created a problem for the fishing community, as it would mean losing sight of the sea. In Nagapattinam, fishermen expressed their woes. They had to live in a place from where they could not see the sea. Decisions on when to fish were determined entirely by weather conditions. It was impossible for them to carry out activities when they were far from the coast. Even in Devanampattinam, people were very disappointed. Sites for permanent housing would be at a great distance from the sea. Surya Nagar (Cuddalore District) where the Habitat Mission is constructing permanent houses is located only a kilometre from the sea. As Kalavati, one of the residents of Surya Nagar, said, “we will feel safe here but we won’t be able to see the sea which is our livelihood.” Kargil Nagar in north Chennai, is located 10 kilometres from the coast. This made it very difficult for fishermen to carry their fishing gear every morning. Due to the unviable nature of the location, some tried going back to their original sites but were not allowed to go 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 sites closer to the coast still could be safe, depending on the topography of the area but the government has not taken into account its regulations.

Fishing communities are divided over the enforcement of the CRZ regulation. While many are afraid of living on the coast and are willing to be relocated to safer sites, others are against it saying that any future disaster would undoubtedly affect them since they spend most of their time out at sea. 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 is 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 feel 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 Mall (Batticalao) had been allotted homes in Thiruvananthapuram but they refused to move there due to the inappropriate location. They would only consider relocating there if daily services a day were provided. The situation in Ampara was similar. Located several kilometres from the main town, residents found it very difficult to send their children to school. Children had to use various modes of transport before they could reach their schools.

The government has banned construction of houses within a 100/200-metre buffer zone but has stated that it will provide people with free houses of a minimum size of 50 square metres in close proximity to their original location. For damaged houses outside the buffer zone, the government has agreed to provide grants and concessionary loans for reconstruction purposes. Apart from dwellings, all other structures are allowed within the 200-metre zone. However, the tourism industry is yet to be seen. In Trincomalee, hotels have been reconstructed within the buffer zone but there are no signs of relocating. The regulation also makes it difficult for some housing projects within 200 metres of the coastline above the five metre contour area.

Implementation of the Coastal Conservation Act guidelines was already fraught with tension and seemed ad hoc, with the fishing communities being the most affected. Fishing communities were divided over the new regulations. Some of them were willing to be relocated to a reasonable distance from the coast, as long as they had access to the beach and a way of keeping their boats safely. Many preferred it claiming that they would be better off when they were confident that their families were safe. Others were of the opinion that the area vacated by them should be given to any other party and those with legal entitlement to the land wanted to keep it, even if they moved away.

Minorities displaced by the tsunami had special needs that were often not factored into plans for resettlement. They were being relocated to areas where they would have to live in communities that had no previous experience of them. For instance, in Nugaduwa, the Muslims had been given alternate land but the new site was in a Sinhalese area, which is likely to give rise to complications. In particular, the government was concerned that such a move would deprive them of their places of worship. In order for a site to be suitable for a Muslim village, they said they needed a mosque.

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

International Legal Basis:

International Covenant on Economic, Social and Cultural Rights, Article
11
Committee on Economic, Social and Cultural Rights General Comment
4

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 of the right to adequate housing, cultural adequacy is very critical to the promotion, protection and fulfilment of HRAH.

Tamil Nadu

Temporary housing built of tar sheeting in Tamil Nadu is culturally inappropriate in a number of ways. Not only is it completely unsuitable for tropical climates, but the use of tar sheets has ignored local social arrangements and interdependence of communities. It is the women from the mason community who traditionally make 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 h
pits located right next to one another was lying u
rarely cook together. Instead women were usin
stoves or firewood and were cooking outside
lack of consideration for the location of bathi
glaring example of cultural inadequacy. While
toilets to be located outside their homes, they c
miles out as this made them unsafe and inaccess

INSERT IMAGE 17 – COMMUNITY KITCHEN

Temporary shelters built without any space betw
permanent settlements that are being construc
models with parallel rows of houses, tend to cor
the culture of community. They do not provide
interaction between people and completely igno
up of villages. People normally live in clusters
communal spaces in between for communi
interaction. Making them live in parallel and p
destroys their ways of interaction and fails to rec
a village community.

Several such examples came up during our visi
that these issues could have been easily resolve
community had been consulted and their active
been sought in the planning and construction of f

Sri Lanka

In Sri Lanka too, several features at re
demonstrated that people's cultural needs had n
consideration. In most sites, women complaine
toilets and common bathing areas for men.
Thiraimadu, some bathing areas had two tube w
one another, implying that two women were exp
the same time, which is culturally not a pra
women.

INSERT IMAGE 20 -- PHOTO OF THIRAIMADU

In Nugaduwa in eastern Sri Lanka, plans to
community of 250 families on 4 acres of land we
community as these plans did not take into consi
their cultural needs including a mosque, a *mad*
burial ground. Cultural and religious needs of
Buddhist, Christian, Tamil and Muslim—need
consideration when designing resettleme

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

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 participate in decisions about their housing and to deny them the right to participate in the design of the houses that they would be living in, greatly violates the right to adequate housing. Without people's participation in the design of the housing they receive will be truly adequate housing.

Tamil Nadu

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

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

In Kargil Nagar (north Chennai), while the plan for permanent housing is to construct multistorey houses, people indicated that they wanted single-storey houses. Since there have been no consultations, it is unlikely that their wishes will be met. In this area, helplessness among the survivors is strikingly evident. Kargil Nagar is a very low-lying area, making it susceptible to water logging. Before any construction of permanent housing is undertaken it has to be raised to sea level. While this work takes place, the people have to relocate to another area. The new site, which is even further from the coast and lacks basic facilities. This move, again, is against their will. At the new site, they will be provided with what is being called "semi-permanent" housing. A voluntary agency, DOR, is constructing these semipermanent houses as they do not have the money for building permanent housing. People will be expected to live in these semi-permanent houses for around one or two years, until permanent housing is ready. Apart from the complete lack of consultation on any of these decisions, this raises another grave issue: the 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). 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. The built area of each house will be 312 square feet on a plot of 1,800 square feet. This is being designed with scope for further expansion of the house if the family so desires. 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) and most other sites, frustration and uncertainty was 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 used tin and would have made sure it had proper so that people could not look in. Nevertheless since she didn't have the money, she had no choice what was given to her.

In Seenigama (Galle Province), Foundation of permanent houses. While the houses were self-designed, people were not consulted about the cost. The only choice they were given was regarding paint on the outside walls.

Apart from one woman at the Paddy Marketing Batticalao who said they were in discussion with materials and design for temporary shelters, across people's participation was missing in all processes of housing and livelihood restoration as well as in design 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 a secure place and be protected from threats that compromise their mental and/or physical well-being. The state and other involved actors must address the needs of the community, in particular, the needs of the elderly, the disabled, children and other vulnerable groups.

Housing must instil a sense of security in the community. This can be evaluated from a rights perspective. Safety of women has been largely compromised in temporary shelters and temporary housing sites. While domestic violence, rape, including marital rape and sexual abuse are often not reported. The need for special police stations and improved security at the sites

Tamil Nadu

Veerabagupathy, in Kanyakumari District, is a village of masons belonging to the dalit community. This was one of the few nonfishing 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, as 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, now in many families one parent 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 highways.

Lack of Privacy and Security for Women

The small size of shelters and close proximity of temporary housing, often built as line houses, means that women lack 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.

INSERT IMAGE 1 HERE – bathing area in Pudu Nemellikuppam

“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 work... We have nothing left... ”

Middle-aged woman in Keezhamana
Tamil Nadu

Sri Lanka

As mentioned earlier in the report, the questic women as well as for migrants, war refugees critical.

In one relief camp in Batticalao, a Special Task F who was on duty guarding the premises was att grenade by some unknown assailants (suppose This not only injured two people in the camp but crackdown, which included violence on member the STF. As a result residents asked for with personnel. They said they did not need any sec no valuable possessions to guard and that they the presence of the STF.

Lack of Privacy and Security for Women

Since there is no electricity in most shelters, w safe walking the distance to public toilets a settlements, separate toilets for women w Thiraimadu (Batticalao), the bathing area built f allow privacy for an individual bather. In some sl heat forced women to sleep outside, but they w their safety. Some of them chose to suffe claustrophobic environment inside the shelters their safety by sleeping outdoors.

Even for women living in their original houses, in Peraliya (Galle Province) the walls and doors we and had not been rebuilt. That made them feel ur

There have also been disputes over relief mon College relief camp in Batticalao, a woman v husband over a dispute that emerged over the that they received as compensation. All the generally handed to men, as women are not cor their families. Consequently, in some cases mor liquor and contributed to the problem of alcoho against women. This was a widespread compl Nadu and Sri Lanka. Women in Batticaloa also

instances of domestic 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 a 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.

Impact of the Tsunami on Livelihoods

While 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 community ties. Several people have lost their lives due to injuries and disabilities brought on by the tsunami. Work is not available and many are still waiting for normal lives. Despair, frustration and lethargy are on the rise.

Tamil Nadu

According to the Government of India, overall damage from the tsunami has been assessed at approximately 10% of GDP. The largest damages occurred in fisheries and infrastructure. Overall losses are estimated at 10% of GDP. The most affected areas include coastal fisheries and micro-enterprises. It is estimated that 83,788 boats and 31,755 livestock were lost, and 39,035 hectares of land were spoiled.

Most of the communities we visited were fishing communities and those dependent on fishing, such as boat owners and assistants. These are the communities that have lost everything. Though other communities have also suffered greatly, they are being given priority in rehabilitation efforts.

Inadequate Compensation Package

While detailed compensation packages have been announced by the government (Government Order 57) and live with the tsunami, it is much spoken about on the agenda of all relief agencies, the visit to the affected areas reveals that survivors had not received adequate compensation. In the affected areas, victims had not received compensation. Others had received only partial compensation, which was not enough for them to resume regular or normal living. Earnings are still nowhere close to pre-tsunami days.

The government provided INR 4,000 per family immediately after the tsunami and then INR 1,000 for the next three months. Most people complained that this was insufficient for a family of four or five members; it was not even enough to cover the needs of the deceased. While most families of the deceased received (100,000) rupees from the government, some have not received this amount.

Lack of Specific Compensation for Livelihoods

Although the government announced that those who had lost their livelihoods, in particular their boats, would be provided INR 32,000 as compensation, many had still not received 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), we learned that families had received only INR 12,000 as compensation as opposed to INR 32,000 promised. 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 is that it was not always used specifically for livelihood restoration but was often spent on alcohol and other items.

In Srinivasapuram, in Chennai, people complained that compensation came in the form of tokens received after completing several forms. To avail themselves of what was promised with the tokens, people were required to visit numerous government offices. 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 is being used for "affected communities" that leaves out many who are actually suffering. Even when there is no contention as to who the affected persons are, instances abound where names are 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 often relief agencies were providing aid on an ad hoc basis that seemed to be determined by availability of supplies and local perceptions of what was required, rather than on a formal loss/ needs assessment that took into account the most pressing priority needs. Apart from boats and catamarans, relief agencies provided nets as well as support material like storage vessels and tools in order to resume their normal activities. Relief agencies were focusing on providing livelihood accessories

Uncoordinated Distribution of Relief

In most areas where boats had been given, the distribution was done by NGOs. But again, this was not done on the basis of community needs but rather on resources available. For instance, in Sadras South (Kanchipuram), only 60 boats belonging to the fishers' society, only 60 had been damaged or having lost out in the tsunami. Each of these boats had received INR 10,000 as compensation but it was distributed equally among themselves so each family got only INR 1,000 each, which was nominal.

A well-known fact about fishing communities is that they are a tightly knit community. In instances where boats had been given, as in Akkaraipettai (Nagapattinam), the community would take turns to go out to sea and share the catch. In other cases, fishermen had not resumed fishing because not enough fishing gear was available for the entire community. They were not sure how to divide the boats or the catch and were helpless. Selvarani, a fish seller told the team, "I have no fishes do I have food." Those who used to work on larger boats had lost their jobs. Since they didn't own property, they were not considered for compensation.

A strikingly disturbing feature of most compensation schemes was the lack of maintaining the status quo: the poorest had 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)

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 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 Nonfishing 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 was 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 land (due to sea water intrusion) in all the impacted areas.

Lack of Savings

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

Nagapattinam Additional District Collector mentioned in an interview with the team that he had offered INR 1,000 per month compensation from June, which was sufficient time for people to get back on their feet. If they continued to receive this money, they would have resumed normal work. Based on the team's observations, the compensation seemed premature and unjustified.

Sri Lanka

According to estimates of the International Labour Organization (ILO), at least 200,000 members of the labour force were affected by the tsunami with an equal number in the informal sector. The tsunami took not just lives but also completely decimated coastal fishing communities, which contribute 2.5% to the country's national income. Nearly 90% of the population had been seriously affected having lost their boats and homes. Nearly 80% per cent of the 30,000 boats in the country had been completely destroyed. Approximately 50% of the boats needed to be replaced and 50% of the boats destroyed or damaged were small boats owned and operated by the poorest of the community. An estimated 8000 small boats in Sri Lanka and in all these boats need to be replaced.¹⁸

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

Failure to Provide Adequate Compensation

¹⁸ ITDG South Asia, "Rebuilding Fisheries Livelihoods in Sri Lanka" [unpublished concept note] (January 2005), at: http://www.itdg.org/docs/region_south_asia/rebuilding-fisheries-livelihoods (last visited 14 August 2005).

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. We heard complaints of corruption, and of many unaffected families claiming benefits. For example, some of those involved in coral mining had managed to get themselves listed as affected fishers with the aim of claiming greater compensation. Effective monitoring mechanisms to ensure that compensation reached the needy were absent.

In Thiraimadu, a fishing family complained 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, but that these were completely useless for them. Despite complaints, their issues had not been addressed, and the unusable boats were being stored in a yard.

In Thiraimadu, the team heard the opposite complaint, that of deep-sea fishers receiving small lagoon boats that they could not use. 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 District) some fishers received boats from an NGO, but no nets, so they could not resume their daily work. In Pudukudiraupu, 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 member). As in India, there existed the problem of boats and of boats being claimed by nonfisher people. They received complaints that some people in the coastal area were not fishing any more, as they found it easier to receive compensation.

Daily Wage Earners

Those who earned daily wages by working for the fishing sector had suffered greatly. A boat owner with five people on his boat might have received compensation for the loss of his boat, but the five people who had been unemployed as a result of the loss of his boat were considered for livelihood compensation.

Coercion to Nontraditional Fishing Means

In the North, light coast fishing has been the traditional practice. After the post-tsunami, multilateral development banks encouraged local survivors to convert to mechanized fishing. The traditional practice of fisher people on the west coast was to take their catch to the coast, then auction their catch on the coast, but with the introduction of trawlers, this tradition was dying out. The trend was to catch at high sea and store it in ice boxes. This meant that much fish was reaching the shore, causing losses for the traditional fish sellers. In particular, it negatively impacted women who were traditionally responsible for selling the catch.

The argument in support of trawler fishing is that it generates more money. However, this does not always translate into the family making more money. In many cases, earnings are not always shared with the women. Women are forced to lose their independent income from selling their own catch to themselves.

Lack of Sufficient Attention to Nonfishing Livelihoods

Nonfishing communities such as carpenters, vegetable and fruit vendors, and other small business workers have also suffered greatly. While they were given the same attention as the fishing community, they were not given the same means of earning their living. KPW Rani in Peral was used to stitch clothes but lost her sewing machine. Her surviving son was engaged in making handicrafts (such as baskets 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), the fact-finding team learned that 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 told us that they 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 to nearby restaurants. Since they had moved shelter, they had not been able to resume their liv as there was no space to cook or prepare their seem to be the worst affected, as they have livelihood compensation, neither are they being c for it. Only some of them were given sewing mac

Recommendations

The report has tried to highlight some of the flaws in the current operative mechanisms of governments and nongovernment agencies involved in relief and rehabilitation in the tsunami-affected areas of India and Sri Lanka. However, this report aims not merely to identify shortcoming, 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 The relief agencies must recognize that durable appropriate solutions can only be achieved with the participation of the affected communities.

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

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

1. All relief and rehabilitation plans must meet international human rights standards, in particular with respect to life, livelihood, health, food, information, freedom of association and movement, and adequate housing.²⁰
2. Based on these standards, every person, regardless of race, class, caste, linguistic group, ethnic origin, orientation, marital status, disability and other characteristics, at a rehabilitation site/ permanent housing complex, a displaced person or survivor must have:
 - Adequate housing,
 - Adequate food and resources to access services,
 - Adequate health care facilities, including mental health counseling,
 - Access to education,
 - Access to livelihood options,
 - Opportunity for participation and representation,
 - Access to protection against violence,
 - There should be women police personnel at the resettlement site,
 - Access to judicial remedy,
 - All other rights normally available to citizens in that particular country.
3. Government efforts in Tamil Nadu and Sri Lanka should be focused toward rebuilding infrastructure and restoring people's lives. Equal attention

¹⁹ The fisher people of Tamil Nadu have been seeking recognition for their status as sea tribes and, therefore, protection under the Fifth Schedule of the Indian Constitution.

²⁰ See Habitat International Coalition–Housing and Land Rights Movement for Human Rights Learning, *Compilation of Positional Standards* (New Delhi: HIC-HLRN and PDHRE, August 2005).

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;
 - 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 needs 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 been dissolved, the government should create new governing bodies for every local community on the lines of the HLRN.
8. The government should set up special mechanisms to ensure timely implementation and rapid disbursement of relief assistance and compensation.
- Grievance redress mechanisms should be set up at the lowest administrative levels to give people the powers to address problems that arise during the course of the relief and rehabilitation work.
 - Special mechanisms to assess the quality of relief and rehabilitation work of government and nongovernmental agencies vis-à-vis international standards should be set up.
9. A National Disaster Policy that specifies the roles of government agencies and their functions should be passed in both countries to ensure timely response to future disasters. Disaster management committees should be set up at state level with their powers and responsibilities duly defined.

General Recommendations to NGOs, International Agencies, Donors, other Voluntary Agencies and Development Banks

The HLRN team appreciates the intentions of many agencies involved in relief and rehabilitation, and commends their efforts. Nevertheless, despite an apparent display of goodwill, the whole, there is much to be desired and improved. The following is a general list of recommendations to local and international relief agencies:

1. Relief and rehabilitation must be recognized as an inalienable right of all affected people.
2. Access to relief and rehabilitation must not be contingent upon gender, caste, class, race, religion, residence and location of the original home.
3. Survivors must not be viewed merely as victims but as people responsible for their future. They should be included in all plans and processes for reconstruction.

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 nondiscrimination, 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 have a regular follow-up, inspection and regular check. A staff person should visit the site regularly and a grievance mechanism for the people to use.

14. NGOs and international agencies should ensure that the human rights framework informs their guidelines and stipulations on relief and shelter.

15. All agencies—governmental and nongovernmental—should operate on the principle of cooperation and involve regular meetings and information exchange as coordination to ensure that their actions are not conflicting, duplicative or negating of one another.

There is a clear and urgent need to come up with a framework on the international human rights framework that includes the “SPHERE Guidelines,” and articulate certain minimum standards on space, facilities and infrastructure for post-crisis rehabilitation activity. There is also an urgent need to define concepts such as “temporary” and “permanent” housing in terms of their attributes but also in terms of a timeline for their provision.

Recommendations to Governments, NGOs, In Relief Agencies, Donors, other Voluntary Agencies, Multilateral Development Banks, addressing the Problems in Temporary Housing:

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

1. Human rights standards must be used to evaluate temporary shelters to make sure that they meet the conditions of “adequacy” enumerated above.
2. Where temporary shelters are still being built, especially in Sri Lanka, consultations must be held with the communities involved to make sure that their views are incorporated into the design and material used.
3. In shelters that are already being subject to structural leakages, breakages and cracks, repairs must be immediately undertaken and the materials improved. For instance, where possible, temporary shelters should be replaced by permanent ones.

- be replaced with thatch in Tamil Nadu, especially if people are expected to stay there longer than a month more;
4. Space provided in temporary shelters must be increased after consultations with the particular community;
 5. Every shelter should have a partition that will provide some space and privacy for women;
 6. Temporary shelters should not be built in areas that are low-lying and susceptible to flooding and inundation. 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, 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 subsidized 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 health care 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 subsidized 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 subsidized public transport to local schools and colleges;

16. Government agencies and NGOs that co-own shelters must visit them regularly and conduct inspections while following a comprehensive checklist to ensure that people are living in habitable conditions. They should also hear their complaints and redress them.

Recommendations to Governments, NGOs, In-charge of Relief Agencies, Donors, other Voluntary Agencies, Multilateral Development Banks regarding Permanent Housing and Land:

1. It is of utmost importance that permanent housing standards conform to international housing rights standards, including security of tenure, affordability, accessibility, access to public goods and services, location, cultural adequacy and physical privacy;
2. Timely and clear information must be made available in the local language and through a variety of channels to reach all marginalized communities;
3. All decisions regarding the size and design and layout of the colony should be taken with the community. Care should be given to meaningful participation of the marginalized community including women, those belonging to religious minorities, Dalits, the elderly and disabled;
4. Construction and design of the permanent housing should allow for extensions if the family so desire;
5. Number of family members in a house must be considered when building and allocating new housing. For families that lived in one large house, the same space meant for a single family. It should be adequate for their needs.;
6. Communities should not be arbitrarily divided. The norm of 50 houses per agency as in Tamil Nadu government;
7. In Sri Lanka, special concessionary provisions should be made to support vulnerable families who carry out construction of their homes with their own resources.

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. They 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.;

11. People who were living outside the buffer zone without building permit or land titles, or on rent for many years should be eligible for a house or other assistance;
12. Those who were living in rented accommodation should be provided alternative housing;
13. The community should be involved in construction. At District level committees should be formed to monitor construction work, including the quality of work and to check for discrepancies;
14. Houses must be constructed using socially appropriate processes and infrastructure. Construction should be disaster-sensitive and eco-friendly. Local materials favoured by the people should be used where possible;
15. All new housing should be accessible to people with disabilities and to senior citizens;
16. Permanent housing must look into socio-economic and issues of ethnicity.

Recommendations to Governments, NGOs, In 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 should be coordinated and well planned to minimize disruption. It should avoid arbitrariness and negligence, and ensure that benefits reach the needy so they are able to start working and earning again;
2. Opportunities should be provided not just to help people regain their pre-tsunami levels of living, but also to help them improve their lives where possible;
3. The government must provide not just boats but also training both to the affected fishers in order to resume their fishing activities. According to the Peoples' Movement's Tsunami Relief and Rehabilitation Programme (FMTR&RP) of Tamil Nadu, 10,000 tonnes of fishing nets will be needed in order to initiate fishing activities. Boats provided must be used in 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, versus the needs of conflict-affected families and those who are suffering from endemic poverty. 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 water and be able to leave their equipment on the banks;
15. Rehabilitation and resourcing of local boats should be emphasized;
16. Bicycles should be provided to families living in informal sites where there is no public transportation to facilitate their fish sales;

ANNEX I

Tamil Nadu Government Order related to Housing

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:

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 organizations 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 organizational 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 various regulations under the Coastal Regulation Zone Notifications issued by the Government of India of Tamil Nadu have formulated the following implementation of a massive housing reconstruction for the tsunami-affected families.

5. The Tsunami Housing Reconstruction Programme involves the construction of about 1,30,000 concrete houses with an approximate cost of Rs. 1,50,000/- each. Each house will have 300-325 square feet (sq. ft.) of built-up space. They will have all disaster-resistant features. The programme will provide adequate infrastructure facilities like water supply, roads, rainwater harvesting structures, drains, community centres, Noon-meal centre etc. In Chennai and Thiruvananthapuram tenements would be built by Tamil Nadu Slum Rehabilitation Board. Each tenement will have 235-250 sq. ft. area and an approximate cost of Rs.1,50,000/- each. Adequate infrastructure would be provided in these settlements by the Government of India. The entire programme is likely to cost Rs. 1950 crore that Government of India and the World Bank are providing substantial assistance for this programme.

6. Guidelines for the Programme:

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

a) Houses located within 200 metres of the coastline:

(i) As per the Coastal Regulation Zone Regulations, the repair of structures authorized prior to 1989 is possible and no new construction is possible. The Government will give house owners of fully damaged and partly damaged and pucca houses within 200 mts. of the coastline the choice to go beyond 200 mts. and get a newly constructed house worth Rs.1.50 lakh.

(ii) Those who do not choose to do so will have to undertake the repairs on their own in the existing structures but they will not be eligible for any assistance from the Government.

(iii) Even for houses, which are not damaged, the Government would be given the option of getting a new house beyond 200 mts. If they are not willing, they will have to continue living in the existing structures.

b) Houses located between 200 metres and 500 metres of the High Tide Line

(i) For the fully / partly damaged Kutcha 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 kutcha 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 a half cents in municipal areas.

2. Priority will be given for nongovernmental organizations, Public Sector Undertakings, Corporations and Rehabilitation organizations to reconstruct houses with their own money.

3. Where NGOs/other organizations do not construct new houses or repair existing houses, owners will be permitted to construct/repair houses themselves with financial assistance from Government, subject to the financial ceilings and specifications given by Government. District Collectors will render all the necessary assistance to owners/NGOs/ etc., to facilitate speedy reconstruction.

4. Wherever the beneficiaries are unable to reconstruct houses themselves with financial assistance, Government and the NGOs are also not permitted to reconstruct houses. Government will build the houses.

5. In all cases where new houses are given, the old house will have to be relinquished. The title of the old house will be registered by Government by a legally acceptable document. District Collectors will ensure that these documents are registered and brought to Government for record.

6. The areas so vacated because of new construction will be entered in the Prohibitory Order book for public purposes. Fisher people will be permitted to use boats, nets etc. in these areas. Separate rooms etc. may be put up in the areas. District Collectors/Government/NGOs on a temporary basis will follow the guidelines.

7. The new houses should conform to the standards developed by technical experts already in place. District Collectors from the State Relief Commission will be the District Collectors from the State Relief Commission office.

8. All the new houses will be insured for fire. The cost will be borne by the cost of the executing agency. The cost will be a part of the Project cost.

9. The title of the house will be given in the name of the wife and husband if one of them is alive. In the name of the survivor and the eldest child if both are dead.

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, F
Thoothukudi, Tirunelveli and Kanniyakum
The Commissioner, Corporation of Chennai
The Director of Fisheries, Chennai-5;
The Director of Rural Development, Chennai
The Chairman and Managing Director
Chennai

copy to

The Finance (BG.I, II, Revenue, Wa
Dept.Chennai-9;
s.f./s.c.

/ Forwarded by Order /

ANNEX II

**GOVERNMENT OF TAMIL NADU
MEMORANDUM OF UNDERSTANDING**

237D227-3C5B-20028A.doc

MEMORANDUM OF UNDERSTANDING

between

CollectorDistrict, 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 Management, Rain Water Harvesting facilities, features, Roads, Community Centres, School Buildings, Farm Produce Market Yards, Village Information Centres, etc. as set out more particularly in the Memorandum of Understanding to the families affected by tsunami in Villages District in accordance with the type design and such quality as approved by the Local Panchayat Collector in consultation with the beneficiaries based on the overall technical guidelines for buildings specified by the Special Commissioner of Revenue Administration. The **SECOND PART** undertakes the responsibility of providing water utility connections as may be found expedient on site conditions up to the periphery of the houses 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 Engineers with past experience in construction activities and to build the permanent houses in accordance with regulations / guidelines as laid down by the Special Commissioner of Revenue Administration, District Planning Authority and the **SECOND PART** to supervise the construction of the houses along with the infrastructure in accordance with the layout or building plan approved by the mentioned authorities.

INVOLVEMENT OF FACILITATING AND SUPPORT ORGANISATIONS:

(3) The **SECOND PART** shall be at liberty to identify and engage such NGOs or voluntary organizations with proven track record in construction activity and / or in social work with community participation in similar projects in the State or country for the purpose of achieving the objectives in a transparent and participative manner. The **SECOND PART** shall also be at liberty to involve similar organisations which have developed and proved expertise in livelihood issues and / or in constructing special buildings which are earthquake / cyclone-resistant and to educate the potential beneficiaries to undertake the necessary measures that may be warranted in course of their occupation after the allotment. If any complaints are received from the beneficiaries, the **SECOND PART** shall be responsible on the role of these subcontracted agencies in meeting the quality of works, schedule not being met, being

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 tsunami victims. Without prejudice to any of this regard, the **SECOND PART** shall in beneficiaries in the programme and make use of materials to the extent feasible.

SEPARATE BANK ACCOUNT AND ACCOUNT PROJECT:

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

SCHEDULE OF ACTIVITIES:

(9) The **SECOND PART** shall give a "schedule of activities" indicating the time of the commencement of various time bound and preset milestones of each activity in the form of "PERT" chart or in any form of work plan. The **FIRST PART** shall have the right to review the activities or PERT chart so presented by the **SECOND PART** and modify or vary or alter the schedule of activities with the **SECOND PART** and fix the time of completion of course of progress and completion of work/programme as warranted and the decision of the **FIRST PART** shall be final on the **SECOND PART**.

ACCESS TO INSPECTION OF THE WORKS:

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

FACILITIES BY THE DISTRICT ADMINISTRATION:

(11) The **SECOND PART** will be provided by the **FIRST PART** with all nonmonetary facilities such as local body / Government clearances for the purpose of accomplishing the work 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 HARMONY:

(15) The **SECOND PART** or any one claiming authorization of **SECOND PART** shall not in himself / herself or through any agencies or organization of individuals or in any mode or form of any or kind of religious or political or communal activities that will incite or will have the potential to disharmony or both in the minds of the residents the area on ground that the **SECOND PART** has construction of the permanent houses with or without infrastructure for the benefit of the allottees of the

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

FURNISHING OF FALSE INFORMATION:

(17) If any information furnished by the **SECOND PART** to be false or incorrect at any time during the implementation of the above project, the **FIRST PART** shall have the right to terminate the Memorandum of Understanding with notice **not exceeding seven days** and in the event of Rehabilitation measures to step in and take over the work including the associated infrastructure facilities. The **FIRST PART** shall have legal liability to the **FIRST PART** and carry out the 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 specified by the MOU, the instructions of the Special Commissioner of Revenue Administration / State Relief Commissioner shall be binding on both the parties.

ACTS OF GOD AND SUPERVENING IMPOSSIBILITY:

(19) "**Force majeure**" clause: Neither party shall be held liable for any loss, delay, or any damage occasioned out of acts of God such as but not restricted to flood, volcanic eruptions, earth-quake or tsunami, convulsion of nature and other acts such as but not limited to invasion, act of foreign countries, hostilities, or war before or after the declaration of war, rebellion,

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:

2) Name & Designation

Full Address:

ANNEX III

GOVERNMENT OF SRI LANKA

**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**

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'x15') 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 persons camp, beyond the coastal reservation set out by the Conservation Department (300 m from the coast);
- b) be preferably a levelled ground with a good soil condition;
- c) not be water-logging;
- d) preferably have the potential to upgrade into a human settlement/s.

3. **Erection -**

Site Preparation:

- Demarcate the building area/s of the Camp;
- Clear the site and remove all vegetation around 3 meters beyond the building area;
- Prepare the ground outside the camp/s for the disposal of storm water.

Foundation:

- Follow the formulation details suggested in the drawings on to the ground.

Floor:

- Floor within the shelter and toilets should be at least 225 mm (9") above ground. In this case, concrete may be used as the filling material and precast concrete blocks (laid on flat) may be used as the floor. Masonry debris of the collapsed structures may be used for both of the above purposes. Floor should be provided with a smooth rendering.

Shelters:

- Complete the erection of the shelter and other structures as suggested in the erection details to include the toilets and water tank structures.

Remarks -

- It is strongly recommended that the erection of the shelter/s & other structures be carried out under the direction & supervision of qualified Technical personnel in order to ensure the efficient utilization of resources;
- Due consideration should be given to ensuring motorable access to the site/s in order to facilitate the 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	pganepola@
2. Director Buildings	2862588	2864771	
3. General Manager, National Housing Development Authority	2422394	2439982	

TYPES OF TRANSIT CAMPS FOR TSUNAMI AFFECTED AREAS

1. Option – 1 - 16 Houses Unit

Size : 100'x38' – (3800 Ft²)

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

Please refer Annex – I for sketch drawings

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

Please refer Annex – II for sketch drawing
This can be expanded with multiple modul

3. **Option – 3 - Modular House**
Size - 10'x16' (160 Ft2)
Structure - 2"x2" and 2"x 4" Timber Fra
Walls - G.I. Sheets
Roof - G.I. Sheets

Please refer Annex – III This can be expai
modules.

Assistance that can be made available for work.

- Construction of temporary toilets
- Erection of temporary sheds and Ca
- Condition reports of damaged gove
- Damage assessment of governmen

ANNEX IV

DETAILS ON AGENCY ORDERS RELATED TO THE BUFFER ZONE IN SRI LANKA

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 kilometre 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 water line (Coastal belt within the Killi Puttalam, Gampaha, Colombo, Kalutar Hambantota Districts)
- (ii) *Zone 2* – 200 metres landwards from water line (Coastal belt within the Trincomalee, Batticaloa and Ampara Dis

²¹ See: http://www.cpalanka.org/research_papers/Proposed_C
(last visited 6 August 2005)

HIC-HLRN South Asia Regional Programme

Xxx

For more information on the SARP program and HIC-HLRN membership, go to: www.hic-sarp.org.