

HUMAN RIGHTS ISSUES
IN THE
POST-TSUNAMI CONTEXT

Sri Lanka

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INFORM Human Rights Documentation Centre

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Structural Issues:

Seven months after the tsunami, TAFREN is setting up regional offices. Another mechanism known as Tsunami Housing Reconstruction Unit (THRU) has also been set up to implement the permanent resettlement processes. While there is recruitment of officials for implementation of post-tsunami reconstruction policy at the highest level, including the act of calling back retired government officials to fill posts of consultants, there are **many unfilled vacancies on the ground level**. For example, there has been no Divisional Secretary in Ambalangoda since the tsunami. There are also vacancies for 14 Grama Sevakas and Village Technical Officers (Village officials). The lacunae created by these posts remaining vacant has a tremendous impact on the capacity of people affected by the tsunami to file claims for their entitlements and also to have intercessions made on their behalf at the higher levels of local government. For example, the TO is the person who has to make the damage assessment on the basis of which compensation is computed.

Despite constant lip service to the significance of women's concerns in post-tsunami reconstruction, once again the consolidated report (and /or the Executive Summary) of the massive **Needs Assessment Survey commissioned by the ADB in May has only a passing reference to women**. The regional reports made by the individual teams that did the field level assessment contain information regarding critical aspects of the impact of the tsunami on women and the potential areas in which women's advancement and empowerment could be achieved through the post-tsunami reconstruction process. This is what makes the exclusion of gender and women in the final report all the more a matter of concern. In addition, **the lack of gender disaggregated data** remains an issue.

The payment of the Rs. 5000/- grant which was received by most persons for two months (February and March) has not yet been re-instituted throughout the island, In many places, the Grama Sevakas are yet to finalise their lists for payment of this benefit, excluding all salaried and employed persons from the list. It is estimated that the list would be cut down by as much as 20% following this re-assessment.

Tsunami-affected persons are still receiving **rations** of rice, flour, oil and sugar. It is expected that the issue of rations will continue upto August 31 and then people would have to revert to a Food for Work programme supported by the World Food Programme of the UN. Much of the rice and flour issued on the rations has been unsuitable for human consumption, largely caused by poor storage facilities at distribution points. In addition, much of the food sent in for distribution among tsunami-affected persons at the beginning of 2005 is now out of date and there are many reports of canned and processed food items

that have past the date on which they would be suitable for human consumption are reaching the public markets.

The continuing lack of clarity regarding **the buffer zone** continues to cause tensions among communities who have been divided in terms of benefits according to whether or not they lived within the buffer zone or outside it. It is those who lived closest to the beach and therefore suffered the greatest losses in terms of life and property, who are now living with no sense of where they could have a permanent home while those who lived even a few meters outside the zone are already re-building on their original locations. Following the publishing of the report of the Committee appointed by the President to review the buffer zone issue, some communities and some individuals have begun reconstructing their own houses within the buffer zone. Whereas when such unauthorized reconstruction took place in March and April, government officials and the Police moved in to prevent it from taking place, in August it seems there is no such adverse reaction from the authorities.

Given the commitment of the government of Sri Lanka to the fulfillment of the indicators defined for the fulfillment of the Millennium Development Goals, the post-tsunami reconstruction programmes must also be filtered through the lens and perspectives afforded by the MDGs, with a special focus on MDG 3 relating to gender equality and women's empowerment.

It is also necessary that TAFREN and all agencies engaging with the post-tsunami reconstruction and resettlement process take cognizance of the nature of State obligations vis-à-vis the right to housing that have been set out by the Committee on Economic Social and Cultural Rights in General Comment 3, which allows for progressive realization of this right but also recognizes that deliberate retrogression is a violation of the right to adequate housing (RAH). In addition, General Comment 4 of the Committee entitled “The right to adequate housing,” sets out minimum core obligations of the State in the context of the right. These minimum core obligations are as follows:

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

7. Cultural Adequacy – The housing configuration must not compromise cultural expression.

Security Issues

Security issues in the tsunami-affected areas of the East have remained a matter of concern through the months of July and August.

There have been many attacks on army check-points and on offices of political parties. On August 5, there was an attack on the LTTE office in Kaluwanchikudy, and on August 7, the office of the JVP organizer in Kantalai, Trincomalee, was fired at. On August 9, the army camp in Vavunativu (Batticaloa District) came under fire. In the Amparai District, a member of the Civilian Volunteer Force in Sammanturai was shot and seriously injured while on guard duty in Karaitivu, and a water bowser taking water to Special Task Force (STF) camps on Potuvil-Komari road in the Eastern province was also shot at on August 9.

In addition, there have been attacks on civilians. A grenade flung into a fruit stall at market in Chenakalady (Batticaloa District) on August 6 injured the shop owner Visvanathan Ravindran (40) and a shopper Arumugam Srimohan (46). On August 12, farmers N.G. Rohitha and N.G. Kumara from Mangalapura (Seruwila) were shot at and injured when they were returning home from their fields; there is still no information regarding two farmers from Amparai District, Nalaka Prema Jayantha (21) and Ranjith Dissanayake (18) who were abducted, allegedly by the LTTE, on July 30.

The increase of child abductions by the LTTE during the June/July temple festival season in the east has continued throughout August, heightening the climate of fear and intimidation that has been created by the impunity with which killings have been taking place in the east. The helplessness of the authorities to curb this clear violation of the CFA as well as of child rights undermines the capacity of the state and government officials to exercise their authority over the civilian population of these areas.

A particularly tragic and brutal death of an unidentified young woman whose body was discovered in a locked hall at Central College Batticaloa on August 3 highlights the vulnerability and helplessness of the people of the East. The Judicial inquiry into her death showed that she had been brutally tortured and raped before being murdered by a blow with a blunt object to her head. Evidence of prior injuries including an operation that required a skin graft have led to speculation that she may have been a member of a militant group at some point in her past. The fact that her body was buried as that of an 'unidentified' person has made sure that the Police investigations regarding her death are proceeding at a very lackadaisical pace. Women's groups are demanding a full inquiry, alleging that at the very least the Police should be able to inquire as to how the body turned up inside a locked hall in a fairly public building.

Persons living in welfare camps and transitional shelter sites speak of insecurity and anxiety that have a very real basis. Already three male residents or visitors to the IDP centre at the Paddy Marketing Board Stores in Batticaloa have been assassinated in locations very close to the camp which is situated in the heart of Batticaloa town.

On August 12, several grenades flung into the premises of the welfare centre for tsunami affected persons at the Sivankovil in Kalmunai resulted in injuries to Police constable Nimal Premasiri and Home Guard Charlin Weerasinghe as well as two civilians, Nadaraja Subendraraja (34) and Subramaniam Parvathy (50).

Transitional housing:

In most tsunami-affected areas, the transfer of people from welfare centres to transitional housing is complete. Those communities that remain without transitional shelter are also primarily those who refuse to relocate to the places where transitional shelters have been put up, due to security or cultural considerations.

For example, the families still living in tents in Katugoda, Galle, are largely Muslim and feel that to move to the relocation site proposed for them in Walahanduwa not only removes them from their livelihoods but also removes them from their mosque and the religious school and community centre that operate out of the mosque premises. Some families in the Paddy Marketing Board Stores are reluctant to move to their proposed relocation site in Thirayamadu because of security considerations; they feel that they would be far more vulnerable to attacks by the LTTE there.

Although the houses put up by various NGOs under the Transitional Accommodation Programme (TAP) of TAFREN technically abide by the universally accepted Sphere Guidelines, there are many variations depending on where the site is and which NGO has been in charge of the construction. In addition, there are several overlapping and different Guidelines – the Sphere Guidelines, the guidelines issued by the Electricity board, the Guidelines issued by the Water Management Institute, the guidelines of TAP.

Officially, the houses all must be 200 sq. ft. at a minimum; every three housing units should have a tap or source of water and every 20 persons should have access to a toilet. Each of the houses should be wired for electricity connections, with one plug point, three bulb holders, one trip switch and one fuse box per unit.

In spite of all the focus on gender-sensitive disaster management policies and programmes, many of the transitional housing units including those put up with adherence to the multiple Guidelines lack kitchens, or safe cooking areas. Hazards of fire and smoke in close and cramped quarters pose a genuine threat to displaced families; there are already records of several incidents of fire in transitional shelters. After protests and demands by women, many of the shelters now have small add-on and lean-to kitchens. Sadly women will continue to have to bend in two to enter their kitchens and to squat over smoky wood fires for a further period of time.

However, there are many transitional shelters that were constructed without any reference to any of these Guidelines, in the months of January and February 2005. In some areas, these are now being up-graded, with kitchens being added on and houses being wired for electricity connections.

In some areas the transitional houses have been built entirely of tin sheets. In others, the walls are of wood, or of coconut thatch, and the roofs of tin. In some cases, a natural fibre-based roofing sheet (like a heavy-duty cardboard) has been used, which is less hot than the tin but liable to 'melt' during the rains. In Thirayamadu in Batticaloa, you have a situation where 2000 transitional houses are under construction, with different NGOs taking responsibility; World Vision is building 500, Oxfam-CAA another 500 and TRO the balance 1000. There are such marked structural differences between the three lots of houses that one can only imagine the tensions and frustrations that emerge when people begin living in them. At present only some of the houses built by Oxfam-CAA are occupied. Since there is no electricity connection available at the location yet, the place is pitch-dark at night and women have voiced their concerns regarding the safety of themselves and their children when the men go fishing at night time.

In each case, the transitional accommodation sites are like urban slums set in the middle of nowhere. The houses are built very close together, in some areas they are actually constructed like 'line rooms', with four to eight units being attached to each other. The land is inhospitable, there are no trees or green anywhere since the natural environment was destroyed in order to enable the construction of these houses to take place. There are often no direct sources of water, and many communities are still dependent on the bowsers bringing in water from outside. Arrangements for garbage and waste disposal is minimal (in Walahanduwa, for example, it consists of a large open pit) and the sewage systems are those that require regular cleaning and evacuation through the use of heavy equipment available only at the Municipal Councils and Urban Councils.

Permanent housing:

In the face of widespread discontent among tsunami-affected communities regarding the slowness of permanent resettlement, the government launched a campaign against large NGOs that had several months ago signed Memorandums of Understanding with the government for building permanent houses for tsunami-affected persons. Among the organizations named by the Sunday Observer, the state-owned newspaper, on August 21, 2005 were World Vision, Care International, SOS, Caritas, the Sri Lanka Red Cross and the Tamil Rehabilitation Organization (TRO). The government's contention is that the government has 'handed over' suitable land for resettlement sites to these NGOs and that they are delaying the actual building.

However, organizations working on the ground are aware of the range of problems that are besetting NGOs as they try to move into the permanent re-housing modality.

Among the key issues are:

- There are questions about the clear title of the land handed over by the government. Some of the land is vested in various state corporations such as the State Plantations Corporation and the Land Reforms Commission. Although a President has issued a circular calling for the quick release of land for the purpose of building homes for tsunami-affected people, the transfer processes take time due to the bureaucratic procedures; even in 'normal' times, the process could take over an year.
- Other land identified for re-settlement is land that had already been ear-marked for public use, such as the land in Thirayamadu which was originally set aside for a playground. Other land belongs to private individuals and the state has yet to actually pay the compensation; some owners are naturally reluctant to let NGOs proceed with building until the money is deposited in their bank accounts. No organization is going to start a large-scale building project on land until they are very sure that the ownership issues are legally and finally resolved.
- There are also issues about the nature of land identified and its suitability for permanent resettlement. For example, in Galle District, Galabodawatta estate is a plantation identified for resettlement of persons from the coast. The land is full of large rocks (hence it's name) and almost uncultivable. In Amparai District, some land identified in Akkaraipattu is wetlands and the NGO entrusted with rebuilding on that location has raised concerns regarding the environmental consequences of filling natural drainage areas and the potential for flooding as a result.
- The large number of bureaucratic hoops that NGOs have to jump through in order to finally secure permission to build also create a set of obstacles that take time to surmount. These include the Survey Department, the Government Valuation Department, the National Housing Development Authority, the Urban Development Authority, the Coast Conservation Authority, the various local government authorities, the Electricity Board, TAFREN and its newest mechanism, the THRU (Tsunami Housing Reconstruction Unit). Despite many appeals from MoU holders for a fast-track system to be put in place, the government has been unable to do this.

For example, even if an NGO has the land surveyed by a private surveyor, they must obtain the official certification from the Government Survey Department before the Valuation Department will take the process on to the next step.

- In the face of growing concerns regarding the lack of consultation with affected people regarding their preferences when it comes to permanent housing, including housing design, building materials and so on, many NGOs entrusted with the construction of permanent houses are engaging in a process of consultation which is often time-consuming. However, shifting from a process of telling people what they can have to one in which people are asked what they want is a task that most

officials, government and non-governmental, are ill prepared for. In addition, building consensus and agreement among diverse individuals and groups of individuals regarding the physical relocation of homes in which they have lived for their entire lifetime is not an easy task.

- There are also no finalized lists of beneficiaries for permanent re-housing. There are appeals pending regarding allocation of specific beneficiaries to specific sites which should be resolved prior to this finalization of the lists.
- The models of potential houses put forward by various agencies including the UDA are not adaptable and do not offer people much choice regarding future expansion, for instance. The lay out of resettlement communities, the distance between houses should all evolve out of a process of consultation with the community and with experts in the field.
- There are also issues regarding the potential for conflicts emerging within resettled communities due to the fact that different NGOs are spending widely divergent sums of money per house and there will be very visible differences in the quality and nature of the houses.
- There is also an issue regarding persons considered eligible for transitional housing according to TAP, who are not eligible for permanent re-housing according to TAFREN standards. In Galle District, this sector constitutes about 10% to 15% of those presently in transitional shelters. These are persons who for example lived in rented homes or shared homes as members of an extended family.
- Issues of the future prospects of conflict-displaced communities who are still awaiting resettlement are also not being factored in to the present resettlement schemes and some NGOs are aware of the resulting tensions that could arise between these two lots of displaced persons.
- Additional costs to be incurred by NGOs that have MOUs with the government to build permanent houses – for example, filling up of waterlogged land, or carrying out a survey , or building multi-storey housing – have also skewed budgets and financial management of programmes.
- In addition, the high costs of building materials, scarcities of essential items such as sand, and a labour shortage pose problems for those attempting to undertake building programmes. At present, for example, in Galle District, the average daily wage for a unskilled worker is Rs. 500 whereas in the pre-tsunami era it was Rs. 350.
- The tensions between government officials, who call for the construction of multi-storey housing close to the beach and donors, who refuse to release the funds for

reconstruction of multi-storey housing, and communities who find nothing attractive in this proposition.

- Discrepancies also continue to prevail between different Districts when it comes to permanent resettlement. In the south, the differences between Hambantota District where MOUs were signed for more than the number of houses required, and Galle District where only half of the number of required houses has been pledged, are very stark.
- The situation is made all the more difficult because the relocation sites at present are bare of trees and other infrastructure facilities, such as roads and primary health care centres; there is often no public transport available close at hand, and traveling to school presents a problem for children of school-going age. If communities could be convinced that the relocation sites would be better served in terms of common amenities and other facilities necessary for a decent standard of living, their reluctance to shift may be mitigated. However, such a focus on persuasion does not seem to exist.

Women-specific concerns:

Experiences of women from all communities affected by the tsunami continue to point to the fact that more women have moved into the public arena and are developing their leadership capacities as well as making practical interventions at every level, locally and nationally. **However, the patriarchal nature of the different government and non-governmental institutions and agencies that are engaged in making decisions and designing policies and programmes results in the almost complete exclusion of women from these higher levels of engagement. It is clearly the lack of consultation with women and the lack of any sensitivity to women's issues and women's multiple roles in rebuilding and sustaining their own families as well as their communities that led to the absence of kitchens from many designs for transitional housing, for example.**

As the post-tsunami process becomes more focused on permanent resettlement and livelihoods, the need to keep a gender-sensitive approach and focus becomes all the more imperative. In particular, a gender-sensitive approach that focuses on men and on male responsibility in all spheres of life would be critical if the post-tsunami phase is to facilitate the advancement of women.

In addition, issues of equal rights for women in land allocation and housing and other grants and benefits still must remain a priority on the agenda because the categories of women who slip through the faultlines in the system – widows, female heads of household, single women, disabled and elderly women – are large and varied.

Health:

While the tsunami-displaced communities were living in Welfare Centres in public buildings in the immediate aftermath of the tsunami, there were several different ways in which they could access health-care. There were various groups that conducted clinics within the Centres and the Centres were located in urban areas with somewhat easy access to public and private healthcare facilities. However, most of the transitional shelter sites lack these facilities. In many of the transitional shelter sites there are no regular mobile clinics and lack of access to transport means that traveling to the nearest public health facility consumes time and money. **Particularly women with specific needs including reproductive and sexual health care needs**, are most affected by this situation.

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