

May 18, 2009

His Excellency Ban Ki-Moon
Secretary-General of the United Nations
New York, NY 10017
The United States

Re: Lessons-Learned from the Reconstruction of Aceh

Dear Secretary-General:

In connection with the launch of the “The Tsunami Legacy: Innovation, Breakthroughs and Change” at UN Headquarters on 24 April 2009, we, Greenomics Indonesia, an Indonesian NGO focusing on natural resources governance and sustainable development – have studied the so-called lessons-learned highlighted by the said report.

We are sorry to say that many of the key lessons-learned so highlighted are not factual or transparent, and, in fact, fail to reflect what actually happened on the ground in Aceh during the reconstruction process.

We believe that the “bad lessons-learned” to be gleaned from the reconstruction program should also be presented in the report so that the global public may be informed as to what lessons should really be drawn from the process, rather than lessons-learned that only reflect the successes but ignore the many failings that became apparent during the course of the reconstruction work.

One of the principal “bad lessons-learned” to be drawn from what transpired in Aceh concerns the massive destruction of the Province's forests for the purpose of supplying illegally sourced timber to sustain the reconstruction work. This reality is nowhere to be found in the aforesaid report.

We have enclosed a counterpoint document for your perusal that identifies a number of key points in the Tsunami Legacy report that are put forward as lessons learned but which in reality fail to reflect what actually happened on the ground.

We have written this letter to you in good faith for the purpose of encouraging transparency through the sharing of the real lessons to be learned from the Aceh reconstruction process with the global public.

Thank you for your attention.



Elfian Effendi
Executive Director



Critical Response to ‘The Tsunami Legacy’ Report: Presenting the True Facts about the Aceh Reconstruction Process

Introduction

This critical response was prepared by Greenomics Indonesia – an Indonesian NGO focused on natural resources governance and sustainable development – to counter the purported lessons-learned from the reconstruction of Aceh as described in the report, “The Tsunami Legacy: Innovation, Breakthroughs and Change”, which was launched at UN Headquarters in New York on 24 April 2009.

This critical response is intended to provide a transparent description of the various problems encountered during the reconstruction of Aceh in the wake of the earthquake and tsunami disaster of 26 December 2004 so as to reflect the real situation, rather than embellished lessons-learned that only tend to obscure the true lessons that need to be taken on board by society as a whole.

Greenomics Indonesia was fully involved from the outset in observing the Aceh reconstruction process, both on the ground and at the policy level. Based on this, Greenomics Indonesia believes it is fully justified in presenting counter arguments to the various so-called lessons-learned from the reconstruction of Aceh, as presented in The Tsunami Legacy Report.

This critical response from Greenomics Indonesia is divided into five principal sections: (1) forest destruction arising from the need for timber during the reconstruction phase; (2) the issues of corruption and accountability; (3) problems concerning the construction of housing and settlements funded by donor groups; (4) changes in orientation and focus during reconstruction; and (5) the issue of management coordination, has been prepared based on data and information contained in financial and performance audit documents on the BRR (*The Executing Agency of the Rehabilitation and Reconstruction Agency for Aceh and Nias*) that were produced by the Indonesian Supreme Audit Agency on a regular basis, reports on reconstruction performance in Aceh by the BRR Supervisory Board and the Indonesian House of Representatives, reports from local NGOs, periodic field surveys conducted by Greenomics Indonesia, and other relevant materials.

(1) Forest destruction arising from the need for timber during the reconstruction phase

One of the most fundamental issues during the reconstruction of Aceh was the failure to properly respond to the need for timber for the reconstruction work. Prior to the tsunami, the logging of Aceh's forests had come to a halt, primarily as a result of the escalating conflict at that time. After the tsunami, the Provincial Government of Aceh had resolved not to reactivate the logging concessions in the province, even though the Ministry of Forestry had issued production quotas to logging companies in Aceh for the 2005-2008 period.

In February 2007, the newly elected Governor of Aceh, Irwandi Yusuf, stated that a moratorium would be imposed on the logging of Aceh's forests, which moratorium was officially announced in June 2007.

The above situation clearly shows that it was impossible to obtain the timber needed for the reconstruction of Aceh from the province's forests. Thus, it should come as no surprise that these forests became the target of illegal logging to provide the necessary timber. Based on Greenomics Indonesia surveys, projects operated by the BRR and international agencies were the biggest users of illegal timber from Aceh's forests during the reconstruction process.

In fact, a field survey by Greenomics Indonesia showed that during the six months following the imposition of the moratorium (June-December 2007), there were at least 100 readily identifiable places where illegal timber was traded for reconstruction purposes. The value of the timber removed illegally from Aceh's forests during the 2005-2008 period is estimated at approximately US\$725 million. Based on the spatial analysis conducted by Greenomics Indonesia that covered landsat satellite images from 2005/2006 up to early 2009, it was found that an area of 200,000 hectares of Aceh's forests - equivalent to more than three times the area of the Singapore - were illegally deforested and degraded during the Aceh reconstruction process.

In the light of the above, Greenomics Indonesia feels fully justified in saying that the Aceh reconstruction process was conducted in an unsustainable manner, and failed to reflect, or provide, best practices as regards how a post-disaster reconstruction process should be conducted in coastal areas while continuing to protect hinterland forests in support of sustainable development. Rather, what happened was that the forests of Aceh were exploited as sources of illegal timber so as to allow reconstruction targets to be met.

This situation shows that the reconstruction process in Aceh, which involved international donors and NGOs with billions of US dollars at their disposal, abjectly failed to fulfill the principles of sustainable reconstruction through the failure to have regard to the legality of the timber that was utilized. This meant that the Aceh reconstruction process failed to account of climate change issues arising. In fact, the question of climate change was totally ignored during the rebuilding of Aceh.

Accordingly, The Tsunami Legacy report should have put forward lessons-learned as to why the reconstruction of Aceh encouraged the destruction of Aceh's forests, which gave rise to an unsustainable situation and further fueled global warming.

In reality, the billions of dollars referred to above represented humanitarian aid, much of it donated by people from all around the world. We can take it for granted that those who donated their money never imagined that it would be used to purchase illegal timber from Aceh's forests, thereby further compounding the problem of climate change.

This issue is clearly connected with public accountability, and may even be categorized as an environmental crime. Accordingly, it must be properly dealt with when discussing the lessons-learned from the Aceh reconstruction process.

(2) Corruption and Accountability

It is not correct to say that the BRR Anti-Corruption Unit helped create and mobilize an effective anti-corruption movement in Aceh Province. In fact, what happened was that local NGOs and community elements worked tirelessly to bring corruption cases involving the BRR to the fore, through advocacy involving the media, demonstrations, group discussions, seminars, and other efforts, including reporting indications of corruption in the BRR to the law-enforcement authorities.

So, it is not true for The Tsunami Legacy report to claim that: *“Now, communities themselves have begun to overtly protest about corrupt practices exposed in public life — a very positive development — and consider acts of corruption as social disgrace”*. The BRR's Anti-Corruption Unit has no right to feel that what has happened in Aceh is a reflection on its success in developing the anti-corruption movement in Aceh.

Greenomics Indonesia acknowledges that strenuous efforts were made by BRR management to promote anti-corruption practices. However, as an institution, the BRR was itself responsible for fatal irregularities in the management of the funds provided to it from the national budget. The most glaring example was the establishment of a Trust Fund endowed with US\$221 million taken from the 2006 national budget by “shifting” unspent 2006 budgetary funds into a special account (the so-called Trust Fund).

In this way, it was made to appear that 70.91 percent of the total 2006 budget of US\$1.41 billion was spent, whereas in reality only 56.11 percent was actually spent.

It should be noted that two funding mechanisms were applied in 2007, namely, the trust fund mechanism and funding from the 2007 budget. The trust fund was closed in September 2007 as it turned out to be in conflict with the prevailing law, with the US\$26.02 million left in the Fund being repaid to the national treasury.

From the legal perspective, the question of the establishment of the said trust fund still remains unresolved as there is no legal mechanism in place for resolving it.

The 'trust fund' cannot be categorized as an innovation in disaster management as it deviated from the requirements of Indonesian law. What is even more worrying is that the use of some of the monies in the trust fund was also problematic.

For example, the construction of 9,156 houses at a cost of US\$54.94 million was not completed on time so that the houses were not immediately available to the victims of the earthquake and tsunami. In addition, there is also the question of monies from the trust fund not being used for the purposes for which they were intended. These are all examples of “bad lessons learned.”

Another issue that needs to be looked at is the failure of a number of work units of the BRR up to April 2008 to properly administer their asset inventories, to exercise discipline in the management of state assets, and to properly record donated assets. These failings obviously left the door wide open to the misuse of state and donated assets.

It would appear that the main reasons for these failings was weakness on the part of BRR management in the oversight and control fields, and the lack of mechanisms for the reporting of assets donated to the BRR.

These are further examples of “bad lessons learned” in connection with the accountability of the BRR in the asset management arena, and it should come as no surprise that there were district governments that refused to accept the assets that the BRR attempted to hand over to them. In fact, the provincial government only accepted the assets subject to the proviso that they be verified again.

The accountability of the BRR as regards the management of aid funds under the Economy and Business Program also needs to be looked at, given that what transpired had the potential to result in program objectives not being achieved. In fact, in a number of cases state funds were wasted, giving rise to the potential for corruption.

The BRR needs to share the “lessons learned” as regards the leakages that occurred in the Economy and Business Program so that the public at large may be made aware of them.

Another case that merits attention concerns the potential for state losses arising from house-construction contracts entered into by the BRR, where payments were made for more houses than were actually constructed. In addition, there were problems surrounding the quality of the houses that were in fact built, with many being below standard and lacking in rudimentary settlement infrastructure, particularly electricity connections, and clean water and sanitation networks.

As a result of these deficiencies, the tsunami and earthquake victims were in many cases denied habitable homes supplied with basic settlement infrastructure.

In addition to weak control by the BRR over the construction of homes, the resulting inadequacies were also due to lack of competence and professionalism on the part of the building contractors in completing the contracts that had been signed.

These difficulties all gave rise to lessons learned that need to be properly heeded as it turned out that the house-construction targets set by the BRR were incapable of being met based solely on the contracts that had been entered into, given that there was a serious mismatch between the number of houses to be built and the time allocated for this, combined with a lack of professionalism on the part of the contractors and inadequate supplies of raw materials.

Bearing in mind that these problems all opened up opportunities for corruption, the lessons learned in this area should have been included in The Tsunami Legacy Report so that the public can be made better aware of the management processes applied by the BRR during the reconstruction of tsunami victims' homes.

The Tsunami Legacy Report should also have explained the reasons for the deficiencies in the homes constructed by the BRR, which turned out to be of poor quality, uninhabitable, unfinished, or lacking rudimentary infrastructure.

There are many other findings related to potential corruption during the four years that the BRR directed the reconstruction process in Aceh – whether documented by the Indonesian Supreme Audit Agency or by local anti-corruption NGOs, such as Indonesia Corruption Watch (ICW) and GeRAK (Anti-Corruption Movement). This means that The Tsunami Legacy Report is excessively fulsome in its praise of the BRR as regards the anti-corruption effort during the reconstruction phase in Aceh as the real situation was, in fact, very different from what is stated in the report.

(3) Problems concerning the construction of housing and settlements funded by donor groups

One area that needs to be particularly focused on concerns the many cases involving lack of oversight, control and coordination in the construction of homes and settlements funded by donor groups.

These cases reflect, and are part of, the problems affecting the rebuilding of homes and settlements during the reconstruction of Aceh, with some 3,000 homes funded by donor groups not being fully finished or being finished late.

In addition, more than 1,500 homes built with donor funds were rejected and left unoccupied by tsunami victims, with the principal reasons being their poor quality and lack of supporting infrastructure.

The “lessons learned” from this situation should also have been shared with the public in The Tsunami Legacy report so that as to inform the public of the reasons why the problems of unfinished homes, late completion of homes, unoccupied homes and lack of infrastructure also affected housing developments funded by donor groups.

It should also be noted that the consultants who planned these developments failed to properly perform their duties, thus leading to problems such as projects being built in unsuitable places and overlapping with other work.

It is important to remember that these consultants came not only from Indonesia. Many were also expatriates. These problems in the planning field also need to be focused on as “lessons learned” so as to explain to the public why housing and residential infrastructure projects funded by donor groups were also affected by planning problems.

(4) Change in orientation and focus during reconstruction

The Tsunami Legacy Report states that the BRR “worked” to change the focus of reconstruction from the building of houses to infrastructure, and from social and institutional development to economic recovery. In reality, these changes in focus never actually took place.

The reason that these changes never took place was due to the fact that the fundamental problems affecting reconstruction, namely, the problems concerning the houses that were built and their supporting infrastructure, were never resolved, even at the time when the remit of the BRR came to an end on 16 April 2009.

A survey by Greenomics Indonesia between January and the end of March 2009, which involved 2,296 tsunami victim respondents in the areas worst affected by the disaster along the West Aceh coast, found that 74.1 percent of the respondents were unhappy with the houses they had received. The principal reason for their dissatisfaction was the poor quality of the homes, the failure to deliver them in a timely fashion, and the lack of supporting infrastructure, such as electricity connections, and clean water and sanitation networks. In fact, many of the housing developments were totally devoid of supporting infrastructure.

The Greenomics Indonesia survey also revealed that infrastructure problems affected 84.8 percent of the respondents. This means that of every 10 homes that were built, 8 of them suffered from infrastructure problems, including poor quality of infrastructure, non-functioning infrastructure and total lack of infrastructure.

As regards the putative change in focus towards economic recovery, there also appears to have been little meaningful progress, with the Greenomics Indonesia survey finding that 82.1 percent of the tsunami victims managed to restore their own economic circumstances without the assistance of the economic empowerment programs that were instituted. In fact, 61 percent of the victims received no assistance under these programs.

Of the 39 percent of tsunami victims who said they had participated in such programs, 74.6 percent said that the programs had done nothing to economically empower them on a sustainable basis – in other words, they had done nothing to provide them with sustainable livelihoods. This situation was principally the result of weak planning, implementation and control in respect of the said economic empowerment programs.

With regard to the problems surrounding housing and settlement reconstruction, Greenomics Indonesia submitted a complaint to the National Human Rights Commission as they had the potential to deny the tsunami victims their human rights. The principal grounds on which the Greenomics Indonesia complaint was based was the fact that the tsunami victims have the right to proper homes and settlement infrastructure, as mandated by Presidential Decree on the Aceh reconstruction masterplan.

(5) Management Coordination

The claims of the BRR as regards its successes in the coordination field are unsustainable and not supported by the facts. Various oversight reports on the performance of the reconstruction work in Aceh, whether produced by the government, legislature or NGOs, reveal that the coordination effected by the BRR during the reconstruction of Aceh was fraught with problems.

In reality, The Tsunami Legacy report should have set out the real “lessons learned” as regards the level of coordination that was effected. As things stand at the moment, the purported “lessons learned” in reality reflect a host of problems. What we really need to know is why in so many cases the establishment of a joint secretariat (between the BRR, local government, and other parties involved in the reconstruction process) failed to achieve the desired objectives.

As President Susilo Bambang Yudhoyono said at the winding up of the BRR on 17 April 2009, everything needs to be revealed regarding the deficiencies and obstacles that affected the reconstruction process on the ground. The President's admonition should encourage the sharing of all the lessons learned – both good and bad – based on the facts on the ground.

Concluding Notes

The real “lessons learned” from the reconstruction process in Aceh must be shared with the public to the widest extent possible as this constitutes an essential element of public accountability.

If the “lessons learned” presented to the public are not in reality the true lessons learned, then the public will not be made aware of the valuable input to be gleaned from the reconstruction process in Aceh and will be unable to reflect on what needs to be done better the next time.

Greenomics Indonesia believes that the real lessons learned from four years of reconstruction in Aceh provide valuable input at the local, national and global levels. No one needs the “bad lessons learned.” Rather, sharing of the real lessons learned is absolutely essential so as to strengthen best practices in the future.

The public has no need of “lessons learned” that are framed based solely on target audiences and the venues at which they are announced. Rather, what the public needs are real lessons learned that allow for correct and mature reflection. Misleading lessons learned will only give rise to misleading reflection.