

After the Deluge

India's Reconstruction Following the 2004 Tsunami

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I. Summary

The Indian Ocean tsunami of December 26, 2004, killed more than 280,000 people in South and Southeast Asia, including more than 10,000 in India. The roiling sea devastated large sections of coastal areas in India's southeastern states and virtually destroyed the coastal economy. Some 200,000 homes were destroyed or damaged on India's mainland. Countless lives were uprooted and shattered. Overall losses and damages are estimated at more than a billion US dollars. At least 647,556 persons were displaced and moved into emergency shelters.

In a sign of India's increasing confidence and abilities, New Delhi refused international offers to help with relief and rescue operations, as the government said it had sufficient resources to provide immediate disaster relief. India even dispatched immediate assistance to Sri Lanka, Indonesia, and the Maldives, which had suffered comparatively more from the tsunami. The Indian government adeptly coordinated its efforts with national and international non-governmental organizations, which also played an important role in providing humanitarian relief.

In India as elsewhere, despite the immense scale of the tragedy, the reaction to the tsunami has followed a model familiar from humanitarian disasters worldwide. The first phase was immediate rescue and relief, including clearing debris, cremating bodies, and setting up temporary relief camps for survivors with safe water and food. The second phase—currently underway—is rehabilitation, which will stretch over at least two years and includes the building of permanent homes for those displaced by the tsunami (referred to as internally displaced persons, or IDPs), along with economic and ecological rehabilitation. The final reconstruction phase that will stretch up to 2010 will take a “build back better” approach with an emphasis on sustainable livelihood, improving the productivity and profitability of agriculture and fisheries, and strengthening environmental defense systems.

Human Rights Watch visited several affected villages in Tamil Nadu state and the union territory of Pondicherry in January 2005, a month after the tsunami. By the time of our visit, emergency operations were winding down, the relief camps had been closed, and the government had embarked on phase two rehabilitation efforts. The local administration had begun providing temporary shelters and restoring infrastructure. A detailed damage assessment had been started. Schools had reopened in many of the affected districts. In addition, the government had solicited international donor agencies, including the World Bank, the United Nations, and the Asian Development Bank, to help fund the rehabilitation process in coordination with the national effort.

By most accounts, the national and state governments—particularly the government of Tamil Nadu state, which bore the brunt of the tragedy in India—responded promptly to the crisis, immediately launching relief and rescue operations and assisting survivors, especially the fishing communities of the seashore. Those who survived the devastation wrought by the tsunami said that their immediate concern was to maintain the basic necessities of life—food, livelihood and shelter.

Human Rights Watch received several reports of problems with distribution of food and provision of shelter during the immediate relief effort. Such shortcomings would not necessarily be noteworthy given the size of the disaster and relief effort, but in this case, as described below, they highlight more systemic and potentially enduring failures to take into account the needs of different vulnerable communities. Particularly worrisome were consistent reports of discrimination based on caste status in the distribution of aid. While the government changed some policies when it was made aware of discriminatory practices on the ground, the greatest source of trouble seemed to be discrimination against Dalits by other victims of the tsunami, notably the communities of fishermen, who view themselves as belonging to a higher caste. Rooting out such ingrained discrimination will require more proactive measures from the government.

Many farmers and farm laborers living close to the coast were also affected when their fields were deluged by seawater, ruining the harvest and the soil. Most residents of such areas are sharecroppers, tenants, or landless agricultural laborers; many are Dalits (so-called untouchables). This group was ignored during initial relief efforts because it did not suffer as many direct casualties from the tsunami. However, most of the families concerned subsist on agriculture and daily wages and lost their livelihoods. When the government and NGOs started delivering emergency rations to this group, members of fishing communities—who had suffered greater casualties—often blocked access, saying relief was unnecessary because sharecroppers, tenants, and landless agricultural laborers had suffered fewer deaths.

Thousands of other people, such as traders, carpenters, and cleaners whose livelihood is indirectly supported by the fishing communities, voiced similar complaints about shortcomings in the relief effort.

Human Rights Watch recognizes the substantial achievements of the Indian government, as well as those of NGOs in addressing the massive disaster. Still, policy changes are necessary if rehabilitation and reconstruction efforts are to best serve all of those who directly or indirectly suffered the fury of the tsunami. Our main concerns include:

- persistent reports of discrimination against Dalits and members of tribal groups by other caste groups;
- government failure to address the particular needs of women and girls, including failure to provide adequate sanitation and health facilities in some temporary shelters to protect their privacy and security;
- inadequate measures to protect the disabled among those affected by the tsunami;
- problems in protecting the livelihood of people without assets such as wage laborers or tenant farmers;
- inadequate transparency and consultation with community groups, which will be crucial to successful long-term relocation of displaced people and development of coastal land;
- problems in compensating people who had either lost title to their property or who lacked proper title because they resided on unused government land.

As we set out more fully below, some of these issues have hampered the rehabilitation and reconstruction phases of India's efforts to deal with the tsunami. One way to help ensure that all those affected by the tsunami are fairly and appropriately assisted in the coming months and years is to incorporate a human rights perspective in the reconstruction process. We believe such an approach is also the one most likely over time to generate the kind of local initiative and economic activity essential to full recovery. It is our hope that in addressing the urgent economic and social problems raised by the tsunami, the Indian government seriously grapples with pre-existing political, social, and economic rights violations that have beset the people of the affected areas, and that national and local authorities will be more sensitive to these issues when framing a permanent disaster management policy.

Although India has enacted legislation and policy to protect vulnerable groups such as Dalits, tribal groups, religious minorities, women and children, it has had difficulty implementing these policies, particularly in a disaster situation. Doing so in the context of the tsunami relief and reconstruction effort (as well as in response to future natural disasters) will require effective training and education of district officials who are usually the first to handle such crises. Human Rights Watch also recommends that the government of India, state and district administrations, voluntary groups and donor agencies take the following steps:

- improve public education and law enforcement efforts to better combat caste-based discriminatory practices and fully implement the provisions of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995;

- seek to restore a sustainable livelihood for all communities of fishermen by ensuring that fishermen have adequate access to the coastline, and have proper boats and implements necessary to resume their trade;
- seek to restore a sustainable livelihood for communities indirectly affected by the tsunami, by creating compensation mechanisms that account for non-tangible assets, and by providing alternate employment for daily wage laborers in local reconstruction efforts;
- provide equitable distribution of resources without caste, gender, or religious prejudice;
- provide adequate measures to meet the protection needs of women, children and the disabled;
- engage in consultations with local communities to prevent arbitrary or discriminatory relocation or any unreasonable denial of the option to return home; and
- encourage cooperation among government officials, non-governmental organizations and donor agencies to prevent uneven or inefficient distribution of resources.

Human Rights Watch also urges the Indian government to implement the UN Guiding Principles on Internal Displacement (the Guiding Principles) when addressing the needs of tsunami victims. The UN Guiding Principles apply not only to persons displaced by armed conflict and violations of human rights, but also by natural disasters. These principles call on authorities to provide internally displaced persons with an adequate standard of living, and at a minimum ensure their safe access to:

- (a) Essential food and potable water;
- (b) Basic shelter and housing;
- (c) Appropriate clothing; and
- (d) Essential medical services and sanitation.

The Guiding Principles also call on authorities to provide aid on a non-discriminatory basis and to take “special efforts ... to ensure the full participation of women in the planning and distribution of these basic supplies.” Furthermore, the guidelines clearly state that “internally displaced persons, such as children, especially unaccompanied

minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.”

A more detailed set of recommendations appears at the end of this report.

II. Background: The impact of the tsunami

The December 2004 tsunami struck nearly 2,260 kilometers of the mainland coastline of India, as well as the Andaman and Nicobar islands.¹ Tidal waves as high as ten meters penetrated inland up to three kilometers.² At least 10,273 people were killed in India.³ Another 5,823 are missing, most of them from the Andaman and Nicobar islands: all are feared dead.⁴ Among the casualties in India, at least 8,010 were killed in the state of Tamil Nadu.⁵ The other deaths were reported from Andhra Pradesh (105), Andaman and Nicobar islands (1,755), Pondicherry (591) and Kerala (171).⁶ At least 647,556 persons were displaced and moved to emergency shelters.⁷

Over 2.7 million people in India were affected by the tsunami in five states and Union Territories.⁸ The total financial loss is estimated at over U.S.\$1.8 billion and will rise

¹ Tsunami Impact, Situation Report, Ministry of Home Affairs, Government of India. January 18, 2005 [online], <http://ndmindia.nic.in/Tsunami2004/sitrep35.htm> (retrieved February 9, 2005).

² World Health Organization, India Weekly Tsunami Report, February 3, 2005 [online], http://w3.whosea.org/en/section23/section1108/section1835/section1851/section1866_8701.htm (retrieved February 9, 2005).

³ Statement made by Home Minister Shivraj Patil in Parliament regarding relief and rehabilitation of tsunami affected people, March 10, 2005 [online], mha.nic.in/press-release/pr100305b.pdf (retrieved April 10, 2005)

⁴ Ibid. Also see the official website for information on the tsunami, Ministry of Home Affairs, Government of India [online], <http://ndmindia.nic.in/Tsunami2004/sitrep35.htm> (retrieved February 9, 2004).

⁵ Government of Tamil Nadu as of February 9, 2005 [online], <http://www.tn.gov.in/tsunami/damages.htm> (retrieved February 9, 2005).

⁶ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, United Nations Country Team, India, March 2005 [online], <http://www.undp.org.in/dmweb/Tsunami/default.htm> (retrieved April 1, 2005).

⁷ Tsunami: India Situation Update, World Health Organization, March 3, 2004 [online], http://w3.whosea.org/EN/Section23/Section1108/Section1835/Section1851/Section1866_8857.htm (retrieved April 11, 2005). Many have since returned to their homes. Others, whose houses were damaged or destroyed, have been provided with temporary shelters.

⁸ Tsunami impact situation report, Ministry of Home Affairs, Government of India. January 18, 2005 [online], <http://ndmindia.nic.in/Tsunami2004/sitrep35.htm> (retrieved February 9, 2005).

once a detailed damage assessment for Andaman and Nicobar is completed.⁹ According to early estimates by the Indian government, over 230,000 homes were damaged in 1,089 affected villages, more than 35,000 livestock lost, nearly 22,000 hectares of cropped area damaged, and over 83,000 fishing boats damaged or lost.¹⁰ There was extensive damage to infrastructure including roads, jetties, bridges, hospital, schools, electricity and water supplies.

Coastal communities of fishermen bore the brunt of the disaster, both in terms of the immediate impact of the waves, and in terms of loss of livelihood. Some 70-80 percent of the dead on the Indian mainland were from such communities. According to the government, at least 150,000 marine fishing families lost their livelihood in Tamil Nadu.¹¹

Different caste groups engage in fishing-related activity— Meenavars, who consider themselves to be of a higher caste than both members of local tribes, and the Dalits (so-called untouchables).¹² They live in a hierarchical relationship and while there is some economic and social interaction, their lives are mostly segregated. Members of the Meenavar community are those who take boats out to sea; Dalits work as manual laborers to move, clean and sort the catch; clean the boats; pack for fish traders; and sometimes sell fish. Some Dalits and tribals also engage in inland fishing along creeks or deltas.

Since the Meenavars live closest to the sea, they suffered the heaviest losses in the tsunami whether measured in terms of loss of life, damage to livelihood, or destruction of homes.

⁹ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, United Nations Country Team, India, March 2005. Also see World Health Organization, India Weekly Tsunami Report, February 3, 2005 [online], http://w3.whosea.org/EN/Section23/Section1108/Section1835/Section1851/Section1866_8857.htm (retrieved March 11, 2005).

¹⁰ Statement made by Home Minister Shivraj Patil in Parliament regarding relief and rehabilitation of tsunami affected People, March 10, 2005. See online mha.nic.in/press-release/pr100305b.pdf. Also see Oxfam, Situation Update, South India and the Andaman & Nicobar Islands, January 26, 2005 [online], www.oxfam.org.uk (retrieved February 9, 2005) and Tsunami, India Situation Update, World Health Organization, March 3, 2005.

¹¹ Government of Tamil Nadu, Government Order Dated January 5, 2005 [online], <http://www.tn.gov.in/tsunami/gorders/rev-e-8-2005.htm> (retrieved February 1, 2005).

¹² The term Dalit literally means broken or oppressed people and is a term employed by rights activists to refer to those belonging to the "untouchable" caste. See Human Rights Watch, *Broken People: Caste Violence Against India's "Untouchables"* (New York: Human Rights Watch, 1999).

Also affected were farmers, many of them wage laborers or tenants. The standing crop was destroyed in the tsunami just before harvest, leading to loss of livelihood. Farmers say that it will take several years for the land to recover because the surging sea has turned the soil brackish.

In addition to those directly harmed by the tsunami, hundreds of thousands of others—craftsmen, laborers, traders, barbers, tailors, fishnet menders, boat repairmen, fuel suppliers, and others who provide commercial services to the fishing communities—were indirectly affected because their livelihoods were somehow connected to the economic activity of the fishing industry.

As one local academic told Human Rights Watch: “I would say that the economy of this region depends upon [the fishermen]. If they don’t catch fish, how will they buy things? How then will all these traders survive?”¹³

Andaman & Nicobar Islands

This group of islands, populated by indigenous peoples, some of whom have had little contact with the outside world, are located in the Bay of Bengal, about 1,200 kilometers from the east coast of mainland India. Of thirty-seven inhabited islands, the tsunami and the resulting coastal flooding affected fifteen, thirteen of them in Nicobar. Nearly 300,000 people were affected and seven islands had to be completely evacuated.¹⁴

The airport in the capital, Port Blair, was quickly repaired to provide aerial delivery of relief materials and for emergency evacuation.¹⁵ The United Nations Children’s Fund (UNICEF) was active in some islands to provide water and sanitation while the World Health Organization (WHO) was active in providing health supplies. Over sixty NGOs including Oxfam, Save the Children, Action Aid, Voluntary Health Association of India or Child Line Foundation are helping with rehabilitation efforts.¹⁶ On some islands, however, the Indian government has not allowed foreign and international agencies and NGOs to operate because they are militarily sensitive or because the tribal communities

¹³ Human Rights Watch interview with R. Kaladharan, Nagapattinam, January 28, 2005.

¹⁴ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, March 2005, United Nations Country Team, India.

¹⁵ For details of government efforts in Andaman & Nicobar see the official website [online], <http://www.and.nic.in/hcarnic.htm> (retrieved February 15, 2005).

¹⁶ List of NGOs/Agencies Who Have Undertaken Relief Works in Andaman and Nicobar Islands, Government of Andaman and Nicobar [online], <http://tsunamiandaman.tn.nic.in/allngos.htm> (retrieved May 6, 2005).

living in these areas have had and wish to have little interaction with the outside world.¹⁷ The government has been solely responsible for relief, recovery and rehabilitation in those areas.¹⁸

Human Rights Watch did not conduct any direct research on conditions in the Andaman and Nicobar islands, but others have reported that relief operations were slow to get started and that it took several days before emergency relief was delivered to people stranded there.¹⁹

At this writing, the government had nearly completed the process of setting up 10,000 intermediate shelters for families still living in relief camps.²⁰ In the future, the government intends to build planned villages with health centers, playgrounds, and other such facilities.²¹ Employment generation schemes have been started and compensations for deaths and losses are being distributed.²² However, there is fear that people might be forcibly displaced from their original habitat to make way for tourist resorts. There have also been recent reports that little compensation is being distributed in the ravaged islands. A BBC reporter, for instance, found that one woman had received just two rupees, less than five US cents, as compensation for her destroyed coconut trees.²³ However, the government, after an enquiry into this case, said that the victim had

¹⁷ "Foreign NGOs Seek Andamans Access," BBC News Online, January 3, 2005 [online], http://news.bbc.co.uk/1/hi/world/south_asia/4142539.stm (retrieved May 6, 2005). Some tribal communities living in these islands have long resisted any interference from the outside world, and in some cases, have even attacked strangers. A helicopter dropping relief supplies, for instance, was attacked with bows and arrows. See BBC News Online, "Tribe Shoots Arrows At Aid Flight," January 4, 2005 [online], http://news.bbc.co.uk/2/hi/south_asia/4144405.stm (retrieved May 6, 2005).

¹⁸ Janaki Kremmer, "No Easy Access for Remote Islands," *The Christian Science Monitor*, January 4, 2005 [online], <http://www.csmonitor.com/2005/0104/p06s01-wosc.html> (retrieved May 6, 2005).

¹⁹ See statement by Asian Human Rights Commission, India, Stop Discriminatory relief Operations to Victims, January 10, 2005 [online], <http://www.ahrchk.net/statements/mainfile.php/2005statements/250/>.

²⁰ On February 17, 2005, a month-and-half after the tsunami, the government of India approved a \$180 million dollar relief and rehabilitation package to build temporary shelters, restore infrastructure and revive agriculture. For details of relief and compensation policies see Rajiv Gandhi Rehabilitation Package for Tsunami Affected Areas, Government of Andaman and Nicobar [online], <http://tsunamiandaman.tn.nic.in/REHABILITATION%20PACKAGE.htm> (retrieved May 6, 2005).

²¹ Government of India report. [online], <http://www.and.nic.in/hcarnic.htm> (retrieved February 15, 2005).

²² For details of relief and rehabilitation measures see reports from the Government of Andaman and Nicobar, [online], <http://tsunamiandaman.tn.nic.in/>.

²³ Subir Bhaumik, "Anger Over Two Rupee Tsunami Aid," BBC News Online, April 28, 2005 [online], http://news.bbc.co.uk/2/hi/south_asia/4492695.stm (retrieved May 6, 2005). Also see Justin Huggler, "India gives survivors of tsunami 2p in compensation," *The Independent*, May 1, 2005 [online], <http://news.independent.co.uk/world/asia/story.jsp?story=634666> (retrieved May 6, 2005).

received full and fair compensation and that the check cited in the BBC report was an additional payment after a reassessment of her loss.²⁴

III. The immediate response to the tsunami

India has been congratulated by the media, local groups, and donor agencies for its prompt action after the tsunami.²⁵ Not only was an effective relief and rescue operation launched in the country, prompt assistance was dispatched from India to Sri Lanka, Maldives, and Indonesia.²⁶ When claims of official incompetence arose in Tamil Nadu, the government immediately dispatched officers with experience in disaster management. Both in Nagapattinam and in Cuddalore districts, Human Rights Watch observed that the district chief was actively involved in the relief operations.

But Human Rights Watch also learned of numerous instances in which government and nongovernmental aid organizations were either redundant or working at cross-purposes.²⁷ As the post-tsunami period moves into the long-term reconstruction phase, it is time for authorities to create an efficient and rational system to harness the well-intentioned energies of official and nongovernmental assistance efforts.²⁸

²⁴ The government of Andaman and Nicobar later denied the reports. In the particular case cited by BBC, the government said that the victim had been compensated for loss of household articles and given cash relief. She was also paid the full amount in compensation for the loss of her coconut trees and based on a later recalculation, she was given an additional two rupees. See Administration Clarifies News Reports, May 1, 2005 [online], <http://tsunamiandaman.tn.nic.in/sunday0105.htm> (retrieved May 6, 2005).

²⁵ World Bank Country Director Michael Carter said, "It is truly impressive to see the way India has responded in providing basic necessities to the affected people," Tsunami Recovery in India: The World Bank Responds [online], <http://www.worldbank.org.in/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/INDIAEXTN/0,,contentMDK:20315755~pagePK:141137~piPK:141127~theSitePK:295584,00.html> (retrieved April 11, 2005).

²⁶ Ministry of External Affairs, Government of India, Response to Question 340 in Parliament regarding assistance to tsunami affected countries, March 2, 2005 [online], <http://meaindia.nic.in/parliament/ls/2005/03/02ls20.htm>; Press Guidance on India's position on Tsunami Relief Assistance, January 21, 2005 [online], <http://www.indianembassy.org/press-release/2005/Jan/9.htm> (retrieved February 15, 2005).

²⁷ Satya Sivaraman, "In Tamil Nadu, Ask for Bread and Get a Bakery," Inter Press Service News Agency, January 10, 2005 [online], <http://www.ipsnews.net/print.asp?idnews=26961> (retrieved February 1, 2005); Mari Marcel Thekaekara, "The Tsunami Relief Effort," *The Hindu*, January 4, 2005 [online], <http://www.hindu.com/2005/01/05/stories/2005010503341200.htm> (retrieved April 11, 2005).

²⁸ UN Special Envoy for Tsunami Affected Countries said at a press conference on April 13, 2005: "We have to learn from what has been done and from what we're doing now, and come up with a set of best practices for how we should have an early warning system, how we should mitigate the disasters that do occur, how we should manage those that occur and how we should deal with the kinds of challenges that we face here," [online], <http://www.un.org/apps/sg/sgstats.asp?nid=1399> (retrieved May 9, 2005).

Under the Indian Constitution, several key decision-making powers are vested with local village councils. The councils, or panchayats, are supposed to function as institutions of self-governance with the authority to prepare plans and implement schemes for economic development and social justice including rural housing, agricultural reform, water management or poverty alleviation programs.²⁹ These councils are elected and it is mandatory to have some women representatives. However, in practice, the system suffers from several shortcomings, as became apparent during initial rehabilitation efforts in the weeks following the tsunami.

In some places, the village leader belonged to a particular caste or religious group and only represented that group's interests. Although women served on the councils, women victims still faced discrimination in gaining access to an equal share of humanitarian aid, often distributed through male household heads. Government officials at the implementing level often failed to delegate authority to the village councils or to consult with them to ensure community participation in relief and rehabilitation. In some villages, Human Rights Watch witnessed local politicians and administrative officials asserting that they, not village council leaders, were the real decision makers.

Need for better coordination with nongovernmental groups

The shocking images of destruction caused by the tsunami led to an outpouring of donations and emergency supplies to India.³⁰ Both government relief agencies and private voluntary groups received an unprecedented amount of contributions. However, in the days immediately following the tsunami, poor coordination led to duplication of efforts in some areas, while other, less accessible populations received no help at all.

According to an assessment by Bhoomika Trust, an NGO that coordinates relief efforts in natural disasters, there were numerous reports of unproductive efforts by well-meaning groups and multiple groups coming to the aid of the same community. For instance, different medical teams were found giving shots to the same people. Said Raju Rajagopal of Bhoomika Trust:

It is true that help is not reaching certain sectors. There are people with need, but there are a lot more people with supplies, waiting to give to

²⁹ Panchayati Raj, 73rd Amendment Act, 1992. For details see <http://rural.nic.in/panch.htm>.

³⁰ The United Nations Development Fund estimates that the corporate sector in India contributed over eight million US dollars in cash, food, medicines and other humanitarian supplies. Indian companies also contributed nearly ten million US dollars to the Prime Minister's National Relief Fund. Private citizens contributed generously to the Prime Minister's fund and those set up by the state governments. In addition, non governmental organizations received a lot of donations both from India and abroad.

people. The need is to share information so that we can deliver assistance.³¹

A lack of understanding of local needs also led to problems. For instance, trucks full of used clothes arrived, but with roads damaged, they could not always reach the affected areas. Clothes were heaped along the road, where they remained at the time of Human Rights Watch's visit. The clothes that were delivered were often inappropriate. Activists, for instance, complained to Human Rights Watch that village women do not wear skirts or dresses; they need saris, undergarments and most urgently, sanitary towels.³²

There were reports of squabbles within communities or between villages because some people received supplies that others did not. Government officials admitted that this was a problem, particularly because local communities could not distinguish between relief materials provided by the government and those supplied by NGOs. As J. Radhakrishnan, the administrative chief of Nagapattinam told Human Rights Watch:

By and large the NGOs and volunteers have been very helpful. But some people are dependent on the administration and expect us to organize rooms, vehicles and translators, which becomes a problem when all our resources are geared toward disaster management...NGO help has also been supply driven, instead of demand driven, which has sometimes been a problem. For instance, some NGOs distributed the wrong kind of rice and the administration was blamed. Another NGO distributed toothpaste in some villages, and we had angry complaints from others who thought that the government was not distributing fairly.³³

IV. Addressing the needs of vulnerable populations

Children, women and the disabled are particularly vulnerable in disaster situations. Apart from having to cope with psychological trauma, these groups often fail to gain equal access to humanitarian aid. Children can be separated from their relatives. They can also fall prey to epidemics or malnourishment because emergency food rations fail to accommodate their particular needs. The disabled can lose their assistive devices and be

³¹ Human Rights Watch interview with Raju Rajagopal, Bhoomika Trust, Chennai, January 27, 2005.

³² Human Rights Watch interview with the NGO Coordination Center, Nagapattinam, January 27, 2005.

³³ Human Rights Watch interview with J.Radhakrishnan, District Collector, Nagapattinam, January 29, 2005.

separated from their customary caregivers. Disruptions in family and community support structures, inadequate housing, and a lack of support services also put women and children at increased risk of violence or trafficking.

The Guiding Principles on Internal Displacement³⁴ recognize that certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers and those with young children, female heads of household, persons with disabilities, and elderly persons, are “entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.”³⁵ The UN Guiding Principles apply not only to persons displaced by armed conflict, but also by natural disasters.³⁶

As discussed in detail below, protection of vulnerable groups should become part of the government’s disaster management policy.³⁷ While the government has agencies dedicated to addressing the particular needs of such groups and has many directly relevant policies, the policies too often are not implemented on the ground.

Children

Over a million children were affected by the tsunami.³⁸ According to UNICEF, nearly a third of the estimated 280,000 dead were children, who could not save themselves when

³⁴ Although not legally binding, the U.N. Guiding Principles on Internal Displacement (UN Guiding Principles), U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Commission on Human Rights res. 1998/50, provide an authoritative normative framework for the protection of IDPs. They are a firm restatement of existing international human rights, humanitarian and refugee law as it relates to the internally displaced, drawing heavily on existing standards and providing additional explanation and guidance where there are gaps. The Guiding Principles are intended to provide practical guidance to governments, the U.N. and other intergovernmental agencies and nongovernmental organizations in their work with IDPs. Human Rights Watch encourages the establishment of complaints mechanisms and other tools to address violations of the Guiding Principles when they occur.

³⁵ United Nations Office for the Coordination of Humanitarian Affairs, Guiding Principles on Internal Displacement, Principle 4.2.

³⁶ The Introduction to the UN Guiding Principles state: “For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or *natural or human-made disasters*, and who have not crossed an internationally recognized State border” [emphasis added].

³⁷ An integrated approach to humanitarian assistance from a human rights perspective can be found in *The Sphere Handbook* (2004 edition), The Sphere Project [online], <http://www.sphereproject.org/handbook/index.htm> (“Sphere is based on two core beliefs: first, that all possible steps should be taken to alleviate human suffering arising out of calamity and conflict, and second, that those affected by disaster have a right to life with dignity and therefore a right to assistance”).

³⁸ Children, as defined under the Convention on the Rights of the Child, are individuals below 18 years of age. Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990.

the waves struck.³⁹ Thousands of children were killed in India, and tens of thousands lost relatives.⁴⁰

Children are especially vulnerable in disasters because they can easily become victims of illness, malnutrition, trafficking or sexual violence. Activists complained that during immediate relief and rescue operations, there was a lack of sensitivity to the needs of children, particularly the need for special food, nutrition, or psychological care.⁴¹ These were later addressed by some humanitarian agencies and voluntary organizations.⁴²

Soon after the tsunami, the World Health Organization (WHO) issued warnings against water-borne diseases. Nearly 350,000 children were feared to be at risk. However, because of prompt efforts by the government and voluntary agencies, including WHO and UNICEF, epidemics of diarrhoea, cholera, and measles were prevented.⁴³

Aid workers assisting children told Human Rights Watch that many children suffered physical injuries, particularly loss of eyesight, as well as post-trauma disorders.⁴⁴ It is now widely accepted that early psychosocial interventions to mitigate the effect of trauma and alleviate psychological distress should be an integral part of humanitarian assistance. In the case of children and adolescents, psychosocial interventions must aim to maintain or re-establish their normal development process.⁴⁵

³⁹ UNICEF [online], http://www.unicef.org/media/media_24628.html (retrieved April 2, 2005).

⁴⁰ "Debating the Future of Tsunami Hit Children," Times Foundation, January 11, 2005 [online], <http://timesfoundation.indiatimes.com/articleshowmsid-987121> (retrieved February 5, 2005).

⁴¹ Draft note prepared by Terre des Hommes and the Tata Institute of Social Sciences, January 2005. Copy available with Human Rights Watch.

⁴² On February 3, 2005 at a meeting held by the NGO Coordination Center for Child Care and Protection, participants called upon the government to adopt a series of measures on behalf of children including constant surveillance to prevent trafficking. For details see www.tsunami2004-india.org/downloads/childcare_minutes_feb3.doc.

⁴³ "Quick Tsunami Response Prevented Water Borne Disease," UNICEF, March 17, 2005 [online], http://www.unicef.org/emerg/disasterinasia/24615_25680.html (retrieved April 12, 2005).

⁴⁴ Activists said that many children had suffered from shock and numbness. Others were in the grip of a fear psychosis and some even experienced seizures at the thought of seeing the sea again. Also see Anupam Srivastav, *Traumatized Children at Risk of Infection* [online], http://www.unicef.org/emerg/disasterinasia/24615_25682.htm (retrieved May 6, 2005).

⁴⁵ 'Psychosocial Care and Protection of Tsunami Affected Children – Inter-Agency Guiding Principles', January 2005, produced by UNHCR, UNICEF, ICRC, the International Rescue Committee, Save the Children UK, and World Vision International, January 18, 2005 [online], <http://www.savethechildren.org.uk/scuk/jsp/resources/details.jsp?id=2468&group=resources§ion=policy&subsection=details> (retrieved February 9, 2005).

At least 529 children orphaned by the tsunami are in state-run homes.⁴⁶ The Guiding Principles call for appropriate action to be taken to hasten the reunion of families separated by displacement. The responsible authorities are to “facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.”⁴⁷

Initially, there was a rush to adopt tsunami orphans.⁴⁸ In view of the fact that so many children in India are still awaiting adoption, the enthusiasm to adopt children affected by the tsunami was thought by some activists to have been driven by media images and a short-term response to the crisis.⁴⁹

Some activists have called for a one-year ban on the adoption of children affected by the tsunami.⁵⁰ The Indian government too, has been cautious about allowing the adoption of tsunami orphans, and is still reviewing applications.⁵¹ This is because experts believe that uprooting children after such a trauma can cause more damage, and recommend that efforts initially focus on helping separated or orphaned children find a home with sympathetic relatives or customary care givers.⁵² However, there is a risk there, too, as in some cases so-called relatives have also come forward, hoping to get their hands on the compensation to which orphaned children are entitled.⁵³ (The Indian government has distributed a hundred thousand rupees, about U.S. \$2,300,⁵⁴ to the next-of-kin of each

⁴⁶ Arun Kumar Das, “Tsunami Orphans Yet to be Adopted,” *The Times of India*, April 3, 2005, p. 7. Home Minister Shivraj Patil, in a statement in parliament regarding relief and rehabilitation of tsunami affected people on March 10, 2005 said that 530 children had been orphaned.

⁴⁷ Guiding Principles, principle 17(3).

⁴⁸ Orphan, in this case, means children that lost both parents.

⁴⁹ Sunil Raman, “Tough Decisions on Tsunami Orphans,” BBC News Online, March 3, 2005 [online], http://news.bbc.co.uk/2/hi/south_asia/4312453.stm (retrieved April 11, 2005); George Iypem “Clamor to Adopt Orphans Of Tsunami,” Rediff Special, January 5, 2005 [online], <http://in.rediff.com/news/2005/jan/06spec1.htm> (retrieved April 11, 2005).

⁵⁰ “One Year Adoption Ban Essential to Prevent Human Traffickers,” AFP, January 6, 2005 [online], http://www.dailytimes.com.pk/default.asp?page=story_7-1-2005_pg4_22 (retrieved April 11, 2005).

⁵¹ Arun Kumar Das, “Tsunami Orphans Yet to be Adopted,” *The Times of India*, April 3, 2005, p. 7.

⁵² Unaccompanied and Separated Children in Tsunami-affected Countries, Guiding Principles by the International Committee of the Red Cross (ICRC), the International Rescue Committee (IRC), Save the Children UK (SCUK), the United Nations Children’s Fund (UNICEF), the United Nations High Commissioner for Refugees (UNHCR) and World Vision International (WVI), January 2005; “India, Tsunami Orphans Shun Adoption,” Reuters, January 17, 2005 [online], <http://www.csa.org.in/Tsunamiorphansshunadoption.htm> (retrieved April 11, 2005).

⁵³ “Debating the Future of tsunami children,” India Abroad News Service, January 11, 2005. Government officials in Tamil Nadu said that there was fear that the children might fall into the care of greedy caregivers.

⁵⁴ Exchange rate US\$ 1= Rs. 43.35 on May 9, 2005.

person who was killed by the tsunami. Various states and union territories have also created fixed bank deposits for each orphan, to be claimed when they turn eighteen.)⁵⁵

According to major humanitarian organizations, long-term care arrangements, including adoption, should not be made during the emergency phase.⁵⁶ In the long term, if family reunification is not possible, then adoption may emerge as an option. But any adoption has to be determined as being in the child's best interest and in keeping with national and international law.⁵⁷

In the best interests of the child, the government should ensure that families are not inadvertently separated because of loss of livelihood as a result of the crisis. Utmost efforts should be made to locate relatives who are willing and capable of caring for affected children. Assistance should be provided to these relatives when necessary. Many children lost a parent in the tsunami. The surviving parent has to work and may find it difficult to take care of the children.⁵⁸ Organized community care should be arranged and encouraged to help these families. Residential care should only be used as a measure

⁵⁵ For instance, the Tamil Nadu government placed Rs. 500,000 for each orphaned child in a fixed deposit that will be given to the child when they turn eighteen. See Anupama Vishwanathan, "Tsunami: Government Yet to Give A Nod For Adoption," January 25, 2005 [online], <http://www.digantik.com/Digantik/Tsunami/anupama.adoption.htm> (retrieved April 11, 2005). The government of Andaman and Nicobar Islands has announced a Rs. 200,000 compensation for orphans and Rs. 100,000 for unmarried girls above the age of eighteen that have lost both parents. See Rajiv Gandhi Rehabilitation Package for Tsunami Affected [online], <http://tsunamiandaman.tn.nic.in/REHABILITATION%20PACKAGE.htm> (May 6, 2005).

⁵⁶ Unaccompanied and Separated Children in Tsunami-affected Countries, Guiding Principles by the International Committee of the Red Cross (ICRC), the International Rescue Committee (IRC), Save the Children UK (SCUK), the United Nations Children's Fund (UNICEF), the United Nations High Commissioner for Refugees (UNHCR) and World Vision International (WVI), January 2005.

⁵⁷ Adoption of children in India is monitored by the Central Adoption Resource Agency of the Ministry of Social Justice and Empowerment and its policies are determined by the National Policy on Welfare of Children and the Guidelines to Regulate Matters Relating to Adoption of Indian Children, 1994. These guidelines are based on a 1984 Supreme Case verdict in Laxmi Kant Pandey Vs. Union of India. Adoption policies in India are determined by the Supreme Court verdict, the guidelines on adoption as well guidelines provided under international laws like the United Nations Declaration on the Rights of the Child, 1989 and the Hague Convention on Inter-Country adoption of 1993. The Convention on the Rights of the Child in article 21 states in part that states:

shall ensure that the best interests of the child shall be the paramount consideration and they shall:
... Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary.

⁵⁸ Pallava Bagla, "Caring for Children Hit Hard by the Tsunami," March 30, 2005 [online], http://www.unicef.org/emerg/disasterinasia/24615_25816.html (retrieved April 11, 2005). In Tamil Nadu's worst affected Nagapattinam district, 222 children lost both parents and 879 lost one parent.

of last resort, particularly as orphanages and other non-penal institutions in India are generally substandard facilities.⁵⁹

Displaced children living in temporary shelters need special protection. Girls, in particular, are at risk of rape or sexual harassment. The tsunami has made children particularly vulnerable to trafficking because of loss of family and livelihood. It is important for the authorities to recognize that children not in the care of their parents or customary caregivers are at heightened risk of abuse and exploitation and could even end up in the worst forms of child labor. There should be constant monitoring and support for children affected by the tsunami.

Many children, particularly girls, are also not able to get to school on time because long queues in the morning prevent them from using toilet and bathing facilities in time to leave for school. Most schools have reopened, but many children lost their books and notebooks in the tsunami. While replacements are being distributed by NGOs and government agencies, distribution has been uneven. Authorities should ensure that every child affected by the tsunami receives a fair and equitable share of these and other resources. Some displaced children are in temporary camps far away from their schools. With livelihood destroyed, activists fear that parents may not be able to afford bus fares or schooling costs. As Ossie Fernandes of the Chennai-based Human Rights Advocacy and Research Foundation, warned: “We are going to get a high number of dropouts if nothing is done quickly.”⁶⁰

Women and girls

Women and girls often confront discrimination and gender-based violence in the aftermath of large-scale natural disasters.⁶¹ Women confront discrimination in gaining access to humanitarian aid, often distributed through male household heads. Disruptions in family and community support structures, inadequate housing, and a lack of support services also put women and girls at increased risk of violence with limited access to help. Pregnant and lactating women may not have access to necessary health care and food supplements.

⁵⁹ The Convention on the Rights of the Child, article 21, provides that alternative care for children permanently deprived of their family environment includes “foster placement, *kafalah* of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.”

⁶⁰ Human Rights Watch interview, Ossie Fernandes, Chennai, February 7, 2005.

⁶¹ “The tsunami's impact on women,” Oxfam briefing note, Oxfam International, March 2005 [online], http://www.oxfam.org.uk/what_we_do/issues/conflict_disasters/bn_tsunami_women.htm (retrieved May 10, 2005).

The Guiding Principles call for special attention to the health care needs of women, including reproductive health,⁶² and for the right of women to be treated equally during distribution of aid.⁶³

Many women and girls complained to Human Rights Watch that they did not have proper, safe and private toilet and bathing facilities in relief camps and temporary shelters for the displaced. One woman pointed to some shrubs behind the shelter and said that is what she and her daughters used as a toilet.

Human Rights Watch received reports that in some temporary shelters, women and girls have resorted to walking in pairs to and from community toilet and bathing facilities to ward off harassment from men frustrated by lack of work and fueled by alcohol abuse.⁶⁴ As one woman told Human Rights Watch, “there are many fights all the time and long lines. At night, it is better to go somewhere close to the house because the men have been drinking and can make trouble.”⁶⁵

To ensure the safety of women in temporary shelters, the government should refer to the guidelines of the United Nations High Commissioner for Refugees on the prevention and responses to gender-based violence.⁶⁶ For instance, proper location of toilets, lighting in temporary camps, and proximity to fuel and water sources (for which women and girls typically are responsible) are important in reducing the risk of violence. Gender-sensitive complaint mechanisms in temporary settlement camps are critical so that victims of violence actually report incidents and receive referrals to health care, legal aid, and other support services.

A recent report in *The Week*, among the most widely circulated English-language magazines published in south India, said that sexual harassment was rampant in the camps. According to the report, widows have become particularly vulnerable to sexual abuse, especially from male relatives. Many women are illiterate, and although those widowed in the disaster have received compensation from the government, such

⁶² Guiding Principles, principle 19(2) states: Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counseling for victims of sexual and other abuses.

⁶³ Guiding Principles, principle 21.

⁶⁴ In their March 13, 2005 report, a Mumbai based voluntary group called Youth for Voluntary Action (YUVA) which was involved in providing relief and rehabilitation in the tsunami affected areas, reported that ‘alcoholism is a serious problem among the men.’ Report available with Human Rights Watch.

⁶⁵ Human Rights Watch interview with Jhans Rani, Nagapattinam, January 29, 2005.

⁶⁶ Sexual and Gender-Based Violence Against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response (Geneva: UNHCR, 2003).

payments are deposited directly into bank accounts and some women do not yet know how to access the funds.⁶⁷

Instead of being able to claim an independent and equal share of humanitarian aid, women's access is brokered through their husbands, fathers, or other male relatives. This is because the primary means of establishing identity and residence in India is the government issued 'ration card,' used to distribute subsidized food grain, which are all issued under the name of the male household head. After the tsunami, many women complained that distribution of relief and compensation was conducted through male heads of households. Press reports referred to several instances where women had complained that cash relief handed out to male survivors did not reach their families and was spent instead on liquor.⁶⁸ Unmarried, widowed, and divorced women are often subsumed into the household units of their brothers or fathers or husband's relatives, instead of being counted as independent, female-headed households.⁶⁹

The Indian government did not treat tsunami-affected women from fishing communities as independent workers who contribute to the family livelihood. Most women from fishing communities were actively engaged in the trade prior to the disaster.⁷⁰ Typically, after men brought in the catch from the sea, women cleaned the fish and sold it to vendors. With fishing at a standstill, women require alternate employment opportunities. Many women agricultural laborers have also lost their livelihood. Most women have resisted a transition into basket weaving or sewing offered by NGOs.⁷¹ These vocational offerings often provide low and irregular income. They also reinforce stereotypes about women's work.

⁶⁷ Litta Jacob, "Woe-Men of Tsunami," *The Week*, Vol 23, No. 18, April 3, 2005, p.44.

⁶⁸ V. Jayanth, "Tamil Nadu still awaits Center's relief package," *The Hindu*, January 28, 2005, p. 4.

⁶⁹ David Devdas, "Tsunami Crisis: Abandoned Widows," CARE, January 27, 2005 [online], http://www.careaustralia.org.au/tsunami_story.asp?id=18 (retrieved April 12, 2005).

⁷⁰ Traditionally, women from the fishing communities in Tamil Nadu are engaged in cleaning the catch, marketing fresh fish and processing the surplus catch. "Rehabilitation of Women Victims of Tsunami," A. Gandhimathi and Jesu Rethinam, Sneha, February 9, 2005, [online] <http://www.tsunami2004-india.org/modules/sections/index.php?op=viewarticle&artid=44> (retrieved April 12, 2005); Recommendations For Tsunami Victims, National Commission for Women and Tamil Nadu State Commission for Women, January 20, 2005, [online] http://www.disasterwatch.net/women_tsunami%20links/NCW%20recommendations.htm (April 12, 2005).

⁷¹ Litta Jacob, "Woe-Men of Tsunami," *The Week*, Vol. 23, No. 18, April 3, 2005, p.44.

Lessons learned from other humanitarian disasters highlight key measures for ensuring women's rights during relief and reconstruction.⁷² The government and aid agencies should register men, women, and children individually to ensure individual and equal access to aid. Women should be involved at all levels in the planning and actual distribution of food, shelter and economic assistance.⁷³ Special efforts should be made to identify and help women at risk, such as widows, single mothers or pregnant women. Reporting and referral systems should be established for individuals who have suffered gender-based violence so that they can receive appropriate services. The displacement that followed the tsunami has made women and girls particularly vulnerable to trafficking because of loss of family and livelihood. To ensure that women do not become greater victims in this tragedy, the rebuilding efforts must make explicit efforts through education and proper implementation of laws to root out problems such as women's inferior status in society and their limited access to resources.⁷⁴

Finally, some women complained that they feel embarrassed to go to doctors visiting the temporary camps because there is no privacy and the doctors are usually male. Efforts should be made to improve privacy and, whenever possible, to ensure that female doctors are available to women and girls.

Disabled

Disasters disproportionately affect persons with existing disabilities, and cause fresh disabilities among those injured in the disaster.

Persons with existing disabilities

People with disabilities are at heightened risk during disasters.⁷⁵ They can also lose their assistive devices, including crutches, artificial limbs, hearing or visual aids. Their usual caregivers may also have been killed, injured, or diverted to other survival tasks. In January 2005, the National Center for Promotion of Employment for Disabled People, a

⁷² See UNHCR Sexual and Gender-Based Violence Against Refugees, Returnees, and Internally Displaced Persons: Guidelines for Prevention and Response (Geneva: UNHCR, 2003). Available at http://www.rhrc.org/pdf/gl_sgbv03.pdf.

⁷³ Guiding Principles, principle 18 provides that "[s]pecial efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies [essential food and potable water; basic shelter, appropriate clothing, and essential medical services and sanitation]."

⁷⁴ See Policy guidance on the gender perspectives of natural disasters, Division for the Advancement of Women, Department of Economic and Social Affairs, United Nations.

⁷⁵ Guiding Principles, principle 19(1) states in part:

All wounded and sick internally displaced persons *as well as those with disabilities* shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones [emphasis added].

Delhi based non- governmental organization, called for improved monitoring of disabled people affected by the tsunami and urged authorities to address disability concerns in their ongoing efforts at revival of livelihoods.⁷⁶ In meetings with activists, government officials in Tamil Nadu admitted that there was no special policy to protect disabled people affected by the tsunami, but said that they would consider all recommendations made in this regard.⁷⁷

Priority protection of the disabled should become part of the government's disaster management policy. In a crisis, in the rush of immediate rescue and relief, they can otherwise be neglected.

During the rehabilitation phase, persons with disabilities must receive equal access to services. The government should also be sensitive to the fact that disabled people can be made destitute not only when they lose their own livelihoods but when relatives who in the past provided care or assistance are killed or can no longer afford to help them.⁷⁸

Persons disabled due to tsunami-inflicted injuries

Nearly 7,000 people were injured in the tsunami, although the government has not yet provided any data on the number of people who were physically disabled. Considering the heavy death toll, this number can be assumed to be high. The World Health Organization says that falling structures and waters full of swirling debris inflicted crush injuries, fractures, and a variety of open and closed wounds.⁷⁹ There are reports that several children lost their eyesight.⁸⁰

The government should ensure that all those injured in the tsunami receive immediate attention from specialists in existing facilities. Those survivors with newly sustained

⁷⁶ Report by Rama Chari, Senior Program Officer, NCPEDP, New Delhi and Rajul Padmanabhan, Deputy Director, Vidya Sagar, Chennai, members of a core group to campaign for the rights of disabled tsunami victims. January 2005. Report on file with Human Rights Watch.

⁷⁷ State Level Consultation on Civil Society Partnership in Post-Tsunami Rehabilitation, Chennai, January 26, 2005.

⁷⁸ For instance, a center run by religious guru Mata Amritanandamayi has adopted three mentally challenged children whose parents can no longer take care of them after the tsunami [online] <http://www.amritapuri.org/tsunami/overview.php> (retrieved April 11, 2005).

⁷⁹ Injuries and Disability: priorities for management of populations affected by the earthquake and tsunami in Asia, World Health Organization [online], http://www.who.int/violence_injury_prevention/unintentional_injuries/tsunami/en/ (retrieved April 12, 2005).

⁸⁰ Anupama Vishwanathan, "Tsunami Children: Government Yet to Give a Nod for Adoption," Asian College of Journalism, January 25, 2005 [online], <http://www.digantik.com/Digantik/Tsunami/anupama.adoption.htm> (retrieved April 11, 2005).

permanent disabilities may have to cope with the loss of their traditional livelihood. Immediate assistance and alternative employment opportunities should be provided to those permanently disabled. In the rehabilitation phase, it is also crucial to construct shelters, health centers, housing, schools, or other public structures, that are accessible to the disabled.⁸¹

In March 2005, the national government announced that it had set aside over U.S. \$800 million for the rehabilitation of those affected by the tsunami, including orphans, widows and the disabled.⁸² The Ministry of Social Justice and Empowerment also announced that 1,981 assistive devices had been distributed to persons with disabilities in South India, and another 200 had been distributed in the Andaman & Nicobar Islands.⁸³ Under the scheme, the permanently disabled will be eligible for a compensation of U.S. \$2,300 and those with partial disabilities will receive U.S. \$1150. It is important that all those disabled because of the tsunami are properly identified so that they can claim compensation and receive assistance.

V. Neglected communities

The tremendous losses suffered by the fishing communities affected the entire local economy because the industry directly and indirectly supported the lives of thousands of other people. For instance, traders, ice plant owners, fishnet menders, boat menders, cleaners, shopkeepers, and others who supported the fishing industry have no source of income until the fishermen return to their trade.

After the tsunami, a group of women from near Prathaparamapuram village in Tamil Nadu wrote a petition to the government requesting relief. One of the women, called Mallika, told Human Rights Watch that her family was near starvation, succinctly capturing the problem faced by thousands of people in India who previously earned a living supporting the fishing industry:

⁸¹ See Disasters, Disability and Rehabilitation, guidelines from the World Health Organization, Department of Injuries and Violence Prevention [online], http://www.who.int/violence_injury_prevention/unintentional_injuries/tsunami/en/ (retrieved April 12, 2005).

⁸² Home Minister's Statement in parliament regarding relief and rehabilitation of tsunami affected people. March 10, 2005.

⁸³ Relief Measures for Socially Backward People in Tsunami Hit Areas, Ministry of Social Justice and Empowerment, March 21, 2005 [online], <http://pib.nic.in/release/release.asp?relid=7999> (retrieved April 18, 2005).

My husband is a carpenter and he mends boats. Since the tsunami, he has had no work. We have finished all the food we had in the house.⁸⁴

Because the impact of the tsunami on these groups was not as direct or easily visible, their needs were initially forgotten or ignored by those providing aid.⁸⁵ Considered only partially affected, they were inadequately assisted in the first weeks after the tsunami until the authorities realized that they too had lost their livelihood and were in danger of starvation.⁸⁶

Indian governmental and nongovernmental agencies have done a good job of providing emergency rations to the tsunami's survivors to avert immediate starvation. But relief rations have now been stopped and the efforts of the government and voluntary agencies to ensure food security will be useless, unless the survivors regain a sustainable livelihood.

Many of these communities survive on subsistence labor associated directly or indirectly with the fishing industry, which is only now being gradually restored. For each person directly involved in fisheries, there are four to five others dependent on downstream employment, and they are still without jobs.

Losses suffered by communities in terms of lives, boats, or homes are being addressed by the government, to some extent, through compensation. But the process is slow and there have been complaints that banks are demanding collateral for loans to purchase boats, which the fishing communities, who have lost all their assets in the disaster, are unable to provide.⁸⁷ Not only does this kind of policy delay the restoration of fisheries, placing thousands of fishermen at the risk of losing their livelihood, it also adversely affects those that subsist on nothing but the labor they provide to the fishing industry or related activities.

⁸⁴ Human Rights Watch interview Mallika and other women, Nagapattinam, Tamil Nadu, January 27, 2005.

⁸⁵ Tsunami Disaster is Far From Over in India, Oxfam, February 11, 2005 [online], www.oxfam.org.nz/southasiaemergency/documents/05_feb_11_india.pdf (retrieved May 9, 2005); Food Security in Tsunami Affected Areas, Alternative Law Forum [online] <http://www.allawforum.org/Tsunami%20news>.

⁸⁶ Patrick Christopher Toomey, People's Watch - Tamil Nadu, Towards Ensuring Food Security for the Tsunami Affected, January 2005, p. 5. Copy on file with Human Rights Watch.

⁸⁷ Swati Das and T.S. Sreenivasa Raghavan, "Debt Trap Awaits TN fishermen," *The Times of India*, May 10, 2005, p.9.

Andrew Hewett, Director of Oxfam Community Aid Abroad Australia, had warned that some of the early responses to the disaster, especially by non-governmental aid agencies, did not adequately address the needs of all the different communities directly or indirectly affected by the tsunami:

All of the assistance is not taking into account people who've been indirectly affected by the disaster. So, it may focus on communities which are right up against the coast, who live up on the coast, who've lost their livelihoods and the like, but communities just behind them, whose livelihoods are based upon servicing those communities, are not being targeted for assistance.⁸⁸

The government also initially excluded these communities from the list of those eligible for relief. In Tamil Nadu, for instance, according to C.V.Shankar, Special Officer on Duty for the Tsunami Relief and Rehabilitation agency of the state government:

We are conscious of the fact that the calamity has affected other communities. But seventy to eighty percent were from the fishing communities, so naturally, initially more attention was given to them. It is not correct to say that there is discrimination. People from other communities may be discriminating against each other. But I can say with complete confidence that there is no discrimination from the government's side.⁸⁹

A subsequent order from the Tamil Nadu government acknowledged that measuring the impact of the tsunami on families connected with the coastal economy was a priority stating that:

The Government also directed that families involved in small business and petty trades connected with the coastal economy may also be made eligible. It is essential that those ordinarily resident in these affected

⁸⁸ See ABC online, AM-Oxfam Claims Tsunami Aid in India Uneven, Interview with Oxfam's Australian Director Andrew Hewett, January 22, 2005 [online], <http://www.abc.net.au/am/content/2005/s1286897.htm> (retrieved January 25, 2005).

⁸⁹ C.V.Shankar testimony at the Tsunami Relief, Rehabilitation Coordination meeting, Chennai, January 26, 2005.

areas in these villages and functioning as shopkeepers and traders should be made eligible.⁹⁰

Others who suffered loss of livelihood are tenant farmers and agricultural laborers. The tsunami tossed seawater as much as three kilometers inland, devastating standing crop that was nearly ready for harvest and ruining the soil. About 22,000 hectares of agricultural land was inundated. The winter crop is usually harvested in January and was nearly ready for harvest when the tsunami struck on December 26, 2004, and destroyed the crop. The land may not be ready for another yield for several years because the soil has turned brackish, leaving these agricultural workers and daily wage earners, many of them Dalits, without livelihood.⁹¹ Drinking water sources, too, have been contaminated by salt water.

The estimated damage and loss to agriculture and livestock in India, excluding Andaman & Nicobar Islands, is over U.S. \$37 million.⁹² While this is small compared to the damage and loss to fisheries (\$600 million)⁹³ or housing (\$220 million),⁹⁴ it still affected thousands of families.

The government has said that those whose agricultural lands are affected will be assisted, but the affected communities fear that assistance will target landowners, and not the landless agricultural laborers, sharecroppers or leaseholders who depend on agriculture for survival. According to S. Salaya, local chief of the Manikapanga hamlet in Tamil Nadu's Nagapattinam district, revenue officials surveyed the damages. But he was worried that only the landowners would receive compensation:

This land will take four or five years to mend. What will we do? Our livelihood has been destroyed. The landowners will take the

⁹⁰ Government of Tamil Nadu, Loss of livelihood to Marine Fishermen families and others – Relief assistance sanctioned, January 5, 2005 [online], <http://www.tn.gov.in/tsunami/gorders/rev-e-8-2005.htm> (retrieved February 1, 2005).

⁹¹ The Soil Survey Report of Tsunami Affected Area in the Coastal Belt of Nagapattinam District, Soil Survey and Land Use Organization, Department of Agriculture, Government of Tamil Nadu, has proposed leaching to restore soil health and using salt tolerant crops. April 19, 2005 [online], http://www.tsunami2004-india.org/downloads/soil_survey_report.doc (retrieved May 9, 2005).

⁹² Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, March 2005, United Nations Country Team, India.

⁹³ Ibid.

⁹⁴ Ibid.

compensation. Some [landlords] have already asked us for a share in the cash relief we received. What will happen to us?⁹⁵

It is crucial to design and adequately fund policies to restore the livelihood of the landless and others who have thus far not been identified as beneficiaries of compensation plans.

Tenants renting homes also had problems after the tsunami. Press accounts suggested that some landlords claimed compensation for damaged homes but refused to return deposits and rent advances. The people who actually lost their belongings and residences, in many cases, received nothing.⁹⁶ Compensation plans should ensure that the basic needs of tenants, including for housing and replacement of lost personal belongings, are addressed.

VI. Caste-based discrimination

As was apparent in the aftermath of the tsunami, caste-based discrimination remains endemic in India, despite five decades of legislation to end it. Fundamental to the idea of humanitarian assistance is that aid be distributed to all in need without discrimination.⁹⁷

The National Campaign for Dalit Human Rights (NCDHR) and the Human Rights Forum for Dalit Liberation-Tamil Nadu reported that during the initial stages of the relief process, Dalits were not provided proper and adequate guidance on how to gain admission to relief camps, were not given a fair share of relief aid, and were sometimes abused when they demanded equal treatment.⁹⁸ NCDHR, in an appeal issued on January 9, 2005, noted:

Dalits are doubly victimized, firstly by the natural disaster and secondly by “human made” discrimination. Since Dalit victims do not have the

⁹⁵ Human Rights Watch interview with S. Salaya, Manikapanga, Nagapattinam, January 29, 2005.

⁹⁶ “Landlords grab compensation from tenants of tsunami damaged houses,” *The Indian Express*, January 12, 2005 [online], <http://www.managedisasters.org/news.asp> (retrieved April 11, 2005).

⁹⁷ See, e.g. UN Guiding Principles, principle 4(1) & 24(1) (“All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination”); *Fundamental Principles of the Red Cross and Red Crescent Societies* (1965).

⁹⁸ Report from a Fact Finding team sent by the National Campaign for Dalit Rights, Human Rights Forum for Dalit Liberation and Safai Karamchari Andolan, January 2005. Dalits complained that when relief trucks arrived, the higher caste fishermen communities would not allow any distribution of supplies to the Dalits, asking, ‘How many deaths are there among you?’

adequate voice and strength to approach either the government or other agencies and organizations who are in the field of reparation with various resources, we earnestly and sincerely request all those who are committed to contribute to the restoration of normalcy and rebuilding of livelihoods, to open their minds and hearts to the daily suffering and humiliation being faced by Dalits. We demand that you ensure that rehabilitation occurs in an equitable and unbiased manner and that Dalits receive their share of assistance that is their right.⁹⁹

Perhaps the most serious widespread and systemic problem that arose during the relief effort was discrimination against Dalits and tribal groups by individuals from higher castes.¹⁰⁰ Most local aid workers interviewed by Human Rights Watch stated that it was not the government or the relief agencies that were primarily to blame for discriminating against the Dalits, tribals, and other lower caste groups in Tamil Nadu, but rather the higher caste groups within the community itself, particularly the Meenavar fishermen.

As Nachetra Das Balu, a Dalit leader in Thangambadi village, Tamil Nadu, said:

Dalits are treated as servants of the fishing communities. Dalits work on the land and they work in the sea. They have some working relationships, but there is no equality. The Dalits do not have equal status.¹⁰¹

Members of tribal communities also faced similar problems. People from the local fishing communities, claiming that the supplies were for them, stopped a local NGO that tried to take emergency rations to a settlement inhabited by members of the Irular tribe in Tamil Nadu.¹⁰² Others were simply forgotten in the initial days after the tsunami because the tribal groups, at the bottom of the social order, are unused to lobbying for their rights.¹⁰³

⁹⁹ National Campaign for Dalit Human Rights, An Urgent Appeal, January 9, 2005.

¹⁰⁰ See "India: End Caste Bias In Tsunami Relief," Human Rights Watch, January 14, 2005 [online], <http://hrw.org/english/docs/2005/01/14/india10019.htm>.

¹⁰¹ Human Rights Watch interview with Nachetra Das Balu, Nagapattinam, January 29, 2005.

¹⁰² Human Rights Watch interview with M. Nizamudeen, Federation of Consumer Organization, Cuddalore, January 30, 2005.

¹⁰³ "Tribals Ignored in Tamil Nadu's Tsunami Relief Effort," BBC News Online, January 15, 2005 [online], <http://www.managedisasters.org/news.asp> (retrieved May 9, 2005).

Both national and international press reports of discrimination against Dalits abounded in the first weeks after the tsunami. In one case, a fishing community refused to share water provided by UNICEF and other relief organizations, claiming that the Dalits would “pollute” the water.¹⁰⁴

Members of the fishing communities also denied Dalits access to relief materials supplied by the government and NGOs. Murlidharan, a Dalit rights activist, recounted that, “We had problems earlier as relief materials could not be taken to Dalit areas because the fishing community refused to let us pass.”¹⁰⁵

After persistent reports of caste-discrimination arose in the media, the government belatedly focused attention on assessing damages in Dalit communities, including the loss of livelihood of Dalit laborers in fishing villages, salt pans and farmlands. Emergency rations were distributed to these communities as well.¹⁰⁶ Nevertheless, as set out below, complaints about discrimination against Dalits and members of tribal communities during relief operations were a constant refrain throughout the area visited by Human Rights Watch in January 2005.

In Vadakattai village in Pondicherry, Dalit villagers said they were close to starvation. The village chief, Pakkirisamy, told Human Rights Watch: “Before the tsunami, we had some grain stored. Now we have finished it. Our crop is spoilt and the land is full of salt. We have no food.”¹⁰⁷

In another area called Manikapanga, the Dalit residents, all of them agricultural laborers or tenant farmers, complained of lack of access to relief and rehabilitation assistance, although they had received initial emergency relief. When Human Rights Watch reached the hamlet, village leaders were waiting by the road, hoping for aid. S. Salaya, the village council chief, told Human Rights Watch:

There has been no loss of life or houses in our hamlet, but the land is destroyed. Our food has finished. Our hamlet is far from the main road, and the fisher community, living in shelters on the main road, does not

¹⁰⁴ Janyala Sreenivas, “Tsunami can’t wash away hatred for Dalits,” *The Indian Express*, January 7, 2005 [online], http://www.indianexpress.com/full_story.php?content_id=62212 (retrieved January 25, 2005).

¹⁰⁵ Human Rights Watch interview with Muralidharan, Nagapattinam, January 29, 2005.

¹⁰⁶ Independent report by R. Bhagwan Singh, journalist and member of a Concerned Citizens Initiative monitoring relief efforts, January 15, 2005. Copy available with Human Rights Watch.

¹⁰⁷ Human Rights Watch interview, with Pakkirisamy, Pondicherry, January 29, 2005.

allow any relief to come through. And when we go to the main road for help or to ask the government for work, the fisher community tells us to go away.¹⁰⁸

Members of tribal groups were at the bottom of the social hierarchy in terms of receiving aid. A settlement of 200 tribal Irulars in Cuddalore district had not received any government assistance as of January 30, 2005, when Human Rights Watch visited the hamlet. In fact, two Irular children from the hamlet were killed in the tsunami, but the families had not received compensation as of January 30, 2005.¹⁰⁹ In other non-tribal villages visited by Human Rights Watch, however, compensation for deaths had already been distributed.

This Irular community had originally been bonded laborers and, several years prior to the tsunami, had been resettled near the coast after being freed. They gradually learned to fish and earn their living by fishing in the rivulets leading into the sea. The tsunami flooded the streams, washing away fishing implements and boats and jeopardizing the entire community's livelihood. Narayanswami, the community's leader, told Human Rights Watch:

We want boats so that we can go back to work. Now we are dependent on other people, and not many come here because there is no road to our village. Hardly anyone even knows we are here. We went to the government office and they said they would help, but we still have nothing.¹¹⁰

Dalit rights activists in Tamil Nadu reported that the Meenavar fishing communities, which considers itself of a superior caste, prevented Dalits from staying with them at the relief camps and in some cases, forcibly threw them out. In other cases, the Dalits themselves preferred to live separately, fearing discrimination. Even now, the two communities are not sharing temporary shelters for displaced persons.¹¹¹ Both the

¹⁰⁸ Human Rights Watch interview with S. Salaya, Manikapanga, Tamil Nadu, January 29, 2005.

¹⁰⁹ Human Rights Watch interview with Narayanswami, village chief, Cuddalore, January 30, 2005. Local groups later helped the Irulars to claim compensation.

¹¹⁰ Human Rights Watch interview with Narayanswami, Cuddalore, January 30, 2005.

¹¹¹ Subhash Ghatade, "Calamity and Prejudice," *countercurrents.org*, January 28, 2005 [online], <http://www.countercurrents.org/dalit-gatade280105.htm> (retrieved April 6, 2005); "Low-Caste Tsunami Victims Denied Aid," *Deutsche Press-Agentur*, January 7, 2005 [online], http://www.beliefnet.com/story/158/story_15877.tml (retrieved January 25, 2005); Jay Shankar, "Discrimination Survives Disaster," *Irish Examiner*, January 8, 2005 [online], http://www.examiner.ie/pport/web/world/Full_Story/did-sga6a0yBZKhJkssgadLjt5C3211.asp (retrieved January

government and the NGOs explained that Dalits had been separated from the fishing communities in relief camps and shelters for displaced persons because forcing them to stay together would have likely led to conflict within the camps. Dr. Umanath, an administrative official of Nagapattinam district told *The Indian Express*: “A crisis like this is no time to experiment with casteist and religious amity.”¹¹²

Even some non-governmental organizations felt that it would be wrong to try and change traditional mindsets when people were trying to cope with the loss of family and livelihood. Raju Rajagopal of Bhoomika Trust said that there were cases of caste-based exclusion, but he also said: “You can’t use a disaster to correct hundreds of years of discrimination.”¹¹³ Others argue that there is no better time, because minds, the press, and funds can be concentrated on the problem.

If the Meenavars are relocated further inland, the two communities will become close neighbors, which may lead to conflict. Dalits told Human Rights Watch that if the fishing communities are moved further inland, they will not want to live close to Dalits and will use their greater political clout to push the Dalits out. Complained K. Chithravelu, a Dalit plumber from Vadakattalai Street:

We are frequently fighting with each other. Living close to each other is not a choice for us. At times we have been friendly, but if they shift here, we will be pushed away.¹¹⁴

In other words, there would be a knock-on displacement effect. Muralidharan, a Dalit rights activist, warned:

There is already division among the caste groups. If the fishing communities are moved further inland, they will have to pass through Dalit occupied areas. That will create a further problem.¹¹⁵

25, 2005); Justin Huggler, “Untouchable Caste Find Themselves Deprived of Tsunami Aid,” *The Independent*, January 22, 2005 [online], <http://news.independent.co.uk/world/asia/story.jsp?story=60453> (retrieved February 15, 2005).

¹¹² Rajeev P. I, “Even Govt Divides Survivors on Caste, Says It’s Practical,” *The Indian Express*, January 8, 2005 [online], http://www.indianexpress.com/full_story.php?content_id=62317 (retrieved January 25, 2005).

¹¹³ Human Rights Watch interview with Raju Rajagopal, Bhoomika Trust, Chennai, January 27, 2005.

¹¹⁴ Human Rights Watch interview with K. Chithravelu, Pondicherry, January 29, 2005.

¹¹⁵ Human Rights Watch interview with Muralidharan, Nagapattinam, January 29, 2005.

To resolve this, some Dalit rights groups have recommended that Dalits should be given a separate settlement during rehabilitation to ensure protection from upper castes.¹¹⁶ However, if the Dalits are forced, once again, to live apart, it will only perpetuate the tradition of social exclusion and caste-based hierarchy. Instead, there should be an attempt to help resolve existing caste-based conflicts and all caste groups should be encouraged to mingle freely and share living spaces. Caste barriers have been broken down to a large extent in the cities, where choice of residence is not usually determined by the caste of the neighbors.

Even if, as some commentators have argued, disasters may not be the time to press for social change, the government has to recognize the principle of non-discrimination in delivery of emergency humanitarian relief.¹¹⁷ Even in cases where private actors are responsible for discriminatory behavior, it is the government's responsibility to take all reasonable measures possible to end such discrimination. At the very least, post-tsunami rehabilitation and development efforts should include public information campaigns (including media) to eliminate traditional caste prejudice. This effort should involve government officials, political parties, NGO representatives, and community and religious leaders.

VII. Barriers to re-establishing sustainable livelihoods

The Indian government now faces the daunting task of helping survivors establish viable, sustainable livelihoods. Because the fishing industry is the basis of much of the economy of the region, reviving it should be a priority. The challenge officials should set for themselves, however, is not just to return the affected area's inhabitants to their standard of living before the tsunami, but rather to "build back better"—to structure the large-scale development now underway so that it removes long-standing barriers to economic and social progress such as discrimination against so-called lower castes and tribal groups.

Reviving the fishing industry

It is estimated that the tsunami destroyed or damaged at least 83,000 boats.¹¹⁸ Nearly 5,000 mechanized boats were damaged. The rest were traditional boats, including fiber-

¹¹⁶ Human Rights Watch interview with Ravichandran, Human Rights Forum for Dalit Liberation, Tamil Nadu, January 30, 2005.

¹¹⁷ UN Guiding Principles, principle 24(1).

¹¹⁸ Home Minister's Statement in Parliament regarding relief and rehabilitation of tsunami-affected people, March 10, 2005.

reinforced and wooden catamarans, both mechanized and non-mechanized. Nearly 150,000 fishing nets were damaged or lost.¹¹⁹ Total damage and losses to fisheries is estimated to be around U.S.\$620 million.¹²⁰ Every fisherman interviewed by Human Rights Watch said that his boats and nets had not been insured.

Since many of the fishermen are still displaced and living in temporary shelters, often at some distance from the sea, their fishing activity is at a standstill.¹²¹

Initially, just coping with the disaster and then, fear of the sea, had stopped fishermen from venturing back into the sea. But a month after the tsunami, many fishermen said that they were willing to go back to work, but they had no boats and nets. Many complained about the delay in replacing lost boats, nets, and work tools. S. Iyappan, a fisherman in Pattinacheri village, lost his one-year-old daughter in the tsunami. He has also lost, at least for now, his entire way of life. Nevertheless, he told Human Rights Watch that he was willing to go back to the sea because of his family:

We have lost everything. But it is the sea that gives us our food and we know that we have to go back. We have faced many other dangers out in the water, and now I will just believe that this tsunami is just another such danger...But how can we go unless we have boats and fishing nets? We have to start earning again. The government has promised to help, but it has been a month and there is still nothing. How long can we live like this?¹²²

Many in the fishing communities, particularly those that own the bigger boats, are actually among the wealthiest people in the region. Several fishermen supply fresh fish to local export companies. According to R. Kaladharan, a college professor and member of the Federation of Consumer Organizations in Nagapattinam:

There is an impression that the fisher community is very poor. That is not true. They may not have bank savings, but that is because they put their money into buying better boats, building houses or in gold...Many

¹¹⁹ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, March 2005, United Nations Country Team, India.

¹²⁰ Ibid.

¹²¹ Litta Jacob, "Woe-Men of Tsunami," *The Week*, April 3, 2005, p. 44.

¹²² Human Rights Watch interview with S. Iyappan, Pattinacheri, Tamil Nadu, January 28, 2005.

of them own big boats and five or six families are dependent on the catch.¹²³

The government should rapidly devise a comprehensive policy to restore the fisheries industry. The government had announced that it would provide compensation and subsidies to owners of wooden boats and catamarans and that owners of bigger boats would be given low-interest loans and other subsidies to replace lost boats or to repair those that were damaged.¹²⁴ However, there are complaints that there is no uniform loan procedure and that some banks are demanding collateral for the loans.¹²⁵ One possible effective solution was advanced by some district administration officials when they proposed that fishermen stand in mutual guarantees for each other and hypothecate their boats to the banks until the loans are repaid. However, fishermen say that even after they resume fishing, they may not be able to earn enough to repay the loans because of the high cost of materials, particularly petrol, and the additional burden of insurance premiums.¹²⁶

The process has also been slowed by persistent reports that fishermen are claiming compensation for lost assets that they never actually owned.¹²⁷ This is because, in many cases, neither the fishermen nor their assets were properly registered. In the reconstruction phase, the government should aim to ensure complete registration of individuals and assets and provide improved access to insurance.¹²⁸

At the same time, the government should be sensitive to assessments that for every person directly involved in fisheries there are several others dependent on downstream employment. While some of the latter may have received cash compensation for the loss of relatives, houses or assets, many others are not registered owners of houses or boats and may be left out.

¹²³ Human Rights Watch interview with R. Kaladharan, Nagapattinam, January 28, 2005.

¹²⁴ Home Minister's Statement in parliament regarding relief and rehabilitation of tsunami affected people. March 10, 2005.

¹²⁵ Swati Das and T.S. Sreenivasa Raghavan, "Debt Trap Awaits TN fishermen, *The Times of India*, May 10, 2005, p. 9.

¹²⁶ Swati Das, "Govt Aid Yet to Bail Out TN Fishermen," *The Times of India*, May 9, 2005. p. 8.

¹²⁷ Sunil Raman, "Eerie Silence on Tamil Nadu Beaches," BBC News Online, April 25, 2005 [online], http://news.bbc.co.uk/2/hi/south_asia/4479297.stm (retrieved May 9, 2004). The South Indian Federation of Fishermen Societies has warned that adding more boats because it can lead to over capitalization and decline of incomes per boat. "Rehabilitation of Fishing Unites in Tamil Nadu-Recommendations," South Indian Federation of Fishermen Societies, March 14, 2005 [online], <http://www.tsunami2004-india.org/> (retrieved May 9, 2005)

¹²⁸ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, March 2005, United Nations Country Team, India.

Supporting the entire community

As pointed out above, while the fishing industry is the key economic sector in the region, thousands of area residents derive their livelihood from other, often economically linked, activities. The Indian government and nongovernmental relief organizations should also make every effort to extend the benefits of reconstruction to tenant farmers and agricultural laborers, many of whom are from disfavored castes.

Ensuring that the entire community is supported is crucial because the land is expected to remain unfit for cultivation for several years, which will leave many of these people without a livelihood and vulnerable to a food crisis.¹²⁹ One resident of the hamlet of Manikapanga told Human Rights Watch: “When we work, we get a daily wage and after harvest, we get some grain. Now we have nothing. Our livelihood has been destroyed by the tsunami.”¹³⁰

Deva Sana, a daily wage laborer, said the situation facing him and others like him was perilous. “After the tsunami, all agricultural crops have been destroyed. There is no work. The government has not given us alternative jobs. We are dependent on NGOs to survive. If you give, we will eat. If not, we will starve.”¹³¹

Said Rajalakshmi, another agricultural laborer:

If there is good rain, then maybe in a few years this land can be cultivated. But we have had droughts for years. This year was the first time after many years that we were expecting a good harvest. If we wait for rain, we will have no food.¹³²

Not surprisingly, the Dalit and tribal communities are more vulnerable to the pauperizing effects of the post-tsunami economic downturn. In Vadakattai village in Pondicherry, the Dalit residents said that because the land they worked on was ruined, they had no work and might be forced to migrate. Men and women both worked for daily wages. The village council leader, Nagamurthy, expressed the fears of his community:

¹²⁹ “Tsunami Turns Soil Saline, Field Uncultivable,” *The Indian Express*, January 7, 2005.

¹³⁰ Human Rights Watch interview with Kaliamurthy, Nagapattinam, January 29, 2005.

¹³¹ Human Rights Watch interview with Deva Sana, Nagapattinam, January 28, 2005.

¹³² Human Rights Watch interview with Rajalakshmi, Nagapattinam, January 29, 2005.

Our crop is ruined and the land is full of salt. We are expecting the government to give us jobs for the next three to five years, or we will have to leave and find work in the cities. This is our home and we do not want to go. We are willing to do any job that we are given.¹³³

Many Dalits told Human Rights Watch that they feared that the pattern of caste-based discrimination that characterized the initial phase of relief operations would continue during rehabilitation. Dalits, by and large, do not own land or fishing gear and are dependent on people of other castes for their economic survival. Such people have no assets that can be compensated. What they want, and need, is an opportunity to regain a sustainable livelihood.

VIII. Inadequate shelter and protection from forced relocation

Shelter

Over 200,000 homes were fully or partially destroyed in India's mainland as a result of the tsunami, and countless lives uprooted and shattered.¹³⁴ Loss and damage to housing is an estimated U.S. \$228 million.¹³⁵ At least 647,556 persons were displaced and moved into emergency shelters.¹³⁶ If their homes were only partially damaged, once the water had receded and emergency relief camps were shut down, people returned to their homes. But tens of thousands whose homes were permanently destroyed have become internally displaced persons; many of them continue to reside in temporary shelters that in some cases are as basic as sheets of galvanized iron and tarpaulin provided by the government or NGOs.¹³⁷

The government had ordered district administrations in the affected areas to build temporary accommodation and finish construction before the monsoon season. This process is now more or less complete in all the affected states and union territories.

The government had sought partnerships with NGOs to build the temporary shelters. The Tamil Nadu administration, for instance, built shelters for 50,000 families and asked

¹³³ Human Rights Watch interview with Nagamurthy, Karaikkal, Pondicherry, January 28, 2005.

¹³⁴ Home Minister Shivraj Patil's Statement in Parliament, March 10, 2005.

¹³⁵ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, March 2005, United Nations Country Team, India.

¹³⁶ Tsunami: India Situation Update, March 3, 2004, World Health Organization.

¹³⁷ Report of YUVA teams visit to the affected areas in South India hit by tsunami, January 12-18, 2005. Also witnessed by Human Rights Watch during visit to affected areas in January 2005.

NGOs to provide another 50,000. The unit cost was determined to be 8,000 rupees (U.S.\$170). District authorities were instructed to create models suitable to local needs.¹³⁸

A joint damage assessment team of the United Nations, the World Bank and the Asian Development Bank found that the facilities provided in the temporary shelters are inadequate, with limited sanitary conditions, particularly for women and young girls. The team pointed out that, in the absence of kitchens, kerosene stoves were being used inside sleeping quarters and that these could prove to be a fire and health hazard.¹³⁹

Human Rights Watch's research also raised concerns about the design and management of the temporary settlements and the shelters in them. These shelters have no flooring, and local journalists have described them variously as shoeboxes, ovens or tin sheds.¹⁴⁰ There is a terrible lack of hygiene with utensils being washed outside each shelter, leaving dirty puddles that have become breeding grounds for mosquitoes and flies. In April and May the sheds are extremely hot and the thin walls offer little privacy.¹⁴¹

Many displaced persons interviewed by Human Rights Watch complained that the settlements, whether built by the government or NGOs, were uncomfortable, overcrowded and without adequate privacy. Some complained that there are not enough toilet facilities.

In light of these problems, it is not surprising that many people left homeless by the tsunami chose to forego the offer of government shelter. For instance, one fisherman, Kaliamurthy, who lives in a tent in his old village, told Human Rights Watch he has refused to accept the temporary shelters.

I am a fisherman and I want to go back to my fishing business. I have to live near the sea. They are giving us temporary houses far away from the

¹³⁸ Government of Tamil Nadu, Government Order No: 10, January 6, 2005 [online], <http://www.tn.gov.in/tsunami/gorders/rev-e-10-2005.htm> (retrieved February 1, 2005).

¹³⁹ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, March 2005, United Nations Country Team, India.

¹⁴⁰ Aloysius James, "Think of the Future, Please," Challenges, Tsunami Response Watch [online], <http://www.indiadisasters.org/tsunami/challenges/2005/01/think-of-future-please.html> (retrieved February 3, 2005); "Nagapattinam Survivors Irked by Hastily Constructed Shelters," *The Indian Express*, January 11, 2005 [online], <http://www.managedisasters.org/news.asp> (retrieved March 12, 2005).

¹⁴¹ Litta Jacob, "Woe-men of tsunami," *The Week*, April 3, 2005, p. 44; "Indian Summer Wears Down Tsunami Survivors," Reuters, April 6, 2005 [online], <http://www.disasterwatch.net/summer.htm> (retrieved April 11, 2005).

water. It is made of tin and asbestos, which is very hot. I will not go there.¹⁴²

In the long term, the government of India plans to provide two-room dwelling units as permanent shelter to each family that lost a house in the tsunami. Designs are still being finalized to make sure the homes will be “multi-hazard” proof.¹⁴³

The government should ensure that there is full participation of those displaced by the tsunami in planning and management of the resettlement process, particularly in the design and location of the shelters, to prevent the mistakes that occurred in the construction of temporary shelters. Authorities should also take into account the special needs of vulnerable and marginalized groups such as women, children, the elderly, the disabled and households headed by single parents.

Relocation and reconstruction

In order to protect coastal populations from future disasters, a number of households either affected by the tsunami or unaffected but living in unsafe locations may have to be relocated.¹⁴⁴ In addition, the government is now suggesting that it will strictly implement the Coastal Zone Regulations, the principal legislation governing land use along India’s coasts.¹⁴⁵ The regulations have long dictated that there is to be no new human habitation

¹⁴² Human Rights Watch interview with Kalamurthy, Nagapattinam, Tamil Nadu, January 29, 2005.

¹⁴³ Home Minister’s Statement in Parliament regarding relief and rehabilitation of tsunami affected people, March 10, 2005. By multi-hazard proof housing, the government means housing that is safe from calamities such as fire, earthquakes, cyclones etc.

¹⁴⁴ “Tsunami Disaster is Far From Over in India,” Oxfam, February 11, 2005 [online], www.oxfam.org.nz/southasiaemergency/documents/05_feb_11_india.pdf (retrieved May 9, 2005).

¹⁴⁵ Coastal Regulation Zone (CRZ) Regulations, 1991 (amended up to 2002): Issued under the Environment (Protection) Act, 1986, coastal stretches have been defined as Coastal Regulation Zone and restrictions have been imposed on industries, operations and processes within the CRZ. For regulating development activities, the coastal stretches within 500 meters of High Tide Line on the landward side are classified into four categories, namely:

CRZ-I: (i) Areas that are ecologically sensitive and important, such as national parks/marine parks, sanctuaries, reserve forests, wildlife habitats, mangroves, corals/coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty/historically/heritage areas, areas rich in genetic diversity, areas likely to be inundated due to rise in sea level consequent upon global warming and such other areas, and (ii) Area between Low Tide Line and the high Tide Line.

CRZ-II: The areas that have already been developed up to or close to the shoreline. For this purpose, “developed area” is referred to as that area within the municipal limits or in other legally designated urban areas which are already substantially built up and which have been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains.

CRZ-III: Areas that are relatively undisturbed and those which do not belong to either CRZ-I or CRZ-II. These will include coastal zone in the rural areas (developed and undeveloped) and also areas within Municipal limits or in other legally designated urban areas which are not substantially built up.

within 500 meters of the coast, the idea being to create a buffer zone along the coast to protect the environment and prevent casualties in the event of disasters like the December 2004 tsunami.¹⁴⁶ Enforcement of the regulations has been lax to date, however, and the strict implementation some are now suggesting would dramatically increase the need to resettle individuals and communities.

Thousands of families are in danger of eviction and of inadequate compensation, as they do not possess titles to their damaged properties. Because they cannot prove that their houses were authorized under the terms of the Coastal Resource Zone Notification of 1991 (India's principal coastal legislation), they may be coerced to leave their properties or may not be provided with financial support for reconstruction.

Discussions with affected households, community leaders and district officials indicate that impacts on livelihood as well as disaster prevention should be taken into account in interpreting the relevant legislation. Most clearly, fishing communities need to be close enough to the sea to be able to pursue their livelihood.

The U.N. Guiding Principles set forth the principle that displaced persons must be able to make free and informed individual decisions about where they settle permanently.¹⁴⁷ This suggests that affected populations receive accurate, timely information. Authorities have not yet undertaken the kind of public media campaigns and community consultations necessary to provide such information.

Human Rights Watch interviews with members of the fishing communities suggested that opinion is divided on the question of relocation. For instance, M. Pandian, a daily wage laborer said he no longer wanted to be near the sea: "The fisher folk may not want to move from their homes near the sea. But we want to go where we will be safe."¹⁴⁸

CRZ-IV: Coastal stretches in the Andaman & Nicobar, Lakshadweep and small islands, except those designated as CRZ-I, CRZ-II or CRZ-III.

The development or construction activities in different categories of CRZ area shall be regulated by the concerned authorities at the State/Union Territory level, in accordance with norms stipulated in the CRZ regulation and in the state / UT coastal zone management plan.

¹⁴⁶ L. A. Samy, Director, Association of Rural Education and Development Service, "Cynical Exploitation of Tsunami Victims," *Motion Magazine*, March 22, 2005 [online], http://www.inmotionmagazine.com/global/lasamy_cetv.html#Anchor-The-35326 (retrieved May 9, 2005).

¹⁴⁷ See UN Guiding Principles, principle 28(2) ("Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration"); see also Roberta Cohen, The Brookings Institution, Statement on Post Tsunami Human Rights, March 21, 2005 [online], http://www.brookings.edu/fp/projects/idp/20050321_rcohen.htm (retrieved May 9, 2005).

¹⁴⁸ Human Rights Watch interview with M. Pandian, Nagapattinam, January 29, 2005.

However, many members of the fishing communities said that they were unwilling to leave their coastal homes. Many of them are wondering if the government can provide permanent homes further inland, but also temporary shelters near the water. As Kesavan said:

We are willing to move, but our work is near the water. How will we work then? Where will we keep our boats and nets? How will we clean the fish? If we are spending all day near the sea, then we are going to die any way, if another tsunami comes. We may as well stay here.¹⁴⁹

Others, who did not lose their homes in the tsunami, are reluctant to leave because the fishing industry primarily cash based, and profits that are not used to acquire better boats or nets are used to buy gold and build homes. There is no clear policy on compensation if people are relocated. Explained V. Muthappan, a fisherman in Chandirapadi village: “Homeless people want to go. But we have concrete houses here and we don’t want to leave. These houses cost a lot of money. Will the government give us the same kind of house?”¹⁵⁰

Compounding the issue of informed choice is the widespread suspicion that the tsunami will be used to shift the fishing communities away from the beach only to make way for more lucrative tourism property deals. For instance, between Chennai, the capital of Tamil Nadu state, and Pondicherry, there are already beach resorts and entertainment parks. While there have been attempts to relocate the original inhabitants of the area, whose culture and lives revolve around the sea, the Tamil Nadu government has not yet asked existing hotels, resorts or industrial facilities that have encroached on coastal lands to comply with the regulations.¹⁵¹

Activists fear that governments of the affected states and union territories might be tempted to develop the entire coastline so that the region can benefit from a tourism boom.

The Tamil Nadu government has announced that there will not be any forced relocations. However, the policy to provide alternate housing is being viewed as indirect coercion. To implement coastal regulations, owners of fully or partially damaged houses

¹⁴⁹ Human Rights Watch interview with Kesavan, Nagapattinam, January 28, 2005.

¹⁵⁰ Human Rights Watch interview with V. Muthappan, Nagapattinam, January 28, 2005.

¹⁵¹ “Forced Eviction of Coastal Communities, Prejudiced Enforcement of CRZ,” Tsunami Relief and Rehabilitation Coordination-Tamil Nadu and Pondicherry, February 18, 2005.

will be given free housing away from the coast. But those that choose not to move “will not be eligible for any assistance from the government.”¹⁵² The U.N. Guiding Principles call on governments to “establish conditions, as well as provide the means” to allow displaced persons to return to their homes or home areas if they wish to do so.¹⁵³

However, the Tsunami –Relief, Rehabilitation, Coordination (TRRC) of Tamil Nadu and Pondicherry reported that there have already been some attempts at forced eviction. In one area called Anna Nagar Kuppam in Tamil Nadu, the TRRC said that the authorities had barred coastal communities from replacing huts washed away by the waves, shut off electricity and water utilities to remaining houses, and removed their children from local schools.¹⁵⁴ The forcible relocation was stayed by the Madras High Court in an interim injunction after the TRRC filed a writ petition.¹⁵⁵

In India, the fishermen’s livelihood is based on their proximity to the sea. To forcibly relocate them, regardless of whether one is citing humanitarian concerns as the justification, can destroy the community.¹⁵⁶ The immediate economic prospects of fishing communities that are moved away from the sea will decrease dramatically unless remedial measures are put in place.¹⁵⁷ It will also be crucial to offer job training and social welfare benefits to individuals who do not want to or cannot continue as fishermen after being relocated. For those who move, the government should provide

¹⁵² Tamil Nadu government order on Housing Reconstruction Policy, March 30, 2005 [online], <http://www.tn.gov.in/tsunami/gorders/rev-e-172-2005.htm>.

¹⁵³ See UN Guiding Principles, principle 28(1).

¹⁵⁴ “Forced Eviction of Coastal Communities, Prejudiced Enforcement of CRZ,” Tsunami Relief and Rehabilitation Committee, February 18, 2005.

¹⁵⁵ “High Court Order to Collector On Demolition of Huts,” *The Hindu*, March 10, 2005 [online], <http://www.hindu.com/2005/03/10/stories/2005031013210300.htm> (retrieved April 11, 2005); “Eviction of Tsunami Affected Residents Stayed,” *The Hindu*, February 24, 2005 [online], <http://www.hindu.com/2005/02/25/stories/2005022514020600.htm> (retrieved April 11, 2005).

¹⁵⁶ There may be less disruptive alternatives than relocation that could ensure the safety of residents of coastal areas. For instance, the government could create a more effective warning system, similar to the successful system established for fishermen on India’s storm-prone Bay of Bengal, who had earlier suffered numerous casualties due to storms and cyclones. After the tsunami, the government of India has announced plans for a tsunami detection and warning system to prevent heavy casualties in the event of a future tsunami. See “Plan For Tsunami Warning System Ready: Sibal,” January 21, 2005 [online] <http://news.indiainfo.com/2005/01/21/2101quakeplan.html> (retrieved May 2, 2005).

¹⁵⁷ The International Covenant on Economic, Social and Cultural Rights, article 6 (1): The State Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

adequate compensation, which may include comparable land and infrastructure.¹⁵⁸ This means the building of necessary schools, health clinics, roads, and other infrastructure.

While requiring people to relocate for public safety reasons is permissible under international law, proper compensation must be offered and the process must not be arbitrary or discriminatory.¹⁵⁹ This is absolutely critical for public confidence in the creation of a buffer zone. There must be no discrimination on the basis of caste or other kinds of prejudice. If a buffer zone is created for public safety reasons, it must be implemented in a uniform and permanent manner, avoiding, for instance, preferential treatment for construction of hotels and private villas, as many people now fear. Implementing coastal regulations, or using forced relocations for subsequent tourism-based redevelopment of the beachfront, may deny the option of return to displaced persons. If the policy changes at any time, former residents must be given the first right of refusal to move back to their former land.

The government of India has approached the World Bank and the Asian Development Bank for financial assistance in rebuilding infrastructure and restoring livelihoods. Local groups fear that multilateral agencies will propose infrastructure development that will lead to the displacement of people. Said Ossie Fernandes of the Chennai based Human Rights Advocacy and Research Foundation: “There is a very real fear that people are trying to take over land. They fear that the Tamil Nadu government, in collaboration with multilateral agencies, is using the disaster to plan a big reconstruction project with tourism and new harbors for big boats.”¹⁶⁰ However, the report of a joint team from the World Bank, the Asian Development Bank and the United Nations agreed that there is legitimate concern about implementing coastal protection laws, which will adversely affect livelihood:

On the one hand it can be argued that the resettlement of local communities beyond the 500 meter limit in CRZ-I [Coastal Reconstruction Zone] areas would reduce the environmentally damaging effects of settlements and infrastructure close to the beach and also protect them from future hazards. On the other hand, this would have impact in terms of the sheer cost of the reconstruction effort if all

¹⁵⁸ As stated in the report, many fishermen in Tamil Nadu state, for instance, had big houses and were unwilling to move unless they were given equivalent homes in compensation. The Tamil Nadu government, however, is only providing a 300-325 square feet house to each family that agrees to shift away from the coast.

¹⁵⁹ UN Guiding Principles, principle 6(1); see generally Section II, “Principles Relating to Protection from Displacement,” principle 5-9.

¹⁶⁰ Human Rights Watch interview with Ossie Fernandes, Chennai, February 7, 2005.

housing within 500 meter of the sea were to be resettled, and would also have considerable impacts on community cohesion, access to livelihood assets and resources for fishing communities who will, in any case, still require access and storage for their fishing equipment.¹⁶¹

A related issue is determining the rights of landless laborers and tenant farmers. Once the government begins to acquire land to relocate those living near the coast, it will be the owners that will be compensated. Having already been left without a livelihood, those earning wages from the land will receive no such compensation. This issue is of particular concern to Dalit communities. As described earlier, many of the wage laborers are Dalits, who live in settlements a little further inland. Landless laborers and tenant farmers have already been victims of past discrimination that the government has done little to address. Those involved in reconstruction plans for the tsunami-affected areas should consult these groups and take into consideration their requirements for earning a livelihood.

IX. Recommendations

The rehabilitation and reconstruction process offers new prospects for those affected by the tsunami. People have suffered tremendously, but the Indian government is taking the situation seriously and there is a global effort to help them. The resources provided should be used, wherever possible, to improve the lives of those who survived, not merely restore them to status quo.

Placing human rights at the center of the recovery program is essential to effective humanitarian assistance, sustainable recovery, and accountability. As in other rural communities in India, many of those affected suffer daily from human rights violations, such as discrimination based on gender or caste, and lack of adequate food and health care, which authorities are not moving aggressively enough to address. It thus will be important to make efforts during the rehabilitation process to introduce new approaches to achieving basic rights. Fresh opportunities to generate livelihood and capacity-building measures should become the norm. Empowering village communities to participate in the decision making process is crucial. Committees set up to ensure such participation should include representatives of marginalized groups such as women, Dalits, other lower castes, religious minorities, children and the disabled. It will also be

¹⁶¹ Recovery Framework in Support of Government of India for a Post-Tsunami Rehabilitation and Reconstruction Program, March 2005, United Nations Country Team, India.

critical for tsunami-affected people to receive sufficient information to make informed choices about their entitlements, government programs and policies.

In tsunami-affected areas, the Indian and state governments, as well as nongovernmental organizations and aid agencies and international donors working with these governments, should:

Concerning sustainable livelihoods:

- Work jointly to ensure the realization of the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and make effort towards a continuous improvement of living conditions by immediately providing fishermen with rapid access to financial aid and compensation as well as microfinance facilities to restore the primary economic activity of the area. At the same time, the government must institute mechanisms to consult with, and adequately compensate male and female landless agricultural laborers, for instance by implementing minimum wage standards.
- Give greater priority to helping locate alternative livelihoods for those affected by the tsunami. Many daily wage laborers will not be able to work on farmlands that were destroyed when seawater penetrated inland. It is estimated that it will take two to four years for these lands to become cultivable. In that time, daily wage laborers should be trained and provided alternative employment in the rebuilding process.
- Ensure that women in fishing communities are recognized as workers with equal rights to livelihood-related compensation and aid.
- Conduct a comprehensive needs assessment before rehabilitation so that compensation received can be used for improvement in living conditions. These can include, for instance, the proper kind of assistive devices for the disabled, proper training for alternative livelihoods and appropriate housing.
- Promote savings and insurance schemes to encourage long-term well-being of local communities. Members of fishing communities, for instance, typically do not insure their boats and nets.

Combating discrimination based on caste, gender, and religion:

- Inform communities that caste-based discrimination is illegal and promote dialogue with the ultimate aim of allowing all caste groups to live together when permanently resettled.

- Monitor and respond quickly to local conflicts between caste groups, such as those between the fishing communities and others, and promote dialogue and negotiations aimed at peacefully resolving differences.
- Integrate overall national development plans such as universal primary education with local needs and objectives for the fulfillment of social and economic rights. Implement laws and policy related to the protection of the rights of women, the disabled, children, and marginalized communities like Dalits and religious minorities.
- Establish mechanisms for regular interaction and consultations with members of local communities, especially the most vulnerable so that reconstruction efforts address local needs such as health facilities, schools and improved infrastructure.
- Ensure equal access to aid by registering men, women, and children individually. Women should be able to collect food and other aid independently from male heads of household.
- Vigorously investigate and take appropriate legal action against government officials and others who violate legal prohibitions against caste and religious discrimination.

Relating to Protection of children:

- Integrate local development needs and overall national development objectives such as universal education and protection of the rights of children into rehabilitation plans.
- Continue the present policy of trying to reunite tsunami orphans with their families before placing them for adoption. While upholding international standards requiring that the best interests of the child be paramount, authorities should make utmost efforts to locate other relatives who are willing and capable of caring for orphaned children, and provide such relatives with assistance where necessary.
- Take immediate steps to implement alternatives to institutionalization, including foster care and other forms of community-based care, for children whose relatives are unable to care for them or when it is not in the child's best interest to remain with them.
- Ensure that children do not fall victim to trafficking or are forced into labor because of economic or social hardships resulting from the tsunami. Measures should include targeted assistance for vulnerable families, particularly those where only one surviving parent is struggling to cope with child-care and earning

a living or where extended families and customary care givers cannot afford to provide for their orphaned relatives.

Relating to temporary shelters:

- Immediately provide safe toilet and bathing facilities at temporary shelters for women and children.
- Provide health facilities and protocols that ensure privacy, safety, and confidentiality so that women and girl children can consult health care providers without embarrassment.
- Involve women at all levels in the planning and distribution of food, shelter and economic assistance. Special efforts should be made to identify and help women at risk, such as widows, single mothers, women-headed households or pregnant women.
- Provide separate shelters for female headed households such as divorced women and widows.
- Ensure that the government clarifies how long people will remain in temporary shelters so that the shelters do not end up serving as permanent, substandard facilities.

Relating to Permanent Relocation:

- Ensure that new permanent housing is provided within a fixed timeframe.
- Consult the local community to ensure that permanent housing is suited to local conditions and balance budgetary constraints with local preferences. The former criterion is particularly important because many of the short term shelters provided to date by government and nongovernmental agencies have been considered inappropriate for local climactic conditions.
- Provide adequate and fair compensation for land acquired for permanent settlements.
- Ensure that relocation takes place only after consulting the community and the individuals concerned, including women.
- Ensure implementation of the government's plan to issue titles to new houses jointly to husbands and wives, especially at the district and village levels.
- Provide displaced persons with full, free and impartial information regarding all plans for relocation and resettlement. Authorities should ensure the full participation of displaced persons in the planning and management of any return, resettlement or relocation process.

- Protect local communities from forcible relocation by vested interests attempting to obtain beach-front properties for their own profit. In particular, the government of Tamil Nadu should prevent the forcible relocation of families with houses within the 200-meter high-tide zone, because they have been given the option by the Tamil Nadu government of staying if they so wish, but without any compensation for loss or damage of property.
- Make every effort to ensure that members of fishing communities are close enough to the sea to be able to continue their livelihood and to their boats and nets.
- Ensure that the permanent shelters are suitable for the needs of disabled persons by including, for instance, ramps for wheelchairs.
- Consult with local village councils to establish ownership of properties, and compensate losses, of those without clear land titles.

Concerning effective coordination of aid efforts:

- Strengthen governance systems ensuring transparency and accountability at every level starting with the village councils. This is particularly important because orders issued at the top are often not implemented on the ground.
- Ensure implementation of government policy that encourages participation of village committees in the reconstruction process. The government should be responsive to proposals and reactions of the village committees to prevent inappropriate interventions by the government, nongovernmental organizations, and bilateral and multilateral agencies.

Concerning rehabilitation policies in the Andaman and Nicobar Islands:

- Ensure that rebuilding of the local economy, villages and homes is free of political, racial, religious, caste or gender based discrimination.
- Provide temporary shelters that are in keeping with humanitarian standards and uphold human rights principles.
- Protect vulnerable groups such as tribal groups, children, women or the disabled from discrimination in the distribution of humanitarian assistance.
- Ensure that the needs of survivors who have lost their identity documents or proof of ownership of land and property are addressed.
- Establish mechanisms for consultation with affected communities to protect their rights.

- Ensure that officials recognize non-traditional forms of ownership when reviewing claims, particularly those of secluded tribal communities.
- Ensure that there is a comprehensive damage assessment and that all affected individuals receive fair compensation.

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