

Empowering People After Natural Disasters

Lessons from the Post-Tsunami Legal Assistance, Governance, and Anticorruption Project in Sri Lanka

Why is Empowering People after a Natural Disaster Important?

Empowering people after a natural disaster by giving them access to their rights and entitlements allows them to reconstruct the legal foundation for their lives and livelihoods. The Asia and Pacific region is likely to see more natural disasters over the next 2–3 decades as a result of climate change. Countries in Asia and the Pacific will be in the best position to serve the needs of future potential victims of natural disasters if they understand past experiences of people's needs after a natural disaster has hit, and if they consider innovative ways to help people reconstruct and fulfill all their needs and potential. ADB's post-tsunami legal assistance, governance, and anticorruption work under the Tsunami-Affected Areas Rebuilding Project in Sri Lanka,¹ which has assisted about 35,000 people, provides such experience. It also served as the precedent for a similar governance intervention in Asian Development Bank (ADB) assistance to Pakistan after the 2005 Pakistan earthquake,² which has assisted approximately another 27,000 people. Past experience also suggests that the issues raised here should be considered and addressed well before natural disasters hit.

What is the Sri Lankan Experience?

The Asian tsunami of 26 December 2004 was an unparalleled natural disaster. In Sri Lanka, 31,000 lives were lost and homes, schools, hospitals, roads, and other infrastructure were damaged. The estimated cost of the damage was \$1.5 billion.

Beyond this direct and immediate personal loss and damage, for tsunami-affected individuals the legal basis for much of their life and livelihoods was literally washed away. Birth records, identity cards, marriage certificates, property deeds, pawned article receipts, drivers' and fishers' licenses, bank certificates, and other important documents were lost with the waves. Compared to the grave loss of life, the loss of documents is mundane. Yet it is not insignificant. As tsunami-affected individuals started to piece their lives back together, these pieces of paper became essential for them to reconstruct their lives, and to access their legal rights and entitlements.

Identity cards, for example, took on particular importance during the long-running civil war which only ended in May 2009, in part, because they are essential for any travel or movement in Sri Lanka. The issuance of a death certificate was needed for the many "lost" at sea after the tsunami, before inheritance and property transfers could proceed,



Line at a GBIP Clinic in Galle

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or before orphaned children could be placed into the care of guardians. Moreover, once tsunami-affected individuals began to reconstruct their lives, they reverted to the very human tendency to disagree: disputes over child custody, wife and child maintenance, property ownership, and inheritance entitlements all surfaced.

In response to the staggering magnitude of death and destruction caused by the tsunami, the international community responded with unparalleled generosity. Donors made pledges of millions of dollars for tsunami reconstruction. The large volumes of reconstruction assistance increased governance and corruption risks. As a result, the government's already stressed institutions needed reinforcement to ensure that they could promote administrative justice, accountability, and transparency in disbursing

¹ Grant-0006 SRI, \$150 million, approved on 14 April 2005.

² ADB. 2005. *Earthquake Emergency Assistance Project*. Manila. (Loan 2213-PAK, \$220 million, approved on 13 December).

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restore basic social infrastructure, community and public services, and livelihoods in these areas. It addressed the needs of tsunami-affected people through subprojects in road, infrastructure, community development, and coastal resource sectors. It also involved a \$3.3 million component to assist tsunami-affected individuals to access their legal rights and entitlements—including replacement of lost documents—and access public services and compensation. This project component on legal assistance, governance and anticorruption (the Project) also sought to improve governance associated with the large volume of aid arriving in Sri Lanka.

What did Tsunami-Affected People Need?

Identity documents. Tsunami-affected people needed new identity cards to facilitate their movement within Sri Lanka, and because proof of identity (usually through a national identity card) is needed to access a range of other services. Before getting an identity card, tsunami-affected individuals need a copy of their birth certificate and, if married, also need a copy of their marriage certificate. Although in many cases they could make applications for these documents at the government office in their local area, to do so would often involve lengthy delays, particularly for identity cards that needed to

tsunami rehabilitation and reconstruction aid.

The ADB response to the tsunami involved a \$150 million grant and \$7 million loan to rapidly improve the living conditions and well-being of a significant number of people in tsunami-affected areas. It aimed to



Tsunami-affected areas in Sri Lanka

be issued in the capital, Colombo. As well as these identity cards and birth and marriage certificates, senior citizens are entitled to “elders’ cards” which are needed to access senior entitlements; fishers need a fishing license; and death certificates are needed to finalize the legal aspects of a dead person’s estate, allow successors to inherit, and facilitate custody orders for orphaned children.

Property titles and related documents. As well as the need for identity documents, tsunami-affected people also needed to obtain new or replacement property or land titles. In addition, tsunami-affected individuals who were granted new housing under housing programs funded by the government or nongovernment organizations ultimately needed to get titles for that new property.

Child custody and succession orders. The tsunami resulted in 5,600 child orphans and children who had lost a single parent.³ These children are entitled to special protection ensured by the National Child Protection Authority. However, after they left the internally displaced persons (IDP) camps, in many cases the children could not be located. Moreover, the custody of children who inherited a deceased parent’s estate (including land, bank accounts, and housing) was often contested.



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Secretary of Ministry of Justice and Law Reforms with the Registrar General and Commissioner General giving a birth certificate re-issued on the spot in a Jaffna GBIP Clinic

³ Based on a census of internally displaced persons (IDP) in tsunami camps.

Table 1: RLAC Services, January 2006 to July 2007

Litigation	
No. of litigations filed	8,011
No. of legal consultations facilitated	7,274
No. of documentation cases processed	1,657
Capacity Building Workshops	
No. of workshops	259
No. of people trained	20,720

Tsunami compensation entitlements. The government offered financial compensation to all tsunami-affected people for funeral expenses (SLRs15,000), housing, and food expenses, among other things. Tsunami-affected people needed help in accessing these entitlements, as most entitlements require legal documents that tsunami-affected people often did not have. To be eligible for housing resettlement, for example, a person had to prove that he or she was a property owner prior to the tsunami, or had a right to property through inheritance, which requires a death certificate.

Resettlement villages and new housing. Even 5 years after the tsunami, some significant problems remain in resettlement villages. In some villages, tsunami-affected people are concerned about the quality of their new housing—water supply and sanitation may not be adequate (some housing has leaks), electricity may not have been connected, and some people have raised concerns about the quality of the building materials used. Many people have raised concerns about the location of their new home—often new homes are a long way from previous homes near the ocean, and this has an impact upon livelihoods.

Strengthened Local Governance. Tsunami-affected people were concerned about apparent inequality in the distribution of compensation or tsunami rebuilding benefits, allegedly due to corruption, inefficiency, and abuse of power. In some cases, some former neighbours have ended up with houses of different quality and size, and some benefits were not given to persons legally entitled to those benefits.

How did the Project Address These Needs?

The Project was designed to provide immediate support to Sri Lanka's institutional service delivery mechanisms weakened as a result of the tsunami. It was also designed to increase oversight of the institutions tasked to provide relief to beneficiaries and reconstruct infrastructure and services. The Project aimed to assist the government in its efforts to help tsunami-affected people with their legal and documentary problems, and to assist the government confront the greater risks of corruption associated with the high scale and volume of assistance that poured into Sri Lanka.

Legal Assistance

The Project called for legal assistance offices to be established in all tsunami-affected areas, assisted by ADB. Sri Lanka's Ministry of Justice entered into a memorandum of understanding with Sri Lanka's Legal



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Documentation program in Jaffna

Aid Commission (LAC) to establish or strengthen 11 Regional Legal Aid Centers (RLACs) in the tsunami-affected areas. These RLACs each retained three lawyers and several support staff to provide legal advice on tsunami-related matters and litigation services. The RLACs assisted tsunami-affected people with common problems: obtaining legal documents; disputes with neighbors over land boundaries; identifying the rightful heirs of a deceased's estate; and obtaining foster care orders in child custody cases. Other than formal legal work, the RLACs conducted capacity building workshops for their legal officers; awareness workshops and campaigns on tsunami-related laws for the general public, police officers, and district officials; workshops on the rights of women, children, and elders; and workshops on property, adoption, and inheritance issues. The RLACs conducted some limited field work, but most of the work was done in the RLAC offices when tsunami-affected people sought their assistance. Table 1 summarizes the work done by the RLACs.

To significantly enhance outreach—and access beneficiaries who needed assistance but had not sought it—the Ministry of Justice commissioned the University of Colombo to conduct more fieldwork, and obtain additional information on the legal issues faced by even more vulnerable categories of tsunami-affected people (such as children, women, elders, and disabled persons). Mobile legal and administrative service clinics, conducted in different tsunami-affected districts, first obtained information and subsequently offered direct assistance. The Project assisted state agencies, such as the Elders' Secretariat, to identify and establish direct links with affected individuals who were receiving assistance on a continuous basis. This field research showed that many problems faced by tsunami-affected people were administrative (i.e., either lost documents or

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Documentation program in Galle

the failure of a government official to render a right or entitlement). Thus, a comprehensive administrative justice approach was needed.

The Project takes a legal empowerment approach to addressing administrative governance weaknesses and failures. It does so by bringing officials and government service providers directly to tsunami-affected people.

Decentralizing the Delivery of Legal and Administrative Services

The Ministry of Justice considered various models to improve service delivery, access to entitlements and the delivery of administrative justice to tsunami-affected people. It came up with its own Governance-Based Intervention Program (GBIP).

For instance, the secretaries of justice, public administration, and women's affairs have each accompanied their staff—and human rights and anti-bribery commission officers—on weekend road trips to provide mobile clinics in tsunami-affected areas. These public servants are joined at the mobile clinics by lawyers providing legal aid; local district officials preparing and issuing birth, death, and marriage certificates; the local electricity service supplier; the local mediation boards; and provincial and local administrative authorities. The clinics are usually held at a local school or community center. The aim of these mobile clinics is to assist affected people to obtain replacement birth, death, and marriage certificates; identity cards; and elders' cards as quickly as possible, often on the spot. They also allow tsunami-affected people to obtain legal aid—in a location more convenient than the RLAC—which may include advice on land registration, resettlement housing rights, or child custody. Over 1,000 people commonly attend these clinics; at a November 2009 workshop in Jaffna alone, over 3,000 people attended. As shown in Table 2, in total, about 35,000 have attended the 31 clinics held since the Project started in 2005.

Before setting up a mobile clinic, the Ministry of Justice undertakes two activities in the particular tsunami-affected district: capacity building of local district officials who will assist and provide the services, and a wide-ranging public awareness campaign to promote the activity. These clinics discover the unresolved administrative and legal

Table 2: GBIP Clinics Held as of 30 April 2010

No. of programs	31	
No. of people attended	32,847	
No. of issues accepted	35,294	100%
No. of issues resolved	25,005	70%
No. of issues in progress	10,266	30%

issues in the particular areas and then proceed to provide solutions. Participants seek to resolve as many issues as possible during the clinic. Unresolved issues are either elevated to the district level (usually legal issues requiring the assistance of a lawyer, which the Project also provides free of charge) or the national level (usually policy issues).

One policy issue the Project has helped to resolve is a requirement that children be resident in a district for 6 years before they can be admitted to a district school. In many cases, tsunami-affected children had not been a resident, as they had been resettled to new areas after the tsunami. As a result of the GBIP programs, this requirement has been relaxed or waived in most cases, benefiting many tsunami-affected children.

Documentation

Tsunami-affected people need to apply for new identity documents in the RLAC office or at the mobile clinics. Some documentation can be issued on the spot while other documentation takes longer as it needs to be issued by the central office in Colombo.

The Project has given special emphasis to ensuring that applications result in the issuance of documentation. This emphasis recognizes that obtaining legal documents (e.g., a national identity card, or a birth, marriage, or death certificate) is the first step in reconstructing a person's legal identity.

The Project has provided direct support to key institutions that issue such documents, including the Department of the Registration of Persons and the Registrar General's Department (RGD). Dedicated funding for reconstructing land title documents has also been provided.

The Project provided much-needed funding to the Ministry of Public Administration and the RGD to extend the digitization of birth, marriage, and death certificates to tsunami-affected districts. Once completed, the processing time to issue these documents is expected to be reduced from days to minutes.

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Alternative Dispute Resolution—Tsunami Special Mediation Boards

Tsunami Special Mediation Boards (SMBs) were authorized under the Mediation (Special Categories of Disputes) Act No. 21 of 2003. The SMBs are authorized to hear and determine any dispute where the debt, damage, or compensatory rights arose as a result of the tsunami. The

Project assisted in establishing these boards and funding the training of mediators in mediation techniques. Public awareness campaigns were provided on the importance of mediation as an effective tool, and on the tsunami SMB system itself. The boards are empowered to compel the attendance of public officials, thus enhancing administrative justice. The boards were established in all tsunami-affected districts. At present, there are nine project-established SMBs in the country⁴ and Table 3 presents its settlement record.

Commission to Investigate Allegations of Bribery and Corruption

The Project also sought to strengthen Sri Lanka’s Commission to Investigate Allegations of Bribery and Corruption (CIABC) through public awareness campaigns and outreach. This strengthening complemented the United Nations Development Programme (UNDP) and the United States Agency for International Development’s (USAID) support to the CIABC. The Project made the CIABC visible in the tsunami-affected areas and such visibility provided some local deterrent to bribery and corruption in the delivery of emergency assistance. Project support to the CIABC took several forms: nationwide advertisements, public discussions on anticorruption issues, television clips, posters and leaflets made available at state institutions in contact with affected communities, mobile on-the-spot complaint recording, and highly visible participation in the mobile clinics under the GBIP programs.

The CIABC reported that it received a lower number of bribery and corruption complaints than it expected. The complaints received did not suggest large-scale actionable bribery and corruption in tsunami assistance.

The Project also concentrated on long-term institutional strengthening of the CIABC by providing training and equipment for investigation and prosecution, facilitating strong links between CIABC officials and prosecutors from the Department of the Attorney General. In the former conflict-affected areas, the Project funded, for

the first time, two district symposia on bribery and corruption. The Project also supported a national conference aiming to identify the gaps in Sri Lankan bribery and corruption laws by reference to the standards set in the United Nations Convention Against Corruption (UNCAC).

Nationwide public awareness and education campaigns on anticorruption and bribery include workshops and advertisements in various mediums like television, radio, internet, and print.

Eighty-six complaints have been accepted since 2008 and 14 training programs were delivered to 913 participants. A special training program for CIABC investigation officers was held in November 2009 and was attended by 85 investigative officers.

Capacity Building and Public Awareness

The Project has also supported capacity building activities, such as judicial training workshops and legal awareness public campaigns. National and local officials were given training to better prepare them to handle the unique set of challenges that the tsunami presented in their respective areas. Officials responsible for service delivery—including judges and magistrates—were also given training on the Tsunami Act. The judicial training of magistrates and judges focused on legal issues, such as property and custody issues, likely to arise after the tsunami.

Public awareness campaigns on various issues targeting different sectors were conducted. These included rights awareness programs for school children, police, public officials, and the general public. Aside from rights awareness, bribery, anticorruption, tsunami-generated legal issues (i.e., the Tsunami Act), mediation, domestic violence, corruption, elders’ rights, child rights, property, adoption, and inheritance laws were also the subject of public awareness campaigns broadcast in various mediums.

As of 30 April 2010, 159 public awareness programs were undertaken and a total of 11,140 people attended these programs.



A GBIP Clinic at Valaichenai

Table 3: Mediation Figures from January 2007 to 31 December 2009

Area	No. of Disputes Received	No. of Disputes Settled	No. of Non-Settlement Certificates Issued	No. of Issues In Progress
North and East	1,293	456	111	726
South	988	791	428	387
Total	2,281	1,247	539	1,113

⁴ SMBs have been established at Ampara, Batticaloa, Colombo, Gampaha, Galle, Hambantota, Kalutara, Matara, and Trincomalee.

Special Child Care Program and the National Child Protection Authority

The Tsunami Act of Sri Lanka instituted a special child care program to benefit the 5,600 tsunami-affected children who lost one or both parents to the catastrophe. Each tsunami-affected child must be registered with the National Child Protection Authority (NCPA) (which is leading the implementation of the program), and placed under the guardianship of a court-appointed guardian. The guardian must be appointed in accordance with the stringent procedure provided by the Tsunami Act and in compliance with the safety and welfare conditions laid down by the NCPA.

The initial community response to the government's program was not strong and very few children sought to obtain the benefits under the program. Moreover, most tsunami-affected children who were orphaned were considered only under general legislation, which only protects a child until age 16. In contrast, the Tsunami Act offered protection until a child turns 21 years old.

The Project's support to the NCPA led the Ministry of Justice to discover that guardians had been reluctant to obtain legal guardianship under the Tsunami Act due to a lack of awareness and resources. Some guardians also bypassed the program because it did not match the monthly stipend of SLRs500 which was provided by the general law, along with a program of care designed to mitigate the traumatic experience due to the tsunami. Both children and guardians perceived guardianship to be more of a social obligation with little accountability, rather than a legal duty. Consequently, many needy children did not seek to obtain the full benefits of protection under the Tsunami Act until age 21.



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Issuance of a birth certificate at a GBIP Clinic in Jaffna

Under the GBIP program, the Project, together with the NCPA, sought to correct this poor response rate. The Project is now providing legal aid and a cash grant to each child who registers under the foster care system put in place by the Tsunami Act. This system offers greater protection, in recognizing the courts as the "upper guardian" of children. As a result of the Project's assistance, the welfare schemes are enforced more stringently, subject to continuous monitoring by the NCPA and regular oversight by the courts.

To complement the capacity building programs that were held for child protection officers, the Project also conducted a special sensitization program for judges. From the Project, the NCPA benefited

with an updated and comprehensive database of the 5,600 most tsunami-affected children. Legal guardians have been appointed for the first batch of registered children and a cash grant has been deposited in each child's name, which they can withdraw upon turning 18. The Project's partner bank is also

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offering free life insurance coverage to the guardian and free health insurance to the child under its corporate social responsibility initiative. Table 4 summarizes the number of foster care orders issued.

Table 4: RLAC and GBIP Clinics: Foster Care Orders, Jan–Nov 2009

No. of children attended	2,332
No. of foster care applications filed	217
Foster care orders granted	61
Other legal issues applications/appeals accepted	80

Is the Sri Lanka Project a Replicable Model?

The Project holds many lessons for other post-natural disaster situations. First, the legal and administrative issues generated after natural disasters



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A GBIP Clinic in Beruwela



A GBIP Clinic at Hambantota

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is to involve national institutions—with the power to make decisions on legal and administrative entitlements—whilst also encouraging the participation of local officials who have direct access to the people.

Has the Sri Lanka Model Been Applied Elsewhere?

Soon after the December 2004 tsunami, in October 2005, a 7.6 magnitude earthquake hit Muzaffarabad, in Pakistan-administered Kashmir. It resulted in enormous destruction and devastation, leaving 3.3 million people homeless. Many of the issues that had arisen in Sri Lanka—including identity, property, child custody, inheritance, and dispute-related issues—also arose in Pakistan. In ADB’s assistance to Pakistan, that country used the Sri Lanka model to establish a governance component along very similar lines to that seen under the Project. Legal aid centers were established to provide free legal aid—including in-court representation in disputes regarding property, guardianship, rent, repossession of immovable property, and other similar issues—together with administrative assistance in relation to compensation for rebuilding housing, land distribution schemes, death compensation and landlessness matters; and assistance in obtaining national identification cards, passports, death certificates, and related documents.

The Pakistan project helped 27,000 people, who were provided with legal documents, representation in litigation, and other legal assistance. When the project ended in December 2008, of the 26,231

Second, decentralized service responses to administrative justice and legal issues work are important because often the poorest and most vulnerable are not aware of their rights or do not have the means to access them. Third, a good model

cases that were registered, only 5,802 were pending. The Earthquake Reconstruction and Rehabilitation Authority, the project’s executing agency, transferred its legal assistance services to community service centers established for all earthquake-affected districts. Pending cases in Azad Jammu and Kashmir and the North–West Frontier Province are being handled by legal experts.

What are the Next Steps for Sri Lanka?

The Ministry of Justice considers the Project a success and has requested two forms of follow-up assistance, which ADB has approved. First, it has requested immediate assistance to extend the Project work to war-affected communities in the Northern and Eastern Provinces to ensure equity and non-discrimination in the delivery of aid to tsunami-affected and conflict-affected persons. To respond to this need, in 2010, the Project will provide support for strengthening Divisional Secretariats of conflict-affected districts, GBIP programs for IDPs and targeted assistance to orphaned children, as part of ADB’s overall emergency assistance response. Second, recognising the importance of legal and judicial administration in post conflict reconstruction efforts, the Ministry of Justice requested, and ADB approved under its \$150 million Conflict-Affected Regions Emergency (CARE) Project, the reconstruction and operationalisation of up to nine judicial centres in the Northern province with the primary objective of quickly re-establishing judicial administration.⁵

What are the Next Steps for ADB?

ADB can consider the experience in Sri Lanka and Pakistan in future disaster and emergency projects because many of the issues dealt with in these projects are likely to arise after future disasters and the lessons



Line at a Batticaloa GBIP Clinic

⁵ ADB. 2010. Conflict-Affected Region Emergency Project. Manila. (Loan 2626 SRI, \$150 million, approved on 15 April 2010).

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The increase in natural disasters caused by climate change is also likely to lead to a dramatic increase in the number of people internally displaced—people often described as climate refugees. The Sri Lankan and Pakistan experiences of people internally displaced by a natural disaster—and the legal and governance responses required for them to rebuild their lives—are also relevant here. In addition, the projects highlight the importance of disaster preparedness aimed at avoiding problems relating to lost identity and property documents. In particular, they point to the value of computer automation of property registries and birth, death, and marriage certificates, in order to facilitate easy replacement in the event of a disaster.

The projects are also instructive for ADB in that they focused on improving access to services by the poor and vulnerable through improved administration and dispute resolution processes, within the context of a larger multisector project. This work has broader relevance for ADB’s core efforts to improve access to electricity, water, and other services for the poor, by empowering the poor to access their entitlements.

learned may be helpful. The Asia and Pacific region will likely see more natural disasters over the next 2–3 decades as a result of climate change, and those disasters that will occur will be more severe. Thus, the Sri Lankan experience of using innovative ways to help people reconstruct



Women and children dominate at a GBIP Clinic in Manthei West

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ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries substantially reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to two-thirds of the world’s poor: 1.8 billion people who live on less than \$2 a day, with 903 million struggling on less than \$1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

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A GBIP Clinic at Mannar District

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For details, you may visit www.mojtaarp.lk/