

TSUNAMI RESPONSE

A HUMAN RIGHTS ASSESSMENT

“All people and all human beings, without distinction as to race, colour, sex, language, religion, nationality, ethnic origin, family or social status, or political or other conviction, shall have the right to live in dignity and freedom and to enjoy the fruits of social progress and should, on their part, contribute to it.”

United Nations Declaration on Social Progress and Development, 1969 General Assembly resolution 2542.

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FOREWORD

The December 2004 tsunami unleashed loss and destruction of horrific magnitude in 12 countries¹ in Asia and Africa. One year after the tragedy, despite the tremendous efforts of local, national and international agencies, the rehabilitation and reconstruction process is fraught with difficulties.

Even though all the affected countries have ratified international human rights instruments, they are failing to meet these standards in post-tsunami relief and rehabilitation work. Allegations of human rights violations in tsunami-affected areas are rampant. These include discrimination in aid distribution, forced relocation, arbitrary arrests and sexual and gender-based violence. One year on, tsunami reconstruction efforts are plagued with serious delays and have not been given the priority they warrant.

While international attention is fading, post-tsunami challenges continue to have an enormous impact on the family structures and social relations of affected communities. This impact has been particularly severe on women and other vulnerable groups, including children.

Women continue to be marginalised in the rehabilitation and reconstruction process.

A lack of access to education, a lack of security of tenure for land and housing, domestic violence and other forms of gender discrimination conspire to hamper recovery. The presence of military forces in camps where tsunami survivors are living and the lack of privacy in temporary shelters have caused serious concern for women's physical safety. This is compounded by an absence of adequate health services.

Greater efforts must also be made to uphold the rights of children. Special guarantees are yet to be put in place to enable orphaned children to receive entitlements to land and compensation. Instead these assets are being absorbed into the existing family units of temporary guardians.

Under international human rights law, individual states bear the primary responsibility for protecting the rights of their populations, including the rights to food, water, health, education and adequate housing. This responsibility extends to natural disasters. As recently as September 2005, during the 60th session of the General Assembly of the United Nations, heads of state specifically expressed their commitment to “support the efforts of countries... to strengthen their capacities at all levels in order to prepare for and respond

rapidly to natural disasters and mitigate their impact”.²

Inadequate response and a lack of consideration for the human rights of victims creates a human-induced tragedy that exacerbates the plight of those already suffering the effects of a disaster brought on by natural causes. Therefore, individual states, international agencies including the UN and its programmes, civil society and the private sector, must redouble efforts towards the realisation of human rights worldwide, including rights to disaster-preparedness and disaster-response. Indeed this is essential if we are to reduce the loss of life, human suffering and homelessness resulting from disasters in the future. It is only through national and international cooperation based on human rights standards³ that people uprooted and at risk as a result of devastating natural disasters can be effectively protected.

This report is a significant contribution. It assesses the status of post-tsunami reconstruction and clearly highlights multiple human rights violations in Indonesia, Thailand, Sri Lanka, India and the Maldives. It makes the demand for human rights standards in resettlement and reconstruction all the more urgent.⁴ Non-discriminatory access to relief and rehabilitation,

mechanisms to ensure transparency and accountability, and provision for the active participation of survivors are fundamental, while all efforts must take into account the special needs and concerns of women.

The report findings represent an opportunity to put things right. We know that there has been some excellent work by governments and non-governmental organisations (NGOs) in the wake of the tsunami – the speed and scale of the response meant that lives were saved and many predicted outbreaks of epidemics were contained – but it is not enough. We can see that where people have organised, they have pushed governments and NGOs to be responsive, and we should build on these efforts.

All actors involved in relief and rehabilitation work must undertake efforts to make sure that the grave mistakes made in post-disaster experiences of the past are not repeated. Failure to immediately comply with human rights standards will deepen the human-induced tragedy already afflicted on the survivors of the tsunami. The resolve shown by states and the international community in the immediate aftermath of the tsunami must not be allowed to dissipate. In the process of rebuilding the lives,

livelihoods and homes of those affected, it is vital that immediate humanitarian needs be complemented with long-term rehabilitation and reconstruction programmes based on international human rights standards, which uphold survivors' rights to dignity, equality, livelihood and adequate conditions of living.

Miloon Kothari
Special Rapporteur
on Adequate Housing
United Nations Commission
on Human Rights

New Delhi, January 2006

1. Indonesia, Sri Lanka, India, Thailand, Maldives, Somalia and on lesser scale in six other countries of Asia and Africa
2. See 2005 World Summit Outcome Document at <http://www.un.org/summit2005/documents.html>
3. Human rights standards including the International Covenant on Economic, Social and Cultural Rights, and the Guiding Principles on Internal Displacement
4. A compilation entitled International Human Rights Standards on Post-Disaster Resettlement and Rehabilitation prepared by Habitat International Coalition – Housing and Land Rights Network and People's Movement for Human Rights Learning, in collaboration with the UN Special Rapporteur on adequate housing, documents some of these existing standards: www.pdhre.org/HIC-PDHRE.pdf





REFLECTIONS

No event in living memory has produced a response on the scale of the December 2004 tsunami. Much of the public and international reaction was due to the chilling images broadcast around the world of lives, homes and livelihoods being lost, swept away in the torrents of water that engulfed the coastline.

The responsibility is on us all – community groups, international NGOs and governments – to use the money donated to make a lasting difference to the millions of families affected by the tsunami. Though communities and NGOs are undoubtedly important actors, it is governments who control the lion's share of relief and rehabilitation funds and who are ultimately responsible for protecting human rights. They should not be allowed to abdicate their responsibilities. People have a right to demand adequate rehabilitation.

This report looks specifically at how governments have dealt with human rights through the distribution of emergency relief, compensation and longer-term reconstruction. Whilst much of what governments have done in exceptionally difficult circumstances has been good, this report highlights a culture of failure to deliver to some of the most needy, some of the poorest and some of the people already on the margins of society due to their gender, their race or their ethnicity.

From its inception, ActionAid has believed that to bring about a fairer, more just and more equal society, we must challenge the age-old prejudices that leave millions of people without a voice in the democratic process and without the power to bring about meaningful changes in their lives.

Communities who live on the margins of society are at the centre of ActionAid's work. We campaign with them for their right to live a life free from fear, free from poverty and free from prejudice in the only way we know how – by making governments accountable for their actions and the effect they have on their people.

Ramesh Singh
Chief Executive,
ActionAid International

EXECUTIVE SUMMARY

1. This report

This report is about human rights in countries hit by the December 2004 tsunami. It focuses on the accountability of governments and their role in responding to the tsunami. It also examines how new legislation, policies and practices are undermining people's rights to food, clean water, a secure home and a life free from fear.

The findings show that governments in the tsunami-affected countries are ignoring the principles of the Universal Declaration of Human Rights and violating binding international human rights law with clear disregard for human dignity.

2. Methodology

More than 50,000 people living in 95 villages and urban areas in Indonesia, Thailand, Sri Lanka, the Maldives and India were visited in November 2005. This extensive field research is complemented by desk reviews of government plans and policies post-tsunami.

3. Findings

3.1 Land

The disaster has provided an opportunity for governments to introduce new Statutes and/or reinforce old ones that threaten to take away people's right to their land.

- 'Buffer zones' have been used to remove people from coastal areas under the guise of safety. This has jeopardised the livelihoods of those who rely on the sea for a living.
- Governments have largely failed in their responsibility to provide land for permanent housing. They have stood by or been complicit as land has been grabbed and coastal communities pushed aside in favour of commercial interests.
- The granting or withholding of compensation has meant that many people have been left with no option but to relocate. Families relocated to far away places face an uncertain future and hostile environment.

3.2 Housing

Structures and materials, space, the provision of water and sanitation, access to services and proximity to place of work are used to assess governments' success in meeting the human right of adequate housing.

Generally, living conditions in temporary shelters and relief camps were found to be far below minimum standards set by the UN.⁵ More specifically:

- Overcrowding and inadequate lighting has left women and children exposed to abuse.
- Lack of toilets and running water has contributed to bad health.
- Shoddy construction and second-grade materials mean people have suffered extremes of heat and cold.
- Many families are unable to find work or are at risk from flooding due to relocation.

If mistakes are to be undone and the human right to adequate housing met, the views and preferences of vulnerable groups such as women and children must be taken into account.

3.3 Livelihoods

Millions of dollars worth of aid have been poured into restoring livelihoods, but the goal of rebuilding livelihoods based on human dignity and equality is still a long way off:

- Compensation has been inadequate, uneven and ignores the needs of non-fishing communities such as farmers and labourers.

- Displaced people have been left with no means to earn a living.
- Lack of livelihood support for vulnerable groups such as women and migrant workers has exposed them to further exploitation, trafficking and bonded labour.

Within the fishing community, those engaged in small-scale fishing have benefited less from livelihood support programmes. In programmes to generate local employment, the affected people complained of use of outside labour by contractors.

3.4 Women

Relief and rehabilitation efforts are dominated by male interests and fail to recognise the crucial role of women in leading the recovery process:

- Single women, including widows, have not been recognised as a household unit and have frequently been denied compensation.
- Housing design and layout in particular has been gender insensitive, affecting women's privacy and security.
- Increased burdens, such as providing clean water, fall disproportionately on women.

Women are being routinely excluded from decision-making. Government policies have failed to offer new opportunities for women.

3.5 Discrimination and vulnerability

The tsunami has had a more severe impact on marginalised groups. Deep-rooted inequalities based on caste, class, gender, nationality and ethnicity have been magnified by discriminatory policies and practices. The following groups have received little or no support and are excluded from decision-making:

- 'Sea gypsies' and migrant labourers in Thailand.
- Agricultural workers and landless people in all countries.
- Dalits (formerly 'untouchable' castes) in India.
- Ethnic minorities and people displaced by war in eastern and northern Sri Lanka.

Government policies and practices have reinforced rather than challenged social divisions. The overall situation for vulnerable groups is bleak.

4. Recommendations

In all five of the areas researched, our findings show that human rights have been undermined in the aftermath of the tsunami. A major effort is required to prevent further abuse of human rights and to correct the wrongs that characterise the first year of the tsunami response. Our general recommendations therefore include the following measures:

1. Post-tsunami recovery plans must be informed by a human rights framework.
2. Disaster-response policies must be based on a human rights approach including the human rights education and learning with all stakeholders.
3. The basic human rights to housing and land for all must be protected and fulfilled.
4. Livelihood restoration must be undertaken in a spirit of equality and non-discrimination.
5. Relief and rehabilitation must be gender-sensitive and recognise women's human rights.
6. Special protection must be given to those who face discrimination and exclusion.

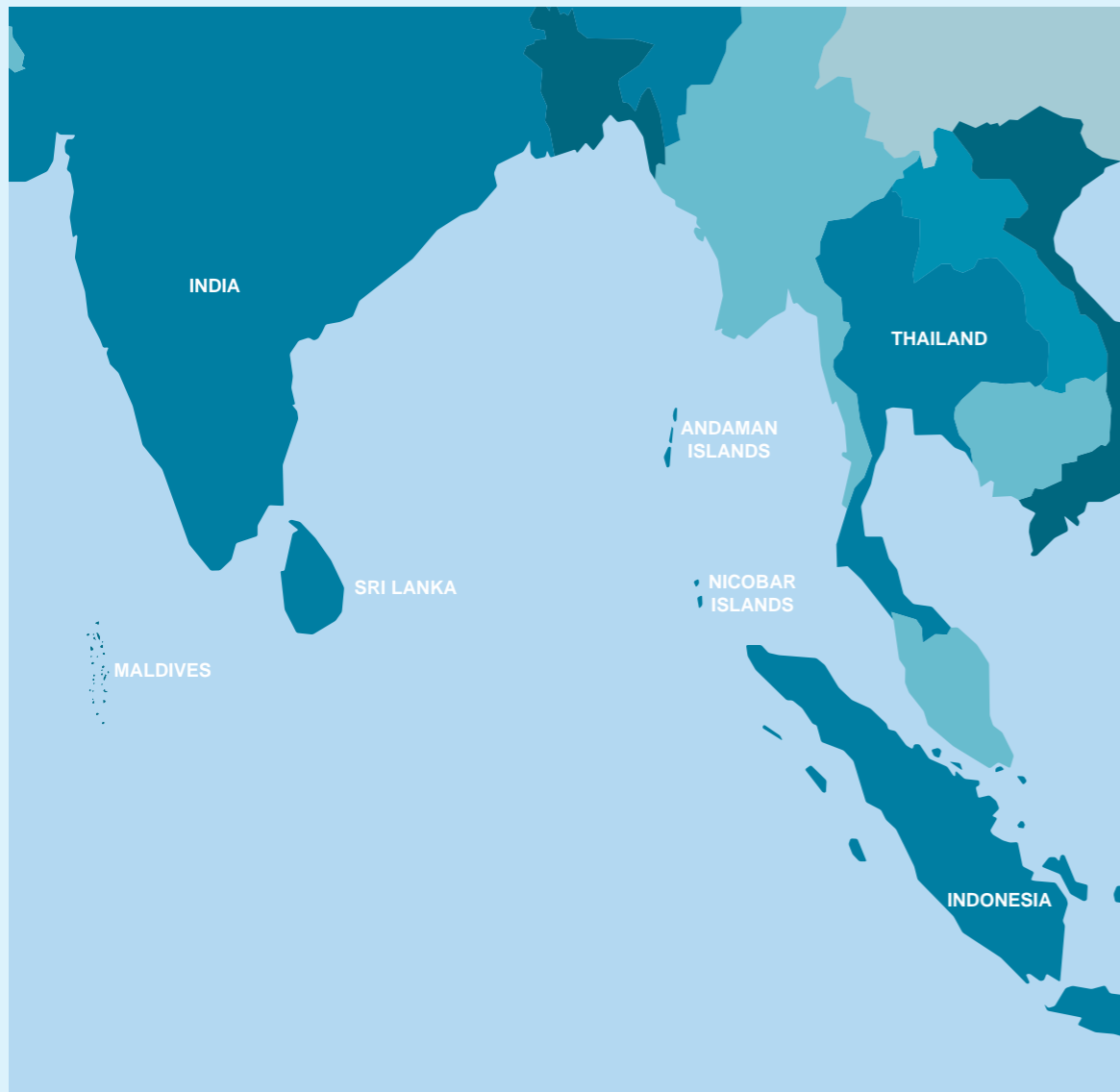
7. Participation of the tsunami-affected must be the guiding principle of post-tsunami rehabilitation.

8. Non-government organisations should set a precedence in respecting human rights standards.

9. The international community, including international financial institutions, must integrate human rights in their humanitarian donor policy.

10. The UN system must play a larger role in monitoring human rights compliance.

5. General Comment 4 of the Committee on Economic, Social and Cultural Rights sets out minimum core obligations of the State in the context of the right to adequate housing as: a) legal security of tenure; b) availability of services, materials, facilities and infrastructure; c) affordability; d) habitability; e) accessibility; f) location; and g) cultural adequacy. For details, visit: [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument)



INTRODUCTION

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Universal Declaration of Human Rights, 1948

A year has gone by since the ill-fated day of 26 December 2004 when a tsunami, triggered by an earthquake of magnitude 9.0 on the Richter scale, hit 12 countries in Asia and Africa. It caused one of the worst disasters ever faced by humankind. More than 250,000 people have been reported dead or missing. Over 2.5 million people have been displaced and rendered homeless.

Brutal images of destruction, upheaval, death and loss stirred people from across the globe to respond generously. Governments and non-governmental organisations received unprecedented aid for relief and rehabilitation from national and international sources, individuals, businesses and governments.

The relief effort was the largest ever undertaken. No doubt, the efforts of governments, donors, local and international NGOs and the UN have made significant inroads into the task of rebuilding people's lives. In the immediate aftermath, the majority of victims

received food, water, shelter, psycho-social care and health services. Epidemics and further loss of life were avoided. Continuous efforts have kept hope alive. Most importantly, people's resilience has been strengthened.

Yet at the same time, as this report highlights, the conditions endured by many tsunami survivors, particularly by certain vulnerable communities, is unbelievably grim. Hundreds of thousands of tsunami survivors are still living in virtually uninhabitable shelters. They often lack access to health and other basic services. Thousands of children have not been able to go back to school, women do not feel secure, people's livelihoods have not been restored, and people are still distressingly uncertain about their future.

It is unacceptable that, in the most difficult of circumstances, people's basic rights should be ignored or suspended, when, in fact, the opposite should be true.

Through decades of experience of working with poor communities we are intimate with the social structures that create discrimination, injustice and exclusion. In disaster and post-disaster situations, discrimination is often magnified, creating a double impact on vulnerable

groups. Then, there are unscrupulous business interests that aim to profit even at the cost of poor people's survival.

Mere aid is insufficient to tackle such situations. The role of government is crucial. For aid to be effective, the onus is on governments to: introduce legislation that helps vulnerable groups; to transfer the largest share of resources to the poorest and defend the most marginalised through social protection measures; to prevent corporate interests from trampling over people's rights to housing and livelihoods; and to enable communities to participate in decisions that affect their lives. All these measures increase the effectiveness of aid. They create conditions in which the good wishes, prayers and donations of people around the world can bear fruit.

It is in this context that we examine the role of governments in post-tsunami relief and rehabilitation in the affected countries. We believe that relief and rehabilitation is not just about giving money and resources – it is also about respecting the dignity of victims. International human rights law provides us with a legal and moral basis to hold governments accountable. It is governments who are signatories to international human rights laws

and these laws are supposed to be binding. At the same time, all other actors involved in post-disaster relief and reconstruction must also adhere to international human rights standards to ensure that the human rights of those they are working for are upheld.

The recovery process should therefore be measured against international human rights standards. At the core of these standards is the full and informed participation of affected communities, including women and other marginalised groups.

On 11 January 2005, within days of the disaster, 26 mandate-holders of special procedures of the United Nations Commission on Human Rights issued a joint statement⁶ calling for urgent commitment from governments to uphold international human rights standards in both the immediate response and the long-term rehabilitation phase. Unfortunately, as this report demonstrates, their recommendations have not been heeded.

The information in this report is presented thematically and covers the key sectors of housing, land, livelihoods, women and discrimination. Cross-cutting issues such as participation in decision-making and accountability are addressed

in each section. Finally the report makes recommendations for governments which, if adhered to, will contribute towards reducing suffering and building a better future for survivors.

This report is dedicated to all those who lost their lives in the tsunami on 26 December 2004.

We hope that the recommendations are acted upon by the governments of the affected countries. If they are, then this will be a living memorial to all those that died.

Shivani Chaudhry
HIC-HLRN
Habitat International Coalition—
Housing and Land Rights Network

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Pushpendra
ActionAid International
Tsunami Response
Coordination Centre

⁶ For statement visit:
<http://www.unhcr.ch/hurricane/hurricane.nsf/view01/22186F8A0066185DC1256F86003678B1?opendocument>

LAND

“I CAME TO THE VILLAGE THE DAY AFTER THE TSUNAMI TO LOOK FOR MY CHILDREN BUT THE GUARDS HAD ALREADY PUT A FENCE UP. I BEGGED THEM TO LET ME IN BUT THEY SAID IT WAS THEIR LAND AND THEY WOULD BE BUILDING A HOTEL. THEY HELD THEIR GUNS AND SAID THAT, IF I DIDN'T GO, I WOULD JOIN THOSE WHO DIED IN THE TSUNAMI. WE HAVE LOST OUR FAMILIES, NOW WE ARE HAVING OUR HOMES STOLEN TOO.”
DAENG, LAEM POM VILLAGE, THAILAND

“STATES SHOULD TAKE MEASURES TO PROMOTE AND PROTECT THE SECURITY OF LAND TENURE, ESPECIALLY WITH RESPECT TO WOMEN, POOR AND DISADVANTAGED SEGMENTS OF SOCIETY, THROUGH LEGISLATION THAT PROTECTS THE FULL AND EQUAL RIGHT TO OWN LAND AND OTHER PROPERTY.”
WORLD FOOD SUMMIT 2002

The right to land is one of the most contentious issues to have arisen in the wake of the tsunami. Across the region there are cases of conflict between communities who have historically lived along the coastline and government departments, major land-owners and developers. With coastal land at a premium for tourism and sea areas coveted by industrial fishing companies, the governments of India, Sri Lanka, Indonesia and Thailand are discouraging – and even preventing – people from returning to their original land and fishing areas. In some cases governments have made compensation contingent on people relinquishing their rights to coastal land.

In other cases, governments have failed to compensate local residents and farmers for land that has become uninhabitable or barren due to sea water. Survivors from Kuala Bubon in West Aceh, Indonesia, are still awaiting compensation for lost land and earnings, despite repeated promises from the chief of Indonesia's National Land Agency.

Buffer zones

An aspect of government policy that has caused great hardship to tsunami survivors has been the imposition of 'buffer zones' preventing people from rebuilding

homes along the coast. India, Indonesia, Sri Lanka, Thailand and the Maldives have all created restricted areas or islands, supposedly to mitigate the impact of future storms or tsunamis. With moving inland often a pre-condition for receiving a new house, poorer families are left with little choice but to relocate. Lack of clarity over government plans and enforcement mean that many people are still uncertain about their future.

In India, the 'coastal regulation zone' (CRZ), in existence since 1991, restricts dwellings and other residential activity within 500 metres of the hightide line. Post-tsunami, the government declared its intention to enforce this regulation rigorously. This generated a huge outcry from fishing communities along the coast of Tamil Nadu as it would have meant relocating several hundreds of villages. Not only would it prevent fishing communities from earning a living but it would deny their customary rights to land by the sea. For a number of those surveyed, renewed enforcement of the CRZ would mean relinquishing legal tenure for coastal land and properties to the state under the guise of safety concerns.

After an intense three-month campaign by fisher people's

organisations, the government of Tamil Nadu has recently amended legislation, accepting their right to remain close to the sea but withholding benefits from those who choose to do so. People are now allowed to rebuild and repair houses within 200 metres of the hightide line but they must pay for it themselves. On the other hand, if they choose to move more than 200 metres from the hightide line, they are eligible to receive a new house from the government.

In the case of Manginpudi Beach village in Andhra Pradesh, residents have been forcibly relocated two kilometres away from their original village, making way for new tourist resorts. The government promised to allocate new land to them and build them new homes, but to date residents have no information as to when these will be ready.

“The land they have told us to move to is two kilometres away from where we used to live. How can we go and fish if we are made to move to this new place?”

Resident from Manginpudi Beach village, India

In Sri Lanka in response to popular pressure in the run-up to presidential elections, the 100-200 metre 'buffer zone' established in the aftermath of

the tsunami was reduced to 35 metres in the south and west, and 50 metres in the east. In Jaffna in the north it remains at 100 metres.⁷ Throughout 2005, the Sri Lankan buffer zone led to confusion and concern among families living in temporary camps who did not know when or whether they would be able to rebuild on the site of their old homes.

In Thailand in February 2005 the government announced 'environmentally protected zones' forbidding any construction within 40 metres of the shore. Such measures continue to 'protect' beaches and resorts controlled by the tourism business.

Although Mokens or 'sea gypsies' have lived on the coast of Thailand for several generations, they do not possess papers that establish their legal title to land. Officially, most of them do not have Thai citizenship. As a result, some have not been allowed to return to their villages since they were displaced by the tsunami. In the villages of Tab Tawan and Thungwa in Phang Nga province, sea gypsies were initially prevented from going back to their villages because a private company had claimed title over the land. Only with the help of local NGOs were they able to reoccupy the land after three

months of displacement. The sea gypsies are still not able to claim legal title, and the government is currently mediating their negotiation with the company.

On Phi Phi Island in Krabi province, a government assigned organisation known as the Designated Area for Sustainable Tourism Administration (DASTA) has proposed a tourism development plan by regulating a buffer zone 30 metres from the shoreline. The land has been earmarked for tourist resorts and luxurious hotels. DASTA also foresees Phi Phi Island as an ecological and adventure destination, and has proposed relocation of the Moken community. The community have refused to relocate, and are currently still living in temporary shelters or with relatives. They are not allowed to construct or repair houses.

In the Maldives, the government is seeking to implement a 'safe island' programme which will lead to the displacement of more people. The programme's stated aims are to develop a few islands as economically and socially sustainable. The government argues that this will enable cost-effective delivery of services and will provide protection from natural and other disasters. It will also, according to the government, divert

the influx of migrants to its capital, Male.

This plan, in existence since 1998, is now being funded by the European Union, World Bank, United Nations Development Programme (UNDP) and others through a trust fund managed by the government in collaboration with the UNDP. At present the entire population of three islands – Madifushi, Gemendhoo and Kadholhudhoo – and part of the population of a further 10 islands, are being relocated to other islands. People are left with no choice but to move as it is a precondition of housing and livelihood rehabilitation.

Those affected by this programme have expressed their doubts about the safety rationale of the government and ask why the populations of more than 180 islands in similar circumstances (in terms of elevation, topography, proximity of homes to the sea) are not also being moved. They believe tsunami money may be being misused for developing new commercial centres.

In Indonesia, soon after the tsunami, the government announced a buffer zone that would prevent housing reconstruction within two kilometres of the coast. However, the immense pressure exerted by civil society groups prevailed and



the government announced in May that it would allow people to rebuild in areas previously declared as buffer zones. This has paved the way for people to reclaim their land.

Double standards are clearly evident in the application of buffer zones in tsunami-hit countries. Economically and politically powerful sections of society have been allowed to exploit the disaster for private gain at the expense of the most vulnerable.

From a human rights perspective, if buffer zones are to be maintained they must apply to all – local communities and big developers alike. More importantly, buffer zones must not be used to undermine the customary rights of traditional coastal communities over coastal land. Governments should invest in community early warning systems and local preparedness so that people can live safely and fearlessly by the sea.

Land for permanent housing

One of the main reasons for slow progress on permanent housing is the paucity of land. In several cases, government agencies have been slow to acquire land from private parties or have been reluctant to pay the market price.

In two areas of Prakasham in Andhra Pradesh, India, a local NGO had taken on responsibility for the construction of permanent housing but the price quoted to purchase the 2.5 acres of land needed was considered by the government to be extremely high. Progress has now stalled and there is confusion over who will bear the cost. Residents doubt whether the plan will go ahead.

“We have not heard anything about the new houses; who knows if we will ever get them?”
Resident, Kothapatnam
Pallepalem village, India

In Iraitandurai, Tamil Nadu, India, residents have had to give up their rights to their coastal land in order to be eligible for government land and a house farther from the sea. Although many were unhappy about relinquishing their land rights, they felt there was no other option if they were to receive help. The relocation will damage their livelihoods and increase other costs, including the cost of transport for children to get to school. Residents also feel it will mean the loss of social networks and their sense of community.

In Namunaghar, Andaman and Nicobar Islands, India, residents were unaware of any plans for permanent housing as they have had no contact from authorities on this issue.

One of the greatest impediments to providing permanent housing in Sri Lanka⁸ has been the lack of a clear policy or mechanism for land acquisition and redistribution. This includes lack of coordination between NGOs and the government. NGOs have said they are willing to build houses, but the government has not provided the required land. In some places, land was apparently unavailable, while in others the land allocated had a rocky composition or was in a low-lying area, making it unsuitable for housing construction. Additionally, legal procedures for acquiring land tend to be cumbersome, leading to corruption by officials and politicians.

In Sri Lanka’s eastern provinces, people have received very little information on possible sites, timescales or the nature of the proposed permanent housing. They had not been consulted or involved in the process of identifying suitable land for permanent housing.

In Indonesia, the situation for people who had been living in rented accommodation or with friends or family is even less certain than for those who owned homes prior to the tsunami. So far, house reconstruction is only for those who have land and not for those who used to rent the

house. The problem landless people face is particularly acute because while they are struggling even to restore their previous incomes, local rents have soared by 200-300 per cent since the tsunami.

“All house reconstruction programmes require ownership over the land. We can no longer afford to rent a house. I don’t know where to look for house aid.”

Pak Indra, Nyak Makam,
Indonesia

According to official figures,⁹ only 62 out of 4,511 houses in the construction plan in the sub-district of Johan Pahlawan in West Aceh had been completed by the end of September 2005. In Aceh Jaya district, only 815 of 16,283 houses required for survivors had been planned or were under construction, while no clear plans were in place for the rest. Survivors felt that this was mainly because the NGOs committed to reconstruction were waiting for policies and guidelines from the government. Reasons for delays include the fact that the government’s Rehabilitation and Reconstruction Agency was only established in mid-April and most NGOs are still waiting for land to be allocated for housing.

Land – a human rights assessment

Governments have made little progress in acquiring the necessary land for permanent housing construction. Instead governments are either complicit or playing an active role in land-grabbing from marginalised communities such as Thailand’s sea gypsies and fishing families in all countries.

It is the responsibility of governments to prevent land from being taken away from marginalised communities and to acquire sites for housing construction. Unless firm steps are taken to respond to growing pressure from civil society groups, the human rights of these vulnerable communities will be further eroded. As well as land and property owners, landless labourers and people living in rented accommodation must also have their right to adequate housing protected.

ActionAid, PDHRE and HIC-HLRN call on governments in tsunami-affected countries to:

– Immediately stop the involuntary displacement of people in the name of ‘buffer zone’ or ‘safe island’ policies. People’s customary rights to sea fronts and land must be recognised.

– Stop making compensation conditional on relocation offers.

– Provide land to the landless for housing and livelihood purposes, and ensure compensation is no longer restricted to those who owned land previously.

– Acquire or purchase lands urgently so that building of permanent houses starts for those who did not possess land in the past or who want to relocate voluntarily.

– Prevent companies, local land mafia, landlords etc from using the tsunami as an opportunity to grab land of vulnerable groups. Governments must act on such complaints and restore land to tsunami-affected people.

7. Government of Sri Lanka, Information Department: Release Ref No. AD/Pub/01/05, dated: 14-10-2005

8. See Post-tsunami Relief and Rehabilitation: A Violation of Human Rights, Housing and Land Rights Network – Habitat International Coalition, New Delhi 2005. Available at <http://www.hic-sarp.org/Tsunami%20Report.pdf>

9. Media Centre, Regional Secretariat of Aceh Jaya District

HOUSING

“AFTER THE TSUNAMI, FIRE TWICE BURNED OUR SHELTERS TO THE GROUND. WE HAD TO USE OUR CLOTHES AND BEDSHEETS TO MAKE TENTS. NOW THE MONSOON HAS COME, WE ARE FLOODED. SOME OF US ARE STAYING IN A LARGE HALL NEARBY.”
RESIDENT, KARGIL NAGAR TEMPORARY RELOCATION SITE, INDIA

“EVERYONE HAS THE RIGHT TO A STANDARD OF LIVING FOR THE HEALTH AND WELLBEING OF HIMSELF AND OF HIS FAMILY, INCLUDING FOOD, CLOTHING, HOUSING AND MEDICAL CARE AND NECESSARY SOCIAL SERVICES...”
UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

The human right to adequate housing cannot be interpreted as merely being the right to four walls and a roof. The concept of adequacy in relation to the right to housing is understood as adequacy of privacy, space, security, lighting and ventilation, basic infrastructure and location with regard to work and basic facilities.¹⁰

Temporary housing

One of the most appalling facts in post-tsunami rehabilitation is that a year on from the disaster a large number of people are still living in temporary shelters and some even in tents. There are also many living in damaged houses. Living conditions in all these forms of shelter are uniformly poor.

“The septic tanks are full and overflowing. Sanitation is very bad in the camp. There is no proper place to dispose of solid

waste. We just have to throw it out in the open. There is stagnant water all around the shelter and mosquitoes breed in it.”

Resident, Namunagarh relief camp, India

In Indonesia, official sources confirmed in September 2005 that more than 470,000 people were living as internally displaced people in temporary shelters or with relatives.

In the Maldives, the number of internally displaced people stands at more than 11,000. Of these some 5,200 are living in temporary shelters. The rest are living with their friends and relatives, either because temporary shelter was not available or because they refused it as they found the living conditions unacceptable.

In island territories such as the Maldives and India’s Andaman

and Nicobar Islands, entire communities have been moved to new islands where they are now living in temporary shelters. The majority of people from the devastated Great and Little Nicobar islands for example were relocated to Campbell Bay, while many people from evacuated islands in the Maldives are still living on nearby islands.

Displaced people are particularly vulnerable because once they are uprooted they have to cope with geographical, social, cultural and political settings they know little about, and with limited support structures.

“Local people near the camp harass us. They don’t like us being here. We cannot let girls go out by themselves.”

Resident, Manginpudi relief camp, India

TABLE 1: PRESENT HOUSING STATUS OF AFFECTED FAMILIES SURVEYED IN 31 VILLAGES¹¹

Country	Families living in temporary shelters	Families living in own damaged houses	Families living with relatives/friends	Total no. of families with damaged houses	Total families
India	568 (35.3)	1032 (64.2)	8 (0.5)	1608 (100.0)	3755
Sri Lanka	523 (66.7)	249 (31.8)	12 (1.5)	784 (100.0)	1746
Maldives	126 (18.1)	488 (70.0)	83 (11.9)	697 (100.0)	1068
Indonesia	53 (9.4)	430 (76.0)	83 (14.7)	566 (100.0)	566

Figures in brackets denote percentages.

Construction materials

In India most temporary shelters have been built with tar sheeting which was claimed to be fireproof, but due to the heat trapping effect of tar most temporary structures were rendered uninhabitable during the sweltering summer months. Furthermore, the tar sheets do not provide adequate protection against the rain.

Tin shelters constructed in Namunagar in the Andaman Islands are also extremely inappropriate given the particular climatic conditions of the islands – blistering heat follows months of heavy rains. Residents complain that not only do shelters trap heat in the summer months but they also leak during the monsoons.

“We have been hit twice, first the tsunami took away our homes and now with the rains and floods we are displaced from the relief camp.”

Resident, Kannagi Nagar temporary shelters, India

The situation is even worse in the resettlement sites at Kannagi Nagar and Kargil Nagar in Chennai, India. Residents of Kargil Nagar have suffered two fires, the last in June 2005 in which around 1,600 shelters were completely gutted. When not at risk from fire, residents at both

sites have had to contend with flooding. Both resettlements are located in low-lying areas and become completely flooded after heavy rainfall. In November and December of 2005 they became virtually uninhabitable and the residents had to be relocated to a large hall close by.

In Sri Lanka most families, particularly in the east, were allocated temporary housing as late as seven to eight months after the tsunami. In Galle province and other parts in the south, temporary structures are often made from thin sheets of wood with tin for the roofs. Only a few have windows. Residents complain that the intense heat and absence of ventilation render structures uninhabitable. They also say that the tents cannot withstand the monsoons, and leak every time it rains.¹²

Similarly, in the Maldives, temporary shelters are largely made of plywood with metal roofs. These structures do not have windows, leak when it rains and are extremely hot during the day.

“The heat was unbearable. When the rains came we had to stay inside the shelters which were hot and humid.”

Resident, Hulhumale temporary shelters, the Maldives

Living space

Temporary structures in almost all cases do not have adequate space, despite international human rights laws on individual entitlements to space. The lack of space not only results in uncomfortable living but also decreases privacy for women and girls.

In India, temporary housing consists of one-room structures, irrespective of family size. At all sites, women and men have complained about the inadequate size of the shelters, which range from 2.4 x 3.0 metres to 3.6 x 4.5 metres and house between four and seven people each.

In Sri Lanka the size of shelters varies from site to site, between 3.0 x 3.6 metres and 4.9 x 6.1 metres. Often there are a range of house sizes on each site, but allocation bears no correlation to the size of the resident families. This has created dissatisfaction and rivalry among residents.¹³

In Indonesia, particularly in Banda Aceh, tsunami-affected people now live in barrack-like structures that are extremely overcrowded and particularly unsuitable for families with children.

Government-built shelters in Indonesia are single rooms of 4 x 3 metres. Allocation of shelters is not one per family, but a



maximum of five people per shelter. This policy has led to more than one family living in a single shelter.

Temporary shelters provided by the government in Ugoofaaru in the Maldives are 4.9 x 7.6 metres each. There is one bedroom (2.4 x 4.9 metres), two small rooms (2.4 x 2.4 metres each), a toilet, a small kitchen and a small hall area. Most shelters house two families (nine to twelve people in total) but in some three families live together. Lack of privacy and sleeping space is a particular concern for women and adolescent girls.

Small rooms are used as bedrooms by the adults of each family, leaving the other room for the children. Children of all ages and both sexes sleep together, making the younger ones, particularly girls, vulnerable to abuse. Parents are concerned that the lack of space is restricting their children's development.

Basic facilities

Adequate housing as defined in the beginning of this chapter includes water, sanitation, electricity and health and education facilities within a reasonable distance of the housing. Housing without these basic facilities is meaningless.

Water and sanitation

“The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”

UN's Committee on Economic, Social and Cultural Rights¹⁴

Water for drinking and washing is in short supply at most resettlement sites. As women are often responsible for collecting water, it is they who bear the added burden of having to walk long distances to meet their family's water needs. It also means that camp residents use unsafe water, exposing them to life-threatening diseases.

In the temporary shelters of Manginpudi Beach in Krishna district, Andhra Pradesh, India, lack of access to water poses a huge problem. The water tank provided by the government is not sufficient for the needs of the community and is some distance away from the resettlement site. Women leave their homes between 3am and 4am and walk for up to an hour in search of water, often risking their personal safety.

“I have to get up when it is still dark and walk a long way to collect water so that we can drink and cook.”

Woman resident, Manginpudi resettlement camp, India

Sanitation facilities are poor and no bathrooms or toilet facilities have been provided.

In Namunaghar camp, which houses 170 families in the Andaman Islands, each shelter is allocated an individual toilet and bathroom, but these are located one kilometre away. Because septic tanks are constructed at ground level without proper drainage or a solid waste management system, there are frequent overflows resulting in disease. Pools of stagnant water provide rampant breeding grounds for mosquitoes.

“Water collects around the shower area. Children have caught dysentery and malaria because of this.”

Woman resident, relief camp, Namunaghar, Andaman and Nicobar Islands

In the Maldives too, water for drinking and washing is in short supply in camps. Sanitation and sewerage are in poor condition – residents complain that drainage pipes become blocked two to three times a week making it

impossible to use the toilets or tap water.

Access to the bath-cum-lavatory in each shelter is through one of the bedrooms, posing difficulties for children and other resident adults if they need to use the toilet during the night. In the mornings, children from two or three families wait for their turn before going to school. There is hardly enough space for one person in the bathroom. In this situation maintaining personal hygiene is almost impossible.

“If any of the residents need to go to the toilet in the night, either she has to wake up the couple occupying the room attached to the toilet, or go outside. I cannot explain how embarrassing it is!”

Resident, Kadholhudhoo Island, living in Ugoofaaru shelter site.

In Indonesia, though most shelters have toilets there is no water provided. In Meunasah Keude, Panteraja, women have to walk as far as 500 metres to the sea for bathing, washing and all other water needs.

“There are no bathrooms here. We have to go to the sea to wash and cleanse ourselves.”

Woman resident, government refugee barracks, Aceh, Indonesia

Health

“Governments recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

UN International Covenant on Economic, Social and Cultural Rights, 1966

Health and housing are intrinsically linked – poor housing often results in poor health. Conditions in several temporary shelter sites in tsunami-affected areas pose a serious threat to the health of residents. This is exacerbated by a lack of proper and affordable healthcare facilities.

In India, women and children complain of rashes and allergies as they spend much of their time in the heat-trapping temporary structures. The close proximity of housing structures hastens the spread of disease. Many children in temporary housing sites in Tamil Nadu, for example, are suffering from eye infections.

“The water is very bad here. We all got this rash and itching disease.”

Resident, relief camp, Kurueng, Indonesia

While most sites initially had frequent visits from doctors, these visits have gradually reduced. Women in Kargil Nagar in India point out that for most illnesses

the local doctor refers them to the larger hospital, which is very expensive. In Manginpudi Beach in Andhra Pradesh residents have to travel three kilometres on dirt roads. No public transport is available, so in emergencies people have to hire a vehicle at a cost of 200 rupees (\$4.4) – a huge sum for poor families.

The residents of a camp on the Maldivian island of Gan in Laamu atoll said that, while healthcare was supposed to be free for two months after the tsunami, administrative procedures for validating claims proved too costly and time-consuming. There are no basic health services at the camp and, as residents are living in confined quarters with poor waste management and water-borne diseases, health is particularly poor.

According to residents, a visiting World Health Organisation and United Nations Population Fund delegation had informed them that the regional health centre, also on Gan island, had received enough medical supplies to provide the camp community with free healthcare for a year. Not only have government authorities failed to inform the camp community of this, but the health centre continues to charge the camp residents full price for medical services.

Location

“Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence...

Displacement shall last no longer than required by the circumstances.”

UN Commission on Human Rights, Guiding Principle on Internal Displacement, 1988

The right to adequate housing recognises the importance of location. Location not only affects the habitability of a particular house but also has strong implications for other entitlements such as education, healthcare and the right to earn a living.

In India, there is a government proposal to move residents of Kargil Nagar temporary resettlement site, all from coastal areas, to Ennore Gate, which is even further away from the sea than their present location. Most are extremely reluctant to go as the move will increase transport costs and further reduce their access to the sea, to markets and to schools.

In Kothilpadu in Kanyakumari district, India, most temporary shelters lie empty. People refuse to stay in them as they have been built so close to the shore that water enters the buildings at high tide.¹⁶

In Sri Lanka temporary structures along the west coast have been built on the site of original homes. However, in the east, resettlement sites are often located in low-lying areas that are prone to flooding and that are some distance from the nearest town and its services. Thiraimadu in Batticaloa for example, where a number of agencies have constructed shelters, is highly susceptible to flooding. Residents complain that, because the site is far from the main town and public transport is infrequent and expensive, their access to healthcare, government-subsidised food shops and schools is severely curtailed.¹⁷

In the Maldives, residents of Gan camp point out that they are unable to find work because of the location. They have not been provided land or coastal fishing rights in Gan and commuting costs to their old island Kalhaidhoo where they used to grow crops and fish freely are prohibitively high at 600 Rufiyaa (\$47.7) or more.

“It costs a lot to go and find work and we have little money. If we leave the shelter for any length of time things get stolen.”
Resident, Kalhaidhoo displaced persons camp, the Maldives

In some locations, conflict has arisen between displaced people and local residents. Since the

tsunami, around 690 people from Kadholhudhoo in the Maldives have been living in camps on the nearby island of Hulhudhufaaruu. Tension has been mounting in recent months and sometimes violence has broken out. The new arrivals allege unfair treatment by the hosts, including discrimination by island officials and institutions such as schools and the health centre. Local residents complain of the guests being abusive in their language and aggressive in their behaviour. Both communities have grievances against each other and the government has created a security post to control the situation.

“They use vile language, and they are very boisterous. There are conflicts between us and the new arrivals all the time.”

Original resident, Hulhudhufaaruu Island, the Maldives

“When the relief was distributed they got more than us. When our children go to school here they get bullied, and when we try and get work they won’t employ us.”

Displaced person now living on Hulhudhufaaruu Island

In Indonesia, where temporary resettlement sites have been constructed too far from the sea, there are direct implications for

the livelihoods of the fishing community. The 212 residents of Kuala Bubon, Samatiga, West Aceh, of which 95 per cent are fishing families, have refused to be relocated to the new site, preferring instead to continue living in tents.

In the case of the ‘sea gypsies’ in Thailand, around 1,000 households were affected by the tsunami. The government built a resettlement site with new homes far from the coast. For a community traditionally based along the shoreline, the relocation is a culture shock and removes them from the sea that they rely on for a living. Both are violations of the right to adequate housing.

Permanent housing
“We have no idea what is happening, the government and the authorities tell us nothing (about their plans for building permanent housing).”
Relief camp resident in the Andaman and Nicobar Islands

The status of permanent housing post-tsunami is dismal. In most cases, tsunami survivors are completely in the dark regarding plans for and progress of permanent housing. Few have been consulted and none knows how long they will have to wait before they can move into a permanent structure.

Thailand is an exception – here the rebuilding of houses has been mostly achieved. However, a number of people from vulnerable groups, such as sea gypsies and small fishermen, have been left out of the rebuilding process. Moreover, houses built by the government are too small for the average four member family. Houses consist of just one 3 x 6 metre room, with bathrooms entirely separate from the house. People were also required to fund the costs of establishing systems for water supply and electricity themselves.

In the Maldives, the government has standardised the housing package across the country so does not see the need to consult with individual islands or communities on the size, design or materials for the houses or on other basic amenities for new homes. Displaced people, such as those who once lived on the devastated island of Kadholhudhoo and are awaiting to be rehoused on Dhuvaafaru island, do not have any information on how far housing construction has progressed.

Many of the problems associated with housing could be avoided if the practice adopted by government and a local NGO in Nellore district, Andhra Pradesh, India, was replicated. After consulting residents on design

and quality, and seeking their participation in monitoring building work, the NGO is constructing permanent houses on land provided by the government.

Residents we spoke with in Nellore all knew that the new houses will have a kitchen, a hall, a bedroom and a bathroom and toilet, and that each house will cost 120,000 rupees (\$2,663). The new complex will also have a school, healthcare centre, drinking water, recreation area and facilities to dry fish. Deeds will be issued in the name of the woman of the family.

Housing – a human rights assessment

One year on and millions of dollars later, there is still a long way to go before adequate housing is achieved for tsunami survivors. The way in which relief and rehabilitation is being run by governments is too often undermining people’s human rights. From the above examples it is clear that the right to adequate housing is being violated in more ways than one.

In order to undo some of these mistakes, the housing needs of women, children, disabled and elderly people must be met. In doing so, vulnerable groups must be consulted and their views and preferences taken into account.

ActionAid, PDHRE and HIC-HLRN call on governments and other relevant actors in tsunami-affected countries to:

— Clearly set a realistic target for housing construction and communicate this to affected communities.

— Conduct immediate point-by-point reviews (based on the standards of adequate housing outlined in the beginning of this section) with people living in temporary shelters and take immediate action to rectify wrongs within three months.

— Make it a priority to replace asbestos, tin and tar roofs with environmentally friendly and culturally and climatically suitable construction material; ensure that functioning toilets and bathrooms with effective waste management are available to each of the dwellings (one per family); ensure that there is a separate room for children, and that the privacy of women is ensured.

— Ensure that rehabilitation policies do not discriminate against those who were homeless or living in rented accommodation or with family/friends pre-tsunami.

— Make special arrangements for the healthcare and nutrition of the inhabitants in temporary shelters,

and establish a disease surveillance system.

— Form housing committees at temporary shelter sites that include women and representatives from vulnerable groups. These committees should play a decisive role in the management of temporary shelters.

— Involve affected people in the planning and implementation of permanent housing programmes and ensure that adequate steps are taken to encourage the participation of women and vulnerable groups.

— Where possible use local material, local labour and local expertise in construction.

— Provide remote and inaccessible areas (particularly islands) with regular, frequent and affordable transport to allow for the movement of materials as well as people.

— Design and build permanent houses with disaster-resistant qualities. They should also be friendly to disabled people, elderly people, children and women.

10. General Comment 4 of the Committee on Economic, Social and Cultural Rights, United Nations Office for the High Commissioner for Human Rights

11. Data covers 10 villages of India, nine of Sri Lanka, six of Indonesia and six islands of Maldives. Quantitative data unavailable for Thailand.

12. op.cit. HLRN-HIC

13. op.cit. HLRN-HIC

14. General Comment No. 15, "The Right to Water", Article 11 and 12.

15. op.cit. HLRN-HIC

16. op.cit. HLRN-HIC

17. op.cit. HLRN-HIC

LIVELIHOODS

“I HAVE NOT WORKED SINCE THE TSUNAMI. I HAVE NO SOURCE OF INCOME. I NEED EMPLOYMENT I CAN DEPEND ON.”
OUT-OF-WORK RESIDENT, KALHAIDHOO RELIEF CAMP, THE MALDIVES

“EVERYONE WHO WORKS HAS THE RIGHT TO JUST AND FAVOURABLE REMUNERATION ENSURING FOR HIMSELF AND HIS FAMILY AN EXISTENCE WORTHY OF HUMAN DIGNITY, AND SUPPLEMENTED, IF NECESSARY, BY OTHER MEANS OF SOCIAL PROTECTION.”
UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

The right to earn a living is fundamental. It provides people with the power to control their lives with dignity. Estimations from the UN and the World Bank suggest the loss of livelihoods in India alone post-tsunami was US\$700 million. In Indonesia, unemployment has risen by more than 30 per cent since the tsunami. The loss of earning capacity not only affects household income but contributes to the psychological depression that often follows a disaster.

In Andhra Pradesh, India, fishermen complain that, despite compensation and aid they have received, they are still unable to cope with the loss of income because of a change in sea patterns after the tsunami. Most of their former fishing sites are no longer remunerative. They no longer have a fixed place for fishing and have to hunt out

new locations. Generally their catch is lower or different, resulting in lower income.

“We have to keep moving from one place to another. Nowadays we catch mostly mackerels, sardines and crabs. None of these get a good price and the crabs damage the nets by cutting them with their pincers.”
Panamala Tirupathi, fisherman, Kothapatnam Pallepalem, India

They feel that they need continued support to deal with this situation.

The sea gypsy community at Sang Ka U in Krabi province in Thailand said that before the tsunami fishing was easier, the catch was reasonable and most of the equipment that they required was available locally. After the tsunami, sea gypsies did not get any assistance from the government to replace lost

fishing gear, so have had to take out loans from moneylenders or borrow equipment from private fishing dock operators. Under informal loan agreements, the fishing dock operators acquire the right to set the price of their catch, implying that they (the operators) virtually acquire monopoly rights over fish caught by the sea gypsies. To cover these additional costs, sea gypsies are being forced to spend many more days at sea and cover greater distances for less return.

In Thailand, migrant workers are protected by the 1998 Labour Protection Act, which deals with issues including the minimum wage, overtime wages, working hours and holidays. Since the tsunami, local landlords and factories will only employ migrant workers on the condition that they forgo their rights under this Act.

TABLE 2: NUMBER OF HOUSEHOLDS WITH LOSS OF LIVELIHOODS IN DIFFERENT SECTORS

Country	Agriculture	Fishing	Other business	Labour	Others	Total no. of families
India	423 (11.3)	2131 (56.8)	370 (9.9)	1344 (35.8)	0 (0.0)	3755
Sri Lanka	410 (23.5)	1234 (70.7)	480 (27.5)	839 (48.1)	519 (29.7)	1746
Maldives	262 (18.0)	446 (30.6)	145 (9.9)	0 (0.0)	12 (0.8)	1458
Indonesia	195 (13.8)	219 (15.5)	588 (41.6)	314 (22.2)	0 (0.0)	1414

Based on field data from 40 villages. Total may add up to more or less than 100 per cent as individual households might have suffered loss of more than one means of livelihood or no loss at all. Figures in brackets denote percentages.

In tsunami-affected areas of Thailand, most migrant workers have been found to be receiving less than the legal minimum wage or are compelled to work more than the stipulated 48-hour week.

Many migrant workers are being cheated out of their wages with the money 'disappearing' between the employer and the middleman. Asking employers or contractors for wages often means risking their jobs. Lack of information on their rights, the law and how to access the legal system is resulting in further exploitation of migrant workers.

Compensation: inadequate and uneven

“The State parties to the present Covenant recognize the right to everyone to social security, including social insurance.”

International Covenant on Economic, Social and Cultural Rights, 1966

Faced with large-scale loss of livelihoods after the tsunami, governments in affected countries announced compensation packages for immediate relief and restoring livelihoods. Compensation packages include provision of new fishing boats and repair of damaged ones, new fishing nets, compensation for the loss of

crops, and cash compensation for the immediate maintenance of livelihoods.

In all five countries studied, the majority of compensation has gone to the fishing sector. Although fishing was the most severely affected sector, agriculture, small businesses and the informal sector were badly affected too. These sectors have been largely ignored, both in immediate relief and in longer-term recovery.

In most of the countries, particularly in India and Sri Lanka, the number of catamarans lost or damaged was many times higher than that the number of vallams or big boats. However, the compensation going to the owners of big boats has been much higher than that going to the owners of small wooden boats. Furthermore, a large number of poor fishing families who do not own boats themselves but earn money by working on other people's boats are yet to receive meaningful compensation.

In Manginpudi Beach in Andhra Pradesh many families lost their boats and almost all lost their nets. For at least one month people were unable to earn a living. The compensation received during the initial period was barely sufficient to meet basic needs. The government provided just 750

rupees (\$16.6) and 25 kilograms of rice per family.

In the surveyed villages of Indonesia, fishing families have not received enough boats. Some are sharing boats, resulting in a smaller share of the catch, while others have no access to boats at all and are left unemployed. No livelihood-related compensation has been received in any of the villages surveyed.

In Galle district in Sri Lanka, it has been reported that some families received more than one boat as compensation while some poorer families received none. As a result, the fish catch for some people has increased since the tsunami, while others are still unable to return to the sea. In Sri Lanka, there is also a significant discrepancy between the southern and north-eastern provinces. More boats have been supplied in the south while the number of boats lost was far greater in the north-eastern provinces.

In Little Andaman, families living in temporary shelters at Padhak Tikri complain that they still lack the basic equipment to return to fishing. Most have not received new equipment for fishing or still have severely damaged boats. In Thailand, because they are not regarded as Thai citizens, sea gypsies have received no compensation, either for



the replacement or the repair of equipment.

While it is evident from official needs assessment reports¹⁸ that a large number of livelihoods were lost outside the fishing sector, governments have, at best, made vague announcements on compensation packages for farmers, horticulturists, small business owners and casual labourers.

Farmers living in Namunaghar temporary shelter in the Andaman Islands point out that they have not only lost crops but their fields are still submerged under seawater. The government has promised to drain the water, but land is still unusable and neither alternative employment nor financial support to set up small businesses has been provided. Though a cash-for-work programme was started by the public works department, this

was located 20 kilometres from the shelter site. Wages could barely cover commuting and food expenses. People feel they have been abandoned and are surviving at the mercy of the local administration.

“I feel as though I've been left in no man's land; the authorities have either forgotten us or don't care.”
Resident, Namunaghar relief camp, India

Livelihoods restoration

In all the countries studied, the restoration of livelihoods is still a long way off, with most people either unemployed, underemployed, or looking for alternative sources of income. Nowhere did people believe that their livelihoods had been fully restored.

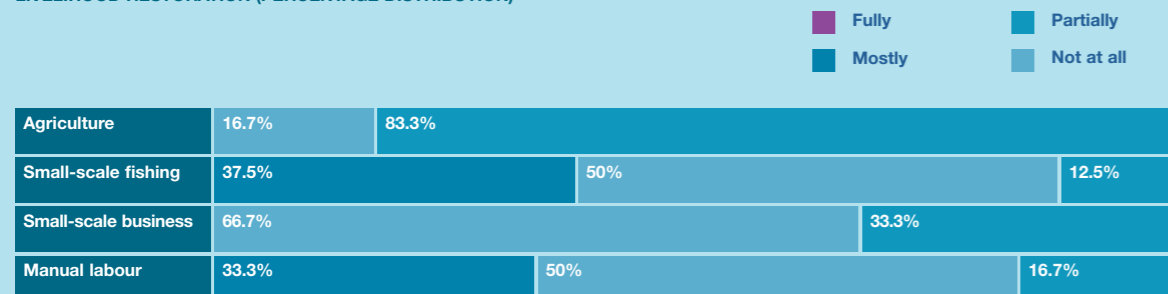
In the fishing and manual labour sectors, just over one third of

villagers questioned felt that their livelihoods had improved on pre-tsunami times. Manual labourers have found employment in reconstruction work, for example. However, even in the fishing and labour sectors, nearly two thirds of villagers feel that their livelihoods have been restored only partially or not at all.

In Indonesia, people living in temporary shelters are unable to work because the shelters are so far from places they can find employment.

“There is nothing we can do here. After waking up, we go to the coffee shop. At midday, we sleep again. In the afternoon, we go again to the coffee shop and sit there till midnight. Every day we do the same thing. How is it possible not to be stressed if we live in this manner?”
Ahmad, Teurebeh temporary shelters, Indonesia

VILLAGERS' PERCEPTION OF EXTENT OF THEIR LIVELIHOOD RESTORATION (PERCENTAGE DISTRIBUTION)¹⁹



One of the biggest complaints in Hulhumale resettlement camp in the Maldives is that, since people are unaware of how long they will be there, they are unable to take on long contracts for labour. Women's work has also suffered because of the loss of homes and with them home-based work such as tailoring or preparing food for sale.

Our field research shows that government response to the massive loss of livelihoods is far from satisfactory. Employment initiatives by government have only begun in a third of villages surveyed; none have begun in Indonesia and India.

Where employment generation has begun, workers are often brought in from outside the area, rather than using local people who need the work and have a vested interest in the quick reconstruction of their environment. For example, in Namunaghar in the Andamans, labourers were brought 1,000 kilometres from Kolkata by the contractor.

Livelihoods – a human rights assessment

The goal of rebuilding livelihoods based on human dignity and equality is still a long way off. At best government interventions have been lop-sided, at worst they are negligent and

discriminatory. There is a need to recognise that the absence of income often drives people to desperation. This increases vulnerability to further exploitation such as trafficking, bonded labour and child labour.

Little attention has been paid to building women's livelihoods. As women are often the ones leading the recovery in families and communities this is particularly short-sighted. But perhaps the greatest omission in government livelihood programmes is that many governments have missed the opportunity to undo some of the existing discrepancies and inequalities in society.

ActionAid, PDHRE and HIC-HLRN call on governments in tsunami-affected countries to:

– Enumerate all those who have not received compensation or have received only partial compensation; provide special assistance to women and vulnerable communities to make their claims; review procedures to help women and vulnerable groups access their claims and introduce a floor rate of compensation to the affected to avoid the exclusion of the poorest and those without assets.

– Provide compensation that is adequate, based on a human rights approach and with special measures to bring a positive improvement in the lives of women and vulnerable communities and to reduce future risks.

– Provide appropriate boats and fishing gear to fishing communities as quickly as possible.

– Protect small-scale and community-based fishing from encroachment by big trawlers. Furthermore, fishing with trawlers should be banned or access should be restricted since over-fishing can destroy marine life.

– Provide adequate compensation and assistance to restore livelihoods of non-fishing communities such as farmers, casual labourers, small business owners and those engaged in related activities such as fish processing and vending.

– Strengthen social protection measures for tsunami-affected communities. Measures should include employment guarantees, social security schemes, health insurance and social security pensions for widows, orphans and disabled, mentally ill and elderly people, as well as people suffering from long-term illness and those unable to work.

— Provide fair wages in all public works undertaken for relief and rehabilitation, and adhere to international standards for working conditions and wages.

18 Needs assessments were carried out by international financial institutions in conjunction with the UN System in the tsunami-affected countries immediately after the disaster

19 Based on data from 31 villages in India, Maldives, Sri Lanka and Indonesia

WOMEN

“WOMEN ARE NOT ALLOWED TO BE ON THE PLANNING OR VILLAGE COMMITTEE TO DISCUSS NEW HOUSING.”
DISPLACED WOMAN, PUTHUR, INDIA

“GOVERNMENTS WILL ENSURE THE EQUAL RIGHTS OF MEN AND WOMEN TO THE ENJOYMENT OF ALL ECONOMIC, SOCIAL AND CULTURAL RIGHTS.”
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966

Women the world over tend to have more responsibility for looking after children, providing food and running a home than men. In a post-disaster situation, when support systems – including physical infrastructure – break down, women bear the additional burden. Indeed, they are often the ones leading the recovery process in their families and communities.

In responding to the tsunami, governments have, once again, largely neglected the particular needs of women. Women have not been included in decision-making regarding damage assessment, allocation of plots, land surveys or design of shelters and permanent houses. Orphaned girls, single women, women heading their households and women who are elderly, disabled or part of minority and vulnerable communities remain the most neglected.

Relief distribution

Immediately after the tsunami, aid was often distributed in places and ways that were more accessible to men. It was a struggle for women to be recognised as heads of households and receive their dues. Only in a very few cases was special attention given to the needs of single women, including widows. In all countries, compensation was almost always

handed out to male members of the family who did not necessarily share it with the women.

“I have not been able to get compensation from the authorities for the death of my husband. They will not pay me because I do not have a death certificate because his body was never found.”

Kamamma, resident of Machidera village, India

In Sri Lanka, women who owned land in their own names prior to the tsunami, particularly Muslim women who had received property as part of their dowry, have raised concerns that they are not considered eligible for compensation. Even in cases where the original house or land was in the woman’s name, the government deposits compensation payments in the name of the man. Banks in the northeast of Sri Lanka reportedly asked women to sign a letter relinquishing their rights to the house and land to their husbands in order to facilitate compensation payments.

In Thailand, women who lost their partners have not received compensation if they cannot produce a marriage certificate, even if they had been living together for many years and have children together. Compensation has also only been given to

women who were able to prove that the men who died were the fathers of their children by producing birth certificates for their children. Government failure to recognise such women as widows has increased their vulnerability to poverty, hunger and destitution, among other human rights violations.

Inadequate housing

Although the effects of bad living conditions are felt most severely by women and girls, very little attention has been paid to ensuring that their needs are met. Most of the countries reviewed have one-room temporary shelters that do not provide women with the necessary space or privacy to change their clothes. The flimsy and often broken partitions between two structures further encroach on women’s privacy. In some cases, the location of tents near sidewalks also exposes women to public scrutiny.

“It is very difficult to use bathrooms at the camp. They have gaps in the doors and people can see me bathe. It makes me very uncomfortable.”

Young girl, temporary shelter, Hut Bay, Little Andaman, India

In Tamil Nadu, India, where temporary structures are constructed with tar sheeting, women are left with the difficult

choice of sleeping outside along with other members of the community and putting themselves at risk of abuse, or risking heat-related health problems by sleeping inside the suffocating shelters.

“The heat is unbearable. When the sun is out you cannot stay in the shelter for more than five minutes. You cannot breathe. It feels like you are boiling to death.”

Woman resident, Kannagi Nagar shelter, India

Water and sanitation

In most tsunami-affected families the burden of providing water still falls on the women. Scarce water resources in settlements like the one on Manginpudi Beach in Andhra Pradesh force women to leave their homes as early as 4am in search of water each day.

The absence of proper sanitation facilities is a serious cause for concern. Not only are people's rights to adequate housing violated but also their right to health. And there are grave implications for women's mobility and security. One of the most common complaints across all countries was the inadequacy of toilets.

In Indonesia, the WCs or bathrooms are not connected to a water supply. To have their baths, women living in the tents

in Meunasah Keude, Indonesia, have to go to the sea, which they jokingly refer to as their ‘flying WC’. Bathing in the sea exposes them to harassment and abuse.

In both Sri Lanka and India, women complain that toilets built close to temporary shelters lack water or that they have to walk long distances to use toilet facilities. The absence of proper street lighting in most resettlement camps makes it unsafe for women walking to the toilets. In the Namunagar resettlement site in the Andaman Islands, women and girls complain that they are unable to use the toilets because they are located a kilometre from the site and often have broken walls or doors that do not close properly.

“It is disgusting and dirty. You have to walk for almost a kilometre to use the toilets. At night time I am scared to use them.”

Woman resident, Shoal Bay relief camp, India

Similarly, in the Kalhaidhoo camp in the Maldives, women say that the design and location of toilets does not give them privacy and makes them feel unsafe.

Overcoming trauma

Coping with loss, overcoming trauma and rebuilding lives is close to impossible without

proper psycho-social care. For women, the usual channels of support – their kin group and/or their neighbours – were totally disrupted by the tsunami.

In many of the places visited, psycho-social support is severely lacking. Women are left to their own devices in coming to terms with the difficult, changed circumstances. In India as well as in Thailand, women traumatised by the loss of their children are unable to eat or sleep, while others say they continue to hear the tsunami waves.

Reproductive rights

The notion of a woman's body as a site of her spouse's and his family's reproductive demands is an old one. In India, in families who lost children in the tsunami, women are under great pressure to replace dead offspring. The fact that many women had previously been convinced to go through sterilisation operations makes the situation all the more tragic. Scores of women flocked to health centres in search of the ‘miracle’ – a reversal of tubectomy, known in medical terminology as ‘recanalisation’.

“My husband threatened me that he would remarry if I was not able to conceive. It made me feel like a piece of used goods.”

Woman resident, relief camp, India



In Indonesia, women approaching menopause are under considerable social pressure to conceive after losing their children in the tsunami. Nuraini, 37, is traumatised after losing both her children. On top of her fear that another tsunami may come, she is deeply worried that, at her age, she will not be able to conceive again.

“I am still very depressed and frightened. I feel very lonely after losing my two children. I would like to try and have children again and I know my husband would too. There’s pressure now because I’m not so young.”
Nuraini, resident Lam Hasan relief camp, Indonesia

Relief camps all over Asia report an almost complete lack of healthcare services for expectant women and mothers with newborn babies. Government relief measures have also completely ignored the needs of menstruating women and girls. In Tamil Nadu in India most families received only dhotis and saris (outer clothing), but no undergarments or sanitary napkins for women.

Underage marriages

All over Asia and most predominately in India and Sri Lanka, many more women than men were killed in the tsunami. In India, this gave rise to a disturbing

trend of underage marriages of girls. Right after the tsunami, many of these marriages were viewed by surviving parents as a way for their daughters to escape the increased poverty they faced. Where a dowry was not demanded, it was viewed as an added incentive. In many cases, young girls were made to marry older men.²⁰

“I was left alone after the tsunami and so I got married. I know I’m young but I didn’t have anyone to rely on.”
Teenage bride, Lam Hasan, Indonesia

In the immediate aftermath of the tsunami in the eastern provinces of Sri Lanka, underage marriages were reported. Locals complained that the close proximity of houses lead to increased interaction among the sexes and premarital pregnancies, and contributed to underage marriages. In some cases, men who lost their wives married their wives’ younger unmarried sisters. Parents lacking sufficient money or food also married off young daughters as a way to decrease their ‘burden’. In other cases, young girls were forced into marriage in order to be registered as a separate household to receive greater relief benefits.²¹

Increased pressure on girls to marry early and a rising trend of

underage marriage has also been evident in Banda Aceh, Indonesia. NGOs working in Beureugang have also reported cases of bigamy, where husbands have acquired more than one wife in the aftermath of the disaster.

Violence

Violence against women was manifest soon after the tsunami struck and included shocking reports of women being pulled out of the water and then raped.

Vulnerability to sexual violence increases manifold under camp conditions where toilet facilities and living quarters are forced out into the public domain. Hermaini from Nyak Makam in Banda Aceh in Indonesia reported that, while living in a tent on the sidewalk, she is openly solicited for sexual intercourse when her husband is away.

“They put me in a temporary shelter by the highway. Men would come into the tent and ask for sex.”
Hermaini, Nyak Makam shelter, Indonesia

Women from Mundoo island now living in a camp at Gan island in the Maldives have reported feeling unsafe and say that the lack of privacy results in harassment and intimidation. Camp residents have reported several cases of sexual

harassment and rape.

In Thailand, women immigrant labourers have reported the increased risk of being drawn into human trafficking and say that they regularly face sexual violence, including rape by employment agents.

Women report that difficult camp conditions, trauma and unemployment are contributing to increased alcoholism among men. This often results in increased violence in the home. In Beureugang in West Aceh, women living in government temporary settlements have explained that husbands who are not working are more likely to inflict psychological and physical abuse.

“It’s very difficult now. Men are high on drugs. They have nothing to do. They come home and they beat us till we bleed.”
Woman resident, Gan camp, The Maldives

In Sri Lanka, women have pointed out that the lack of privacy and the close proximity of shelters and other men have made them highly susceptible to suspicion from their spouses, sometimes resulting in domestic violence. In the eastern province of Batticaloa, a woman was reportedly burnt to death by her husband.

Livelihoods

Women’s concerns have once again largely been ignored in schemes to restore livelihoods. In spite of their obvious contribution to both fishing and agriculture, women are rarely recognised as fisherfolk or farmers; and therefore when schemes of livelihood restoration are taken up, they rarely involve women.

While fishermen in India carry out the visibly strenuous and dangerous task of deep-sea fishing, once the fish is offloaded, women take over completely. Little has been done to compensate women in the fishing community who perform important tasks such as cleaning, drying and selling the fish catch. Women from fishing communities who were widowed by the tsunami and therefore lost access to the catch that their husbands would have normally brought in, have not been considered in government livelihood programmes.

In Thailand, unlike in the other tsunami-hit countries, a significant number of those affected were migrants or refugees from surrounding countries. Women from Burma are employed on the fringes of the economy, often as casual and domestic labour. As non-citizens, they receive lower wages than Thai people working in the same jobs. The Thai authorities are reluctant to issue

work permits to migrant workers. Without work permits, they are not entitled to compensation.

Gender – a human rights assessment

It is clear from our research that rehabilitation has been largely insensitive to women. Special measures to protect women from exploitation and gender-based violence have been mostly non-existent. In fact, the manner in which temporary housing has been planned and organised exposes women to domestic and sexual violence. Issues such as reproductive rights of women have also been largely ignored. Little regard has been shown to women’s and adolescent girls’ right to privacy and security.

Women’s rights to equal participation in the decision-making processes have also been ignored. Women’s rights to own property have been largely undermined. Programmes undertaken to restore livelihoods by governments largely ignored women’s roles in income generation; most of the beneficiaries of these programmes have been men. All these have inevitably meant a violation of women’s human rights.

ActionAid, PDHRE and HIC-HLRN call on governments and other relevant actors in tsunami-affected countries to:

- Involve women in decision-making about damage assessment, allocation of plots, land surveys, designs of shelters and permanent houses.

- Collect disaggregated data on women-headed households, single women and widowed women, and provide such women with compensation if they have previously not been included in compensation programmes.

- Provide joint ownership of land, homes and other assets as part of the rehabilitation package. In cases where the woman is the head of the household, the title should be in her name alone.

- Review housing and rehabilitation policies in order to ensure that the privacy of women is respected and that they feel secure in temporary shelters. Arrange toilets and bathrooms to be attached to bedrooms and introduce proper lighting of the streets and houses as a priority.

- Ensure better law and order in and around the temporary shelters so as to prevent and address violence against women. Both law and order and socio-economic improvements

are also required to prevent trafficking of girls and underage or forced marriages.

- Ensure that there is no discrimination against women in relief and rehabilitation on the basis of their caste, class, citizenship, ethnicity, ability or age.

- Provide special protection to orphaned boys and girls, and provide them with adequate care and compensation in order to secure their future.

20. op.cit. HLRN-HIC

21. op.cit. HLRN-HIC

DISCRIMINATION

“WE RECEIVED NOTHING, NO LIVING ALLOWANCE, BECAUSE THEY (THE GOVERNMENT) BELIEVED WE WERE PART OF THE SEPARATIST MOVEMENT.”
RESIDENT, LAMBARO NEUJID, INDONESIA

“EVERYONE IS ENTITLED TO ALL THE RIGHTS AND FREEDOMS SET OUT IN THIS DECLARATION WITHOUT DISTINCTION OF ANY KIND BE THAT RACE, COLOUR, SEX, LANGUAGE, RELIGION, POLITICAL OR OTHER OPINION, NATIONAL OR SOCIAL ORIGIN, PROPERTY, BIRTH OR OTHER STATUS.”
UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

Existing discrimination on the basis of nationality, caste, gender, age and ethnicity are often magnified in a post-disaster situation. The tsunami is no exception. Discrimination is evident in all countries and has been a major factor in impeding people's access to relief and rehabilitation post-tsunami.

For dalits (members of the 'lowest' caste) in India, discrimination that existed before the tsunami increased afterwards when they were even more vulnerable. Fifteen families belonging to Paraiyar community in Vel Nagar, Tamil Nadu, were left completely devastated by the tsunami waves, their homes destroyed and cattle and poultry killed. Formerly agricultural labourers working for paltry wages in fields owned by the local fishing people, they were left with no means of income. The 15 families together own just three acres of land. When they approached the village authorities for help, they were driven away.

“We were left without any help. All agencies have ignored us in their relief distribution just because we are dalits.”
Dalit woman, Vel Nagar, India

When the local assembly member visited the area, he avoided going to see the dalits although he spent time visiting other affected villages

nearby. When he returned to the area to oversee the distribution of relief aid, again the dalits were ignored. As a last resort, dalits took matters into their own hands and laid a roadblock to get recognition of their plight. Some members of the village eventually received a bare minimum of relief (rice and flour) but the local fishing community was not happy that the government was giving relief to dalit families. The case clearly illustrates why governments must be proactive in tackling discrimination.

“I was employed as a scavenger by the local authority. When the tsunami hit, they told us to go and pick up the dead bodies on the shore, but they wouldn't give us protective gloves or masks.”
Mr Kumar, dalit, Coimbatore, India

The local fishing community was the first to get temporary shelter, while dalits had to wait. They desperately need permanent houses and support to restart or find new work and to replace their cattle and poultry.

“We need homes, we need funds to buy new livestock, we need money to buy essential food, but no one cares about us. Why? Because we are dalits.”
Malini, dalit woman, Paraiyar community, India

A fact-finding mission²² on the situation of human rights in Sri Lanka found that conflict-affected eastern districts received the least attention from the government. Complaints of discrimination from survivors are widespread.

Communities in Sri Lanka are largely settled along ethnic lines, and 'encroachment' by other communities has led to disquiet amongst tsunami survivors. It must be remembered that in areas marked by decades of ethnic violence, post-disaster negotiations are highly sensitive.

In the Andamans there is evidence that compensation has been hijacked by local political groups. Residents complain that people have received compensation on the basis of party political affiliation rather than need.

Discrimination by the state has severely affected the rights of the Thai Mokens or sea gypsies. After the tsunami, members of the Moken community along with other Thai survivors took refuge in temples and other safe places. However, when help arrived, the Mokens were treated differently. In a temple in Phang Nga, while everyone else received large relief packages, Moken families were given a box of milk or canned sardines.

Mokens were also denied help by the government as many are not Thai citizens. As a result, they have been relying solely on NGOs and private groups who have helped them with rice, water, dry food and other groceries.

“Had we waited for the government to help us with food or water we would have died.”
Sea gypsy from Thung wa, Thailand

Some religious foundations in Thailand have made it a precondition of help that Mokens must change their religion and participate in the religious activities of the foundation. In other places, religious foundations will only help those who paste a sticker displaying a religious symbol in front of their tent or house.

While seemingly isolated, these cases of discrimination reflect a disturbingly familiar pattern. Voiceless communities with low incomes and little or no education are bearing the brunt of post-disaster deprivation.

Discrimination – a human rights assessment

Just as disasters have a severe impact on women and girls, other vulnerable groups are also hit particularly hard. These communities are often the most

marginalised in society – dalits in India, people displaced by civil war in Sri Lanka, migrant workers in Thailand and casual labourers in Indonesia. Relief and rehabilitation based on discriminatory handouts rather than a human rights approach magnifies differences and heightens vulnerabilities. Be it emergency relief or restoration of housing and livelihoods, governments have done little to alleviate existing inequalities and have given little succour to vulnerable groups.

ActionAid, PDHRE and HIC-HLRN call on governments in tsunami-affected countries to:

- End discrimination on the grounds of race, ethnicity, caste, gender, citizenship or legal status of settlement with regard to access to compensation, relief and rehabilitation. The fact that affected persons were present in the territory of a particular country should entitle them to full relief and assistance without any fear and prejudice, irrespective of their nationality.

- Review existing procedures, policies and programmes which create the basis for discrimination against vulnerable groups and exacerbate existing inequalities.

- Ensure that relief and rehabilitation are provided

regardless of political, social and religious background, and organise assistance in a way that helps minimise existing political, ethnic and social tensions.

- Include vulnerable groups in decision-making forums with a view to reversing existing prejudices against certain sections of society.

- Insist on transparency, the establishment of independent feedback mechanisms and impartial systems for redressing grievances that are accessible to all, including the most vulnerable sections of society.

22. A fact-finding mission undertaken by The Human Rights Commission, Sri Lanka, in April 2005. The report is entitled The Human Rights Situation in the Eastern Province.



GENERAL RECOMMENDATIONS

1. All relief and rehabilitation must be informed by a human rights framework

In line with the international human rights law, governments should set human rights standards for all relief and rehabilitation programmes regardless of the implementing agency. States must strictly comply with international human rights standards. Governments must also put in place mechanisms for monitoring human rights compliance of post-tsunami relief and rehabilitation by all actors. All relief and rehabilitation plans must uphold the human rights of affected populations, in particular the rights to life, livelihood, health, food, information and participation, dignity, equality, freedom of association and movement and adequate housing. Furthermore, the right to relief, rehabilitation and disaster preparedness must be recognised as an inalienable right of all affected people, and not viewed as charity.

2. All disaster response policies must be based on a human rights approach

It is imperative that states incorporate a human rights based approach into their disaster response and emergency relief

policies. Experience from the post-tsunami scenario and various other disasters shows that simply incorporating human rights language does not ensure a human rights based approach in disaster response, it must include process of human rights education and learning. Policy mechanisms need to be in place to ensure strict adherence to human rights during programme implementation. All policies must include specific measures for the protection of the human rights of vulnerable groups.

3. The human rights of all to housing and land must be protected and fulfilled

States must ensure that emergency relief camps, temporary shelter or permanent housing meet with the human rights standards of adequate housing. These include habitability, location, personal security and privacy, cultural appropriateness and access to basic services such as sanitation, education and health. Governments must make land available for housing construction, including for people who were homeless before the tsunami, and it should be close to people's sources of livelihood. New houses should be accessible to people with disabilities and to senior citizens.

'Buffer zones' must not be used to disenfranchise traditional coastal communities in favour of tourism or the interests of the local elite. People's customary rights to the coast should be recognised and protected, and instead of penalising villagers and settlements close to seashores, governments should protect all coastline populations by establishing reliable people-centred early warning systems using new technology and communications systems.

4. Livelihood restoration must be undertaken in the spirit of equality and non-discrimination

Governments must conduct urgent reviews of the losses and the livelihood needs of affected communities. Urgent steps must be taken to rectify existing imbalances.

The fishing community must get locally appropriate boats, nets and other equipment. Alternative livelihoods, where they are being considered, must be developed in close consultation with the communities. Livelihood plans should provide for women's income generation needs. Interventions must also be made to help restore the livelihoods of farmers, artisans and casual labourers as well as small business owners and shopkeepers.

It is imperative that livelihood restoration is undertaken in a spirit of equality and non-discrimination with consideration for cultural needs and geographic context.

5. Relief and rehabilitation must be gender-sensitive and promote women's human rights

Urgent steps must be taken to bring all compensation and rehabilitation measures in line with the principle of gender equality. Women must participate in all decision-making bodies. All housing, whether temporary or permanent, must be sensitive to women's concerns and women's human rights. Resettlement sites must be secure, and should have adequate facilities for housing, sanitation and water, as these affect women to a greater extent. Women's access to healthcare, including to women doctors, health professionals and health-related information must also be ensured. Women must have security of tenure and at least jointly (with the man) hold title to their homes and land. Women and girls must have equal access to opportunities for rebuilding their lives and livelihoods. Single women, including widows, must be considered as independent economic units. Adequate protection must be provided to women and girls against violence and abuse. Provisions must be

made for women to jointly or individually own land and housing.

6. Special consideration must be given to the human rights of marginalised communities

States must ensure that marginalised groups have equal access to relief and rehabilitation. Steps must be taken to compensate for previous imbalances in relief and rehabilitation with regard to marginalised communities. Members of marginalised communities must have adequate representation in all decision-making bodies of affected people. Temporary and permanent housing must not segregate on grounds of ethnicity or caste, and steps must be taken to ensure that existing biases are not replicated in any new housing settlements.

All relief and rehabilitation must be conducted in a spirit of accountability to the affected people and cooperation among the various actors involved.

7. Participation of the tsunami-affected must be the guiding principle of post-tsunami rehabilitation

Power should be delegated to local communities, as much as

possible, to enable them to take control and make decisions that affect them directly. Local bodies should be given a leading role in decision-making and implementation. All relief and rehabilitation must be conducted in a spirit of accountability to the affected people and cooperation among various actors involved.

Regular reviews of rehabilitation must be conducted with participation from members of the affected communities and the results must be made available in the local language for the community. Grievance redressal mechanisms should be set up at the lowest administrative levels with adequate powers to address problems that may arise in the course of the relief and rehabilitation process.

8. Non-government organisations should set a precedence in respecting human rights standards

Non-government agencies must work on principles of transparency and information sharing. This should involve coordination to ensure that policies are not conflicting and efforts not duplicated. Their relief activities must be guided by minimum standards set up under SPHERE.²³ At the same time, there is a clear and urgent need to

come up with guidelines and minimum standards for long term reconstruction and rehabilitation work, using SPHERE as a building block and within the international human rights framework.

All field staff, in particular of international agencies, must be sensitive to local culture. Information must be provided in local languages, and foreign relief workers must be accompanied by local interpreters at all stages of interaction with the community during the rehabilitation process.

9. The international community including international financial institutions must integrate human rights in their humanitarian donor policy

The International community in compliance with the principle of International Cooperation and towards fulfilment of MDGs should generously contribute towards post-disaster rehabilitation and resettlement work. They should honour the pledges they have made. Donor governments and international financial institutions such as the World Bank, Asian Development Bank and International Monetary Fund must ensure that their aid and/or loan to governments is committed to projects that can help the poor to strengthening their access to basic facilities

such as water and sanitation; health; education; to restore their livelihood; and to improve their access to basic services. They must not support any project that has potential to destroy people's access to land and livelihood. Human rights must be inbuilt in their donor policies.

10. The UN system must play a larger role in monitoring human rights compliance

The UN Office of the High Commissioner for Human Rights and the UN Human Right System including the relevant special rapporteurs should monitor State compliance with international human rights standards in post-tsunami response work.

23. Launched in 1997 by a group of humanitarian NGOs and the Red Cross and Red Crescent movement, SPHERE framed a Humanitarian Charter and identified Minimum Standards to be attained in disaster assistance, in each of five key sectors (water supply and sanitation, nutrition, food aid, shelter and health services). The aim of the project is to improve the quality of assistance provided to people affected by disasters, and to enhance the accountability of the humanitarian system in disaster response. For full details, visit: <http://www.sphereproject.org>

APPENDICES

Appendix one

Methodology

In November 2005, an extensive field survey was undertaken incorporating 95 villages, islands, settlements and colonies in five tsunami-affected countries – India, Sri Lanka, Indonesia, the Maldives and Thailand. Sampling was based on a set of criteria comprising: extent of damage; presence of different social groups; geographical spread and displacement. In 70 villages, three structured instruments for survey – a household schedule, a village schedule and a group interview/discussion²⁴ – were administered to collect data and people's opinions. Household selection within the sample location was random and generally comprised 15-20 per cent of the number of households. Additionally, group interviews were conducted in 25 temporary shelters and other locations in the affected areas of Indonesia, India and Maldives.

In India, the sample of 18 villages comprised locations from Tamil Nadu, Andhra Pradesh and the Andaman and Nicobar Islands. Situation-specific cases were also collected outside the sample. In Sri Lanka, the nine sample villages are from the south and east of the country. In the Maldives, nine islands spread

across the north, centre and south were selected. In Indonesia, the majority of the 34 sample villages belong to the most severely affected districts of Banda Aceh and Aceh Besar. In Thailand, the survey was carried out in 24 villages. However, quantitative data from Thailand was not available at the time of writing this report.

The survey, though not designed to be representative of any specific country or region, is undoubtedly strongly indicative of the human rights status in the affected communities.

24. Schedules available on request: pushpendra.kumar@actionaid.org

Appendix two

List of locations surveyed

India

1. Theedir Nagar, Chennai district, Tamil Nadu
2. Puthur, Kanyakumari district, Tamil Nadu
3. Koonimedu Kuppam, Villupuram district, Tamil Nadu
4. Vayalur, Kancheepuram district, Tamil Nadu
5. Manginpudi Beach village, Krishna district, Andhra Pradesh
6. Anjalapuram, Nellore district, Andhra Pradesh
7. Dibbapalem, Visakhapatnam district, Andhra Pradesh
8. Namunaghar, Andaman district, Andaman and Nicobar Islands
9. Machidera, Netaji Nagar, Najappa Nagar, Panchu Tikri (Hut Bay), Andaman district, Andaman and Nicobar Islands
10. Kakana, Nicobar district, Andaman and Nicobar Islands

Sri Lanka

11. Nintavur, Ampara district
12. Karaitivu, Ampara district
13. Al-Inzania, Batticaloa district
14. Kalametiya, Hambantota district
15. UC quarters, Hambantota district
16. Khandamotara, Hambantota district
17. Rekawa-east, Hambantota district

18. Ambalanthota, Hambantota district
19. Mawella-south, Hambantota district

Maldives

20. Gan island, Laamu Atoll
21. Fonadhoo island, Laamu Atoll
22. Madifushi island, Thaa Atoll
23. Guraidhoo island, Kaffu Atoll
24. Villingili island, Gaaf Ali Atoll
25. Dhandhoo, Gaaf Ali Atoll

Indonesia

26. Ulee Lheu, Banda Aceh district
27. Gampong Pie, Banda Aceh district
28. Asoenangroe, Banda Aceh district
29. Surien, Banda Aceh district
30. Cot Lamkuweh, Banda Aceh district
31. Lam Jamee, Aceh Besar district
32. Ulee Pata, Aceh Besar district
33. Lam Hasan, Aceh Besar district
34. Payatieng, Aceh Besar district
35. Lam Geueu, Aceh Besar district
36. Lam Rukam, Aceh Besar district
37. Lam Keumok, Aceh Besar district
38. Lam Isek, Aceh Besar district
39. Lam Teh, Aceh Besar district
40. Kampung Baru, Aceh Besar district
41. Lam Awee, Aceh Besar district
42. Lam Manyang, Aceh Besar district

43. Meunasah Tuha, Aceh Besar district
44. Lam Guron, Aceh Besar district
45. Lambaro Neujid, Aceh Besar district
46. Lam Pageu, Aceh Besar district

Thailand

47. Pak Koh, Phang Nga province
48. Laem Pom, Phang Nga province
49. Muang Mai, Phang Nga province
50. Koh Ra, Phang Nga province
51. Pakjok, Phang Nga province
52. Tab Tawan, Phang Nga province
53. Thungwa, Phang Nga province
54. Nai Rai, Phang Nga province
55. Nok Na, Phang Nga province
56. Ban Leam, Krabi province
57. Phi Phi island, Krabi province
58. Tha Klang, Ranong province
59. Chang Lang, Trang province
60. Mod Ta Noi, Trang province
61. Ta Se, Trang province
62. Koh Muk, Trang province
63. Pra Mueng, Trang province
64. Tan Yong Uma, Satun province
65. Ba Kan Yai, Satun province
66. Sakorn Tai, Satun province
67. Tan Yong Klang, Satun province
68. Bor Jed Look, Satun province
69. San Klang, Satun province
70. Son Mai, Satun province

Group interviews only

Indonesia

Temporary shelters and Emergency tents

1. Geudong (hamlet, smaller community below the village), Matangbaroh (village), Tanah Pasir sub-district, district of Lhokseumawe
2. Cot Batee village, Jeumpa sub-district, district Bireuen
3. Jambo Timu village, Blang Mangat sub-district, district Lhokseumawe
4. Buda Tzu Chi's shelter in Kota Jantho (sub-district), Aceh Besar
5. Krueng Juli, Jeumpa sub-district, district Bireuen
6. Siron (village), sub-district of Ingin Jaya, Aceh Besar (district)
7. Lamno, Jaya sub-district, district Aceh Jaya
8. Kuala Bubon (village), Samatiga (sub-district), district of West Aceh
9. Beureugang (village), Kaway XVI (sub-district), district of West Aceh
10. Meunasah Keude, Panteraja (sub-district), district of Pidie
11. Seuneubok, Seulimeum sub-district, district Aceh Besar
12. Teureubeh village, Jantho sub-district, district Aceh Besar
13. Refugees' tent on Nyak Makam Street, Banda Aceh
14. Cot Geu, Darul Imarah sub-district, district of Aceh Besar

India

15. Kothapatnam Pallepalem, Prakasham district, Andhra Pradesh
16. Ibbandhipuram, Prakasham district, Andhra Pradesh
17. Kannagi Nagar, Chennai district, Tamil Nadu
18. Kargil Nagar, Chennai district, Tamil Nadu
19. Iramandurai, Kanyakumari district, Tamil Nadu
20. Shoal Bay, South Port Blair
21. Mithakari, South Andaman
22. Car Nicobar island

Maldives

23. Hulhumale, camp for displaced persons from Villifushi, Madifushi and Kadhohudhoo
24. Hulhudhufaar island
25. Ugoofaar

Appendix three

Joint statement by Mr. Miloon Kothari, Special Rapporteur on Adequate Housing, United Nations Commission on Human Rights and Dr. Walter Kälin, Representative of the UN Secretary General on the Human Rights of Internally Displaced People

19 December 2005

One year after the Indian Ocean tsunami wreaked havoc on the lives and livelihoods of hundreds of thousands of people across several countries, relief and rehabilitation efforts, regrettably, continue to prove inadequate. Large numbers of survivors remain forced to live in sub-standard conditions that fail to meet criteria for adequate housing and living conditions dictated by international human rights standards. The lack of attention given to the high number of internally displaced persons in affected countries is also a cause of concern. A majority of individuals are still living in temporary shelters, while many remain mired in unacceptably rudimentary conditions akin to the emergency relief camps that were set up in the immediate aftermath of the disaster. Still others are forced to reside in damaged homes due to the lack of available or suitable alternatives. Living

conditions in most areas are poor, and many people still do not have access to basic services like water, sanitation and healthcare.

We are concerned that a year later, reconstruction efforts are plagued by serious delays and have not been awarded the priority they so urgently warrant. Tsunami survivors continue to suffer from inequities in aid distribution and sub-standard housing resulting from political dynamics, bureaucratic inefficiencies, and caste affiliation. Furthermore, affected communities have not been consulted and have been denied access to information and participation in planning and decision-making processes related to rehabilitation. Specifically, there have also been allegations that government agencies and aid organizations have failed to involve affected communities in the formulation of need and loss assessments, aid distribution, and reconstruction.

Although international attention seems to be waning rapidly, post-tsunami challenges continue to have an enormous impact on affected communities, family structures and social relations. This impact has been particularly severe on women and on vulnerable groups such as children. Affected women continue to be marginalised and

excluded from the rehabilitation and reconstruction process, and often lack access to education and security of tenure. The presence of military forces in some camps where tsunami survivors are living, as well as the lack of privacy in temporary shelters, has raised serious concerns regarding women's physical safety, and has increased their vulnerability to physical and sexual violence, illustrating once again the close nexus between violence against women and the lack of adequate housing. Reports of domestic violence have been widespread, as the inadequate nature of housing design and settlement layout have only served to exacerbate already tense relations in the home due to the stressful nature of life post-tsunami. In addition, many regions continue to lack adequate health services. The shortage of health professionals and health-related information only serves to further exacerbate the situation. The phenomenon of so-called "tsunami marriages" among under-age girls is common in some areas, especially in southern India and Sri Lanka. It is essential that relief and rehabilitation efforts are carried out in a gender-sensitive manner and take into account the special needs and concerns of women. Efforts must also be made to uphold the rights of children. Special guarantees should be put in place for

orphaned children to enable them to receive entitlements to land and compensation instead of merely absorbing them into existing family units exercising temporary guardianship.

We are concerned that the forced relocation of certain groups of people further exposes them to vulnerability. This includes dalit communities in India, Burmese migrants in Thailand, and Tamils and Muslims in Sri Lanka. Many fishing communities have been forced to relocate far from the coast, which has further jeopardised their livelihoods and nutrition requirements. Efforts must also be made to prevent further societal discrimination or exposure to risk of vulnerable groups, such as those living with HIV/AIDS or mental illness, refugees, internally displaced persons, the disabled, and the elderly.

On this, the one-year anniversary of the Asian tsunami, we strongly encourage the international community to intensify its efforts to assist the governments of India, Indonesia, Sri Lanka, the Maldives, Thailand and Somalia to rebuild the lives, livelihoods and homes of those affected by the tsunami, in fulfillment of their obligations under international human rights law. Along with this commitment a number of urgent steps need to be taken:

— there must be increased accountability of public and private aid providers toward the people they are trying to assist

— the concerned governments must play a more pro-active role in reconstruction efforts, especially in providing permanent housing and restoring livelihoods in an equitable manner

— there is an urgent need to develop mechanisms that ensure transparency and accountability in the disbursement of funds; that allow monitoring of all actors involved in post-disaster relief and reconstruction; that enable survivors to participate in reconstruction planning and implementation; that ensure that within resettlement areas women have equal rights to land and housing; and that provide access to grievance redressal and justice systems

— concerted efforts must be taken to ensure that political interests do not threaten rehabilitation work, especially in conflict-ravaged areas. Survivors' rights to dignity, gender equality, livelihood, and adequate conditions of living must be upheld and must guide all rehabilitation and reconstruction efforts.

This tragic anniversary also serves as a reminder to all States of the urgent need for human rights based disaster-preparedness and disaster-response policies. Experience has clearly shown how much can be gained when these policies are based on international human rights standards and appropriately provide for long-term rehabilitation and reconstruction programmes.

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This report would not have been possible without the insight and input of thousands of people who are still struggling to recover from the tsunami of December 2004.

ActionAid International is a unique partnership of people who are fighting for a better world – a world without poverty. For more information on our work in 45 countries, including our tsunami response in India, Sri Lanka, Thailand, The Maldives and Somalia: www.actionaid.org

Habitat International Coalition (HIC) is an independent, international, non-profit movement of over 450 members specialised in various aspects of housing and human settlements. The Housing and Land Rights Network (HLRN) as an integral part of HIC advocates for the recognition, defence and full implementation of the human right to adequate housing, which involves securing a place for all individuals and communities to live in peace and dignity. www.hic-sarp.org

Founded in 1988, the PDHRE, **People's Movement for Human Rights Learning** is a non-profit, international service organisation that works with its network of affiliates — primarily women's and social justice organisations to develop and advance pedagogies for human rights education and learning relevant to people's daily lives in the context of their struggles for social and economic justice and democracy. www.pdhre.org

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