

Rights Based Approach to Disaster Response

Beyond the myth

The Indian and the Sri Lankan experience

Aloysius John

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Since more than two decades the Rights Based Approach (RBA) became an important trend in the development field. The tsunami humanitarian crisis gave the possibility for adopting the RBA language into the Disaster response, bringing about very significant practical differences in the disaster response methodology. Given the magnitude of the disaster and the challenges involved in the Tsunami disaster response, there was a need to reflect on the response mechanisms “outside the box” of classical disaster response.

In a context, where people lost access to their basic needs and the basic security references (housing, health and hygiene), the disaster intervention was considered “no more a question of simple emergency or post disaster response, it was rather a question of rebuilding human lives and reconstructing the society”¹. Housing as such, one of the basic needs was not a mere question of building houses, but rather a long term construction of the society, respecting the peoples’ right to safe and convenient shelters.

This paper will contribute to the discussion on the Rights Based Approach methodology to disaster response from the Asian experience and particularly the Caritas Tsunami experience in India and Sri Lanka. After a brief overview, the paper will take through a discussion on the challenges to the emergency response and how the RBA was integrated into the disaster response and contributed to setting a new trend, a new thinking in terms of humanitarian response with people centered long term activities, which went beyond building of shelters..

The tsunami Disaster in India and Sri Lanka

The tsunami disaster of December 2004 destroyed the coastal villages of south east and south Tamil Nadu and the almost two thirds of the coastal region of Sri Lanka. More than two hundred thousand people lost their lives in Sri Lanka and tens of thousands of people living

¹ The President of the CBCSL 03/2005

in the coastal areas of Tamil Nadu lost their lives. In both these countries, hundreds of thousands of houses were totally washed away or partially destroyed, rendering immediate rehabilitation difficult or even totally impossible.

The crisis situation and the impossibility for an immediate response to the disaster affected victims was a major challenge. Psychological aspects (fear, psychological trauma), socio-economical reason (impossibility to carry out normal work activities, impossibility to carry on the agricultural work etc.) and the legal aspects (land deeds, construction permits etc.) posed as major challenges to the rehabilitation process. It was impossible to introduce a Disaster recovery Plan both immediate and long term.

It is in this context the RBA to programming the Disaster Recovery Plan was undertaken spontaneously as a thrust that would help effective integral response to the needs of the victims.

Caritas India, during its general assembly in 2007 adopted the RBA to its activities as a central theme and in Sri Lank, Caritas Sri Lanka adopted the RBA trends in its housing and livelihood programs. In both these caritas, the Human Rights approach became a tool for the planning and carrying out of a holistic disaster response stemming from the complexities and challenges posed by the shelter programs.

Challenges to the Disaster Response

Both the countries were confronted with different kinds of problems that were real challenges for drawing up a humanitarian Response. There were caste problems in India while Sri Lanka was confronted with an ethnic crisis and was also having a situation of ethnic war ; Land entitlements for the minority or marginalized groups was also a major issue ; the victims, most of them belonging to the fishermen communities lost their means of livelihood ; the houses of the coastal dwellers were totally or partially destroyed ; and lastly, the government's policy to providing houses for affected communities was not clear and changing often.

The major challenges were :

1. Forced eviction of the families. The families were rendered internally displaced, because of the forced eviction from their permanent homes, either because their homes

were washed away or because the government did not authorize them to go back to their homes.

2. Land titles were lost or the victims did not have entitlements before the events and were living in illegal settlements;
3. The traditional economic activities were rendered impossible leading to covariate shocks, and impossibility for the families to become economical sustainable.
4. In both the countries the governments were reluctant to allow immediate construction in the original spots putting restriction for safety reasons and at the same time not taking any political decision to distribute crown land for the purpose of constructing houses. The land issue was also becoming a political issue due to corruption.
5. The psychosocial trauma was also an important factor that affected the victims.
6. The donor pressure was also high, because the donor constituencies were putting pressure for immediate visible results, for being accountable before the funders.

It is in this context, caritas in both these countries, constructed around 30000 permanent houses totally in addition to the thousands of semi permanent shelters.

RBA to the Disaster Response and Recovery Plan

Before these challenges, the Human Rights based response was adopted and integrated into the disaster response strategy with an integrated approach, ie building houses with access to basic needs and economical autonomy. This new orientation to the disaster response brought Caritas to engineer a disaster response with a multi-component program and with strong people's participation. The long term disaster recovery plan consisted of Housing program with health component, livelihood and psychosocial programs

Before the reality of **forced eviction**, caritas soon understood that the permanent housing will be a major challenge. It was clear that the victims were to be considered as IDP because they could not go back to their homes and claim their property. The victims were in a highly vulnerable situation. Consequently, Caritas decided to build economical semi permanent houses as part of an alternative method. This strategy was to socialize the beneficiaries into communities to prepare them for future permanent settlement while making them aware of their rights.

The semi permanent houses were also means to prepare them for a long term economical and social recovery. The beneficiaries were organized into communities, they were also made aware of their rights and they were accompanied to claim their rights from the political leaders.

This also gave the possibility for Caritas to identify viable lands to construct the houses and they were obtained either from the government or bought by the funds obtained.

As a strategy, Caritas introduced a multi-component disaster recovery plan: Housing, health and sanitary facilities, livelihood and psychosocial accompaniment. The beneficiaries were accompanied collectively as a group. All these different activities were undertaken with a long term perspective.

Along with the people Caritas also undertook advocacy activities with the government and the local authorities.

Thus introducing the human rights approach brought a new orientation in terms of giving shelter to the beneficiaries that is respecting the right to safe living conditions.

Introducing the human Rights approach was also important to make people actively participate in their future rehabilitation. Peoples' committees were set up in the different semi permanent settlement to get their views and their opinion on the houses, their design and also allocation of houses. People's participation was envisaged as one of the means for successful integration of the beneficiaries and to promote ownership of the program. In some cases they were mobilized to participate collectively in the different activities of common concern.

Caritas was also concerned about the accountability towards the people as beneficiaries and the need to take into consideration their observation in order to ensure the habitability and the adequacy between the construction and peoples aspirations.

All the houses built were giving appropriate attention to economical recovery of the victims. This major challenged was to find adequate housing sites for the fishermen communities, because there was an absolute need to respect the cultural dimension of the fishermen. They

Immediate temporary shelters which gave the possibility for immediate recovery, leading to a midterm recovery plan which consisted of giving the people a semi permanent shelter, organizing them into communities and making them claim for their rights as rights holders. Later, came the construction of permanent houses.

traditionally do not live far from the sea side. Consultations were undertaken with the communities and also between the local communities, Caritas and the local authorities.

In order to introduce the housing program as a right, Caritas introduced a housing unit with technical experts and social development experts to integrate the beneficiary communities in to the decision making process.

For the land entitlement, Caritas along with the beneficiaries negotiated with the local authorities to get the best solution. This was also the case for legal issues, especially the “no construction zone” which was to be followed up very closely. Caritas in India and Sri Lanka were closely negotiating with the local authorities and even delayed the construction of the houses till 2006, until a clear government policy was framed. This is where the intermediary semi-permanent shelters contributed to make the people wait for the permanent construction and at the same time get socialized.

Both the caritas resettled the people without any reference to the caste systems in India or ethnic questions in the border areas in the eastern province of Sri Lanka. This would have been very difficult without a clear Community organization strategy and building people into local communities.

The housing policies of Caritas India and Sri Lanka put the basic human rights of the victims at the core of their policy and the focal point of Capacity development strategies. This was instrumental for the organization, as duty bearers towards the victims of the disaster, to give them an integral response to their needs, ie is a multipronged response to their problems.

All along the Disaster Response programming, the integration of the Human Rights as a guiding factor along the implementation of the program was important to promote a new culture of consultation with the beneficiaries which otherwise would have been overlooked; promoting people oriented joint action with the beneficiaries which proved to produce good results, ensure equality and non discrimination among the beneficiaries; and above all ensure participation among the different members.

The most important aspects is the capacity building component inbuilt into the program, was the possibility for preparing the beneficiaries as right holders to claim for their rights and a progressive sensitization of the duty bearers to make them aware of their obligations towards

Integrating the Human rights based methods implies organizing peoples as rights bearers and make them participate in decision making and also in the choice of their houses.

the population. This was an important aspect, because in some places, corruption at the administrative or the political level were a potential danger which had to be kept in mind and a rapid action could have lead the people to become victims of the corrupted local leaders who were trying to make benefits out of the situation of the victims.

Lessons learned

The Sri Lankan and Indian cases present a certain number of insights on the facilitating factors in a Right Based Approach to disaster Response:

1. Caritas in both the countries mobilized the people to retrieve their land deeds and other documents either from the local administrations or from other sources. This enabled the beneficiaries to claim for their entitlement to the new settlements or in some cases to their originals areas wherever it was possible. A very systematic work was undertaken by the local community workers at the Parish level to get these documents or certificates.

Helping the people to retrieve the land deeds or entitlement documents meant accompanying them to claim their rights and ensuring their rights to a safe place.

2. Caritas was able to access the institutional framework which were put up (task force, local committees, panchayat committees etc) and along with the beneficiaries who were organized into communities, help them to claim for the respect of their rights.
3. Both the Caritas architected a multipronged approach to the disaster response, and also did not rush into a classical disaster response. This meant caritas were able to put people's interest before donor pressure. This meant that Caritas was putting people's rights and aid efficiency before the quick utilization of the funds and image building for the donor. This was a major challenge and needs a special attention for future disasters because often it is understood as not achieving results.
4. The introduction of clear housing policies was essential to distribute beneficiary with approved houses respecting the local culture and the local habits. The housing committees created to this effect were instrumental to respect the rights of the peoples to houses which suit them.

5. Mobilizing and organizing people was an important element in getting the land entitlement and property deeds; ensure ownership of the programs and an integral development for the communities.
6. Close networking with the government authorities, with the NGO network gave the possibility for ensuring peoples' rights to safe settlements by introducing early warning systems and also access to different infrastructures. In Pondicherry the fisher men were organized into groups and were given means and capacitated to access satellite information through the internet from their personal computers.

Conclusion

The examples of the disaster response in Sri Lanka and India, bring out clearly that the Rights Based Approach to Disaster Response opens the perspective for a new way of addressing Disaster situation. Disaster Response is no more a mere question of responding to the needs of the victims but considering them as Right Holders, facilitate their active involvement in the disaster response. For the NGO or for the state, it is not a question of introducing normative international standards, but it is a question of fulfilling the duties as duty bearers towards the victims. The role of the state as the duty bearer is capital and determinant in the success of the reconstruction projects a basic rights issue.

The Human rights approach is people oriented, giving prime importance to the beneficiaries and to aid efficiency directed towards the victim. The beneficiaries are no more passive recipients of humanitarian Aid, but partners for their own development. The strength of the RBA to disaster response is that it mobilizes the NGO as duty bearers along with the beneficiaries to lobby with the state to get the rights of the people respected, especially in disaster situations.

The tsunami experiences in India and Sri Lanka are examples wherein there has been close link and working relation between the state and NGO ; a process of empowering the people to act as Right holders and claim for their basic rights to shelter and early recovery from the disaster. The political will on the part of the state to play its role as duty bearer was also important.

The different government taskforces, steering committees introduced at the national and regional levels by the government were relevant commitment to introduce institutional framework that could facilitate a fluid decision making, taking into consideration the basic

needs as basic rights of the people, interface between the state, the civil society and the people's representatives. Without these frameworks it would have been very difficult to achieve the successful results.

Another important aspect of the RBA approach to disaster response is that the implementing agencies are obliged to change their humanitarian response perspective, which is no more just solution oriented. The two examples depict the need for a disaster response as a process wherein the different stages need to be respected. The process oriented approach is itself a challenge because it cannot be an immediate result oriented action, which will comply with the donor pressure for quick results. But on the contrary it will contribute to a holistique, integral response to the needs of the victims.

Aloysius John

Humanitarian Expert

Part-Time Lecturer in Humanitarian Studies

University of Créteil Paris XII