

Homestead Land & Adequate Housing in the post-tsunami context



PEOPLE'S REPORT

India, the Maldives,
Sri Lanka & Thailand

**All human beings are born free
and equal in dignity and rights.**

- Universal Declaration of Human Rights (1948)

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HOUSE DESTROYED AFTER TSUNAMI IN KUDAWELLA, SOUTHERN SRI LANKA.

chapter one: introduction

The 2004 tsunami devastated the lives and livelihoods of thousands of families and communities across the affected countries. This report focuses on the destruction and damage to homes and the experiences and views of affected poor people on the processes and outcomes of permanent shelter construction and repair in India, the Maldives, Sri Lanka and Thailand. As housing cannot be discussed without considering homestead land, people's experiences and concerns relating to their land are also covered.

Government of India figures showed that a total of 157,393 houses were destroyed and approximately 730,000 individuals were forced to leave their homes immediately after the tsunami. In Tamil Nadu, which was the most affected state, 126,182 houses were damaged or destroyed. At the end of May 2007, out of the 54,105 houses to be newly constructed, 27,479 were completed while 9,660 were under construction. Almost one third (16,966) were not yet started. (Details of the post-tsunami housing requirement are given in Appendix 1).

In the Maldives approximately 100,000 people, or a third of the population, were severely affected by the tsunami. Twelve thousand people were displaced with approximately 2,900 houses to be reconstructed and 2,700 houses needing repair. Of the reconstruction requirement, 530 houses have been completed, 1,456 are in process and 1,001 (one third) are either not commenced or unfunded.

Sri Lanka was one of the countries worst hit by the tsunami with over 35,000 deaths, half a million people displaced and 120,000 houses fully or partially destroyed. According to July 2007 figures, 113,673 houses are either completed (89,044) or in progress. However these figures include the housing built in excess of the need in the south and west of the country which mask the shortfall in housing in the north and east.

In Thailand 4,800 houses were damaged or destroyed across six provinces, almost all of which have been rebuilt or repaired.

Across all the countries many of the affected people consulted stated that they did not have access to information regarding land and housing policies, and many of those waiting for permanent houses or house repair were distressed and frustrated because they did not know what was happening. Despite international laws, standards and codes of conduct and rhetoric about good governance, the majority of those consulted said that they were not involved in decision-making processes about whether they could remain in their original location on the coast, the relocation site or the design and construction of their future home. Measured against the elements of the right to adequate housing as internationally recognised – particularly in terms of security of tenure, access to services, quality and location – many new houses in relocation sites failed to qualify and do not satisfy people's essential needs. In all four countries a void existed where mechanisms for accountability to those affected should have been in place.

Particularly in India and Thailand, but also in Sri Lanka, coastal fishing communities who had lived in their villages for generations with customary rights to their land found their way of life and livelihood under threat as various government policies and practices gave priority to economic growth and commercial interests such as tourism, or to conservation or security-related measures. Thousands of fisher folk have been evicted or face eviction from their land and relocation inland, depriving them of their livelihoods.

This 'People's Report' draws on four country-level People's Reports from India, the Maldives, Sri Lanka and Thailand. These People's Reports were based on the work of alliances of 59 organisations and their discussions with 9,207 tsunami-affected people in 98 communities in the above four countries. The focus is on poor and excluded families and groups. This documentation of the people's perspectives is to both influence the policy-makers in the post-tsunami context as well as to draw lessons on crucial issues and so inform the appropriate policies and guidelines for shelter interventions in future disaster responses.

In this report, Chapter 2 examines the international standards which apply to post-disaster settings: the national laws, policies and guidelines relevant to land and post-tsunami housing reconstruction, as well as a brief overview of the institutional frameworks. Chapter 3 outlines the approach and methodology used in the community consultations. Chapter 4 presents people's experiences and perspectives and comprises three sections: (homestead) land rights; the right to adequate housing in relation to the different elements of the right as set out in international law – legal security of tenure, services and materials, affordability, habitability, accessibility, location and cultural adequacy; and thirdly, governance which deals with the interaction between the policies, the people and public officials who are entrusted with implementing the policies, and practices of transparency, accountability and equity. The conclusions emerging from the people's consultations are presented in Chapter 5.

chapter two: a review of laws & policies relevant to land & adequate housing

International law

A number of international instruments are relevant to understanding people's rights and States' responsibilities in relation to disasters. These are the Universal Declaration of Human Rights (UDHR) 1948, the International Covenant on Civil and Political Rights (ICCPR) 1966, and the International Covenant of Economic, Social and Cultural Rights (ICESCR) 1966, all of which have been ratified by India, the Maldives, Sri Lanka and Thailand. These provide the political and legal framework for the protection of human rights of children, women and men.

From the perspective of disasters, the UDHR enshrines the right of every person to social security and the realisation of economic, social and cultural rights (Article 22). This is reiterated in Article 9 of the ICESCR which recognises the right of individuals to social security and social insurance. The ICESCR enshrines the right to livelihood and development, to be free from hunger, and to an adequate standard of living for individuals and their families, including housing (Article 11). Article 17 of the UDHR states: "Everyone has the right to own property alone as well as in association with others" 17(1) and "No one shall be arbitrarily deprived of his [or her] property" 17(2).

There is a range of international conventions and documents which contain provisions regarding the recognition of, and the need to protect and safeguard the rights and entitlements of, artisanal fisher people. These are relevant to the recognition of fisher folks' customary right to their land and access to the sea. For example, the UN Code of Conduct for Responsible Fisheries 1995 contains provisions to protect and safeguard the rights and entitlements of artisanal fisher people. Article 6(18) explicitly refers to the need for secure access rights for small-scale fisheries and advocates that States:

"should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction."

Since the UDHR was formed, international law via its numerous treaties and conventions has reaffirmed the right to adequate housing¹. Article 11(1) of the ICESCR is the fundamental international law provision on the right to adequate housing. According to Article 11(1) of the ICESCR, States Parties are obligated to recognise the right of everyone to an adequate standard of living, including housing. General Comment No. 4 on the ICESCR is an authoritative statement on Article 11(1), which has developed standards and guidelines for States to follow in ensuring this right. Accordingly, *“the human right to adequate housing... is of central importance for the enjoyment of all economic, social and cultural rights.”* The General Comment proceeds to identify various other civil and political rights as well, which cannot be viewed in isolation from the right to adequate housing. They include the freedom of expression, the freedom of association, the freedom of residence, the right to participate in public affairs, and the right to privacy and a family life.

In General Comment No. 4, the Committee on Economic, Social and Cultural Rights expressed the view that the right to housing should not be interpreted in a narrow or restrictive sense which views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. The right enunciated in the ICESCR is not merely the right to ‘housing’ but the right to ‘adequate housing’. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated:

“Adequate shelter means...adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities – all at a reasonable cost.”

The General Comment identifies seven substantive aspects of the right to housing which must be fulfilled for the full enjoyment of the right. They are all relevant to the post-tsunami/post-disaster obligations of the State, and must be given primary consideration when drafting and implementing government housing policy. These include legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.

The UN Guiding Principles on International Displacement (GPID) also stresses the importance of housing rights. Principle 6(1) states that *“Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.”*

Principle 28(1) further states that *“Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons [IDPs] to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.”* The GPID places a dual responsibility on States to both minimise displacement and to facilitate the resettlement of IDPs.

The UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles) are a more comprehensive set of guidelines dedicated to housing rights of IDPs. Principle 2 establishes the right to housing and property restitution of IDPs, and Principles 3-9 set out the overarching principles which must be upheld in providing IDPs with their housing rights. These include the right to non-discrimination (Principle 3), equality between the sexes (Principle 4), privacy (Principle 6), adequate housing (Principle 8) and the freedom of movement (Principle 9). The principles state that all IDPs have a right to return to their former homes (Principle 10) and set out guidelines and minimum standards for States to apply in the drafting and implementation of their housing restitution policy. The principles also elaborate on the role of the international community in this regard. The Pinheiro Principles articulate the international standard against which countries’ post-tsunami housing policy and performance must be compared.

As previously mentioned, India, the Maldives, Sri Lanka and Thailand are all signatory to the ICESCR and are therefore obligated to provide adequate housing, although the protection of housing rights afforded to citizens under national law may be less, as in the case of Sri Lanka.

In the next sections relevant national laws, policies and guidelines are reviewed.

2.1 Land

This report focuses on the land issues of coastal fishing communities. Land has been a critical issue in the post-tsunami context, as in India, Sri Lanka and Thailand people’s customary rights to the land and sea are under threat. This is not a situation created by the tsunami, but the problems have intensified as a consequence.

In India, Sri Lanka and Thailand there is a clash between the perceptions of coastal fisher folk and that of the States, regarding their rights to land and the sea. The State deals with land issues from a purely legal

¹ The International Covenant on Economic, Social and Cultural Rights (Article 11(1)), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5(e)), the International Convention on the Elimination of All Forms of Discrimination Against Women (Article 14(2h)), the Convention on the Rights of the Child (Article 27(3)) and the International Convention on the Protection of Rights of Migrant Workers and Members of Their Families (Article 21).

framework, whereas traditional fishing communities believe they hold a customary right to coastal land on which they have lived for generations, and which is essential to their life – the basis of their residence, food and livelihood.

While customary governance systems and laws prevailed in most marine fisheries around the region dating back to the pre-modernisation period, these are rarely legitimised or incorporated into formal laws. The recognition of the seas as an open access resource, which was necessitated by the modernisation model, worked against recognition of the traditional rights of the fishers. Similarly, their land ownership claims have survived only so long as there were no competing claims – for tourism, industrial and port development, oil exploration, environmental conservation/management. In India, for example, in almost every case where new claims have been made on the coastal lands, it is the fishing communities which have been 'resettled'. In other words, the issue of customary rights is a grey area whose continued relevance owes more to default than to official sanction. Likewise, while the rights of the small-scale fisheries to inshore waters have been recognised in principle in India with the marine-fishing regulation acts, their implementation is very weak.

While recognition is not formally provided in other countries, the 1997 People's Constitution of Thailand guarantees the rights of traditional communities to conserve their ways of life and to participate in the management, maintenance, preservation and exploitation of natural resources and the environment. Although traditional communities who have resided by the sea for generations should be protected, the reality is that they now find their land under threat due to their lack of legal land titles.

In the 1990s, many state governments in India announced regulatory acts to protect the fishing communities' existence on the coast. It appears however that these were not effectively introduced or enforced and they were not part of post-tsunami policies.

According to Article 21 of the Indian Constitution, every citizen has a right to life which is interpreted as entitlement to housing/dwelling. In recognition of this provision some state governments have enacted laws ensuring homestead land. The right to life is further interpreted as the right to livelihood. Hence state governments have also established regulatory measures to protect the livelihood rights of the communities. In India, Government land (public property) can be assigned but not alienated whereas private land can be alienated through sale. Private land can be acquired only through the Land Acquisition Act and land ownership can be granted. Government land – or public property – is historically considered as a common property resource and can be classified as revenue land, forest land, or sea and coast land. Government land can be

acquired with formal information to assignees. The 'right to use land' is the parlance for public land. Under the law, the individual needs to have the land title to assert his/her right and the collective rights can be given to a community collectively registered with the Government. According to the Tamil Nadu government, unless and until customary possession is recorded, the individual or community is not eligible for any legal right or entitlements. This is the situation for many fishers as the coastal communities lack information about conferment. Protection from eviction is found in Indian state legislature but not as a universal right. The political governance of land is vested with the provincial governments (state governments), but administrated by the Revenue Department.

The law in Thailand provides three categories of land rights: the right to occupy and cultivate under the National Forest Act and Land Reform for Agriculture Act; total ownership through the Land Code; and ownership with conditions or prohibitions under the Land Appropriation for Living Act. In the Land Code, right to land includes both having legal ownership of the land as well as the possession right. This could be interpreted to mean that traditional communities with possession rights also have land rights. However, elsewhere in the Land Code there are seemingly conflicting sections. For example, it is stated that when an authority does not issue a land ownership title under the Land Code, the land is deemed to belong to the State. Since traditional communities are finding it very difficult to get their titles, it is safe to say that in reality, the ownership right and possession right are not the same.

In the Maldives until 2002, land was primarily owned by the Government, while within families, use of housing land was passed from one generation to the next. The Land Act of 2002 provides for individuals to buy land from the Government, making it their private property, as well as the right to sell land. However, even with these changes there is no formal acknowledgement of land or housing rights. The 2004 tsunami exposed issues relating to the lack of clarity regarding such rights and the need for regulations regarding a system for the equitable distribution of land. Many of the people displaced from their home islands by the tsunami and residing in transitional settlements on other islands are still uncertain regarding the site and land for their permanent housing.

In addition to its Constitution, Sri Lanka has a plethora of land-related laws. While the common law and customary laws of the land cater to interpersonal land transactions, there are many schemes under which the State allocates land to individuals. Some of the statutes under which mechanisms have been established for the appropriation and redistribution of land by the State are: Land Development Ordinance, State Lands Ordinance, Land Grants (Special Provisions) Act, Land Reform Law and Land Acquisition Act.

After the tsunami, in both Sri Lanka and Tamil Nadu, India, a number of new policies and/or government orders were created to address the massive land and housing needs. In both these countries, tsunami policies were influenced by existing coastal zone regulations which restricted the reconstruction or repair of buildings in certain zones. In Sri Lanka, changes in the regulations created distress and confusion. For example, under the initial policy implemented immediately after the tsunami, there was a 100 to 200 metre buffer zone where construction and repair of houses was not permitted – although hotels were. This regulation was later amended. Under the new policy Zone 1 was made smaller and more specific to each area; its extent being 125 metres at its widest (in a few locations) and 35 metres at its narrowest. Zone 1 can be defined as all tsunami-affected land which is also a government reservation under various government authorities including the Coast Conservation Department, Urban Development Authority, Road Development Authority, Irrigation Department and Railway Department. Zone 2 comprises all affected land outside Zone 1. The policy options open to people for land and housing depends on which zone they were residing in, and whether they were legal owners or encroachers (the latter also having full entitlement to land and a house).

In India, the existing Coastal Regulation Zone provisions were operationalised by the Tamil Nadu government. In adherence to the Environmental Protection Act (EP Act) of 1986, the Government of India established the Coastal Regulation Zones Act (CRZ) in 1991 which regulates development within sensitive coastal zones along the entire Indian coast. The CRZ Notification has protected the livelihoods and activities of fishing and other coastal communities.

“Most of the fishermen associations are satisfied with the present CRZ regime as it safeguards the coastal and marine ecosystems with the areas protected and no large developmental activities being permitted in the CRZ area. The No Development Zone of 200 metres in the rural areas, i.e. in the CRZ III areas, have helped the fishermen to berth their boats, dry fish, mend nets, etc., thereby protecting their fishing rights.” [Swaminathan Committee Report]

The issue of the CRZ became controversial within a few weeks after the tsunami in Tamil Nadu when the District Administration insisted on fishers leaving their dwellings on the seashore and accepting houses inland. The government of Tamil Nadu subsequently passed Government Order No. 172 which stated that since the Coastal Zone Regulation permitted only repairs of constructions that existed prior to 1991 in CRZ II, all families whose houses were destroyed partially or otherwise were given the choice of going beyond 200 metres and obtaining a constructed house worth Rs.150,000 free of charge. Those who did not choose to

do so were free to repair their existing houses but would be ineligible for financial assistance.

At the same time, the Government has proposed that the Coastal Zone Management (CZM) Notification replace the CRZ Notification based on the recommendations of the Swaminathan Committee’s Report. However, the CZM Notification does not provide for the rights and access of coastal communities. For example, livelihood activities such as fishing in CZM I waters and shores have not been mentioned thus compromising the livelihood security of traditional fishworkers. By not prioritising these activities in CZM I areas, the notification has equated all activities without recognising the differential impacts caused by various activities.

Summary

The various laws, policies and practices have not protected the rights of coastal communities to their land, and in fact have aggravated the situation. Although in theory the Coastal Zone Regulation in India and the 1997 Thai Constitution recognise customary rights, in practice many tsunami-affected communities have been forcibly relocated.

2.2 Housing

The main institution in Sri Lanka responsible for providing citizens with adequate housing is the National Housing Development Authority, although the Authority was not a key actor in the post-tsunami housing reconstruction programme. A range of institutions were created in response to the tsunami such as the Relief and Development Agency (RADA). As there was a lack of clarity and/or continuity of mandate, the result was confusion and lack of accountability in government-initiated relief and rehabilitation programmes.

Under Tamil Nadu’s Tsunami Housing Reconstruction Programme, although the Government is responsible for ensuring the rehabilitation of housing, priority is given to NGOs and other organisations to “reconstruct with their own money.” These new houses must conform to government specifications. A major part of the recovery and rehabilitation housing reconstruction process rests with the Tamil Nadu-initiated Public-Private Partnership (PPP) with the World Bank.

In Tamil Nadu in late 2006, another government order stated that disaster-resistant houses are to be constructed for those living in thatched houses or poorly constructed and dilapidated houses in vulnerable areas by the coast. The present policy in Tamil Nadu evolved from decisions taken by government ministers at various stages after the tsunami. These decisions are recorded in minutes but are not publicly available. Thus the policy is not presented in a comprehensive manner, particularly with regard to land titles. Land for new houses is to be given free of charge by the Government, but there are no clear

provisions regarding land titles for the affected people – except in the case of relocation from the coastal zone when the Government will take ownership of not only the old house but also the land. A positive provision is that the title of the house will be given in the joint names of the wife and husband, and if one of them is not alive, in the name of the survivor and the eldest child.

In Thailand, many houses were constructed by the Ministry of Defence's Development Unit (including the Army, Navy and Air Force). Several ministries were involved in house construction, as were provincial departments including the National Park, Forestry, Natural Resources, Harbours, Treasury and Land Departments. Policies such as those providing for the Designated Areas for Sustainable Tourism Administration (DASTA) focus on and promote commercial interests over those of local, traditional communities.

In Sri Lanka the Revised Tsunami Housing Policy of April 2006 is presently applicable, with a few additions through more recent Government circulars. However, as already described for Tamil Nadu there is no single document thus making it almost impossible to capture all the modifications to the policy. Six objectives have been set out in the revised policy: a house for a house – regardless of ownership; all affected shelters to be considered – regardless of location; community participation; equity between beneficiaries; the end of 2006 as the deadline for complete implementation (which was not achieved); expanding on the former policy without affecting the houses already built under it; to provide new options to beneficiaries. The revised policy set out three separate criteria relating to Zones (as described above), beneficiaries (legal owner/encroacher) and extent of damage, and specifies different options available to the beneficiaries.

As in India and also in Thailand and the Maldives, no written policy has been provided giving details of the type of tenure under which new housing will be given in Sri Lanka. As late as December 2006 the Government said that issues of tenure are yet to be resolved, and that typically less than 10 percent of households have so far received any form of legal ownership.² Government sources have however indicated that new houses will be given as Presidential grants under the State Lands Ordinance. The question of joint ownership of state land in appropriate cases has been discussed but not decided. The policy has so far been to give state land to a single owner, who – due to administrative practice – is generally male.³ However, a recent circular from the Land Commissioner General's Department declares that title to lands being given to tsunami-affected persons under the State Lands Ordinance can be written in the

name of the wife as the head of the household upon special application.⁴

In India and Sri Lanka, policy changes and revisions over the past 30 months resulted in much confusion and wastage. In Thailand although most people have been re-housed, questions remain regarding tenure and quality. In the Maldives many people remain in temporary shelters, uncertain of the status of their permanent homes. In all countries the policies/guidelines relating to beneficiary lists, damage assessments and grievance mechanisms were problematic in their application in terms of transparency, accountability and equity.

In India, the Maldives and Sri Lanka the Governments and donors are still to complete the construction of permanent houses for families whose homes were destroyed or damaged by the tsunami. The policies – or lack of them – for the reconstruction programmes is one of the key factors behind the successes and failures.

Some of the key policy issues affecting reconstruction programmes in relation to land and adequate housing, as well as people's key concerns and questions in all four countries relating to tenure and quality, are:

- the absence of a single comprehensive, publicly-available document which sets out the housing policy;
- lack of policy or guidelines giving details of the type of tenure under which new housing on relocated land will be given;
- although there is provision for joint titles in the names of wives and husbands, the details to enable its application are problematic;
- the lack of formal recognition and/or protection of customary land rights;
- a range of institutions were created in response to the tsunami or involved in the response, resulting in a lack of clarity and/or continuity of mandate, confusion and lack of accountability in government-initiated relief and rehabilitation programmes;
- the application of policies/guidelines relating to damage assessment, beneficiary lists and grievance mechanisms were problematic in all countries due to weaknesses or gaps in the policies or guidelines regarding transparency and accountability;
- provisions were not made for affected people to participate in policy-making processes related to issues such as in-situ housing.

In cases where the policies and guidelines were clear, the biggest concern was how these were translated into practice at the local level.

² Sri Lanka Post-Tsunami Recovery, p10.

³ In terms of some legislation, preference is given to the eldest male relative in succeeding to state land.

⁴ See Circular No 2006/3 (i) of the Land Commissioner General's Department.



NEWLY-CONSTRUCTED HOUSE FOR TSUNAMI SURVIVORS IN TAMIL NADU, INDIA.

chapter three: approach & methodology

3.1 Principles

The approach and methodology used in bringing out this people's report was based on the following principles:

- that the analysis is primarily informed and led by the experience of tsunami-affected poor and excluded people at the community level;
- that human rights are core and that it is the responsibility of the State to protect and ensure that affected people enjoy their rights;
- that the right to information is fundamental if people are to know and claim their rights and actively participate in decision-making;
- that alliances of the affected poor people with their institutions and allies be strengthened and/or formed in each country to collectively engage with the policy-making institutions/ implementing institutions in pursuit of their rights;
- that discussions with tsunami-affected men and women in tsunami-affected communities would collectivise knowledge, analysis, bargaining power and voice concurrent to claiming their rights.

3.2 Focus and methods

The homestead land and adequate housing community consultations conducted in the Maldives, India, Sri Lanka and Thailand focused on poor people's experience and perspectives in relation to the laws, policies and practices which are impacting on their rights to land and adequate housing. At the country level the people's reports explored the following key questions: (i) whether communities were aware of their rights provided for in various laws, policies and practices relating to land and adequate housing; (ii) the extent to which their rights were protected, respected and received; (iii) the barriers they encountered in obtaining their rights; and (iv) the issues they currently face in relation to land and adequate housing in the post-tsunami context.

The information generated through the community consultative process was collated and analysed to produce country-level 'People's Reports'. The term People's Report is used to indicate that this is the culmination of a process which has engaged members of the alliance and community representatives in its production and is not a report of an individual person or agency. This international report is a synthesis of the four country People's Reports.

3.3 Coverage and sampling

Across the four countries, 9,207 tsunami-affected men and women were consulted through discussions and individual interviews conducted by 59 organisations in 98 villages, islands and settlements. The sampling criteria and approach are described in Appendix 2, and the names of the organisations participating in each country process are listed in Appendix 3.

Table 1. Sample for community-level discussions in each country

Country	Maldives	Sri Lanka	India	Thailand	TOTAL
Geographical coverage	9 islands 3 atolls	36 villages in 6 districts: Colombo, Galle, Matara, Hambantota, Ampara and Trincomalee	<ul style="list-style-type: none"> • 30 villages in 3 states: Andhra Pradesh (6 villages), Tamil Nadu (18 villages) and Kerala (2 villages) • 2 Union Territories: Pondicherry (2 villages), Andaman & Nicobar Islands (2 villages) 	23 villages in 6 provinces: Ranong, Phang Nga, Phuket, Trang, Satun and Krabi	98 communities
Total sample	113 (20 in-depth interviews, 4 focus groups)	1,193	6,901	1,000 (30 in-depth interviews, 23 focus groups, 6 workshops)	9,207
No. of organisations in the alliance	17	8	31	3	59

3.4 Process

The following activities were conducted, using an iterative process:

- i. Assessment of the policy environment and actors involved.
- ii. Alliance-building with organisations, movements and activists working on or interested in the lives and livelihoods of small-scale fishing folk.
- iii. Development of communication strategies and appropriate materials to inform the community of their rights.
- iv. Community awareness raising on rights to livelihoods and to compensation in the post-tsunami context; community analysis and organising to combat threats to fisheries-based livelihoods of poor people – and simultaneously:
- v. Generating information for policy intervention through the formulation of the People’s Report and national alliance consensus leading to advocacy work.
- vi. Development of an international alliance aimed at influencing post-disaster policies which impact the rights of small-scale fisher folks’ rights in the post-disaster context.

3.5 Constraints

There were a number of constraints which influenced the way in which the process was carried out. These included the limited time frame; the challenges involved in putting the principles into practice and grappling with different approaches and methodologies; the goal of the report being a by-product of the overall process rather than the end product; and the generation of organic links between the micro and macro levels.



TRANSITIONAL SHELTERS IN LITTLE ANDAMAN, INDIA.



RESETTLEMENT AREA FOR THE TSUNAMI-AFFECTED POPULATION IN BATTICALOA DISTRICT, EASTERN SRI LANKA.

chapter four: people's voices

*We did not expect much; only secure living quarters and to go back to our occupation:
that is going out to sea to fish, our way of life as that of our ancestors.*
Muk Island, Thailand

4.1 Land

In this section, land refers to people's customary rights to their 'homestead land'. The concept of homestead land recognises the interconnectedness of people's lives and livelihoods. It is premised on people's right to land and housing, and the understanding that land is an inalienable part of one's cultural identity, especially for many marginalised indigenous and ethnic communities. It refers to the land used by households or communities to sustain their traditional livelihoods. Fisher folk, for example, need to live in close proximity to the sea in order to fish on a daily and sustainable basis. Their homestead encompasses the land for their house and the area needed for their boats, nets and other fishing gear.

A critical issue for affected people was the threat to their customary right to the coastal land where they lived and, simultaneously, their access to the sea and their livelihoods. People in India, Thailand and Sri Lanka felt that their government's policies and practices ignored this close link between their lives, land and livelihoods, and their dependence on the sea as a way of life.

We had been living here in peace for years until the tsunami came. Then they did not allow us to rebuild but expect us to move uphill. They said it is best for us. I say they know nothing about how we live. How do they expect us to take care of our boats if we live uphill? And what if they build a marina on the beach? How can we live then?

Urak Lawoi fisher person from Lanta Islands, Thailand

People also frequently complained about the lack of information regarding policies and their exclusion from decision-making processes regarding crucial concerns such as where they are to live. People in India and Thailand reported being coerced to put their signatures or thumb impressions to documents without being informed of the content.

In Sri Lanka also, but in India and Thailand particularly, people expressed their belief and experience that under the guise of their safety and protection the governments were applying coastal zone regulations inconsistently. Fishing communities were prohibited from rebuilding or repairing their houses while tourism and other developments were allowed. One example of this is Srinivasapuram, Chennai District, India, where the Government relocated people, in disregard of their preferences and traditional rights, citing the prohibition of new construction under the Coastal Regulation Zone notification. However, 50 metres from Srinivasapuram a luxury hotel is being built.

About 2,000 tsunami-affected families previously residing in the coastal village of Thideer Nagar, Chennai – many of whom are Dalits – were forcibly relocated to Okkium Thuraipakkam site without their consultation. Despite people's demand for in-situ housing, the Government invoked Government Order 172 which states that all the house owners of fully-damaged and partly-damaged houses within 200 metres of the High Tide Line have to be relocated if they are to get housing assistance. If people choose to stay, the policy makes them ineligible for any government assistance. This effectively left many people with little choice but to forego their traditional habitation and livelihoods and move to distant relocation sites.

People residing in the coastal belts of Chennai and Thiruvallur Districts of Tamil Nadu reported living in constant fear of forced eviction. Government officials have resorted to violent behaviour and unwarranted actions in the process of forced eviction. The people in Annanagar Kuppam, Chennai District, want houses in their current location near the sea but the houses are being constructed for them elsewhere. They have resisted eviction thus far by legal measures.

After the tsunami we were asked to move to the Kargil Nagar temporary shelter, but we refused to go as we wanted to stay closer to the sea. The sea is our mother – we depend on the sea. We grew up near the sea and we played on the coast... Then one day the officials came along with the police and asked us to move out of our houses. We refused and all our belongings were strewn in the roads and our houses demolished. The women and children were crying and I wished that I had died in the tsunami. However due to the intervention of some organisations we acquired a stay order from the Madras High Court. Some of our houses were demolished in the eviction process. Our houses are allotted in Kargil Nagar but we refuse to go there as it is far from the sea. The permanent house constructed in Thondiarpet is also not conducive as it is not near the sea. Where are we to station our boats? We do not know what the future holds for us but we are sure that we want to stay where we are.

Annanagar Kuppam, Chennai

The Tamil Nadu District administration has generally pushed relocation, as exemplified by situation on Thittu Island, Cuddalore District. Inhabitants there had no housing or land titles as their right to residence had customarily been transferred from one generation to the next. When the tsunami hit, the entire island was submerged and all 161 houses were damaged with 136 huts being completely destroyed. The survivors moved to another island of the same name. They were not eligible for any government compensation because they did not hold the proper documents. An NGO constructed 160 new houses under a common village housing title.

In all six tsunami-affected provinces in southern Thailand, land disputes have arisen where tsunami-affected communities do not have legal title to their land. In general the disputes fall into two categories, the first being community possession rights versus private ownership claims. Legal action is being undertaken by communities to challenge private owners claiming legal title in Phang Nga and Phuket Provinces in areas close to tourist attractions where the cost of land is very high. Immediately after the tsunami, some private owners prohibited the people from entering to provide help to survivors or to find the dead, while others are banning communities from building new houses.

After the tsunami we approached to help find corpses but they [guards for the private owner] told us not to bother, and they said to us that it is not the mega wave that will take our life but they will.

Phang Nga Province, Thailand

Ban Koh Muk Community, Trang Province

Most villagers, who have lived here for over 100 years, are Muslim although some are of Chinese origin. Their houses are spread along six bays and before the tsunami there was no dispute over the land. People did not have legal titles. After the tsunami private owners claimed the land and wanted to sell it, demanding that the villagers move from the beach. The land owners refused to allow people to repair or build houses in the areas under dispute even where villagers were living in risky situations. The situation pushed the villagers to build new houses in a decayed mangrove zone provided by the State. A total of 20 rai (one rai equals 1,600 square metres) was provided for 148 households. On their original land there were 92 households living on 20 rai. These two land plots have been given community land title by Tambon (sub-district) Administrative Organisation.

Had Thab Tawan Community, Phang Nga Province

Ban Thab Tawan is a Moken community in Phang Nga Province. The Moken have had their own culture and beliefs for hundreds of years. Eighty-year-old Mr Ta Heed states that in his youth the community had already settled there in the previous generation. The land of the Thab Tawan community was a concession area for mining and after the mines closed the villagers took possession, making their living here by fishing and collecting tin on the beaches. After the tsunami, the land owner, through the district Court of Takua Pa, has sued the villagers in 84 cases to leave the land.

The second category of land disputes concern community possession rights versus ownership by state agencies. In these cases state agencies are claiming land and reserving it for commercial use and/or to promote tourism development, for example through the Designated Area Sustainable Tourism Administration (DASTA) project in Pi Pi Island, Krabi Province. Other cases of confiscation of community land relate to forest, conservation, or national park policies, or for public facilities such as in Ban Thung Wa, Phang Nga Province where the Tambon Administration Organisation want to use the land for a hospital.

I was sad. I asked them how they could do this [demolish her house]. They said my house was in the National Park area. I retorted it was not possible because it was the heritage from my grandparents. [Her grandmother is 101 years old.] How could that be invasion? They said they would report me to the police.

Woman from Chang Islands, Thailand

The situation in the Maldives is somewhat different as tourist resorts are developed on uninhabited islands. In Raa Atoll the entire population of 3,500 people was displaced from their original island of Kandholhudhoo as it was completely destroyed by the tsunami. They are currently still living in temporary shelters on four other islands of the same atoll. People said that they wanted their community composed of family, relatives and friends to all live together on the same island which has resulted in the development of a new island, Raa Dhuvaafaru. During these consultations people stated that they had been consulted and that settling on Dhuvaafaru is their choice. People were however, unhappy with the limited opportunities for them to see Dhuvaafaru Island, and with reports that there is insufficient land so there will need to be reclamation from the lagoon. Lack of clear information is not forthcoming and there are conflicting reports on the progress of the project.

If those houses are constructed for us we should have the right to go and see what is being done for us. There should be a mechanism for that.

IDP from Kandholhudhoo awaiting resettlement on Dhuvaafaru, Gaaf Alif, the Maldives

Fathmath is the mother of six children. Her house was badly damaged during the tsunami in 2004. Although the Government agreed to construct a new house and she was told that it would have three bedrooms, a sitting room and kitchen, the work is still pending. As the damaged house is no longer safe to live in, Fathmath and her husband had to build a small house near their old house. Fathmath stated: *"I am not sure when the Government is going to start the construction of the new houses, and I don't know the reasons behind the delay."* (The Maldives)

Fisher folk in Negombo and Kalutara Districts of Sri Lanka related their experience of the coastal buffer zone regulations being strictly enforced for fisher people but lifted for tourist hotel construction and tourism promotion. During the consultation with fisher folk in Galle and Negombo people said that in many places

they have lost their access to the sea, fisheries landing sites, and temporary shelters (which they build on the beach to use during the fishing season) due to tourism developments.

The Government imposes the laws and also breaks the same laws themselves. They do what they want as they wish. We lost our houses due to the 100 metre coastal buffer zone, but the same land was sold to foreigners.

Hambantota, Sri Lanka

Similarly, people in Koggla expressed concerns with the Government's plans to establish beach parks for the tourists, displacing 150 fisher people who have the customary rights to the fishing grounds and are involved in stilt fishing. This displacement caused by developing tourism activities has already been experienced by the

stilt fishers in the Kathaluwa and other areas, where the regional council is taking action to remove the temporary shelters and confiscate those lands from the people.

When they chase us away from the coast and build up hotels, are we to go to the sea by flying?

Dodanduwa, Sri Lanka

In Negombo in Sri Lanka's western province, more than 150 dry fish producers said that they are facing the threat of displacement from their coastal lands due to the planned Ramya Nagara (city beautification) development programme where the Negombo Municipal Council wants to remove the fisher folk from their traditional fishing grounds. Although an attempt to use the Negombo Lagoon as the site for a tourist hotel has lost some momentum temporarily because of their resistance, the fishers said the investors have not completely given up.

Eleven families who once lived at Modara Thuduwa are still living at the Salusalawatte Camp. This is in spite of the fact that they have the deeds required to prove their ownership to their land. These eleven families collectively owned and occupied approximately one acre of land at Modara Thuduwa. Ten years ago this group of people were pressured to leave their land as there was a plan to create a fishing harbour and fish canning facility on the land. They resisted this pressure as they knew that this land was the most appropriate for their traditional occupation as fisher folk. As this fishing community was unflinching in their stance, the Fisheries Ministry was forced to back down.

Following the tsunami, these families spent two months in various camps and then attempted to resettle on their familial land. They were informed that they could not as it was (i) in the Buffer Zone and (ii) set aside for a fishing harbour. However, they were also promised a plot of land as (adequate) compensation, as well as a house to replace the one they lost.

The eleven families settled as one group in the Salusalawatte Camp in October 2005. The families were all promised that an 850 square feet house complete with a bathroom, running water, electricity and other such infrastructure needs would be provided to them quickly. They still have not received a new house. In March 2007 when they met with the Minister of Fisheries he again promised a house, as well to visit the camp, which has not yet happened. When the families attempted to meet with the Grama Sevaka or the Divisional Secretary they were told that they could not be assisted as "the harbour is taking care of you and your needs completely." When they requested help from officials at the harbour to locate appropriate land for their resettlement, the officials recommended a place in Panadura. However, at the point of surveying the land, they were informed that the land could not be sold to tsunami-affected people. Further efforts have also been in vain.

It has been one and a half years since the landowners signed over their land, and the construction of the harbour and fish canning facility have both been finalised, but these tsunami survivors have not yet received the homes promised to them.



Sang Ka-U Community

[Immediately] after the event we still feared the mega waves so when the village chief and the Sub-District Administration Organisation asked us if we wanted to move away to new houses, we said yes. But now we don't want to because we are fishermen and we would have to come down to sleep at the boats... we want to stay on the beaches the same as before.

Ban Sang Ka-U, Thailand



The Sang Ka-U people in the south of Lanta Island were formerly sea gypsies, and they have been settled there for more than 100 years. The people are referred to as Chao Thai Mai. Ninety-five percent of the people depend on fisheries, while some, especially young people, work in hotels, resorts and restaurants on the island.

The tsunami destroyed one house and damaged 24 more. The authorities planned to relocate the communities away from the shore to higher ground. One international NGO built 98 permanent houses in the relocation site uphill and away from the coast.

Understanding the people's desire to stay in their original location, a network of agencies worked with the community to build 10 new houses and repair 22 damaged houses. Locals participated in a process to design the house to suit the needs of the local area which faces severe storms. In the first step, people divided into groups, each with an architect, to draw their dream house. Based on these, three house designs were prepared – and then presented at a public hearing where the people voted on two of the designs. These were then consolidated into one design by the people.

A housing committee was set up to coordinate the building process, with assistance from one agency to coordinate with an outsourced civil engineering company. At the same time, the community was pursuing permanent land title documents.



Reflection

Land is political. The plans of government bodies to move people away from coastal land require critical analysis by intervening agencies in order to understand who is to benefit from the policy. The threat to coastal people's customary rights to their land is not new, but the displacement of communities by the tsunami was seen as an opportunity by governments, investors and developers

to obtain beach land for economic development. The problem lies in government policies and practices that favour investment over customary rights. In the past the coastal communities considered the coastal lands as collectively belonging to them and as this was seemingly respected, there had been no need of, or demand for, legal title. This is no longer the case.



Advocating justice and an end to the denial of people's rights to land and adequate housing

In Chennai a People's Tribunal was held in January 2007 in an effort to secure justice for people who had been marginalised in the tsunami relief, rehabilitation and reconstruction processes. Six hundred and ninety-two people representing nine different locations in Chennai and Thriuvallur Districts gathered at this public hearing to express their solidarity with the nine representatives from their communities who testified before the jury about the various forms of hardship,

marginalisation and exploitation they were facing due to state negligence. These included threats of forced eviction, violation of land rights, discrimination against religious and caste-based minorities, and inadequate housing and services in relocation sites.

The jury was comprised of the Special Rapporteur for Adequate Housing from the United Nations Human Rights Council, a retired judge of the Chennai High Court, a former member of the Human Rights Commission, a former University Vice-Chancellor, and Directors of two leading NGOs. The Tamil Nadu Special Deputy Collector for the Tsunami, IAS, and the Community Development Officer of the Tamil Nadu Slum Clearance Board attended. The process is based on the belief that it is the responsibility of governments to uphold and restore the human rights of the citizens.

In response to the testimonies the jury presented its findings and recommendations to the Government. The testimonies and the jury's findings and recommendations were documented and presented to the senior government officer who provided a written response. This is documented in a report of the People's Tribunal titled: "Voiceless No More: Voices of the most marginalised tsunami survivors for whom justice is still a distant dream."

In Sri Lanka the People's Planning Commission (PPC) is a group of respected scientists, scholars and professionals established by the Movement of Land and Agricultural Reforms (MONLAR). Accompanied by journalists, the PPC undertook two investigations in 2005 and 2006 to observe and document the post-tsunami rehabilitation and reconstruction process and subsequently publicise the people's concerns and problems, and advocate for policy and practice change.

In Thailand the Legal and Community Rights Centre (in conjunction with an alliance of 11 organisations working in the tsunami-affected communities) is offering legal aid to local people who want to establish their right to land in the courts and strengthen their ability to negotiate and claim their rights. The Centre is advocating for 'Community Land Title' whereby members of the community collectively hold title to the land, under the rule of an elected community committee. At a seminar looking at land problems in April 2007, the participants concluded that political reform is required and that Community Land Rights must be guaranteed in the Constitution. This conclusion was submitted to the Drafting Committee of the new 2007 Thai Constitution for approval by the National Assembly.

A process to establish community land titles and resolve land disputes has been developed as follows. Collection of information on the land problem in each community, using, for example, aerial photographs to verify community land, and community meetings to document the historical background to the land and the people. The Legal and Community Rights Centre with the Alliance and community members have prepared 27 community databases. Training about legal issues has been provided to community members and exchange visits between communities and member organisations have taken place in the affected areas so knowledge and experience can be shared, thus strengthening the capacity of village groups. The Centre is providing coordination and support for communities to present their case to the Sub-Committee on Solving of Land Problems.

4.2 Adequate housing

Adequate housing as listed in General Comment No. 4 on ICESCR encompasses the following components: legal security of tenure; access to services and materials; affordability; habitability; accessibility; location linked to their livelihoods; and cultural adequacy. Views on the adequacy of housing for tsunami-affected persons focus mainly on the relocation housing programme. People expressed concerns regarding all the components of adequate housing as outlined below.

4.2.1 Transitional shelter

As there are already numerous reports on transitional shelters this report will not cover this topic in detail. It primarily focuses on why, 33 months after the tsunami, people continue to live in transitional shelters in India, the Maldives and Sri Lanka (see Appendix 1 for details).

In general the initial timeframes given for completion of permanent housing construction programmes were unrealistic. Concurrent with this was the short-term view which prevailed in the construction of transitional shelters, many of which are still housing families two and a half years on. The people consulted in transitional shelters were distressed by the lack of basic infrastructure, safe drinking water, sewerage, electricity, access to transport, health care and livelihood options, and the deterioration of the shelters.

In nearly all places the residents lacked clear information, which has left them anxious and confused about when and where they will get permanent housing. In some places in India, the Maldives and Sri Lanka people reported being given promise after promise, but are still uncertain about what is happening.

Wandoor village, Andaman District, is nearly 38 kilometres from Port Blair. Being very near to the sea, the village was severely affected by the tsunami with several houses washed away, boats damaged and land submerged in saline water.

A 52-year-old resident of Wandoor stated: "I had been staying on my father's land for years and had managed to build the house with my earnings over the years. But the tsunami took everything away. For two months after that we had to totally depend on relatives for a place to stay and for food. I lost everything I had earned all those years. It was some caring community people who helped me and my family survive in the initial days by giving cooked food and clothes."

Getting an interim shelter was not easy. "It took a lot of effort and persuasion from my side with the local officials and Panchayat to provide my family with a shelter. It was four to five months after the tsunami. Running a household was still a challenging task. The NGOs at that time came with options that gave me a chance to earn again."

The living condition in the shelters and the plight of people staying there is difficult. "The walls are made of tin sheets and iron rods. There's a single room for the entire family. I've a son and a daughter and there's no privacy in the room. The floor is not cemented and during rainy season the mud floors get wet and slippery and we are unable to lie on the floor. Sanitation facilities are very poor. The doors don't shut properly and women feel very insecure using them. There are no proper drains for water and sewage to flow out."

A total of 15 families reside in the shelters. The Government is still providing free rations to the residents and NGOs have extended various forms of support. All the families in the shelter belong to the fishing community. Most of them have gone back to the sea but face challenges in terms of decreased income and not getting the proper boat seaworthy certificates. Permanent houses are in the process of being built but people are not clear of the date they will be getting them. There has been very little consultation with them regarding the location and design of the houses. They are unhappy with the way things have been handled.

Recent figures in Sri Lanka indicate that the housing completed and in progress in the southern, western and north-western provinces exceeds 100 percent of the required housing. However, there is a severe shortfall in Colombo District, while it is in the war-affected north and east that most temporary shelters remain. The regional disparity in the rate of housing reconstruction is primarily due to fewer donors being willing to commit to working in the east and north due to the unstable security situation there and this has only worsened with time. As a result the allocation of funds did not match the density of damage: that is, the east suffered the most damage but had the least funds dispersed, while some parts of the south which had less damage received more funds.

As already outlined in section 4.1, unsuitable (from the people's perspective) relocation sites allocated by the Government is a key reason for the delay. In India and Sri Lanka people depending on the sea or a location near markets for their livelihoods reject moving to distant relocation sites. Continuing to live in a transitional shelter is the least bad option for them. Lack of affordable, available land for the amount of money provided by the Government to buy land (particularly in Colombo and Ampara Districts in Sri Lanka) is another reason for delay.

In the camps we were given relief packages, we did not lack anything. Now we only have a house. We have no jobs, no food. How can we live with just a house?

Sri Lanka

In the Maldives people often did not know the cause for such a long delay as they were not given information. They attributed the delay to problems with contractors, the importation of the building materials to the islands and issues related to human resources. In Gaaf Alif Atoll for example, the construction of new houses for four different islands (Villingili, Maamendhoo, Nilandhoo and Dhandhoo) has not yet begun. Initial damage assessment immediately after the tsunami was conducted by the Island Officers. This was later checked in a second assessment by engineers from the agency who agreed to do the construction work. A year later a third damage assessment was conducted and the number of damaged houses increased to 300. The agency then stated it was unable to undertake the work as it did not have sufficient funds. A loan has now been secured from the Saudi Fund and the housing contract has opened for tender, with a predicted start date of October 2007. On another island on Gaaf, house construction and repair is yet to begin. People do not know the cause of the delay or the status of the plans.

It would have been better if nobody gave anybody anything after the tsunami. Then at least we would have known to make it on our own.

Galif Dhandhoo, the Maldives

In Gan Atoll in the Maldives where the local people initially offered full support to IDPs from tsunami-affected islands, the IDPs now report that conflict and hostility have increased as scarce resources are shared and disparities arise as the tsunami-affected receive better facilities than locals.

Jeehan is native to Dhaandhoo, Gaaf Alif. She has five children. Before the tsunami she lived on her own land but her house was destroyed and so she moved to a temporary shelter upon assurance from the Island Office that she would be allocated new land.

"But now I am confused about the allocation of land. I have raised this issue with the Atoll office and they reassured me that I would be provided with a home very soon. But we are still in the temporary shelter. Before the tsunami we had a good life, but now because of the unhygienic garbage area and unclean water, my children are always sick. Water leaks into my shelter whenever it rains, damaging property and making sleep troublesome. I need land as soon as possible."

4.2.2 Permanent housing

Legal security of tenure

Everybody has the right to a degree of security of tenure that guarantees him/her legal protection against forced eviction, harassment and other threats. This applies to every type of housing, whether it is a mansion or a shack in an informal settlement.

General Comment No. 4 on the ICESCR

In all countries the vast majority of people who had been relocated stated that they did not know the status of their ownership of the land. They had not been provided with legal title. In Thailand some relocated communities who were unable to prove their long-term, uninterrupted possession of their land on the coast said they had received only five-year leases on the new house.

Women's right to land and security of tenure through joint titling has largely been disregarded. In Sri Lanka, land allocation by the State to the 'head of the household' generally refers to the man of the household and effectively disavows women owning property. The process for obtaining land titles in joint names remains an unresolved issue.



LAYING THE CORNER STONE ON NILANDHOO ISLAND, THE MALDIVES.

In Sri Lanka, some people said they received a document from the NGO that built the house, but this paper has no legal effect. In some instances, the State provided 'certificates of entitlement', but these too do not confer legal ownership and are only intended to act as 'holding' documents until proper title is given. Moreover, in many cases, people reported that houses were given without a proper survey to demarcate the boundaries and divide the plots allocated. In southern Sri Lanka in some places this led to disputes among neighbours. In another area people divided the plots amongst themselves by consensus.

Access to services and materials

The right to adequate housing means not only that everyone has the right to access building materials, but also that everyone has the right to essential services; for example, water, sanitation, energy, garbage disposal, site drainage and emergency services.

General Comment No. 4 on the ICESCR

In Okkium Thuraipakkam, Chennai, some 5,166 multi-storied tenements are being constructed, utilising World Bank funds. The flats are less than 200 square feet, with an inner plinth area of 168 square feet; inadequate to meet the needs of even a small family.

Some of the crucial issues mentioned by the relocated people are the lack of facilities: inadequate water supply; poor drainage and sewerage systems; lack of access roads; lack of services: the nearest hospital is 15 kilometres away, schools are far away, public transport is inadequate for a population of 10,000 people and garbage is not collected. Unemployment is also very high; the site is 18 kilometres from the city where people were previously able to find work but transport costs are now prohibitive.

This lack of access to water, poor electricity supply, lack of access to schools and medical care, inadequate access roads, and poor sanitation were frequently mentioned in many of the relocation sites in India and Sri Lanka. In Sri Lanka water was a key problem with people in a number of sites reporting intermittent supply every few days or the supply only given at night, making it particularly difficult for female-only households, as women are afraid to go out. In some places in Sri Lanka and India people reported no water supply at all and having to get water in barrels transported by tractor, which is costly. The lack of water supply in some areas means that residents have to

go by bus to bathe and wash clothes. In some locations in India the wells are useless due to the ground water becoming saline after the tsunami and no rehabilitation has been undertaken.

A number of communities in Sri Lanka complained of substandard materials being used and poor construction methods. Many people assert that the walls of the new houses have already cracked and the roofs are badly constructed. People blamed the low quality materials and construction on the building contractors, who were accused of siphoning off money allocated for construction.

"We got caught in the tsunami. When we were in the Gandhara Kandegodalle camp my husband died. First the government agent said he could not give us a house. Then the Divisional Secretary intervened and gave us a house on a water-logged land. Then we were given a house built by the Janatha Vimukthi Peramuna (a political party JVP). But from there I could not go for a job and as I had no means of income I did not take that house. Later on I spoke to the Matara Divisional Secretary and we came to live in here. This is the house we were given instead of our [former] house in Gandhara.

We are frightened to stay in this house. The roof shakes, the walls are cracked, there is no water, no kitchen or toilet. Before we lived by the sea and survived the tsunami but now we may die because of this house falling on us. We have not received any title documents. The children can't go to school. We have no income. We appealed for another house, but the District Secretary says there is no other house to give us. In our former home we had three rooms, a kitchen and a toilet. Now we don't even have a proper place to sleep. These doors are not strong. I am living here in fear with my three children."

Hambantota, Sri Lanka

In the Maldives the major concerns raised were the low quality roofing and plywood used for the ceilings, low quality door locks which meant people felt insecure, poor ventilation and window fittings which leak when it rains. In parts of India and Sri Lanka, some new houses were made of wood with tar sheets for roofing, making it unbearably hot during the day.

In Thailand there were positive stories of NGOs taking on the reconstruction task with a participatory approach and willingness to learn from traditional construction methods. This led to people being involved in supervising the construction, including the layout and budget use, and in buying equipment. Those owners who were able to build the house for less than the allocated amount could spend the remaining sum on furniture.

Affordability

Adequate housing does not have to be provided free of charge, but the personal or household financial costs involved in getting housing should not mean that people cannot satisfy their other basic needs.

General Comment No. 4 on the ICESCR

In Sri Lanka the question of affordability arose principally in relation to 'owner-driven' housing. A number of interviewees felt that the compensation package provided for home owners to rebuild their houses was insufficient under the circumstances. In both Ampara in the east and Colombo, people are still living in transitional shelters due to the difficulty in finding affordable land in densely settled, high demand areas. In India all consulted fisher folk who were relocated to housing settlements complained that they are required to pay Rs.250 per month, despite having lost their income due to their relocation.

In Colombo District, a group of tsunami-displaced people, who had received the compensation package of money to purchase land and build a house, decided to pool their resources and purchase property from a property sales company. This company also undertook to build the houses. Now, however, the State has delayed the payments and only Rs.50,000 out of the Rs.250,000 grant for each person has been given.

Habitability

Adequate housing provides residents with adequate space and protects them from cold, damp, heat, rain, wind and other threats to health, including structural hazards and disease vectors (for example, animals that carry diseases).

General Comment No. 4 on the ICESCR

People's satisfaction with their housing in Sri Lanka indicated that consultation is not everything. In some instances where there had been consultation, the people expressed dissatisfaction with the housing, whereas there are other instances in which there was no consultation but people were relatively happy with the housing. After lack of legal security of tenure, the complaint voiced most consistently across the Sri Lankan villages was the substandard quality of the new housing. Poor quality materials and construction (leaking roofs and cracked walls), inadequate or non-existent kitchens and toilets/bathrooms were reported. The majority of

people consulted felt that the house was not disaster resistant. In the Maldives a main concern was that the houses are unable to withstand the monsoon rains.

In India there were many complaints of houses consisting of only one room, making it very difficult for family living. As mentioned previously, the size of some flats being built were well below what is specified in codes and standards. By comparison, people in Raa Atoll in the Maldives were told that the house area there would be 2,000 square feet.

In one resettlement in India, there is only one toilet for 50 households. In Sri Lanka women in some areas said the design and layout of houses and toilets were unsuitable as there was not enough privacy. Some people have demolished the toilets and rebuilt them elsewhere, but others cannot afford to make such alterations or they do not have the skills.

On the other hand people in Maldives were generally happy with the internal design of the house. For larger families who had previously lived in spacious houses, the 'one-size-fits-all' approach of tsunami reconstruction has left some feeling distressed about the lack of room.

People who are satisfied with the new homes in Sri Lanka, as for example in Trincomalee, stated that the quality and structure of the housing and the building process was satisfactory because they themselves were allowed to choose the labourers who worked on the houses, and in other cases, no contractors were involved.

Accessibility

Adequate housing must be physically accessible. This means making housing accessible to people with disabilities, or ensuring that sufficient land is made available to build new housing.

General Comment No. 4 on the ICESCR

Problems of accessibility were largely not mentioned in the community consultations. This could be due to lack of emphasis on access to groups with special difficulties. In the Maldives it was reported that there was a house design for people with special needs. However in the case of one family, although they requested that design, the house they got was different.

Location

Adequate housing must in a location that allows access to employment options, health-care services, schools, child-care centres and other social facilities. Housing should not be built on polluted sites or near pollution sources that threaten the right to health of the residents.

General Comment No. 4 on the ICESCR

The main problems with regard to location were the distance of the new houses from livelihoods and from schools, and thereafter from markets and health facilities. These were tied up with transport costs and the availability of transport facilities. The location is not only a problem for small-scale fisher folk who need to remain close to the coast to fish and keep their boat and nets, but also for casual labourers, public servants, women engaged in drying fish and small-scale entrepreneurs who are now cut off from their usual markets. Relocated

fisher folk and small business owners face problems of access to work in a context of already decreasing income due to diminishing purchasing power in general. People who were formerly engaged in agriculture also said they did not have sufficient land and water supply for cultivation after the relocation and/or the land itself was not arable.

There has been a constant struggle between the people and private companies for the coastal lands in Chennai and Thiruvallur Districts. The fishing hamlets in Chennai start where the Marina Beach ends and there is a great demand for the land. Prior to the tsunami there were attempts by commercial interests to usurp the lands and the fishing community has been fighting to retain their land. The tsunami provided an opportunity to relocate the people who are said to be 'encroachers'.

A month after the tsunami the coastal communities in south and north Chennai were evicted and put in temporary shelters constructed in low-lying areas at Kargil Nagar (a temporary shelter in Thiruvallur District for the relocated people from north Chennai) and Kannagi Nagar (in Kanchipuram District for the people relocated from south Chennai). These areas are on the city outskirts and far away from their original place of habitation. Some 3,347 displaced families were relocated to these temporary shelters. However, the number of houses being constructed at relocation sites such as Semmenchery and Okiyam Thorappakkam exceeds 5,000 which lead people to fear that others would be relocated also. The World Bank funds this housing project where people's right to information and of participation has been denied, and the standards for adequate housing have not been met. The people previously residing in Kannagi Nagar temporary shelters now have permanent housing in Semmenchery but life is a struggle.



“We were dumped here and now we have no livelihood options. When we were in Srinivasapuram we were able to either work as domestic workers or on construction sites but we have lost these options as we are relocated far from the city. There are no houses nearby for the women to search for work; there are hardly any building sites around this settlement where we can seek employment. We have to spend about 20 rupees a day to travel to our work place so what we earn is spent mostly in our travel expense. We have a bleak future! (Semmenchery, India)

“We were rendered homeless after the tsunami and then taken to Kannagi Nagar temporary shelter. Life was miserable out there. Then we were given these houses in Semmenchery. This place is in the middle of nowhere. There are no street lights; it takes about 200 rupees by auto to go to the nearest hospital; the water supply is pathetic and the drainage facility is improper. Most of the men out here are not employed. About 30 families from Thideer Nagar have left these houses and settled in the platforms, near their original place of habitation.” (Semmenchery, India)

Most of the evicted families are daily wage earners and their children have been forced to drop out of school, as there were complications in the enrolment process in the new schools in the resettlement area.

In Sri Lanka some people are staying in better located transitional shelters rather than moving to permanent houses in unsuitable locations far from their livelihood or which lack the basic infrastructure and services. This is evident in housing projects where houses are left unoccupied. One example is the Kalutara relocation site where only a few of the 70 houses are occupied because the communities depend on fishing for their livelihoods and the site is located far from the sea. However, in some transitional shelters people reported the water and electricity being cut off in order to force them to leave.

In Thailand there were several examples of housing being provided which did not respond to the people's needs and which were either never occupied or abandoned. In some cases, for example, Ban Pak Chok, Ban Hua Laem and Ban Sang Ka-U (already mentioned) on Lanta Island, while one organisation was building houses in a new location another was building houses for the same families on their original land – according to the people's preference – so they could continue their occupation.

People said that as they are far from schools there is an increase in expenditure on school transport. In some areas people reported that their children only go to school twice a week, while some have dropped out. In India, some children are now living with relatives to be closer to their school.

Cultural adequacy

The way housing is constructed, the building materials used and the policies supporting these aspects of housing must enable the expression of cultural identity and the identity of housing in an appropriate way.

General Comment No. 4 on the ICESCR

In India, Sri Lanka and Thailand people frequently stated that the design of the new house and the materials used were inappropriate for their lifestyle and needs. The design and layout of houses often did not provide for women's privacy and security. In the Andaman and Nicobar Islands people were unhappy with the Government's plan to build a standard model 'twin unit house' (two homes together with a dividing wall rather than free standing). But there has been little or no opportunity for them to have a say, and little information disseminated to inform them about what is happening (see table on following page).

Here, people expressed dissatisfaction with the use of fabricated imported materials such as reinforced cement concrete isolated footings, steel frames and corrugated galvanised iron sheets from the mainland, rather than locally available materials which are preferred and much cheaper.

In the Maldives, houses were built in the middle of the allocated land with spare land on both sides. People stated that this restricted the use of precious land and was wasteful. In Sri Lanka, people's beliefs and traditions regarding auspicious times for when important events in their lives take place was also said to have been ignored. For some Thai communities, the patterns of their new houses were inconsistent with their traditional way of life and what they required as fisher folk.

Summary

The level of satisfaction with any new housing scheme is often linked to the level of consultation with, and participation of, the right-holders in the reconstruction process. This consists principally of taking account of the preferences of right-holders with regard to factors such as location and design of the houses.

Community-driven housing reconstruction process

In the Andaman and Nicobar Islands, India, the Government plans to rebuild some 8,955 of the 9,714 houses destroyed. The standard model adopted is a twin-unit house (two homes together with a dividing wall rather than free standing) built of pre-fabricated imported materials such as reinforced cement concrete, isolated footings, steel frames and corrugated galvanised iron sheets from the mainland – through private contractors. People expressed dissatisfaction and frustration with the materials, design, location, unnecessary cost, and the lack of information and opportunity for them to have a say. Initially many NGOs were keen to be involved in housing reconstruction however, most withdrew from the Government project.

“I have raised the issue of the twin house with the Administration. I have explained to them that the lifestyles are very different here. There are issues of the maintenance of the house and the neighbour; who will stay next to whom? What is going to happen to our social structure here if this is done? But no one seems to be bothered. We are the public representatives. We have so much pressure from the people, but the Administration does not want to hear the public representatives. They have their own plans, their own ideas on how we should live here.”

Hut Bay, Andamans, India.

An alternative is a community-driven reconstruction process – used in the Andaman and Nicobar islands – which builds on people’s knowledge, traditions, practices, designs and type of materials used, as well as addressing the issues of ownership as shown below.

Process	Details of each step
Understanding the vulnerabilities of the community	Village workers visit the community and facilitate “Participatory Vulnerability Analysis” to build a common understanding.
Selection of community members via consultation at the village level	Identification of those for housing support by developing criteria to collectively decide eligibility.
Involvement of the local government	Invite the local government to village meetings, agree selection criteria and obtain approval and endorsement.
Entitlement to land and house	Take up with the concerned authorities: ensure joint ownership; ownership of women in the case of female-headed household; joint ownership of orphaned siblings.
Design of the house	Involvement of the community to design according to their preferences, practices, needs and natural hazards.
Finalisation of house as per family requirements	Size according to number of family members.
Quotation and estimation of materials for construction	Owner of house along with a community member gets three quotations for the materials to be used. With engineer, finalise estimate and vendor.
Skills development	House and community members liaise with engineer regarding technical aspects – especially with women.
Defining the phases for disbursement of the payment	Payment after completion of plinth, superstructure, final.
Disbursement of payment	Community keeps stock register, petty cash book, visitor’s book, individual file.

4.3 Governance

Across all countries issues of transparency, accountability and non-discrimination emerged from the consultations and are covered in this section.

Information

A general theme repeatedly expressed throughout the consultations with tsunami-affected people in the Maldives, India, Sri Lanka and Thailand was that people lacked awareness of the post-tsunami policies and their resultant rights. A common cause of distress was people not knowing what was going to happen and/or when. In India and Sri Lanka the housing policies were changed several times and there was no single comprehensive, publicly available document setting out the policy. As a result of the numerous changes many local government officials also seemed to be unsure of the policy. The resultant confusion has had a detrimental impact on all those affected and involved.

Participation and discrimination

Underlying many of the complaints regarding land disputes and (the threat of) forced relocation and unsuitable housing was the fact that people were not consulted and involved in decision-making processes. This was particularly so for women who were widowed by the tsunami, members of excluded social groups such as Dalits and Irulas in India, Mokens in Thailand, and single and older women.

There was initial under-reporting of the tsunami impact on social groups such as Dalits, Tribals, and other backward caste communities in tsunami-affected areas. Advocacy by civil society groups challenged the exclusion processes and forced the state governments to bring in more inclusive processes, but this was not consistent in practice.

Denial of housing rights: Fisher community versus minority in Mullaimanagr

In Mullaimanagr the majority of the people belong to the Meenavachettiyar community while 40 families belong to the Scheduled Caste community. The Meenavachettiyar who are the dominant caste oppress the Scheduled Caste people and do not allow them to get any benefits. The Scheduled Caste (SC) community are not engaged in fishing but do construction work, mill work, are housemaids etc.



All the houses were affected by the tsunami including those of SC people. The Government allocated houses, 25 of which were for the non-fishing community, in Semencherry which is 25 kilometres away from Mullaimanagar. The fisher folk refused to go to Semencherry. They do not want to leave their own village as they will be unable to fish.

But the 40 SC families are willing to go there because they do not depend on fishing. They are ready to go anywhere if the Government provides permanent shelter. However, the fishing community threatened them and said that they should not sign the paper giving their approval to go to Semencherry. They claim that the houses constructed in Semencherry are only for the fishing community who are tsunami victims and that the non-fishing community should not go there. Being a minority, the SC people were not able to fight against the fishing community and due to lack of government support they were unable to move to Semencherry.

Mrs. Agnus belongs to the SC community and works with an NGO which has filed a case against the leaders of the fisher community with the police station. The case asks for protection for the SC people, as well as action to be taken against the fisher community who threatened the minority. She claimed that it is their right to get the house and that the fishing community do not have the right to curtail their right to relocate.

In Sri Lanka the inherent unfairness of the reconstruction process is evident in the disproportionate number of houses being constructed in the south (Hambantota in particular) and insufficient numbers being constructed in the conflict-affected north and east, and in Colombo.

In Thailand, as elsewhere, poor people without land titles were most susceptible to getting the least support. Land titles and claims from wealthy private owners and businesses supported by government authorities eroded fisher folk's right to their customary land. By not issuing a land rights document and claiming the land to be *Ratchapatsadu* (public land) officials perpetuate poor peoples' land insecurity.

In Sri Lanka while there was little articulated in terms of discrimination against women during the consultations, this needs also to be understood in light of generations of social conditioning, which shapes peoples' perceptions in a particular manner. An illustration of this point comes from Trincomalee, where the women said that they had no complaints – before adding that they were used to taking orders from others, as they were very poor in decision-making. While there may have been little open and direct discrimination, the system itself was not conducive to women and hence tacitly and subtly discriminated against them. Women were therefore reluctant to engage with the system, which made them feel uncomfortable or suffer hardship. There were also some instances of direct discrimination against women such as in Colombo where housing was limited, and the people alleged that women and weaker people were sidelined and houses given to people who were influential or confrontational.

Mrs. Kuppammal is a 56-year-old widow who has three sons and three daughters. Her sons have migrated to other places for work and her daughters are married. She is alone and survives by vending dry fish. On the day of the tsunami she went to town to sell dry fish. Luckily she escaped with her life but she lost her household belongings and personal effects. The village people provided her with temporary shelter. After two months an NGO for Dalits planned to construct houses for the survivors so it prepared a beneficiary list. However Kuppammal's name was not included on the list for housing allocation. She approached the Panchayat leader to ask for justice and was told: "You are not eligible to get a house because to date you didn't give any tax receipts so we won't allocate the house."

In India the traditional and the legislated local governance structures were not actively engaged in the delivery of temporary shelters/construction of houses, reconstruction and rebuilding of life and livelihoods. In part this could be attributed to the view that the traditional Panchayats are patriarchal bodies, and the elected bodies are co-opted into state development interventions without recognising or honouring their role as the legitimate and functional bodies operational in the communities. However, by ignoring local governance structures the response was uncontrolled resulting in skewed services from the State and other non-state actors.

Beneficiary lists, corruption and political interference

Across all four countries people complained about the lack of transparency and corruption in the formulation of beneficiary lists and, to a lesser extent, the damage assessment processes. Claims of non tsunami-affected persons being given houses while tsunami-affected missed out were heard in many places. This was reported to be the result of political influence and affiliations.

In Sri Lanka, beneficiary list practices differed greatly between locations. In some parts all people were aware of the list, which was finalised and publicly displayed at junctions and the market; while for example, most of the groups in Colombo had not even heard of or seen the beneficiary lists. Throughout affected districts in Sri Lanka people complained of corruption in the form of bribery and political interference. For example, in Matara, people complained that non tsunami-affected persons who received housing through political interference, do not even occupy these homes, but leave them closed up and live in their original homes instead.

According to the officials consulted at the Ministry of Planning and National Development in the Maldives, the Government's criteria for selecting beneficiaries is a 'house for a house' destroyed. International donor agencies also have their own criteria, for example, that people must have been resident in the destroyed house for the last five years. Some people openly complained of the influence of Island Development Committee members, Island office staff and business people in the selection of the beneficiary list. For example, in Laamu Atoll the majority of affected people felt the selection of people for the beneficiary list had been unfair. In the case of Gan Island, the beneficiary list was displayed on the island office and the IDP camp notice boards.

However people were not satisfied and tore down the list. The island office changed the list although people are still unhappy stating that people undeserving of new houses are included: for instance, people whose houses were not damaged by the tsunami. In Raa Atoll, IDPs from Kadholhudhoo complained that beneficiaries included people who live in Male' permanently and

the houses would be vacant. Similarly some senior government officials are also registering themselves to get new houses. The people also stated that older people who owned houses were not given houses while their children got houses.

Grievance mechanisms

Everywhere, people who encountered problems spoke of (i) either making complaints to the authorities and, for the most part, not receiving an adequate response, or (ii) being afraid to lodge complaints in case that jeopardised their opportunity to obtain their entitlements.

In Sri Lanka the overwhelming response of the people with regard to the grievance-addressing mechanism set up by the policy, is that it has failed. Most were even unaware of the existence of Village Rehabilitation Committees (and there is little data available on how many existed) and a mechanism for addressing grievances – a clear indictment on the effectiveness of the system, whilst others had no faith in it. Most communities had complained to some authority or other, but very few were satisfied with the response they received. There were a few exceptions. For example in Hikkaduwa, the Divisional Secretary has established a weekly tsunami complaints clinic which operates every Sunday and is quite popular.

In the Maldives the procedure is to fill out a form at the island office which is then sent to the Housing and Infrastructure Redevelopment Unit (HIRU) at the Ministry of Planning and National Development. In Laamu and Gaaf Alif Atolls, people said they do not know who to approach or who takes the responsibility to find a solution to their problems. Some people claim that they have written to the relevant authorities and also filled out the forms but their complaints have been pending for more than six months. According to people, when they go to the island office, officials send them to either the atoll office or the implementing agency offices. People expressed frustration and the need for a proper mechanism to deal with their problems.

Accountability

The responsibility to ensure that justice is delivered to the people and that their human rights are restored and upheld lies with the States. While it is important to appreciate the many difficulties in meeting the massive demand for housing both efficiently and fairly, the current land and housing situation serves as a severe indictment on the authorities, whose policies and poor decisions have caused undue protracted hardship for thousands of tsunami-affected persons. The lack of effective grievance mechanisms makes it difficult to hold the Government – and other stakeholders – to account. Agencies, particularly those who intervened quickly and left, could not, or have not, been held accountable to the people for poor quality or delayed house construction.

Of great concern is that aggrieved communities who are poor and excluded, and who suffer at the hands of inefficient, indifferent or corrupt officials, are most often helpless, as there is no one to turn to. This indicates a failing system of governance, where individuals are able to operate with a considerable degree of impunity.



RESETTLEMENT AREA UNDER CONSTRUCTION IN EASTERN SRI LANKA.

chapter five: conclusion

Some key issues emerged concerning land and housing in the post-tsunami context that are relevant to future disaster response programmes. Foremost is the customary right of fisher folk to their coastal land which is integral to their lives and livelihoods. The violation of the rights of coastal communities to their land denies their right to livelihood and to their larger freedoms and rights to development and dignity.

In relation to land and adequate housing, there is a lack of congruence between the laws and policies and the situational reality. The violation of international standards lies in vaguely formulated national policies and/or weak implementation processes. This is apparent with the right to adequate housing where international standards for the various components are not being met. One clear example, in all four countries, is the lack of clarity on land tenure for relocatees, that is, under what law and subject to what conditions the land is to be allocated.

Despite guidelines and standards which emphasise the importance of people's right of participation and this being a crucial principle in good governance, affected people were repeatedly omitted from decision-making processes regarding where they were to live and in what kind of house.

It is the responsibility of the State to protect and fulfil the rights of its citizens. It is therefore essential that governments control corruption and develop effective mechanisms for:

- accountability;
- formulation of beneficiary lists;
- assessment and monitoring of the implementation of policies;
- handling grievances.

The post-tsunami experience revealed that the procedures for selection of beneficiaries lacked clarity, coherence and transparency, exacerbated by the lack of information on the procedures.

The responsibility lies with the State to ensure effective relief, rehabilitation and reconstruction processes. In order to hold the State accountable, it is necessary to have a governance structure where the different stages of state responsibility and institutions involved are clearly identified. Systematic dissemination of information on policies is essential so that affected people are fully aware of their rights and entitlements.

It is also imperative that international financial institutions and other international agencies develop effective mechanisms to ensure that the codes of conduct and standards espoused are upheld in actual practice.

appendix 1 Tsunami housing requirements

India

	Tamil Nadu	Andhra Pradesh	Kerala	Pondicherry	A&N Islands	Total
Number of houses damaged or destroyed	66,407	1,150	13,640	8,302	9,714	99,213
Number of permanent houses completed (end of Nov. 2006)	23,414	59	3,797	575	0	27,845
Balance (number of houses to be constructed)	42,992*	1,091	9,843	6,992*	9,714	70,632
Number of families still in transitional shelters	17,222	Not available	Not available	Not available	9,714	26,936

* There is a need to build more houses in Tamil Nadu and Pondicherry than what is shown in the table.

Note: There are 19,922 families whose houses fall into Coastal Regulation Zone 1 in the state of Tamil Nadu, which makes them ineligible for government assistance for repair/reconstruction in situ. (The estimated number of houses in CRZ 1 is based on the assumption that 30 percent of the affected houses are in CRZ 1.)

Information source (except for last row): *Tsunami: India - Two Years After*. A joint report of the United Nations, the World Bank and the Asian Development Bank, December 2006, page 20.

Information source for last row: <http://www.tn.gov.in/tsunami/housing.html> and http://www.and.nic.in/shelter_SA/Permanent%20Shelters.htm

Maldives

Housing requirement	In situ housing completed	In situ housing in progress	Relocation houses completed	Relocation houses in progress	Not commenced	Unfunded	Temporary shelters
2,987	450	696	80	760	876	125	855

Information source: *Managing internally displaced population*. National Disaster Management Centre, August 2007.

Sri Lanka (October 2007)

District	Housing Requirement	HOD completed	HOD in progress	RL completed	RL in progress	Excess	Shortfall
Hambantota	3,193	1,424	78	4,699	13	3,021	
Galle*	14,713	10,878	835	3,276	244	520	
Matara	8,216	6,188	69	1,817	273	131	
Kalutara	7,795	5,557	203	2474	161	600	
Colombo	5,639	115	284	289	866		4,085 ¹
Gampaha	887	252	252	246	394	257	
Puttalam	74	0	0	74	0		
Ampara	29,876	19,142	5734	1,290	2,164		1,546
Batticaloa	23,432	17,620	2,463	1770	990		589
Trincomalee	10,325	3,874	607	2,161	1,766		1,917
Jaffna	9,140	2,718	1,694	896	1,314		2,518
Mullaitivu	5,457	2,141	3,316	0	0		
Kilinochchi	1,891	0	644	143	265		839
Total	120,638	69,909	16,179	19,135	8,450	4,529	11,494

*HOD: Homeowner-driven housing RL: Relocation housing *To be verified*

Information source: Table adapted² from information in UN-HABITAT Tsunami Housing Progress Report as at 31 July 2007 (draft).³ Although the UN-HABITAT report does not include Puttalam (where the housing requirement has been fully met), all the figures in the present report incorporate the Puttalam figures as contained in Progress Report of Housing as at 1 March 2007, RADA, updated to 28 March 2007.

Thailand

Houses fully damaged	Houses partially damaged	Total houses fully/partially damaged
3,302	1,504	4,806

Information source: Report of Tsunami Relief Centre, Secretarial Office, February 2005.

¹ This figure differs from the figure in the UN-Habitat Progress Report because the latter is based on a miscalculation (erroneous addition of 10 houses) in the total number of houses completed in Colombo.

² As this latest Progress Report omits the figures for Puttalam, where the housing requirement has been fully met, the Puttalam figures are taken from the *Progress Report of Housing as at 01 March 2007* (see fn. 1 above) and included in the table for the sake of completeness.

³ A relatively small number of houses is reflected separately in the Progress Report as 'Other'. A previous housing Progress Report (*Progress Report of Housing as at 1 March 2007*, above) described this category as "houses built/being built by private donors on private land who may or may not have registered with the District Secretaries." The latest Progress Report does not fully explain this category, and therefore for the purposes of this report the earlier definition will be used. On the assumption that these houses consist of relocation housing, and in order to simplify the table, the figures in the 'Other' category are included in the figures in the 'Relocation Housing' columns.

appendix 2 **Sampling criteria and approach**

This People's Report is based on the findings of consultations that took place with tsunami-affected communities in India, the Maldives, Sri Lanka and Thailand during June to September 2007. The consultations aimed to inform those consulted about the relevant laws, policies and/or government orders; to hear about their experiences and views regarding post-tsunami housing reconstruction and related land rights issues; to document these in order to influence policy makers; as well as to work with people in getting their concerns addressed.

In India consultations were conducted in 30 Indian villages in the four states of Andhra Pradesh (six villages), Tamil Nadu (18 villages), Kerala (two villages), and the Union Territories of Pondicherry (two villages) and Andaman and Nicobar Islands (two villages). In the Maldives discussions were carried out in nine islands on three atolls: Laamu, Raa and Gaaf Alif; and in Sri Lanka in 36 villages across six districts; Colombo, Galle, Matara, Hambantota, Ampara and Trincomalee. In Thailand, 412 villages in the six tsunami-affected provinces of Ranong, Phang Nga, Phuket, Trang, Satun and Krabi were covered.

Prior to the community consultations a workshop was held with facilitators from each of the participating organisations in each country to develop a common understanding regarding: the various principles and assumptions behind the People's Report; the methods and processes to be adopted during the consultations; and the land and housing related laws, policies and government orders relevant to the tsunami-affected population. Suggested questions to guide the focus group discussions were developed and modified according to each country's situation.

The sampling process for selection of villages was purposive random sampling to cover the tsunami-affected geographical locations and ethnic groups in each of the four countries. The villages selected were those where one of the members of the facilitating organisations was working with those communities. The facilitators selected and met with groups of people whose housing situation had been affected by the tsunami. Depending on the country situation sampling covered people living in: (i) permanent housing in relocation sites; (ii) permanent housing on original site; (iii) transitional shelters/IDPs awaiting relocation and permanent housing; and (iv) damaged houses on original site. The consultations were carried out by facilitators familiar with the local area.

In addition to tsunami-affected women and men discussions or interviews were held with (i) representatives from community groups; (ii)

local government authorities; (iii) national level government institutions (iv) I/NGOs.

The approach taken was not uniform in each country. For example, Thailand addressed land and housing in separate exercises. The housing component took the form of a shared learning exercise regarding people's experience with post-tsunami housing in Phang Nga and Krabi provinces. The land component focused on those groups/communities whose land was subject to dispute after the tsunami.

Despite some variation in approach, the suggested questions in the focus groups covered the following areas:

- interaction with public officials;
- grievance handling;
- beneficiary lists;
- location and ownership status of land/house before the tsunami;
- current land/housing situation.

Sample guide questions used in Sri Lanka community consultations

Guide for group discussions

- Welcome all the participants and explain the objectives of the proposed activity.
- Explain the idea of the citizen's report.
- Explain the basics of community consultations,
- Limit the discussions to housing and land issues.

1. Start a general discussion

- a. Where participants originally came from.
- b. History of the site, how it started? Why here? Basis of relocating community in this specific place etc.

2. As the discussion goes on ask participants to compare pre-tsunami and post tsunami status.

- a. Livelihood - access and distance from present residence (record numbers)
 ☺ ☹ ☹
- b. Other services e.g. schools, markets - access and distance from present residence (record numbers)
 ☺ ☹ ☹
- c. House - physical conditions e.g. quality of building materials, space, etc. (record numbers)
 ☺ ☹ ☹
- d. House - security, privacy, cooking, bathing, etc. (record numbers)
 ☺ ☹ ☹
- e. Legal status (record numbers)
 ☺ ☹ ☹
- f. Any other (specify)
 ☺ ☹ ☹

3. Analysis of service provision (Interaction with Government officials). Proposed tool - Venn Diagram

- a. Ask participants to list all important service providers relevant to Lands and housing issues. If participants did not list all - propose additions.
- b. Facilitate community members to visualise the relative importance of the above listed institutions (in 3a). If use circles; higher the importance larger the circle)
- c. Locate them on paper as per the physical distance. (Village in the centre, close organisations/ institutions nearer etc.)
- d. Link the service providing organizations/ institutions with the centre (village) based on the satisfaction of the services. (higher the satisfaction stronger the lines).
- e. Discussion:
 - i. Is your local government official(s) active and helpful?
 - ii. Describe the type of tsunami related work s/he does for you.
 - iii. When you have had to meet important organisation/ institutions – what is your perception regarding: accessibility, approachability, helpfulness, credibility?
 - iv. Do the authorities prioritise vulnerable groups? (Widows, elderly, disabled etc); if so how?
 - v. Have women faced any special difficulties in accessing housing assistance? If so what are they?

4. Location and ownership status before tsunami

- a. Your residence before tsunami:
 - Zone 1 (record numbers)
 - Zone 2 (record numbers)
 - Other areas (record numbers)
- b. Ownership status:
 - i. owner (record numbers)
 - ii. encroacher (record numbers)
 - iii. Renter (record numbers)
 - iv. Subfamily (record numbers)
 - v. Others (record numbers)

5. Beneficiary lists

- a. Are you on a beneficiary list? (yes/no - record numbers)
- b. Is there a finalised list of beneficiaries for receiving post-tsunami housing assistance in your area [owner-driven/relocation]? (yes/no - record numbers)
- c. Were 'final' decisions changed? If so, by whom? Were reasons given? What were the reasons?
- d. Are Beneficiary lists publicly displayed? If yes, where? (yes/no - record numbers)
- e. Was there any tampering with the beneficiary lists? Were affected people compelled to bribe officials to get onto the list? If so, who was responsible (who prompted – bribe-giver or taker?)
- f. Was there any political influence exerted regarding beneficiary lists?

- g. Do you know any tsunami affected people who have not been included in the beneficiary lists in your area? If so, what have they done about it? Were they successful?
- h. Have any people who were not affected by the tsunami been included on beneficiary lists or otherwise received housing assistance? If so, how did this happen?
- i. Are you generally satisfied with the manner in which beneficiaries were chosen?
- j. Have women faced any special difficulties in accessing housing assistance? If so, what are they? (single ownership by woman/joint ownership including woman to single ownership men)

6. Grievance Handling

- a. What type of a grievance mechanism exists in your village? (VRC/DRMU/Legal Aid/Other)
- b. Have you organised your community into a group which will lobby on behalf of common problems? Do you see the value of doing so?
- c. Have you ever made a complaint regarding a tsunami related matter?
- d. If so, what was the nature of the complaint, and who was it made to?
- e. Was your complaint satisfactorily addressed? (record details)
- f. How long did you have to wait for an answer?
- g. Do you have faith in the institutions which handle complaints? Why?
- h. What are your general observations/comments on the grievance handling mechanism? How would you like to see it improved?

Questions specific to particular groups

7. Ask following questions only from the residence of temporary shelters

Where you were before the tsunami? i.e. zone 1 or 2

- a. Why are you still in temporary shelters? (please elaborate on reasons)
- b. Have you been allocated new land?
- c. If yes, what is the status of the land? (if not go to question 8)
- d. Have you been given a land from the government or provided money to buy a land?
- e. If you are provided funds was it enough to purchase land?
- f. If houses are under construction, why it is delayed?
- g. If house are not under construction, why?
- h. Are your allocated lands in convenient location to your livelihoods/schools/other services?
- i. If you have not been allocated new land, why?
- j. If You were tenants or sub-families, answer following questions
- k. What are the general conditions of your shelters like? Please elaborate, with special reference to toilets, privacy, security, water, cooking, washing, community areas, other facilities etc.

- l. Do you prefer to remain long-term in the temporary shelter rather than moving to a different location [answer would probably depend on options given]?
- m. Moving back and rebuilding where you were?

8. Tenants and sub-families

- a. Where you were before tsunami (zone 1 or 2?)
- b. Are you aware of any special policy or relief applicable to tenants/sub-families in your area/ District?
- c. Are you happy with this? Do you believe it is fair?
- d. Where do you live now? What are the options you have with regard to housing?
- e. Tenants: are you familiar with the tsunami special provisions act and your rights under it?
- f. Sub-families:
 - i. Did you live with the main family as part of the same household?
 - ii. Did you live on the same plot of land in a separate section or with a separate assessment number?
 - iii. If the main family receives a new house/rebuilds, can't you go back and live with them as you did before? If not, why?

9. Ask the following questions only to the residents of relocated houses.

- a. When did you move into your new homes?
- b. Were you consulted before being allocated with your new homes – location, design?
- c. Are you happy with your new homes? Yes/no (record number)
- d. What are the facilities you have? Elaborate (better/worse than before)
- e. How far are your new homes from your old ones? Is this a problem – especially in terms of livelihood, education and health?
- f. Do you have sufficient infrastructure and facilities including water, electricity, transport, shops etc?
- g. Do you face unanticipated problems in your new location? (lack of infrastructure, problems with host communities, wild animals, etc.)
- h. Have you been given any document of ownership to the new property? If so what kind of title have you been given?
Special focus on women:
- i. Where ownership documents have been issued, how have the authorities decided in whose name they should be?
- j. Are you aware of any policy under which the family is consulted on who should be given ownership?
- k. Have you as a woman had problems getting the new house in your name even where you were the sole/joint owner of the tsunami-damaged house? If so, what were the problems? (specially relevant for east)

- l. Did you own the home you earlier lived in?
- m. If yes – did you have to prove ownership of the earlier house in order to be given the new house? Did you face any difficulties in doing so? What kind of difficulties?
- n. If no – Did this create any obstacles to your getting the new house?
- o. Were you given money by the Govt. and asked to construct your house on new land?
- p. If so, was the land given by the Govt. Or did you have to find it? Were there any problems you faced in this regard?
- q. If you had to find the land, did you face problems at a later stage in obtaining permission to build?

10. Ask following questions only from the residence of owner driven houses rebuilt/or rebuilding with government and donor grants.

- a. How did the damage assessment work? Was there any irregularity involved? Were you satisfied with the way your house was assessed?
- b. How often did you receive your reconstruction instalments? Did this delay your reconstruction? Have you received them all?
- c. Have you finished reconstruction? If you are still building, when do you hope to finish? What is delaying you?
- d. Did you have any problem in spending your money exclusively on reconstruction? Were you compelled to spend the money on day to day living? If so, how did you manage? Were you required to account for the money you spent? How?
- e. Was the grant you received sufficient for reconstruction?

appendix 3 Names of the organisations involved in the process of the people's reports in India, the Maldives, Sri Lanka and Thailand

3.1 India

No.	Organisation	Location
1	ActionAid International India	Andaman & Nicobar Islands and Tamil Nadu
2	District Fishermen's Youth Welfare Association	Visakhapatnam, AP
3	SRUJANA	Kakinda, AP
4	Society for Integrated Rural Development	Guntur, AP
5	Grama Swarajaya Rural	Payakaraopet, AP
6	NISARAGA	Nellore, AP
7	Karunalaya - Social Service Society	Chennai, Tamil Nadu
8	National Alliance of Women's	Chennai, Tamil Nadu
9	Community Development	Chennai, Tamil Nadu
10	Siga Community Service Guild	Thiruvallur, Tamil Nadu
11	Pazaverkadu Action Network	Thiruvallur, Tamil Nadu
12	Cheshire Homes International	Chennai, Tamil Nadu
13	Gandhian Unit for Integrated Development (GUIDE)	Kanchipuram, Tamil Nadu
14	Education Exnora	Kanchipuram, Tamil Nadu
15	Irula Tribal Women's Welfare Society (ITWWS)	Kanchipuram, Tamil Nadu
	Dalit Mannuraimai Kootamaippu Land Rights Federation	Puducherry, Tamil Nadu
16	Indo – Global Social Service	Cuddalore, Tamil Nadu
17	Gandhi Rural Education and Research	Cuddalore, Tamil Nadu
18	Integrated Women Development Institute	Cuddalore, Tamil Nadu
19	Mother Nala Thondu Niruvanam	Cuddalore, Tamil Nadu
20	Gram Vidiyal Trust	Cuddalore, Tamil Nadu
21	Bharathi Trust	Tiruvallur, Tamil Nadu
22	Social Need Education And Human Awareness	Puducherry, Tamil Nadu
23	Village Educational Service Association	Vedaranyam, Tamil Nadu
24	Thirumalai trust	Nagapattinam, Tamil Nadu
25	Churches Auxiliary for Social Action (CASA)	Cuddalore, Tamil Nadu
26	Discipleship Centre	Tamil Nadu
27	Vanmukzil	Tamil Nadu
28	Tirunelveli Multipurpose Social Service	Tirunelveli, Tamil Nadu
29	Trust for Rural Uplift and Education	Sathankulam, Tamil Nadu
30	Annai Theresa Welfare Trust	Tuticorin, Tamil Nadu
31	Society for Education and Development	Nagercoli, Tamil Nadu
32	Kerala Swathanthra Malsya Thozhilali Federation	Trivendrum, Tamil Nadu

3.2 Sri Lanka

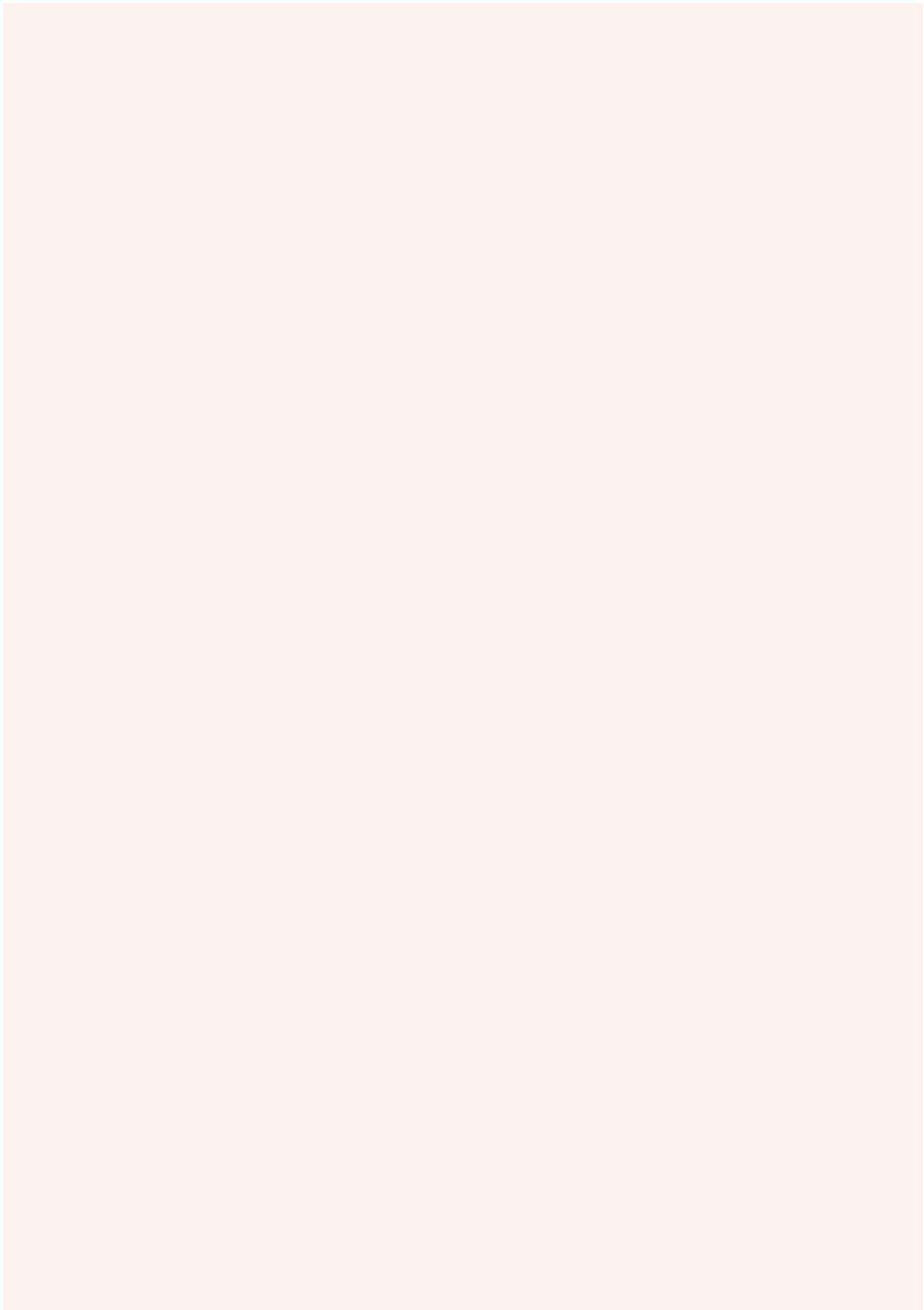
No.	Organisation	Location
1	Women and Child Care Organisation WACCO	Trincomalee
2	Sinhalese Tamil Rural Women Network	Trincomalee
3	Foundation for Co-Existence	Trincomalee
4	Al Ameen	Ampara
5	Social United Multipurpose Development Organization	Ampara
6	Members of Young Social Workers	Ampara
7	People's Planning Commission	Hambantota, Matara, Galle, Colombo
8	ActionAid International Sri Lanka	Colombo

3.3 Maldives

No.	Organisation	Location
1	Hiyavahi (housing association)	Male'
2	Dharavandhoo Islanders Society	
3	Foundation for Eydhafushi Youths Linkage (FEYLI)	Eydhafushi, Baa
4	Goidhu Zuvaanunge Jamiyya	Ba Goidhoo, Baa
5	Kendhoo Zuvaanunge Gulhun	Kendhoo, Baa
6	Organization for Development Edutainment and Sports	Dhandhoo, Gaaf Alif
7	Maamendhu Island Development Youth Awareness Association (MIDYAA)	Mamendhoo, Gaaf Alif
8	Nilandhoo Island Development Society	Nilandhoo, Gaaf Alif
9	National Women Development Society	Villingili, Gaaf Alif
10	Dhabidhoo Anhenunge Tharahgiah Mashahkah Kuraa Committee (WDC)	Dhamnbidhoo, Laamu
11	Fonadhu Zuvaanunge Guhun	Fonadhoo, Laamu
12	Mathimaradhu Zuvaanunge Jamiyya	Gan, Laamu
13	Maibaidhu Isdharivarunge Gulhun	Maabaidhoo, Laamu
14	Alifhushi Vadinge Ekuveri Jamiyya	Alifushi, Raa
15	Hulhuduffaar Zuvaanunge Roohu	Hulhuduffaaru, Raa
16	Club Youth Star	Ungoofaaru, Raa
17	Care Society	Male'

3.4 Thailand

No.	Organisation	Location
1	The Andaman Community Rights and Legal Aid Centre	Phang-Nga
2	Chom Chon Thai Foundation	Bangkok
3	ActionAid Thailand	Bangkok



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