

# voices from the field

TSUNAMI SHARED LEARNING Issue 03/June 2007/Homestead Land



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## Homestead Land Rights and Larger Freedoms

Recognising the interconnectedness of people's lives,  
traditional livelihoods and cultural identities

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

In the aftermath of the tsunami, communities and families who have been living, many of them for generations, on their coastal land and dependent on their sea-based livelihood have been – or are being – threatened by eviction and displacement away from the coast. For those displaced, stripping them of their land and livelihood has also stripped them of their identity and made them increasingly vulnerable.

In India, Sri Lanka and Thailand eviction is occurring, often under the guise of safety or development concerns. In

some cases, laws, policies or government orders regulate the distance from the sea within which houses can be reconstructed or repaired.

Regardless of people's needs and preferences allocation of land and housing inland, often at a prohibitive distance to continue



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sea based livelihoods, was conditional on relinquishing their right to their coastal land. Those who wanted to build or repair their house in-situ were, and are being, denied assistance from the state. Other policies which provide for tourism and fishing developments similarly discriminate against the rights of marginalised coastal communities and their traditional or communal ownership of their coastal land.

The term 'homestead land' is not commonly used in international human rights conventions and related standard setting documents. Instead, the phrase used to assert proprietary rights is 'housing, land and property', with article 17 of the Universal Declaration of Human Rights (UNDHR) stating: 17(1) Everyone has the right to own property alone as well as in association with others; 17(2) No one shall be arbitrarily deprived of his [or her] property. Similarly, the right to adequate housing is recognised

in international law under Article 11(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR) which provides that:

*The States party to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.*

An entitlement to homestead land can be read into the definition of the right to adequate housing which, in General Comment 4, the Committee on Economic, Social and Cultural Rights interprets as the right to live somewhere in security, peace and dignity.<sup>1</sup> The Committee stated that:

*[T]he right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant [on Economic, Social and Cultural Rights] is premised. Thus “the inherent dignity of the human person” from which the rights in the Covenant are said to derive requires that the term “housing” be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources.*

The Committee in General Comment 4 noted:

*As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: “Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost”.*

The seven essential components of ‘adequate housing’ in General Comment 4 comprise:

- (a) Legal security of tenure<sup>2</sup> which guarantees legal protection against forced eviction, harassment and other threats.
- (b) Availability of services, materials, facilities and infrastructure essential for health, security, comfort and nutrition.
- (c) Affordability such that personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.
- (d) Habitability, that is, provide adequate space and protection.
- (e) Accessibility of adequate housing to disadvantaged groups
- (f) Location which allows access to employment options, health-care services, schools, child-care centres and other social facilities.
- (g) Cultural adequacy in the way housing is constructed

Of these components adequacy of location and affordability may be interpreted to contain an entitlement to homestead land in that housing must be in a location which allows access to livelihood or employment options. This includes consideration of the costs to the household of the house being located far away from the work place or livelihood needs.

But what does this mean for disaster-affected people?

The homestead land concept is pertinent in the post tsunami context particularly in regard to restitution and the return of displaced persons. Various laws, policies and guidelines have challenged the larger freedoms of these coastal communities and failed to protect their civil, political and socio-economic rights such as adequate standards of living, health, education and participation in public decision making. Although in theory the current Coastal Regulation Zone in India recognises customary rights, in practice the relocation of tsunami-affected communities has caused displacement and unforeseen vulnerabilities related to loss of livelihood. In Sri Lanka, the Tsunami Housing Policy gives those who lived within the buffer zone new houses and land outside the buffer zone and, in theory, continued legal title to their former property or land. But any redress needs to ensure proximity to place of livelihood and associated resources.

The Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters does not recommend displacement, but instead highlights the lawful responsibility of governments to minimise risks, protect their citizens and ensure their citizens’ right to development. Further, in instances of displacement, the Pinheiro Principles 10(1) uphold that all refugees and internally displaced persons have the right to voluntarily return to their former homes, lands and places of habitual residence in safety and in dignity.

The right to homestead land can no longer be ignored. Local communities, governments, local organisations and INGOs must instead join hands and fight against unsustainable restitution and relocation policies that favour agendas of liberalisation, privatisation and globalisation. Coastal communities must be enabled to continue their traditional way of life and livelihoods.

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#### ENDNOTES

<sup>1</sup> General Comment 4, The right to adequate housing (Art. 11, para. 1 of the Covenant) (Sixth session, 1991), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 53 (1994)

<sup>2</sup> Tenure can take the form of rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property.



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*“The notion of homestead land is inextricably tied to people’s livelihoods, since land occupied by communities for generations - with or without official land title - has formed the basis for their survival through traditional livelihood activities.”*



Dear friends,

Much positive advancement has been made in the two and a half years since the Indian Ocean tsunami devastated the coastal areas in twelve countries in Asia and Africa. Communities, governments, local organisations and INGOs have joined hands to share their knowledge and ongoing learnings and to help build the capacity of affected communities for sustainable development.

Many poor and excluded people have rebuilt their lives and livelihoods, many children have returned to a safer school environment, many women have become aware of their basic and broader rights, and many marginalised communities have gained greater access to information and demanded that governments address their needs and concerns in the reconstruction and rehabilitation process for a safer future.

And yet, despite these achievements, significant numbers of tsunami-affected people continue to live in extreme hardship. This is particularly so for those who - after more than two years - are still living in inadequate temporary shelters or who are now in new housing settlements where housing quality is substandard and basic infrastructure such as water, toilets and roads is lacking.

There are a number of reasons for this situation: lack of provision of information on policies, lack of consultation with affected communities, suitable land for new housing settlements not being designated, and emergence of post-tsunami land policies that favour corporate development and financial profit over people’s right to their land on the coast. Relocation away from the coast has meant that many people – mainly poor fisherfolk and those dependent on the sea for their livelihood – have been unable to return to their original source of livelihood and are instead struggling at subsistence levels to find an alternative means to provide for their families.

The notion of homestead land is inextricably tied to people’s livelihoods, since land occupied by communities for generations – with or without official land title – has formed the basis for their survival through traditional livelihood activities. The notion of homestead land is also core to their identities and daily existence. For example, fisherfolk cannot flourish culturally or economically unless they live in close proximity to the sea. In that sense land relocation and restitution policies that fail to consider people’s livelihoods cannot be viewed as sustainable or successful under any circumstance.

ActionAid, in aligning itself with affected local communities, people’s movements, local organisations, INGOs and like-minded civil society organisations, demands that governments at all levels respect and protect affected communities right to the coast, their homestead land and their livelihood and ensure that housing is adequate and culturally acceptable.

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# ACTIONAID'S HOMESTEAD LAND RIGHTS POLICY FRAMEWORK



- **Analysis of the laws and policies** which are impacting on the homestead land rights and attainment of adequate, permanent housing for women and men after the tsunami.
- **Local and national alliance building** of land rights movements and organisations working to influence policies and practices concerned with land and housing.
- Develop a strategy and materials to **communicate people's rights and entitlements** to land and houses in the post-tsunami context.
- **Capacity development of alliance members** on homestead land rights and the existing legal framework.
- Community level awareness raising, **analysis of the impact of laws and policies** in practice, and mobilising.
- Simultaneous generation of information for **alternative policy development** through discussions between community representatives and alliance members leading to the **preparation of a country level citizen's report**. Collective actions by the alliance at all levels to influence policies and practices.
- **Country level alliances** come together with other civil society organisations at the international level to formulate post-disaster policy guidelines to influence stakeholders regarding rights to homestead land and adequate housing.

ActionAid's intervention	India	Sri Lanka	Thailand	Maldives	Somalia	Total
<b>Geographical coverage</b>						
Number of Villages/ Islands	495	242		15	8	760
Number of districts/ Atolls	14	7		4	3	28
Number of Provinces/ States	5	3	5		1	14
<b>Shelter/ housing support (total)</b>	<b>6533</b>	<b>975</b>	<b>181</b>	<b>0</b>	<b>20</b>	<b>7709</b>
Number of Shelters (transit)	3147	721	0	0	0	3868
Number of Shelters (permanent)	1425	254	181	0	20	1880
Number of Shelters (repaired)	1961	0	0	0	0	1961
<b>Livelihood rebuilding support (families)</b>	<b>69425</b>	<b>14796</b>	<b>4810</b>	<b>998</b>	<b>676</b>	<b>90705</b>

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## Tsunami survivors in Sri Lanka demand “No more broken promises!”

More than two years after the tsunami 13,598 families are still living in transitional shelters and with the delays in building permanent housing, these structures are becoming more and more uninhabitable - broken roofs, cracked floors, water leaking into the houses.

“Temporary” shelters are threatening to become a permanent part of the landscape in some parts of Sri Lanka.

Latest figures<sup>1</sup> set the number of houses required at 118,327, of which about 65% have been built so far. Construction has not even commenced in the case of 7,669 houses. The situation is particularly dramatic in the conflict-affected North and East of the country, where housing reconstruction has been slower than in the South. Not even 12% of fully damaged houses in the North have been completed and only around 26% in the East, while the figure is 86% for the South. And to make things worse, the current escalation in conflict has displaced more than 305,000 people in the North and East, most of them now living in temporary camps.

Last December an observation team of the People’s Planning Commission (PPC), a group of respected scientists, scholars, and professionals in diverse fields established in October 2005 by MONLAR (Movement of Land and Agricultural Reforms), ActionAid’s partner, traveled to nine tsunami-affected districts in the West, South and North East to observe the post-tsunami reconstruction efforts and gather information about the situation in some of these areas two years after the disaster.

For nine days, the group, accompanied by three journalists and one photographer, visited Negombo, Colombo, Kalutara, Galle and Matara, in the West; Hambantota in the South; Ampara and Batticaloa in the East; and Trincomalee in the North-East; and interviewed more than 500 survivors.

“Now we are compiling the report documenting all the issues faced by the people who still remain displaced. We also want to bring more media attention to help them to improve their situation as soon as possible. The situation of these people is completely intolerable,” says Sugala Kumari, PPC coordinator. “We have prepared a first draft in Sinhala that is being edited



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and translated into English. We hope to finish very soon as we want to present the report to the President.”

Manel Perera is one of the journalists who participated in this observation tour: “We wanted to visit remote areas not visited by anybody and collect information regarding the situation of tsunami-affected people two years after the disaster, their concerns and problems.”

### Bribery & corruption

One of the first issues highlighted by the affected people were allegations of bribery and corruption at the local level. Though the corruption is considered low scale – small amounts of money for lower level public officials – the reality is there. A survey by Transparency International shows that 84% of the people surveyed agreed that people ineligible for assistance were receiving assistance. Furthermore, only 1.5% of the households claim to have made a payment (bribe) to access housing benefits.

“Except in Kaluthara district, we found at least two or three cases of bribery and corruption in every district we visited,” says journalist Manel Perera. “For example, in the fisheries sector some people got more than one boat while some others have not received anything or the support and equipment provided is not completed. We even identified some cases where men who were not fishermen received nets or boats due to favoritism of some GS (local authority).”

“The Government has money but the problem is all the middlemen between the Government and survivors. Another middleman is the *Grama Niladhari* (village head) and other local administration bodies who are first demanding money for themselves before they will give tsunami victims the compensations that they are entitled to,” continues Manel.

The housing reconstruction process is not exempt from corruption either. Some houses were incorrectly assessed as being or not being tsunami-damaged depending on the political affiliations of the persons concerned, or his or her willingness to bribe the members of the damage assessment team. For Sugala Kumari, “Political agendas of local politicians are also playing an important role as they can include in the housing beneficiary list whoever they want, even if they are not tsunami affected.”

In fact, according to Cyrene Siriwardhana, a lawyer and researcher who specialises in land rights issues, “Most allegations of bribery in the post-tsunami housing context are against the *Grama Niladhari* (village head) and the Divisional Secretary, who are important local officials to whom the people will have to go for a number of bureaucratic services such as endorsing and authenticating documents establishing residence, educational certificates, etc. People will therefore be generally reluctant to antagonise such officials.”

People don't seem very willing to denounce the situation but as Manel assures the fact that some of the members of the observation tour were journalists made their work easier and the findings more relevant. “I think we really captured part of the ground situation. People were really keen and open to talking with us about sensitive issues such as bribery and corruption as they believe that as journalist we can voice their problems and concerns.”

## Lack of consultation & coordination means “wrong” location

One of the earliest defects identified by numerous reports and observers in the post-tsunami context in Sri Lanka and highlighted as well during the PPC observation tour was the lack of consultation and communication with beneficiaries. This was both in terms of effectively disseminating information on housing policies, and obtaining and incorporating beneficiary views on relocation projects, including housing type.

This situation has undoubtedly led to clear dissatisfaction by the right holders who are too often expected to move to new housing schemes where their views in terms of location or housing type have been completely ignored or barely considered.

In Sri Lanka it is now emerging that a significant proportion of housing for the tsunami-affected population was built without due regard to location. In the rush to build quickly and utilise funds allocated for tsunami recovery within a given time frame, land was acquired wherever possible and houses built with no forward thinking.

“The consultation process wasn't there either,” Manel points out. “The Government took a simplistic view of a ‘house for a house’ policy and set the complex task of reconstruction

and relocation without consulting relevant groups. A much stronger consultation with beneficiaries would have helped to better and properly undertake all tsunami housing schemes.”



SUGALA KUMARI, PPC (TOP)  
MANEL PERERA, JOURNALIST (BOTTOM)  
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Where houses have built in unsuitable locations, people are either living in those houses unhappily or refusing to move in and finding housing elsewhere. “They were never consulted about the location and now they are supposed to move somewhere which is far from their livelihoods or lacks access to basic infrastructure,” says Sugala, in part explaining why some people are choosing to stay in the better located transitional shelters.

“In some housing projects many houses are unoccupied or abandoned. For instance, in a housing scheme with over 70 houses in Kalutara only a few houses are occupied mainly because the community's principal livelihood is fishing and the houses are located far away from the sea,” says Manel Perera.

“Whether it is due to the preferable location of transitional shelters or the gradual loss of hope of being given permanent housing, some transitional shelter sites, particularly in the East, are beginning to look more like permanent settlements. People are purchasing three wheelers and motorcycles and building small shops adjoining their temporary home, which service the settlement,” points out Cyrene Siriwardhana.

## Risk of eviction

But at the same time that people are settling down in some temporary camps, the possibility of being evicted is increasing in some areas, particularly in Ampara in the East, where land is scarce. Many temporary camps are settled on privately owned land for which the government pays rent and now most of these landowners want their land back. The situation in Colombo is not much better than in the East and actually it

has some similarities. The scenario in the capital is still very confusing and witness to probably some of the worst conditions in transitional shelter sites. In Modara, North Colombo, about 100 families are still living in tents and in this camp, as well as in the other 19 temporary camps in the Colombo district according to PPC (there are 17 in South Colombo and three in North Colombo), the care and maintenance of these transitional shelters is very poor.

In Colombo according again to the PPC, 75% of the families have received the Rs. 250,000 grant to buy land as they have been able to produce their land deeds. However most of them are still living in camps as they couldn't find land available in the area or they have no money to build the house.

"The money allocated for these people is not enough as the prices for land, when available, and construction are much higher. People here are not getting the attention they deserve as we can bluntly say looking at the 20 tsunami camps still existing in Colombo area," surmises Sugala.

To make things worse, tsunami families face some resentment from their host communities, since most of the time these families are living in public spaces like football grounds and making them unavailable for public use.

Local authorities are also putting some pressure on these camp inhabitants to leave. For example, on 9th May tsunami victims protested outside the Dehiwela Divisional Secretariat in Colombo, demanding the immediate restoration of water and electricity supply to the school they are staying. They accused the Government of discontinuing water and power supply in an attempt to force them out of the school. It seems that the Government does not want people to become 'too comfortable' in the shelters though the question remains, where should they go?

## The way forward

One of the key issues now is how PPC and MONLAR are going to take this whole process forward. Last year PPC launched a report on "Recovery after Tsunami" with the clear message that the recovery process and all resources mobilised by the different stake holders should belong to the affected people.

"PPC is precisely trying to bridge this gap building a stronger process to involve all these communities in the reconstruction efforts," says Sugala Kumari.

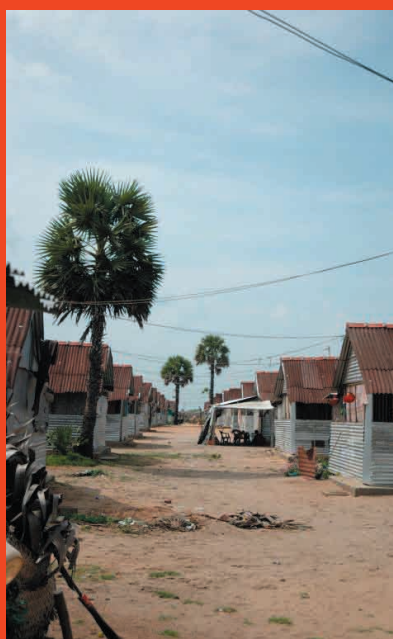
PPC is trying to work closer with Government and policy makers to expose these issues identified during the observation tour and to question them in that regard. "We would like to facilitate regular consultations between the high level decision makers and the affected communities. We will contact the Government and send the report as soon as the final version is ready," Sugala says.

"The Government has made lots of promises and still the people are expecting the Government to fulfill those expectations created more than two years ago. After the tour what it is clear to all of us is that tsunami survivors don't want any more broken promises."

"The Government has the responsibility to provide a house to every single family affected by the disaster and at the same time to look very carefully into the livelihood and education systems to improve the prospects of Sri Lanka. But first of all the Government has to stop the rampant bribery and corruption which is ravaging the country."

### ENDNOTE

1. "Situation Analysis of post tsunami housing and land rights in Sri Lanka", Cyrene Siriwardhana, April 2007, for ActionAid Sri Lanka



## Gaps in housing reconstruction in Sri Lanka

- Settled beneficiary lists matching beneficiaries to specific housing sites
- Lists of donors working in different areas and identifying those willing to take on reconstruction in under-served areas
- Comprehensive, constantly updated database on housing projects fed from district and central level
- Assessment of adequacy of housing, and remedial measures where shortcomings are detected
- Guidance on prioritising vulnerable groups and monitoring the application of vulnerability criteria across districts
- Public information campaign on the current housing policy, clarifying the inclusion of categories formerly excluded
- Remedial measures for beneficiaries in homeowner-driven programme who are falling behind on construction and thereby losing assistance due to circumstances beyond control

SOURCE: Situation Analysis of post tsunami housing and land rights in Sri Lanka  
Cyrene Siriwardhana, April 2007, for ActionAid Sri Lanka

# Community Participation in House Building

U-lak-la-voy local people in Sang-Ka-U community - Lanta Island, Thailand  
Indigenous Livelihood Restoration and Sustainable Ecology for Lanta Island Project



© ACTIONAID THAILAND (ABOVE AND OPPOSITE)

Sang-Ka-U community on Lanta Island has been home to the original 'sea gypsies' for more than 100 years. However, both Thailand and neighbouring Myanmar (Burma) refuse to recognise this stateless ethnic minority as lawful citizens with associated rights. The tsunami caused partial damage to 24 houses in Sang-Ka-U and the complete destruction of one. Overall, 139 houses in seven villages in Thailand were partially destroyed and 79 in 10 villages were completely destroyed.

One organisation (name unknown) offered 98 permanent houses located on a mountain and thus unable to protect inhabitants from monsoonal windstorms. Afraid of being denied new housing altogether and fearful of being viewed as ungrateful, the affected community members hid their concerns about house safety while remaining in their tsunami-damaged houses or living with relatives.

However, the Indigenous Livelihood Restoration and Sustainable Ecology for Lanta Island Project (a partner organisation of ActionAid Thailand) were aware of this problem and so began discussing alternatives with the community. They then coordinated with the Collaborative Network (Save Andaman Network) to support funding and help community volunteers to build appropriately designed houses.

## Step 1: House designing with local people

Local people were divided into groups to draw their dream house, as Lanta Island Project staff explained the objectives of the exercise. A Moken-Thai interpreter relayed their housing and livelihood requirements to an architect, who sketched a rough house plan.

## Step 2: Development of first housing plan

An architect summarised the similarities between all the rough house plans and developed three main house plans using formal architecture and engineering principles.

## Step 3: Proposals and public hearing

The three main house plans were presented to the local people through a public hearing. The local people then voted for two of the designs.

## Step 4: Development of second housing plan

Local people met and compared the two house styles, condensing the similarities into one house style. A housing committee (comprised of nine local people and staff from a local organisation) was set up to coordinate the building process.

## Step 5: House proposed to consultant

The final housing style was shared with a project consultant, who then assembled the architecture team which included staff from the Indigenous Livelihood Restoration and Sustainable Ecology for Lanta Island Project.

## Step 6: Development of third housing plan

Local people met to vote and give unanimous approval of the final housing style, based on its compatibility with their traditional livelihoods.

## Step 7: Donor support sought

This final housing style was proposed to donor and support organisations in August 2005.

## Step 8: Site selection

A plot of land near the previous housing location was chosen as the new site. Construction is currently underway. Indigenous Livelihood Restoration and Sustainable Ecology for Lanta Island Project is coordinating with an outsourced civil engineering company, while also at the same time supporting the local community to fight for permanent land title documents.

# Flighting Alongside Thailand's Sea Gypsies

## Demanding the return of homestead land for local livelihoods

### Background

Rawai village on Phuket Island in southern Thailand is home to more than 100 families of Moken and U-Lak-La-Woy ethnic 'sea gypsies'. Stateless despite having lived here for generations, their land and houses were grabbed by the private sector several months after the tsunami.

### Strategy

Prove their right to land with the support of local organisations ChumchonThai Foundation (for community capacity building) and the Law Centre (for legal advice and aid).

### Process

#### - May 2006 -

- **Issue:** Four houses threatened by road expansion
- **Action:** Local sub-committee National Poor Solution Centre formed on land issues
- **Impact:** Department of Highways agreed to shift the road line and the four houses in question were not demolished; the National Human Rights Commission, the Council of Legislation and the National Poor Solution Centre keep an eye on the situation.

#### - June 2006 -

- **Issue:** Local people unable to secure public utilities such as electricity or water due to lack of official land title
- **Action A:** Demands made to the Governor of Phuket, the power board and the provincial water supply
- **Impact A:** No response; then lack of land title given as the reason for being unable to provide these services
- **Action B:** the National Human Rights Commission demands these same rights on the public pier on Rawai beach
- **Impact B:** the National Human Rights Commission invited to write report and recommendations for the relevant official departments

#### - November 2006 -

- **Issue:** The local government proposes building a dam wall that will also block access to the public area of the beach which is needed for fishing and traditional ceremonies
- **Action:** Local people protest to the Governor of Phuket and the Department of Marine Transportation
- **Impact:** The local government agrees to conduct a survey on December 1, but then fails to uphold their promise



#### - December 2006 -

- **Issue:** Nobody turns up to conduct the dam wall survey and there is no further progress
- **Action:** Local people submit a proposal to the Dharma Center, Phuket province that demands: a) stop building dam, b) open the public area, c) open access to the well, d) fix flooding in the community, e) repair the public restroom, f) provide land documents, g) survey plans for the dam wall on the beach
- **Impact A:** Authorities met and agree to: a) Give authority to Tambon Administrative

Organisation (TAO) to build more new restrooms, fix flooding in the community and examine plans for building the dam wall and restricted access to the public area, b) Give authority to Department of Land and Department of Marine Transportation to examine plans for building the dam wall on the beach.

- **Impact B:** TAO agreed to solve the flood problem and build the new restroom by February 2007, but there has been no progress. TAO coordinated with the Highways Department to install the street traffic light, but there has been no progress.
- **Impact C:** The community took the issue of blocking access to the public area of the beach to the Council of Legislation.
- **Impact D:** Developers driving boats to beat local community members also cut the rubber breathing hoses of six local divers, seriously threatening their lives.

#### - March 2007 -

- **Action:** A human rights workshop aimed at strengthening the sea gypsy network through sharing experiences was attended by more than 80 people from widespread "sea gypsy" communities. It was facilitated by several organisations including the National Human Rights Commission, ChumchonThai Foundation, the Law Centre, the Phuket official developer, Wildlife and Plant Protection Foundation of Thailand and ActionAid Thailand.
- **Impact:** This workshop helped to prepare people from Rawai village to continue their fight alongside the National Human Rights Commission, the ethnic and livelihoods sub-committees, the Governor of Phuket, the official organisation in Phuket province and the relevant Human Rights team.

### Lessons Learnt

The affected sea gypsy community must join hands and collectively fight for their right to homestead land and livelihoods, drawing on and learning from the experiences of others in similar situations.

## Homeless in “paradise”

For three days during the last week of March 2007, a political party in the Maldives erected a tent on an artificial beach on Male’s east coast to show the sub-standard conditions faced by people still living in temporary shelters following the tsunami that struck more than two years ago.



### SUB-STANDARD LIVING CONDITIONS

During this time, Maldivian President Maumoon Abdul Gayoom and Members of Parliament were invited to see for themselves the extremely hot and crowded conditions which thousands of tsunami-affected homeless people are being forced to endure. According to the same party, 10,305 homeless people across the Maldives are still living in such tents or ‘temporary shelters’.

The tsunami claimed the lives of 82 people in the Maldives while another 26 were reported missing and more than 29,500 were made automatically homeless and considered Internally Displaced Persons (IDPs).



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Although the loss of life was comparatively “small”, according to the United Nations Development Programme (UNDP) in the Maldives, of the 12 nations ravaged by the tsunami the Maldives was among the worst hit in terms of impact upon the country’s population and economy. The tsunami resulted in total damages of nearly half a billion dollars. A third of the 300,000 strong population suffered loss of homes, livelihoods, and essential infrastructure, while more than 60% of the GDP was destroyed. According to the Maldives Disaster Management Centre, 3,997 buildings were damaged.

Although the Maldives, the so-called “last paradise on earth,” is best known for luxury tourism, resorts are located on only about 80 of the 1,200 islands. Only 200 islands are inhabited and during the tsunami most of these were hit by waves ranging from 1.5 to 4.5 metres causing severe and widespread damages.

### STILL WAITING TO RETURN HOME

That day 27-year-old Hafeeza Mohamed (pictured left) and her family, as well as most of the 750 inhabitants of Kalhaidoo Island in southern Laamu Atoll, fled on *dhonis* (local boats) to neighboring Gan Island located nine kilometres away. “Gan people sent some *dhonis* to our island. It is a low lying area and they knew that the water had badly affected the village,” recalled her husband Ali Amir (30).

“We didn’t have anywhere to go,” Hafeeza said timidly, recounting how they were forced to seek refuge inside an old abandoned garment factory camp, Kalhaidoo, in Gan Island, where they have lived for more than two years.

“My husband did everything,” Hafeeza said proudly, looking at Ali and glancing around their small kitchen, a minuscule bedroom with space only for a bed, a “cosy” living area with tattered tartan lino floors, and a private toilet. Most of their neighbours lack a private toilet and to Hafeeza it is “the most important thing” in an environment where resources are scarce and comfort is a thing of the past.

"This is not life," she said a few months ago in front of her makeshift home. "We are not happy here; we desperately need a house to live in." Hafeeza, supported by Care Society through a livelihood programme in home gardening funded by ActionAid in Kalhaidoo camp, has been waiting for a house since the tsunami. "The Government always says 'next week, next week', but the reality is that the house is not coming and we have been here for two years already," she recalled.

## CRAMMED INTO ONE ROOM

In L. Mundoo tsunami camp, the situation is sadly more or less similar. Six months after the disaster the Maldivian government decided to build separate rooms for the families living there. However, larger families found it extremely difficult to fit into these small 10x10 feet enclosed rooms.

"It is very difficult to sleep in one room with all our children. And sometimes I have to come across very embarrassing situations too," affirmed Yoosuf, who shares one room with his eleven children.

Luckily, for some tsunami-affected families like Hafeeza's and more than two years after the disaster, the nightmare has come to an end. Last March Hafeeza's dream became a reality and her family, along with another 63, left Kalhaidoo camp in Gan Atoll to move into a house granted by the Government and built by an international organisation. "The houses were finished at the beginning of March but we couldn't move in until electricity and sewage system were established in the area," Hafeeza said gladly.

But sadly in Gan and Mundoo islands, there are still families living in temporary camps and waiting for a house. Moreover, these families are saddened by the fact that people who had lived together with them sharing the camp for two years were moving away.

## RIGHT TO ADEQUATE SHELTER NOW

According to the Managing Internally Displaced Persons (MIDP) Unit of the National Disaster Management Centre, building tsunami houses requires a huge procedure - invitation for the bidding of houses, evaluation of the bids, ordering of the construction materials and equipments, logistic constraints, etc. The government of the Maldives has never undertaken a project of such large scale.

"However, we can not ignore the hundreds of families living in temporary shelters across the Maldives," pointed out Fathmath Afiya, Director of Care Society. "Survivors have the right to adequate shelter which means adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities and all at a reasonable cost."

"The Universal Declaration of Human Rights adopted and proclaimed by the General Assembly of the United Nations in 1948 recognises the right to property as well as the right to housing. But in the Maldives there are still more than 10,000 people living in temporary shelters. The Government has to provide an immediate solution to these families as their most basic human right has been violated since December 26, 2004," concluded Fathmath.

## Survivors still haven't received enough aid

According to the Human Rights Commission in the Maldives, victims of the December 2004 tsunami disaster have not received sufficient aid. Speaking at their first press conference on the two year anniversary of the tsunami, the President of the Commission, Ahmed Saleem, said that the living standards of the tsunami-affected people should be better than they currently are.

"We visited Laamu atoll Gan two months or so ago," said Saleem in declarations reproduced by Haveeru, a Maldivian newspaper. "The complaints made by the victims were similar to the ones they had made two years ago. Certainly, it is no small undertaking to send aid to the victims of the tsunami disaster but after two years there has to be some improvement. We should not forget them."

Ahmed Abdul Kareem, one of the Human Rights Commission members who participated in the press conference, said that although some of the islands were "in good condition" the building of temporary shelters in other islands were not going ahead as swiftly as expected.

"Considering that it has been two years since the tsunami, we can say that there is not enough effort being made to provide aid to those affected," Ahmed said. "We have received, and continue to receive a lot of complaints about that. We are looking into it."

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## Denying traditional rights to homestead land – Unethical Corporate Non-Accountability

About 30 years ago, one of India's biggest corporate groups Tata established Fisherman's Cove beach resort under the Taj group of luxury hotels. They did this by entering into a lease agreement for two acres of land with the landowner and taking over seven acres of homestead land belonging to the Kovalam fisherfolk community.

### APPROPRIATION OF LAND AND LIVELIHOODS

About 30 years ago Tata, one of India's biggest corporate groups, established Fisherman's Cove beach resort about 30 kilometres from Chennai under the Taj group of luxury hotels. They did this by entering into a lease agreement for two acres of land with the landowner, who obtained the land from the church.

In building the resort, Tata also took over seven acres of homestead land belonging to the Kovalam fishing community. This was based on the oral agreement that TATA would in turn provide the community with basic services such as drinking water (two tankers every day), children's education (50% of school fees for 250 children, plus books and other educational material) and rice (five kilograms per family for 400 families during the rainy season), as well as pay them a fee to take hotel guests on boat cruises.

Today these seven acres of land are worth several million rupees due to the money to be made from beach tourism. Whether by coincidence or otherwise, this oral agreement came to an abrupt end when the tsunami struck.

Following the tsunami, the Kovalam fishing community received about 50 fibre reinforced boats which they had to park on the shore, even though this sometimes encroached on the shore opposite the Fisherman's Cove resort. As a result, hotel management demanded the removal of these new boats as it affected the tourists' view of the sea. This demand irked the community as their livelihood was challenged and they could not park their boats anywhere else. However, after a few days of negotiation the community realised that Fishermen's Cove was not going to relent but rather threaten their livelihood rights even further.

Unhappy with Fishermen's Cove for not providing adequate relief after the tsunami, the Kovalam asked the hotel management to assign three acres of alternate land – less

than half of what they had originally appropriated back in the 1980s – for safe housing for the community. After getting no response, a group of village leaders travelled to Chennai to ask the Tata Relief Committee to intercede on their behalf.

"They've been talking for years about 'adopting' our village," points out Narayan, an ex-lifeguard at the hotel and now a social worker in the village. "We didn't want to go to the police about this issue and risk spoiling our relationship with Fishermen's Cove. We gave them the benefit of doubt."



"The hotel people had been saying since 1991 that if at any point we needed land for schools or houses they would return the land they'd taken or buy us land somewhere else, Narayan continues. "Then after the tsunami when we really

needed the land they said they could help us with everything... except land - 'We have to talk about that – give us a couple of days'."

### UNJUST ARRESTS AND DETENTION

In the first week of April 2006, after the new boats had been parked on the foreshore in front of the hotel for more than 16 months and following a phone call in which the hotel group said it would give nothing to the fisherfolk, police visited the Kovalam and asked the panchayat leaders to come to the police station. (A panchayat is an administrative unit comprised of five villages.)

On the night of 13 April 2006, a 100-strong police contingent led by the Superintendent of Police and the Deputy Superintendent of Police descended upon the Kovalam fishing village and demanded that they hand over nine people.

"We refused," says Narayan. "The next day was Tamil New Year and we needed to pray in the temple. We said we'd come the day after."

This led to a heated altercation, with police banging on the closed doors of the people's houses and demanding that they hand over the nine men. The wanted men, terrified for their lives, fled to the sea. The police began beating the other men and women with their lathis, even pulling children from their slumber and threatening them with physical injury.

"I was hit very hard on the leg. The pain was so bad that I just sat down on the ground. My brother was beaten and even my thirteen-year-old daughter, Abirami. I'll never trust the police again. My blood boils when I see them now! This is our land and we are not allowed to live here," recalls Gita, wife of a panchayat.

However, in July 2006 there was a change in the political administration in Tamil Nadu state. The new government, fully aware of the ongoing issue, was brought in to negotiate between the Kovalam community and Fishermen's Cove. These negotiations lasted for more than three months before a memorandum was signed between the community and Fishermen's Cove. The community agreed to forgo the seven acres of homestead land held by the hotel if the government would instead compensate them with three acres of alternate land. However, the government is yet to deliver their final verdict, with Fishermen's Cove retains possession of the land as the struggle for retrieval of common property resources continues.



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## FIGHTING FOR THEIR RIGHTS

ActionAid India, its local partner Marine Fisherfolk Organisation (MFO), and several civil society groups have been working with the Kovalam community to organise and mobilise them to fight against the neo-liberal forces and win back their homestead land. MFO was founded by social activist Seenivasan to challenge the government's inconsistencies towards tsunami rehabilitation of fisherfolk communities. It is registered under the trade union act of India and boasts more than 1,200 members.

That night 11 men and one young boy were arrested, placed under non-bailable warrant and sent to judicial custody. When the legal documents surfaced, villagers were astounded to see that the original complaint had been filed by the General Manager of Fishermen's Cove who charged that the fishermen had threatened guests by using "deadly weapons like harpoons" and exposing their "genitalia". Indeed, prior to the police raid on the village, Fishermen's Cove had complained that the fisherfolk had been creating problems for the tourists by defecating on the open beach in front of the hotel and parking their boats there (which is customary practice).

## HOMESTEAD LAND VS. CORPORATE TAKEOVER

In the days and weeks that followed, the villagers refused to go fishing until they were bailed and it took a month before all the people were released from the judicial custody. Terrified of approaching the hotel, the fishermen approached the local Minister for Fisheries, presumably a natural ally.

MFO has been facilitating the entire process by strengthening the capacity of coastal communities in Kancheepuram district to fight for their homestead land rights and file legal cases against Taj Hotels. This capacity building includes using community education to teach the fisherfolk about their Right to Information.

As well as helping to secure the release of the innocent Kovalam people, this knowledge has also resulted in the local communities learning about another proposed hotel development a mere 500 metres away from Fishermen's Cove and thus being empowered to monitor construction to ensure: a) it will be built 200 metres away from the high tide line i.e. won't violate the Coastal Regulation Zone (CRZ), b) it won't extract ground water, and c) it will only be two stories high.

All the coastal villages are now aware of the CRZ Act and its implications on their communities. They are demanding that there be no new constructions, while documenting the current violations on the coast.

## Piecing life together after the tsunami in Somalia

When the tsunami struck the isolated community of Eyl district on the north-west coastline of Somaliland, it was a double tragedy for many people.



In October 2004 the freezing rain destroyed thousands of livestock in Somaliland. A few months later, just when they were beginning to settle more permanently into fishing as their new livelihood, the tsunami came and wiped out all they depended on.

More than two years after the disaster, 36-year-old widow

**Maimun Said** is one of the many people who are now piecing life's jigsaw together in Somaliland. Her family lost 50 goats in the freezing rain and then her husband died in the tsunami.

"My husband was among those who were trapped in the killer waves. They rushed to collect the lobster and fish deposited on the shore by the strong waves. The waves returned in full force sweeping all the fishing gear and people to the shore," affirmed Maimun, mother of two children whose small jewelry shop was also washed away.

Maimun lives in Dawad village which sits on a gentle slope a kilometre away from coastal Badey village where the fishing community lives and where ActionAid is constructing houses for the poorest of the affected people.

"To cushion poor people from sinking deeper into poverty, we are constructing 20 houses in partnership with the local organisation KAALO - 14 in Dawad and six in Badey - for the poorest of the poor families in the tsunami-affected communities," said Mohamud Said, ActionAid's tsunami programme manager in Somaliland.

"Fourteen of these families are women-headed households. 198 people, included 187 women and children, will benefit from this project. Each house consists of two bedrooms, one kitchen measuring 4x5 metres, a toilet and perimeter fence. The cost per house is approximately USD \$7,500," affirmed Mohamud.

"Since the tsunami struck, life has never been the same for us. But we have to survive. It is not the end of the world. We have to raise our children so they can face the future with confidence too," said Maimun, standing next to her new house under construction.

Maimun's family is among the 950 families that have received food rations for nine months from ActionAid. She occasionally gets help from her brothers. She bakes bread and biscuits for sale in the schools for a living where she makes a half dollar profit for every USD \$2 she invests.

### Building the future for children

ActionAid has also supported the construction of three extra classrooms in Dawad. Since fishing was the village's main livelihood activity, the whole economy of the coastal area has been affected by the disaster.

"Poor parents could not afford to pay the required monthly fee of US \$5 per child," said Mohammed Khalifa Osman, the II Dabey Primary School head teacher. "By January 2005 one-third of the pupils had dropped out of school.

"When ActionAid supported the construction of three extra classrooms to subsidise the cost for those who cannot afford, enrollment increased from 167 to 197 pupils," noted Mohammed. "They are now coming back."

This fact has encouraged teachers and now they are financing one extra classroom on their own to meet the growing demand for education of newcomers like 16-year-old Mohammed Yusuf who never imagined he could ever go to school. "I could not read or write. The only thing I used to learn was the Quran," recalled Mohammed, the thirteenth born boy from a family of 21 children. When they came to settle in town, Mohammed joined II Dabey primary school where he is now pursuing his dream of becoming a doctor.

## Improving access to health

Access to health has been also another focus area of ActionAid's intervention in Somaliland. The last time people in Dawad had a functional health facility was fifteen years ago before the fall of Siad Barre's government (1969-1991). The place now has a functional hospital for both men and women and a fully stocked pharmacy.

The hospital serves a population of up to 4,000 people who are pastoralist communities in the neighboring areas and the two village towns of Bedey and Dawad.

ActionAid has provided initial drugs worth USD \$2,000, rehabilitated the buildings and supported the training of staff – most of them traditional birth attendants – to run the facility. Additionally, ActionAid pays the salaries for nine staff including that of a medical doctor who comes seven to 10 days every month to handle serious cases and make referrals.

Patients who come to see the doctor do not have to pay a doctor's fee, including patients like six-year-old Asha Mohammed Khalif who has had a thorn in her forehead for two years. "Since we do not have to pay any money for the doctor, we brought our daughter for a minor surgery so the thorn can be removed," said Asha's mother.

"We treat up to 10 people every day. Most cases require surgical operations while others are mainly due to malnutrition," affirmed Dr. Mahmud Hassan Ibrahim.

## AT A GLANCE

### IMPACT OF THE TSUNAMI IN SOMALIA

- People along the coastal region of Nugal and Kaakar in the Puntland State of Somalia were affected by the tsunami. Six people lost their lives and many houses and boats were destroyed.
- The tsunami impact was further worsened by the already existing vulnerability of the people in the region due to sixteen years of civil strife.
- Many pastoralists also lost their livestock due to ice rains in November 2005 and were reduced to abject poverty.

### WHY DID AAI INTERVENE?

- To rebuild the lives and livelihoods of people in the only tsunami-affected country in Africa
- To address the gaps that emerged from the tsunami impact
- To re-integrate both the fishing and pastoralist communities back to their livelihood system.

### AAI STRATEGY

- Working in partnership with two local NGOs, SHILCON and KAALO in Haafuun district in Kaakar region and Eyl district of Nugal region respectively, to implement the projects with communities and other stakeholder including the officials of the line ministries of the Puntland State of Somalia.
- Programme focusing on meeting basic needs, recovering livelihoods, capacity building and some policy aspects of governance and women's rights.

### OUTCOMES AT A GLANCE

- 1,790 families (6,532 people) supported in 2006
- 14,000 right holders benefited over the last two years
- 1,154 families' immediate needs covered
- 20 permanent houses constructed
- 20 temporary shelters built
- 90 women supported for small businesses
- 23 water facilities constructed benefiting 184 families
- 260 fishermen supported

### CHALLENGES

- Absence of formalised government and governance systems.
  - Districts are managed by war lords and INGOs are facing problems to develop their programmes.
  - Poverty is rampant in these areas and even those who were not affected by tsunami were facing major difficulties.
  - Illiteracy is very high and local leaders can easily manipulate the different processes.
  - Regional politics between Somaliland and Somalia have created mistrust.
  - Lack of skillful human resources to implement programmes effectively and efficiently.
  - Gaps between relief, rehabilitation and development linkages; programmes focused on humanitarian needs only.
  - In addition to the tsunami, in November 2005 there was an ice rain that killed large numbers of livestock and received no response from the international community.





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## Meet Mr. Suthin Borrommajet

Mr. Suthin Borrommajet works with the Committee of the Legal Aid and Community Rights Centre (LACRC), a partner organisation of ActionAid Thailand. He is also the President of the Subcommittee of Human Rights Cases and the Vice President of the National Human Rights Commission. LACRC assists in helping local communities to understand homestead land rights issues from a legal perspective.

### What is your personal experience of the Land Rights conflict and the legal processes of Homestead Land?

I have been representing poor people in their livelihood and homestead land issues for the past twenty years. I managed the Union for Civil Liberty (UCL) for two years and then became a law consultant for the Slum Network. At present, I am dedicated to assisting tsunami-affected people in three main communities: Laempom (Thai-Buddhist people), Tabtawan (Sea Gypsy people) and Ban Nai Rai (Thai-Muslim people).

### Are there any organisations who support the Legal Aid and Community Rights Center and your work?

The Save Andaman Network (SAN) initiated a project on Legal Aid for Community Rights through the Slum Network and later through LACRC. ActionAid Thailand is funding legal aid for tsunami-affected tsunami people, as well as the current case on tsunami land rights conflict.

### Please give us an example of shared learning.

I would like to share the case of the Tab Yang community, who are in the Tai Muang District in Phang-Nga province. They had the mining concession, and their community was destroyed by the tsunami. Many organisations responded by building new houses in the community, but only for those families who could provide proof of official land title. The local prosecutor tricked many local people who did not possess official land title into losing their land and as a result these people were made to pay high rental fees for their land.

The National Human Rights Commission and LACRC began offering legal aid to local people who wanted to prove their right to land. This support enabled the local people to negotiate and be noticed. Some cases resulted in the complainants paying less for land leasing. Other cases resulted in people successfully proving their ownership of the land and cancelling out the claims of the fraudulent owners. Overall, I feel that we succeeded in strengthening the community through demanding the rights of disadvantaged local people.

### What is your plan to protect the local people's land rights in the long term, and how can we improve awareness of policy solving?

We would like to work with ActionAid Thailand to create positive media coverage of the legal processes, the basic laws for land rights, the rights of local people, (including building community networks for land rights in several areas). In the long term, we also hope to strengthen the entire community.

In relation to policy solving, we want to mobilise the community network to ensure that community rights are the highest priority and that key problems are identified through public discussions. From there we will submit the people's report to the government. If the local people have the necessary skills and the right basic approach, it's more effective and sustainable to address the root problems of land rights and livelihoods.

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ActionAid works with 14 million poor and excluded people in 47 countries in Africa, Asia and the Americas to support them in securing their rights and eradicating poverty. our tsunami programme works with 433,000 affected people in India, the Maldives, Somalia, Sri Lanka and Thailand

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