

DISCUSSION PAPER PREPARED

by

THE CENTRE FOR POLICY ALTERNATIVES (CPA)

on

REFLECTIONS ON TSUNAMI ONE YEAR ON: LESSONS TO BE LEARNT

I. Introduction

Since the tsunami devastation on the 26th of December 2004, numerous documents have been published relating to the tsunami relief, rehabilitation and reconstruction efforts. These documents have reviewed the needs of tsunami-affected areas and people, the progress made by stakeholders in addressing those needs, and the opportunities created in the wake of the tsunami. They have also included assessments of tsunami related initiatives and efforts that took place over the last months. The Centre for Policy Alternatives (CPA) produced several documents in response to the issues that were raised following the tsunami such as key governance structures, land and property, coastal zone and children's issues.¹ Throughout 2005 and 2006, CPA has monitored the relief, rehabilitation and reconstruction efforts and when necessary highlighted and lobbied policy-level actors on several issues that were deemed arbitrary, unfair, unjust or discriminatory.

CPA has consistently lobbied for all stakeholders to adhere to good governance principles such as conflict sensitivity and subsidiarity. Conflict sensitivity in short is underpinned by the axiom of "doing no harm" and seeks to facilitate the transformation and prevention of conflict. Subsidiarity is about decision making at the local level and providing a space for diversity and pluralism and the enjoyment of multiple identities. It is founded on the notion that the central government should only get involved in the exercise of functions and the provision of services that cannot be best carried out at the local level.

CPA reiterates that these two principles are mutually reinforcing and that values such as equity, participation, pluralism, transparency, accountability, effectiveness, efficiency, responsiveness and sustainability are subsumed within these overarching principles. CPA urges adhering to the two principles mentioned in the formulation and implementation of plans, policies, regulations, guidelines

¹ Documents available on www.cpalanka.org

and laws. Further, CPA has urged all parties to treat the conflict-affected and the tsunami-affected in an equal manner without any discrimination.

The purpose of this paper is to highlight important governance issues, both those that have been and those that need to be addressed, using case studies to underscore deficiencies and shortcomings. A key aspect of the paper is that it sets out the framework presently in place regarding relief, rehabilitation and reconstruction and examines whether the structures are effective or whether they need to be revised. Thus, this paper may provide a base from which to initiate a dialogue between the government, stakeholders and affected parties on ways to ensure a smooth, effective, and efficient reconstruction process. However, because this paper restricts itself to addressing issues that came up in the course of work undertaken by CPA. It is by no means exhaustive of all problems relating to the relief, rehabilitation and reconstruction processes.

II. Governance: is it bottom up or top down?

Many of the regulations and guidelines related to tsunami relief, rehabilitation and reconstruction efforts have been issued by the Central Government with minimum or no involvement of local area political institutions and officials. Though much groundwork has been carried out by District Secretaries (also referred to as Government Agents (GAs)), Divisional Secretariats (DSs), Grama Sevakas (GSs) and other local officials, most of the planning and policy formulation was undertaken by Government officials and departments in Colombo and implementation left to local actors. Such minimal consultation at the local level has brought about plans that do not take into consideration special local characteristics. For example, the buffer zone guidelines issued by the Government proposed a blanket 100/200 meter rule without taking into account special geographic and/or environmental characteristics of the areas. Strong lobbying against the buffer zone rule resulted in the Government reverting to the Coastal Zone Management Plan of 1997 which stipulated for set back zones depending on the nature of the coastal area (Find below discussion on the buffer zone and its impact).

Proponents of the top down approach argue that many local actors lack the capacity to participate in the policy formulation process. However, lack of capacity directly results from the dependency that has been established by the Central Government and is based on past experiences of letting the Central Government dictate terms to local actors without enabling them to take a lead role in formulating plans suitable to their area needs. On the other hand, the strength of many local actors was witnessed in the wake of the tsunami devastation when many acted on their own initiative in addressing immediate relief issues at a time when there was an absence of clear policies from the Central Government. Such lessons must be incorporated in future initiatives, and local actors involved

in policy formulation and planning, thereby encouraging a bottom up approach. Subsidiarity, where the Central Government plays a subsidiary function with most powers devolved to the local level, is a key principle that should be encouraged in the reconstruction efforts and in future governance.

While supporting subsidiarity and a greater role for local level actors, the role and effectiveness of governmental structures must be examined. Currently, there is a significant power imbalance, with the Central Government holding much of the power. In the wake of the tsunami, local actors received prominence with certain tasks and powers entrusted to them. For example, the GS played a prominent role in the creation of the beneficiary list and distribution of assistance. However, the new tasks and powers also created certain problems. There were reports of corruption and bribery on the part of GSs involved in the distribution of aid. Therefore, it is necessary to address the issue of how best to manage power, be it at the Center or the local level. It is vital that the Government and other actors examine the structures and assess the effectiveness of such structures, ensuring that structures that are in place are effective, transparent and accountable.

It is hoped that the Reconstruction and Development Agency (RADA), which is discussed below, will play a prominent role in the affected areas, liaising with local actors and ensuring that decisions are made at the local level with minimum interference from the Central Government. It is recommended that the Central Government provide technical assistance when the need arises.

III. Effective coordination: Are there shortcomings?

A. Structures: the old and the new

In the wake of the tsunami, there were several mechanisms set up at the national and regional levels. At the national level, the Government of Sri Lanka established the Centre for National Operations (CNO) and three task forces, the Task Force for Rescue and Relief (TAFRER), the Task Force to Rebuild the Nation (TAFREN) and the Task Force for Logistics and Law and Order (TAFLOL). After disbanding of CNO in February 2005², the Government formed the Task Force for Relief (TAFOR) as the successor to the CNO, TAFRER and TAFLOL. With the change of Government in November 2005 there were several more structures created. The Reconstruction and Development Agency (RADA) is a new governmental organization that was formed after the elections. RADA is to replace TAFREN, TAFOR, the Housing Reconstruction Unit (THRU), the Transitional Accommodation Project (TAP) and the Rehabilitation of Persons, Properties and Industries Authority (REPPIA).³

² Post-Tsunami Recovery and Reconstruction, Joint Report of the Government of Sri Lanka and Development Partners, December 2005

³ Post-Tsunami Update- OCHA (December 2005)

Many structures have been created in the last several years to address relief, rehabilitation and reconstruction efforts arising from the conflict. Several ministries have been given responsibilities to deal with conflict-related issues, such as the Ministry of Relief, Rehabilitation and Reconciliation (MRRR), the Ministry of Agriculture, Irrigation and Mahaweli Development, the Ministry of Vanni Rehabilitation, the Ministry of Eastern Development, the Ministry of Urban Development and Water Supply and the Ministry of Housing and Construction Industry, Eastern Province Education and Irrigation Development to name a few. In addition, several other governmental organizations and officers have also been involved in conflict rehabilitation matters, such as the Commissioner General of Essential Services, the Resettlement and Rehabilitation Authority of the North (RRAN)⁴ and REPPA. (Refer to Chart 1 on present structure) With the change of Government in November 2005, two new ministries, the Ministry of Resettlement and the Ministry of Nation Building, were created with the functions and powers of the former Ministry of Relief, Rehabilitation and Reconciliation, Ministry of Vanni Rehabilitation and the Ministry of Eastern Development, being divided between them. A positive aspect of both RADA and the Ministry of Nation Building is that they will deal with policies, programmes and projects arising from both the conflict and the tsunami, thereby ensuring that there is a coherent strategy in place that will hopefully treat both the conflict- and the tsunami-affected equally.

In addition to the above structures there are at the provincial and district levels GAs, land officers and DSs that work in relief, rehabilitation and reconstruction efforts. The importance of political institutions needs to be highlighted, with consideration given to the role played by Provincial Councils and Local Government. The 13th Amendment set up Provincial Councils to which certain powers were devolved from the Center. The Provincial Councils have within their purview land, rehabilitation, reconstruction and other related matters. Although the Provincial Councils have such powers, in practice the Central Government plays a prominent role and has the final say.⁵ (Refer to Chart 1 on present structure) This has been evident in the response to the tsunami where formulation of policy and plans was directly from the Central Government with minimum involvement of the Provincial Councils and local actors.

In addition, it should be remembered that the North East Provincial Council (NEPC) is not functioning as a political entity, and there have been no elected representatives in its legislative branch since March 1990. For practical purposes, the NEPC is solely an administrative body. Given the role

⁴ RRAN was established to facilitate the resettlement and rehabilitation of the displaced persons in the North and to look into overall reconstruction efforts in the North. With the creation of MRRR, responsibilities of RRAN has been taken over by MRRR.

⁵ The powers of Provincial Councils are further limited by their dependency on the central government for financial resources. Pursuant to Article 154R, the central government may allocate funds to the provinces on the recommendation of the Finance Commission.

played by the LTTE and the multiplicity of stakeholders in the North East, any future plans and initiatives must be inclusive of all relevant actors.

In the LTTE controlled areas, there are many entities that are involved in relief, rehabilitation and reconstruction efforts, such as the Planning and Development Secretariat (PDS), the Tamil Rehabilitation Organisation (TRO), the Centre for Women's Development and Rehabilitation, the Economic Consultancy House and INGOs and NGOs that also work in the rest of Sri Lanka. (Refer to Chart 1 on present structure)

It is clear that there are many existing structures which deal with relief, rehabilitation and reconstruction efforts. Though the three new structures (Ministry of Nation Building, Ministry of Resettlement and RADA) are replacing and amalgamating existing ones, previous experiences have shown that the fundamental flaws of duplication and bureaucracy inherent in the system have hampered an efficient and effective response. Therefore, while setting up structures, the Government should learn from past experiences and create structures that complement, not overlap with existing ones. It is vital that entities such as RADA take stock of what has taken place and formulate plans and programmes that complement the existing system, ensuring local actors play a key role in the relief, rehabilitation and reconstruction process. CPA recommends that while RADA is responsible for overall coordination of reconstruction initiatives, coordination within existing structures such as line ministries, departments, authorities, Provincial Councils, Local Government Institutions, District Secretaries (GAs) and the LTTE be improved. (Refer to Chart 2 on proposed structure)

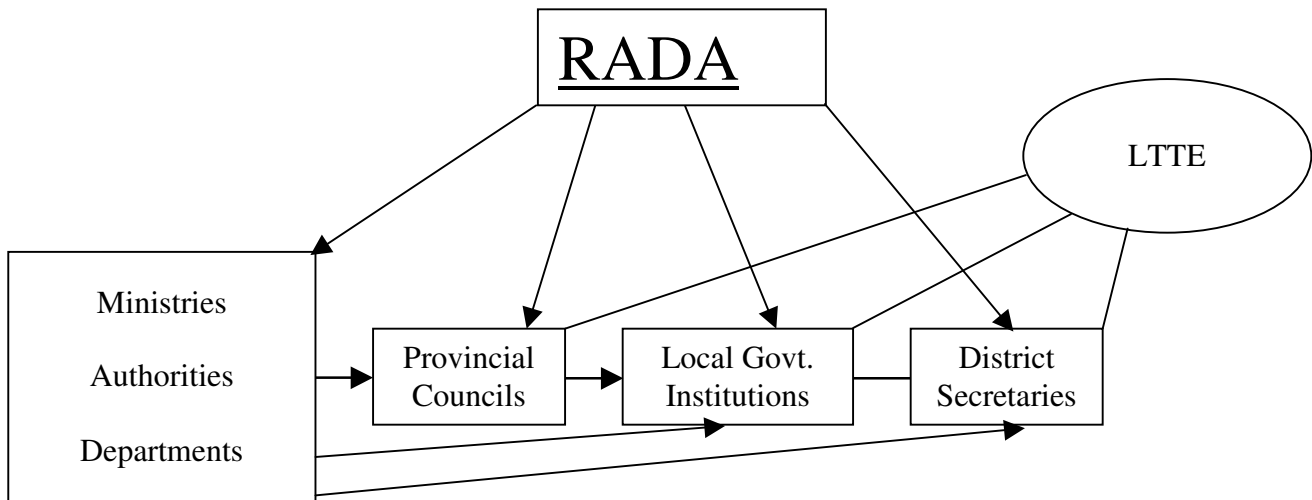
B. What is the role of RADA?

There have been reports that a bill to transform RADA into an Authority is underway, though no such bill has yet been made public nor presented in Parliament. Similar reports surrounded the proposed creation of the Authority for Rebuilding the Nation (ARN) which was to replace TAFREN. Though ARN was never created, there was neither transparency and participation in drafting the bill nor any consultation with relevant actors and the affected communities. With the secrecy surrounding the creation of the Authority, it is also unclear what the exact role of RADA will be. According to the RADA website, it was set up in order to accelerate reconstruction and development activities throughout the country and to replace all the tsunami organisations, as well as a significant part of the MRRR. The website further states that RADA is to operate through existing structures but ultimately will function as the “single Government focal point responsible for reconstruction and development activities to all natural and man made disasters in post tsunami and post conflict areas throughout the nation”.

The experience with the buffer zone guidelines highlight that there seems to be confusion on the exact nature of the functions and powers of RADA. As discussed below, several buffer zone regulations were issued in 2005 by the Coast Conservation Department (CCD), the Urban Development Authority (UDA), TAFREN and most recently by RADA. The exact nature of the new set back zones in the coastal areas has not been clearly conveyed to the local authorities and as a result work is still progressing according to old guidelines which ultimately affect housing construction. As the single focal point, RADA should take the lead role and ensure that the new regulations are conveyed to the affected areas without delay and avoid confusion among local actors and the affected communities. (Refer to Chart 2 on proposed structure)

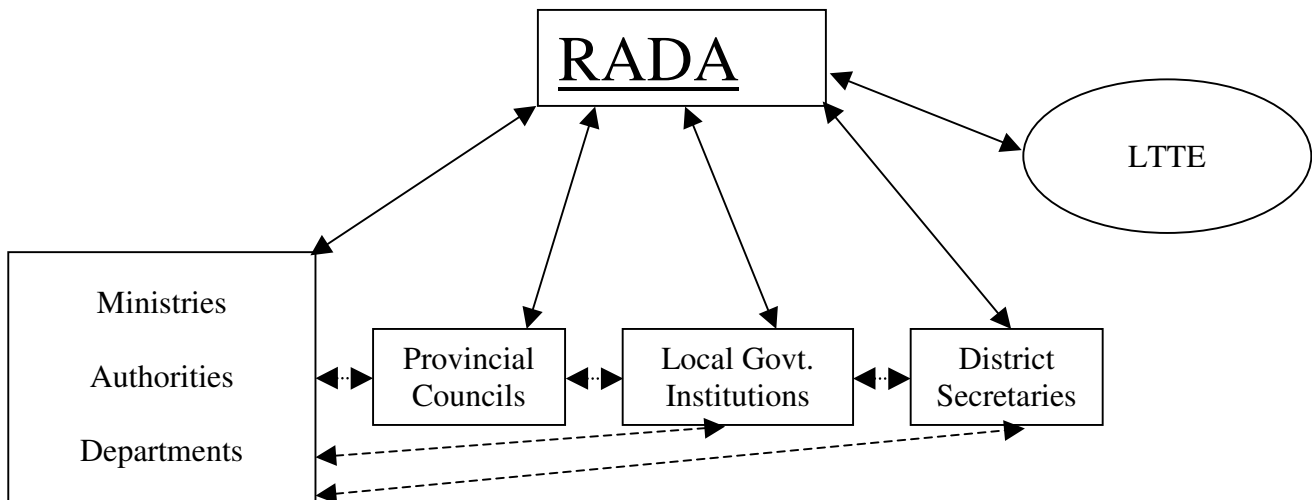
PRESENT STRUCTURE

Chart 1



PROPOSED STRUCTURE

Chart 2



Thiraimadu- a case study⁶

Poor coordination and information sharing has been clearly portrayed in Thiraimadu in the Batticaloa District. The housing site at Thiraimadu consists of state land which was unused prior to the tsunami. Heavy rains have shown that the land is prone to flooding which was the case recently with several transitional shelters being flooded and highlights the unsuitability of the land. More than one year after the tsunami, approximately 1117 permanent housing units are needed in Thiraimadu with no immediate prospect of the tsunami-affected receiving permanent housing. According to the DS in the area, there are several reasons for the delay. The site for the permanent housing is situated in a low lying area and therefore the land needs to be dredged and filled before construction in order to avoid flooding. The DS claimed that the Land Reclamation Board was responsible for ensuring that the land was suitable to be built on. A contrary view was related in Colombo by officials at THRU. According to information received from THRU,⁷ the Land Reclamation Board within the Ministry of Urban Development under the previous Government was responsible for ensuring that the land was suitable for building. A delay resulted as Rs400 million was required to make the land suitable for building. The Government pledged Rs200 million in August 2005 but this was never received from the Treasury, and as a result work never commenced. With the change of government, the Land Reclamation Board is no longer involved in the process. RADA and the donors now take the lead role. THRU officials hold that dredging and filling the land as well as construction of housing should be completed by September 2006.

Adding to the existing confusion and delays in Thiraimadu is the lack of progress made in constructing roads. Donors who have signed MOUs for permanent housing have requested that access roads be built to facilitate the housing construction. Inaction from the Road Development Agency (RDA) has further delayed construction. Thiraimadu is a clear example of how poor coordination within government structures can hamper reconstruction initiatives; the ultimate victims are the tsunami-affected who are in transitional shelters indefinitely due to confusion and inertia among stakeholders. As the single Government focal point, RADA must ensure better coordination among the relevant actors, ensuring the response is effective and efficient and reducing duplication. It is also vital that local actors are kept informed of changes in the structures and actors involved. Though THRU officials hold that the change in actors involved in reconstruction efforts were conveyed to the local level, local actors in Batticaloa were not aware of the change in structures and actors and as a result were confused as to who was responsible for reconstruction.

⁶ Information obtained during a field trip conducted by CPA researchers 12-15th February 2006

⁷ Interview with Mr. Thilina Kiringoda, Director Environment-THRU, 23rd February 2006

As previously discussed, several initiatives can be taken by the relevant stakeholders to ensure effective coordination in the rehabilitation and reconstruction process. RADA has been earmarked to play a vital role in the coordination process and it is imperative that key actors are identified within the existing structure and functions delegated. It is evident that there are several actors in the rehabilitation and reconstruction process and the question is raised as to whether we need new actors and whether there is a need for all existing actors. To ensure effectiveness and efficiency, RADA should see to it that initiatives are undertaken by existing actors, thereby decreasing the need to create new offices as well as reducing duplication. It is also important to assess whether all existing structures are necessary in the rehabilitation and reconstruction process. If after a thorough assessment it is deemed that certain actors are not essential, measures should be taken to revise and revamp the structures.

IV. Access to Information

A. Information sharing: practical difficulties

Availability of information on regulations, guidelines, policies and laws on tsunami relief, rehabilitation and reconstruction efforts, and the methods of sharing such information have been a critical issue. As previously indicated, decision-making is centralized and top down with minimal involvement from the affected areas. Information too trickles down from the center and is slow in reaching the affected communities and local actors. Delays in receiving information leads to confusion within the community and leads to duplication of efforts. For example, the latest guidelines issued by RADA on the revision of the buffer zone guidelines and reversion back to the CZMP 1997 set back areas has taken more than two months to reach local actors, with several DSs yet to receive the most recent guidelines. This was evident in several DSs in Batticaloa and Hambantota where local authorities still complied with the 100/200 meter buffer zone and therefore did not allow residents in the 100/200 meter area to return to their land and rebuild their homes.⁸ As a result, construction under the donor-driven housing scheme (discussed below) continued which would ultimately lead to an excess number of houses in the district.

The need to inform the public of changes in rules, regulations, guidelines, policies and structures has to be addressed, and the information must be clear, concise and educative. The changes brought on by the revision of the buffer zone have been poorly communicated to the areas. As a result, both the affected communities as well as local authorities are unsure as to what is the prevailing rule. This was somewhat addressed by RADA with the printing of the latest set back areas in national newspapers

⁸ Information obtained during a field trip conducted by CPA researchers (Hambantota 25-26th January 2006 & Batticaloa 12-15th February 2006)

but this too came about some time after the decision was taken to revert to the set backs zones created under the CZMP 1997.

Further, it is vital that any regulation or rule that is introduced includes a rationale justifying the reasons behind decisions taken by the Government. Such justification was missing in several initiatives undertaken by the Government to introduce a buffer zone. Any scientific reasoning should be phrased in simple language which can be understood by all interested parties. As the Government focal point on rehabilitation and reconstruction, RADA should ensure that information is promptly conveyed to the relevant authorities, including local level actors and the affected communities. While discussing information sharing, the role played by media channels, both TV and radio, must be stressed, as many people in Sri Lanka have a tendency to either watch TV or listen to the radio. Therefore, TV and radio programs have had some success in informing the public on changes in policy and structures and therefore should be utilized by the authorities in the future.

B. Data: How accurate is it?

Verification of data is another issue that needs to be highlighted. The tsunami devastation resulted in several needs assessments being conducted which produced several reports, ensuring availability of data in key areas. It is interesting that in certain cases there were discrepancies in the figures. Taking permanent housing as an example, “Post Tsunami Recovery and Reconstruction- Joint Report of the Government of Sri Lanka and Development Partners” lists total houses damaged within the buffer zone as **32,000** with 29,640 MOUs signed.⁹ Figures released in January 2006 by RADA under the Donor Built Housing Project raise the number of damaged houses to **33,038** with 30,278 MOUs signed.¹⁰ What is of interest is the difference of more than 1000 houses in the space of one month.

Further, the “Tsunami Housing Reconstruction Programme- Current Status by TAFREN” report lists total houses damaged as **50,783**.¹¹ Total houses damaged in Batticaloa were **5201**.¹² In contrast, the People’s Consultation Report released by the DRMU and UNDP states that there are **29,000** fully damaged houses in Batticaloa which constitute 36.9% of the country’s total of **78,529**.¹³ The two reports contain large differences in numbers which must be explained.

⁹ Post Tsunami Recovery and Reconstruction- Joint Report of the Government of Sri Lanka and Development Partners (December 2005)

¹⁰ Construction Status- Donor Built Housing Project- Tsunami Housing Reconstruction Unit (January 2006)

¹¹ Tsunami Housing Reconstruction Programme- Current Status- TAFREN (August 2005)

¹² Ibid.

¹³ People’s Consultation Report- DRMU and UNDP (July-September 2005)

While on the subject of information sharing and availability of data, an important aspect that needs to be emphasized is retaining information. The data that was collected by CNO soon after the tsunami was lost when CNO shut down. Whether it was intentional or due to negligence, one may never know, but valuable data was lost in the process and no one was held accountable for it.

Availability of accurate and up-to-date information is key in any reconstruction process and must be borne in mind by all stakeholders. Inaccurate or old data can create confusion, cause duplication of efforts and result in the wasting of time, energy and resources. RADA and other actors must ensure that verification of information is a standard practice and that all relevant authorities are provided with accurate and up-to-date information and data. Existing structures such as offices of the GAs, DSs, GSs and other local actors should be utilized in providing information at the ground level.

V. Holding them Accountable

One of the most significant reports that captured the headlines was the Auditor General's (AG's) Interim Report on tsunami recovery.¹⁴ The report attempts to account for the basic finances of the tsunami recovery program. In doing so it highlights cases of incompetence and misappropriation of funds by the persons responsible for carrying out relief and reconstruction work in the affected areas.

For example-

- ❑ Rs. 4.3 million was collected but only 37% has been spent.
- ❑ In Ampara district, ration allowances to the amount of Rs.1,350,000 have been paid to persons not entitled to this allowance.
- ❑ Disappearance of goods valued at Rs.1,010,950 issued to the Divisional Secretary, Kalmunai.
- ❑ 384 Non-Governmental Organizations registered with the Department of Social Services had agreed to provide funds amounting to US \$ 1,321.2 million for rebuilding of assets destroyed by the Tsunami. There were instances of failure to sign MOUs resulting in delays
- ❑ In relation to payment for damages to houses, payment of excessive amount for minor damages were made without assessing the cost of restoring the houses to normal condition. Similarly, payments were made without identifying the value of the damaged houses resulting in heavy expenditure to the Government.
- ❑ Rs.500,000 was paid by the Kalmune Divisional Secretariat for damaged housing without establishing eligibility.
- ❑ A sum of Rs.2,200,000 had been paid for 44 undamaged houses in the Medaketiya Grama Seva Division by assessing them as partially damaged for Rs.4,400,000.

¹⁴ Interim Report of the Auditor General on the Rehabilitation of the losses and damages caused to Sri Lanka by the Tsunami Disaster on 26th December 2004, carried out up to 30th June 2005.

- ❑ Allocation of 26 houses by Non-Governmental Organizations to 26 families who had not suffered any damages.
- ❑ A sum of Rs.6,420,000 had been irregularly paid to 430 families in 29 Grama Seva Divisions in the area of Tangalle Divisional Secretariat without establishing their eligibility.

The examples cited point to the need for transparency and an effective monitoring mechanism that will ensure that resources are not misused and assistance is targeted at those entitled to relief. The report can be used to highlight the inherent problems present within the existing system and the need for restructuring and accountability. It should also be noted that although information of such alarming nature was revealed in the AG's report, comparatively little attention was given to it by the public, media and politicians.

A. Housing: excess, delay and other problems

In the area of housing, questions are raised as to how Hambantota district has more MOUs signed for permanent housing construction than the actual houses destroyed by the tsunami in that area. The following data is from RADA under the donor-built housing project-

Total Houses damaged within the buffer zone	3107
No. of units assigned to donors	4772
No. of units MOUs signed	3769 ¹⁵

One has to question as to who should be held accountable for such instances where more houses are built than is necessary. The situation of excess houses in Hambantota should be contrasted with the situation in Ampara, Mullativu, Killinochchi or Jaffna where there is a need for more MOUs to be signed for permanent housing construction. Such discrepancies among the districts prove the lack of transparency and accountability in the reconstruction process.

Further, building in Hambantota has been relatively fast compared with that in the east. For example, in Hambantota, 1366 permanent housing units have been handed over to beneficiaries compared with 75 in Ampara and 72 in Batticaloa.¹⁶ Political will, availability of land and security concerns have been key issues that have impacted on the construction of permanent housing and can explain the speed of reconstruction in the South compared to that in the North East. The recent abduction of the TRO workers in Batticaloa forced the TRO to suspend their work in the district. TRO was the largest

¹⁵ Construction Status- Donor Built Housing Project- Tsunami Housing Reconstruction Unit (January 2006)

¹⁶ Construction Status- Donor Built Housing Project- Tsunami Housing Reconstruction Unit (January 2006)

donor in Thiraimadu having signed an MOU to build 319 of the 1117 houses.¹⁷ As a result, the Government has to seek new donors which has impacted reconstruction plans and delayed the entire process. This means that the tsunami-affected who have been languishing in transitional shelters will have to remain there even longer.

The delays in relief, rehabilitation and reconstruction efforts must be addressed. While realizing that there are obstacles in such processes, every effort must be taken to address the needs of the people and to learn from past experiences to ensure the future process is smooth and efficient. At present, most of the people have been provided with transitional shelters. However, as of February 2006, 78 transitional shelters were still under construction in Batticaloa, with 22 families staying with relatives and 4 families still remaining in the Paddy Marketing Board premises.¹⁸ More than one year after the tsunami, questions are raised as to why there is still a delay in completing transitional shelters and who is to be held accountable. Delay in reconstruction is not merely limited to transitional shelter. Infrastructure in several places is yet to be restored. For example, the school in the Tirukovil Division is yet to be repaired resulting in lessons being conducted in temporary shelter.¹⁹ In Thambiluvil, the hospital is still not repaired.²⁰ Such slow progress in addressing reconstruction in the affected areas highlights the lethargy of the stakeholders, including the Government and I/NGOs, in addressing issues such as infrastructure development.

The examples raised in this section highlight the need for a more accountable and transparent system that is able to monitor how the funds that came in for relief, rehabilitation and reconstruction have been utilized. It is recommended that RADA take a lead role in implementing an accountable and transparent system in the center and the regions, ensuring that funds are utilized efficiently and effectively. It is vital that RADA ensures that the funds are utilized in the correct manner, ultimately reaching the intended beneficiaries.

VI. Lack of participation and consultation

A weakness in the rehabilitation and reconstruction process that needs to be emphasized is the lack of consultation during planning and the inadequacy of information available to the affected people. In a hard hitting report, "Tsunami Response: A Human Rights Assessment" by Action Aid International, People's Movement for Human Rights Learning and Habitat International Coalition, lack of consultation is seen as a key weakness in tsunami-affected countries. The report states that people in

¹⁷ Thiraimadu Relocating Area to be built as a Housing Complex- data obtained from the DS office (February 2006)

¹⁸ Data received during a field trip by CPA (February 2006)

¹⁹ Daily Mirror, 19th December 2005

²⁰ Daily Mirror, 19th December 2005

the East have received very little information on possible sites, timescales or the nature of the proposed housing and that consultation has been very weak. The report further highlights the problems concerning identifying land for housing, especially several instances where very little consideration was given to the distance to the housing site from the nearest town, and problems with severe flooding, as seen in Thiraimadu in Batticaloa. The report also underlines that women continue to be marginalized in the rehabilitation and reconstruction process.

It is vital that the government and all other actors ensure that there is participation and consultation among the communities which can complement any plans that are undertaken and therefore making the process inclusive. RADA as the key focal point must ensure that participation and consultation are practiced in all planning processes. Local level initiative should be encouraged, ensuring inputs from the local level meetings and consultations feed into the formal planning process. The process should ensure that there is inclusivity and diversity in the process. For example, women should be involved in the planning process and included in any committees that are set up on issues such as relief, rehabilitation and reconstruction. Further, it is essential that consultations are planned and coordinated by one actor, thereby reducing duplication of efforts. Since the tsunami, several consultations have taken place organized by various entities, looking at similar issues. RADA, as the key Government focal point should take on the responsibility of coordinating such efforts.

VII. Treating all equally: can it work?

A. Grievances among the tsunami affected

Due to the slow progress in reconstruction, there is growing frustration among the tsunami-affected communities. Farmers in Manalchenai, in the Pottuvil Division have complained to the Human Rights Commission (HRC) that they have not received adequate assistance and that assistance was not received as a result of race and religion.²¹ They allege that they have not received any financial assistance, such as the Rs.5,000 grant, nor a transitional shelter.²² The People's Consultations Report²³ highlights several cases where there were discrepancies in aid distribution. While discrepancies remain within particular districts, accusations have been leveled against the government on inconsistencies between the North East and the South of the country (especially in the Hambantota district as previously discussed) with regard to the status of housing construction. According to the post-tsunami report by the East West Centre, there was a sharp contrast between the progress in permanent housing reported by government authorities in Hamabantota and what was reported in the North East.²⁴

²¹ Daily Mirror, 19th December 2005

²² Daily Mirror, 19th December 2005

²³ People's Consultation Report- DRMU and UNDP (July-September 2005)

²⁴ After the Tsunami: Human Rights of Vulnerable Populations- East West Center (October 2005)

B. Conflict affected: disparity in treatment?

Although tsunami-affected people are experiencing difficulties more than a year since the disaster, conflict-displaced people experience worse conditions. For example, in a camp in Vavuniya, ten people share one room in temporary accommodation which they have been occupying for over a decade. In addition, one well and one toilet are shared by hundreds of people in this camp.²⁵ According to another report, the shelters given to the conflict-affected are substandard compared to those rapidly constructed for the tsunami-affected.²⁶ Furthermore, a report by Refugees International declares “the stark contrast between the meager funds available for the conflict-affected/displaced and the generous outpouring of funds to assist survivors of the tsunami is unjust”.²⁷ Therefore, there is fear that the disparity between the two groups could exacerbate Tamil ethnic grievances, especially since the conflict-displaced are mostly from the Tamil community.²⁸

There is a clear disparity in the assistance being offered to the conflict-affected compared to the tsunami-affected. Conflict-affected families receive rations according to family size. In Jaffna each conflict-affected family receives approximately Rs1260 per month while each tsunami-affected individual receives Rs375 per week. In addition to the Rs25,000 received on return to one’s land, the conflict-affected receive a grant of Rs.100,000 for property damage. This was only available to people earning less than Rs1500 per month. For government officials, a grant of Rs.150,000 was available depending on the extent of damage.²⁹ Compare to this the assistance being given to tsunami-affected, namely the Rs.100,000 for partially damaged houses and Rs. 250,000 for fully damaged houses and a donor-built house for people within the buffer zone.

The inertia on the part of the authorities in addressing the issues of land, housing, and assistance is one reason that so many conflict-affected people remain in welfare camps or with relatives. With this disparity in treatment, there is evidence of increasing frustration among the communities. CPA urges all actors to ensure that the conflict- and tsunami-affected are treated equally with no discrimination based on the mode of displacement.

C. Falling through the cracks

Another aspect that needs to be considered is the people who do not fall into the categories created by the Government and other actors involved in relief, rehabilitation and reconstruction efforts. Strict guidelines drawn up to facilitate the provision of assistance by the authorities can in certain cases

²⁵ The Christian Science Monitor, 4th January 2006

²⁶ “The Internally Displaced in Sri Lanka, Discussion Paper on Equity”, 1st December 2005

²⁷ “Sri Lanka: Imperative to respond to needs of conflict displaced”, 28th October 2005

²⁸ The Christian Science Monitor, 4th January 2006

²⁹ The tsunami-affected housing was covered by grants of Rs100,000 for partially damaged and Rs250,000 for fully damaged houses. This was awarded regardless of the earning capacity of the affected

discriminate against people who are affected, as they might not clearly fall into a category established under the various assistance schemes. What is the redress for the people who fall within the cracks?

An example is the case in Sigaram in Batticaloa where several people were originally displaced in the 1990s from Kattankudy due to the conflict.³⁰ As a result of this displacement, they resided in Sigaram in Batticaloa. They were yet again displaced from Sigaram due to the tsunami, which resulted in them returning to Kattankudy to live with relatives. Though they received transitional shelter soon after the tsunami, they have been refused permanent housing as they do not have paperwork to prove ownership for the land in Sigaram. Although they have lived in Sigaram for more than 10 years, there is no redress available within the system. The laws and regulations are not flexible and do not consider the plight of the affected communities. CPA has consistently lobbied for amendments to laws such as the Prescription Ordinance and regulations which can unfairly prejudice affected communities.

Attention should also be addressed to people who fall into special categories. For example, needs of widows of fishermen who were previously engaged in a range of economic activities associated with fishing such as sorting fish, drying fish and selling fish must be addressed.³¹ The fisher community were badly affected by the tsunami and there were several initiatives by I/NGOs to give boats and fishing gear to the fishermen but very little attention was given to the widows. Another example is that of people who were renting housing at the time of the tsunami. Certain tenants may have been renting long term, having special connections to the place such as employment and educational reasons. The Government housing policy has made no provision for people who were tenants, with no assistance available for them. All actors are urged to be flexible with regulations and laws, with space to deal with affected communities who may not clearly fall within the criteria set by the authorities and other actors.

VIII. Buffer Zone- Its Impact on Housing

A. Policy changes

The buffer zone has been discussed and critiqued several times since the tsunami. It was introduced by the Government at the outset of the tsunami and demarcated the coastal areas according to the 100/200 meter rule. After much debate, the Government has done away with the buffer zone guidelines. A circular dated 27th December 2005 by the Coast Conservation Department (CCD) addressed to the District Secretaries in Trincomalee, Mannar, Mullativu, Batticaloa and Jaffna states that due to the scarcity of lands outside the Buffer Zone, the Coast Conservation Advisory Committee

³⁰ Data received during a field trip by CPA (February 2006)

was requested to reduce the set back areas. As a result, approval was given to revert back to the set back zones specified in the Coastal Zone Management Plan (CZMP) of 1997. The set back areas range from 35 meters to 125 meters depending on the area.

This change in policy has resulted in questions being asked about the housing schemes introduced by the Government. The two schemes- the donor-driven housing scheme and the owner-driven housing scheme- were initiated on the premise that the buffer zone would be implemented. With the reversion to the CZMP 1997, these housing schemes are in question. RADA has stated that the donor-driven programme will continue with beneficiaries being given the option of living in the donor-driven house and keeping ownership of the land situated in the buffer zone. The second option is that a beneficiary may return the donor-driven house back to the Government and return to live in the land in the buffer zone. With the second option, the beneficiary gives up ownership rights to the donor-driven house and will have no claim to it in the future.

B. Ground Realities

Government officials in the North East have revealed that the ground result of the revision of the buffer zone has been that more people are now opting for the ‘homeowner-driven housing programme’ as they are now able to build back on their own lands. In addition, with the delay in the donor-driven housing construction, people were opting for the homeowner-driven option. What is the reason for the delay in construction and why could shortcomings not be addressed sooner? According to a statement made by Mano Tittawella, 80% of the required permanent housing was expected to be completed by the end of 2005. As of February 2006, we are far from fulfilling that target. How long do the tsunami-affected have to wait to receive permanent housing? How long do the conflict-affected have to wait to receive permanent housing, several of whom are still living in transitional shelter more than a decade after being displaced?

As previously mentioned, although the buffer zone has been revised with set back zones being introduced, there is evidence that information has not reached all local actors involved in implementation. For example, though the Government Agent’s office in Hambantota was aware of the reversion back to the CZMP 1997, the Divisional Secretariat’s office in Tissamaharamaya was not aware of such a change and did not allow people who had land in the 100 meter buffer zone in Kirinda to rebuild on their original land.³² As a result, there are houses still being constructed under the donor-driven housing scheme which need not be built, since a buffer zone ‘no build’ rule is not in force. Hambantota, which already has more MOUs signed for permanent housing than required, is presently in the process of building houses that are not needed and thereby adding to the already

³¹ Human Rights Issues in the Post-Tsunami Context- INFORM, February 2006

excess numbers of housing. The excess number of houses in Hambantota (partly to be blamed on lack of coordination and poor information sharing) sharply contrasts with the plight of conflict-affected IDPs who are still in welfare camps and raises issues of equity in aid distribution and assistance schemes.

The implications of slow progress in permanent housing are many: frustration mounts as people continue living in cramped transitional shelters. As the ADB report points out, the long term impact on poverty figures could also be considerable. In examining the effect of the tsunami on poverty figures the report looks at two different situations of fast and slow recovery. If the speed of construction on permanent housing is used as an indicator on tsunami recovery and reconstruction, it is likely that Sri Lanka will fall into the 4-5 years category, which will result in the number of poor people increasing to 1.1 million by 2007. If the recovery process is completed within 2-3 years, poverty due to the tsunami will be eliminated by 2007.

IX. Conclusion

This document has attempted to highlight several issues related to governance that came up during the last year in relation to relief, rehabilitation and reconstruction efforts. While highlighting several issues that need to be considered by policy makers and stakeholders, it raises the questions as to who the key actors are in relief, rehabilitation and reconstruction efforts and the extent of their mandate. It has been established through examples that, if powers are appropriately devolved and clear, coherent guidelines and structures created, the process can be effective and benefit the intended beneficiaries, the affected communities.

CPA urges all actors to address the issues raised, keeping in mind two overarching principles, conflict sensitivity and subsidiarity and values subsumed within these principles such as equity, participation, pluralism, subsidiarity, transparency, accountability, effectiveness, efficiency, responsiveness and sustainability. Further, CPA urges policy makers and stakeholders to treat issues arising from both the ethnic conflict and the tsunami disaster with equal urgency and care.

³² Information obtained during a field trip conducted by CPA researchers in Hambantota 25-26th January 2006

RECOMMENDATIONS

The following recommendations are made to all stakeholders involved in relief, rehabilitation and reconstruction efforts, with special attention paid to RADA.

Better Coordination

- ❑ RADA should be responsible for overall coordination on reconstruction initiatives, and improve coordination within existing structures such as line ministries, departments, authorities, Provincial Councils, Local Government Institutions, District Secretaries (GAs) and the LTTE.
- ❑ While setting up structures, officials should take stock of what has taken place and formulate policies and plans that compliment the existing system. There should also be better streamlining between the relevant government officials to reduce duplication and confusion.
- ❑ New programmes should as far as possible work through existing structures rather than creating new ones. By decreasing the need to create new structures duplication and confusion can be reduced.
- ❑ An assessment should be undertaken on existing structures to ensure that the present system is effective and does not duplicate work. If after a thorough assessment it is deemed that certain actors are not essential, measures should be taken to revise and revamp such structures.

Subsidiarity

- ❑ Local actors should be encouraged in decision making and implementation of projects and programmes, with minimum interference from the Central Government.
- ❑ RADA should ensure that formulation of policy and plans involve all stakeholders, especially local actors, resulting in a process that is inclusive and transparent.

Information Sharing

- ❑ As the single focal point, RADA should take the lead role and ensure that the new regulations, guidelines, plans and policies are conveyed to the affected areas without delay and avoid confusion among local actors and the affected communities.

- ❑ It is vital that policies and plans are available in all three languages, Sinhala, Tamil and English and made accessible.
- ❑ Measures to inform the public of changes in rules, regulations, guidelines, policies and structures should be introduced, and if in place should be improved. Information should be conveyed in a clear and concise manner which could be understood easily.
- ❑ Steps should be taken to ensure that the relevant authorities both at the center and the regions are promptly informed of changes in policy, structures and other issues related to relief, rehabilitation and reconstruction.
- ❑ RADA and other actors should ensure that verification of information is a standard practice and that all relevant authorities are provided with accurate and up-to-date information and data. Existing structures such as offices of the GAs, DSs, GSs and other local actors should be utilized in providing information at the ground level.

Accountability and Transparency

- ❑ RADA should take the lead role in implementing an accountable and transparent system at the center and the regions, ensuring that funds are utilized efficiently and effectively and reducing delays inherent in the present system.

Participation and Consultation

- ❑ Participation and consultation among the communities should be encouraged. Such practices can complement any plans that are undertaken and therefore making the process inclusive. Local level initiative should be encouraged, ensuring inputs from the local level meetings and consultations feed into the formal planning process.
- ❑ Consultations should involve all relevant parties, ensuring diversity and inclusivity.
- ❑ Consultations should be planned and coordinated by RADA, thereby reducing duplication of efforts.

Equality and Non discrimination

- ❑ All actors should ensure that the conflict- and tsunami-affected are treated equally with no discrimination based on the mode of displacement.

- ❑ The Government should be flexible with regulations and laws, leaving space to deal with affected communities who may not clearly fall within the criteria set by the authorities and other actors.