

PART II

Case No.7 - Death of fifty one (51) persons in Naddalamottankulam
(Senchola) in August 2006.

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Introduction

Case No.7 of the mandate refers to an incident where according to initial reports 61 persons were killed as a result of an air attack on a facility of the Liberation Tigers of Tamil Eelam (LTTE) in Naddalamottankulam (Sencholai) on 14th August 2006. It caused some controversy at the time, as the LTTE claimed that the facility housed a Children's Home and that those killed were school girls.

As the incident occurred in a LTTE controlled area, the veracity or otherwise of this claim could not be immediately checked, at the time, but the Air Force maintained that it was a legitimate military target, based on intelligence received over several years.

1. Facts / Circumstances of the Incident

1.1 The Incident

On 14 August 2006, around 06.40 a.m. the Sri Lankan Air Force bombed a facility in Naddalamottankulam (NDMK), in the North of the country, believed to be a training facility of the LTTE.

1.2 The Scene of the Incident

The scene of the attack in NDMK was described as follows in a Media Release of the Peace Secretariat shortly after the incident:

"The Security Forces conducted an air operation on an identified LTTE base at Naddalamottankulam an area approximately 8 km North-west of Puthukkudiyirippu in the Mullativu district. The LTTE base is used as a Transit Camp to assemble cadres, brief them and deploy for on going offensive action in areas of South and South East of Muhamalai. The operation was undertaken as a defensive measure to prevent further deployment of LTTE cadres in the current offensive action in this area. The air action took place at 6.40 a.m. in the morning on Monday 14 August, with only occupants of the LTTE base at the site. It has been established with aerial surveillance and video footage that there were no civilian settlements in close proximity to this major LTTE base surrounded by thick jungle. The base has inner defences and outer perimeter fortifications surrounding it."

1.3 The Casualties

51 school girls, all around 17 to 19 years of age, and 3 staff members died in the attack, while over 100 were reported to have been injured.

The girls who died were from the following schools:

Name of School	No.	Name of School	No
Puthukudiyiruppu MV	03	Visvamadu MV	09
Udayarkaddu MV	11	Mullativu MV	08
Kumulamunai MV	05	Vidyananada MV	04
Chemalai MV	04	Oddusudan MV	01
Muruhananda MV	02	Tharmapuram MV	03
Piramanthanru MV	01		

Source: Tamill Net of 18 Aug. 2006

Among the injured were 3 school girls who were transferred to Vavuniya Hospital and thereafter to Kandy General Hospital for treatment. One of these girls died in hospital, while the other 2 recovered and gave evidence at the public inquiry.

1.4 Background to the incident

Hostilities between the LTTE and the security forces commenced after the LTTE suicide attack in Colombo on the Commander of the Army, who was severely injured. Retaliatory air attacks were carried out by the air force on previously identified legitimate targets.

The LTTE thereafter closed On 20 July 2006, the sluice gate of the Mavil Aru Anicut, situated in a LTTE controlled area, depriving the farmers of all communities living downstream of the only source of water for their farmlands.

In the last week of July the LTTE launched surprise attacks on Muttur, Mahindapura and Selvanagar and attacks on Muhamalai and Kayts on 11 August 2006.

It was against the above backdrop that the Air Force carried out an air attack on 14 August 2006, on a LTTE facility, believed to be a training base, and therefore a legitimate target.

2. Persons who have directly suffered death, injury or physical harm

2.1 Girls killed following the sir strike

No.	Name	Date of birth	Address	School
1	Thambirasa Lakiya	26.03.89	Mullivaikal West, Mullativu	Puthukudiyiruppu MV
2	Mahalingam Vensidyoola	07.10.89	Mullivaikal West, Mullativu	Puthukudiyiruppu MV
3	Thuraisingham Sutharshani	28.07.89	W10, Puthukudiruppu, Muulativu	Puthukudiyiruppu MV
4	Nagalingam Theepa	29.03.87	Puthadi, Visvamadu Kilinochchi	Visvamadu MV
5	Thambirasa Theepa	07.02.87	Valluvarouram, Redbana, Mullativu	Visvamadau MV
6	Thiruvanakarasu Niranjala	29.11.88	Puthadi, Visvamadu Kilinochchi	Visvamadau MV
7	Raveendrarasa Ramya	14.11.88	72/2, Thodiyadi, Visvamadu Kilinochch	Visvamadau MV
8	Kanapathipillai Nanthini	05.10.88	Thodiyadi, Visvamadu Kilinochch	Visvamadau MV
9	Vijaybhavan Sinthuja	24.05.88	Thodiyadi, Visvamadu Kilinochch	Visvamadau MV
10	Naguleswaran Nishanthini	11.04.89	119/2 Thodiyadi, Visvamadu Kilinochch	Visvamadau MV
11	Tharmakulasingham Kamala	09.09.87	Kannakinagar, Visvamdu Killinochch	Visvamadau MV
12	Arulambalam Yasothini	18.01.88	Kuthadi, Visvamadu Killinochchi	Visvamadau MV
13	Muttiah Indra	08.08.88	Suthanthipuram Centre Mullativu	Udayarkaddu MV
14	Murugaiah Arudselvi	14.07.88	Suthanthipuram Centre Mullativu	Udayarkaddu MV
15	Sivamoorthy Karthiayini	13.02.88	Vallipunam, Mullativu	Udayarkaddu MV
16	Santhanam Sathyakala	20.08.86	Vallipunam, Mullativu	Udayarkaddu MV
17	Kangalingam Niruba	11.02.89	Visvamadu Killinochchi	Udayarkaddu MV
18	Kangalingam Nirosa	11.02.89	Vallipunam Kilinochchi	Udayarkaddu MV
19	Navaratnam Santhakumari	29.05.88	Kaiveli, Mullativu	Udayarkaddu MV
20	Nagalingam Kohila	12.02.87	Vallipunam Mullativu	Udayarkaddu MV
21	Sivamayajeyam Kohila	?	Kuravil, Mullativu	Udayarkaddu MV
22	Shanmugarasa Paventhini	?	?	Udayarkaddu MV
23	Balakrishnan Mathani	09.05.88	Vallipunam Mullativu	Udayarkaddu MV
24	Sivananthan Thivya	30.05.88	Vannankulam Mullativu	Mullativu MV

25	Thambirasa Suganthini	18.02.88	Alambil, Mullativu	Mullativu MV
26	Sivasubramaniam Vathsalamary	20.11.86	Mannatkudiyiruppu Mullativu	Mullativu MV
27	Thanabalasingham Bakeerathi	03.02.87	Mullivaikal West Mullativu	Mullativu MV
28	Thanikasalam Thanusha	02.12.87	Kallapadu Mullativu	Mullativu MV
29	Pathmanathan Kalaipriya	23.09.88	Kovilkudiyiruppu Mullativu	Mullativu MV
30	Markupillai Kelansuthayini	14.07.88	Vannankulam Mullativu	Mullativu MV
31	Rasamohan Hamsana	19.05.87	Alambil, Mullativu	Mullativu MV
32	Vivekanantham Thadchayini	31.01.88	W10, Puthukudiyirupu, Mullativu	Kumulamunai MV
33	Santhakumar Suhirtha	08.08.87	W7, Kumulamunai Mullativu	Kumulamunai MV
34	Uthayakumaran Kousika	22.08.87	Kumulamunai Mullativu	Kumulamunai MV
35	Nallapillai Ninthuja	03.03.88	W6, Kumulamunai Mullativu	Kumulamunai MV
36	Veerasingham Rajitha	28.02.88	W5, Kumulamunai Mullativu	Kumulamunai MV
37	Thamilvasan Nivethika	02.12.88	W2, Mulliyavalai, Mullativu	Vidyananda Mulliyavalai
38	Sundaram Anoja	12.09.88	Kumulamunai Mullativu	Vidyananda Mulliyavalai
39	Puvanasekaram Puvaneswari	06.06. 89	W4, Mulliyavalai, Mullativu	Vidyananda Mulliyavalai
40	Kiritharan Thayani	28.12.89	Thaneerutu, Mulliyavalai, Mullativu	Vidyananda Mulliyavalai
41	Mahalingam Vasantharani	23.03.88	Alambil, Chemalai, Mullativu	Chemalai MV
42	Thuraisingham Thisani	06.12.88	Alambil, Chemalai, Mullativu	Chemalai MV
43	Vairavamoorthy Krithika	12.07.87	Alambil, Chemalai, Mullativu	Chemalai MV
44	Chandramohan Nivethika	04.01.89	Alambil, Chemalai, Mullativu	Chemalai MV
45	Sellam Nirojini	17.09.89	Koolamurippu, Oddusudan, Mullativu	Oddusudan MV
46	Tharmarasa Brintha	06.01.89	189/1, Visvamadu Killinochchi	Muruhananda MV
47	Thevarasa Sharmini	09.03.89	90 Periyakulam Kandavalai Mullativu	Muruhananda MV
48	Varatharajah Mangaleswari	24.07.89	577, Tharmapuram Killinochchi	Tharmapuram MV
49	Rasanthiraselvan Mahilvathani	04.12.88	Hospital Qrs. Tharmapuram Killinochchi	Tharmapuram MV
50	Nilayinar Nivahini	04.04.89	Kattkadai, Tharmapuram, Killinochchi	Tharmapuram MV
51	Kubenathiraselvam Lihithia	05.02.87	Kalveddithudai, Puliya-mpookkanai, Killinochchi	Piramanthanaru MV

2.2 Staff killed

1	Solomon Singarasa	65 yrs	HUDEC Plan, Ward 1 Puthukudiyiruppu
2	Chandrasekaran Vijaykumari	27 yrs	11Rd, Santhapuram Ampainagar, Killinochchi
3	Kandasamy Kumarasamy	48 yrs	Redbarna, Visvamadu

Source: Tamil Net of 18 Aug. 2006

3. Circumstances leading to the death, injury and physical harm to victims.

3.1 Circumstances according to the media

3.1.1 Extract from the Daily Mirror of 16 August, 2006

Children killing under Govt. – UNICEF crossfire – Easwaran Rutnam
The international child rights group UNICEF in a statement from New York yesterday said the youth killed in the air raids on Mullativu were “innocent victims of violence” said they were staying overnight at the bombed compound attending a two day course in first aid.

3.1.2 Extract from the Daily Mirror of 18 August, 2006

Mullativu bombing: SLMM insists it is right – Easwaran Rutnam
With growing international concern over the killing of several youth in Mullativu, the SLMM yesterday dismissed the assumption by defence authorities that the Kilinochchi based cease-fire monitors may have visited the wrong site , prompting them to level charges against the Air Force over the incident.....
Speaking to the media on Tuesday, the Govt. Defense spokesman, Mr. Keheliya Rambukwella said that both the SLMM and UNICEF may have visited the wrong site and insisted that the area bombed by the Air Force , was a rebel training facility.

3.1.3 Extract from the Nation of 20 August, 2006

Their deaths warrant our tears too - Dharisha Bastians
The young girls killed in Monday's air force bombing of a site in Mullativu, have now been identified as school girls.
But new revelations are surfacing that an LTTE affiliated student organization – the Manavar Weervei or Student Heroes had taken some 600 students from leading schools in the area to the compound of a former orphanage inside the jungle area of Vallpunam for a training workshop in an apparent bid to teach them ‘first aid’.
Other reports say that the workshop was being held by the Centre for Women's Rehabilitation and Development (CWRD) based in Kilinochchi.
The truth of the matter is proving hard to get at, with the government and the LTTE as usual pulling in different directions , via their propaganda machinery.

3.1.4 Extract from the Daily Mirror of August, 2006

Mullativu air strike – N. Dilshath Banu
Students or combatants? Still more questions than answers.

3.1.5 Extract from the Daily Mirror on 09 October, 2006

HRC says Chencholai was LTTE training camp.- Easwaran Rutnam

3.2 Investigation before the Commission to ascertain circumstances

An investigation into the incident was carried out before the following members of the Commission on 10, 11, 14 and 21 January, 2008:

Justice N.K. Udalgama, Dr. D.Nesiah, Ms. M. Muttetuwegama, Ms. Jezima Ismail, Mr. S.S. Wijeratne, Mr. K.C. Logeswaran, Mr. Ahamed Javid Yusuf, Mr. Douglas Premaratne P.C.

The Panel of Counsel from the Official Bar assisting the Commission were : Yasantha Kodagoda, Dulip Jayakody and Ms. L. Karunanayake

Professor C. Fasseur of the International Independent Group of Eminent Persons (IIGEP) observed the proceedings along with 2 Assistants of the IIGEP.

At the investigation, 2 witnesses, Ms. Sripathy Kasthuri and Ms. Balasingham Sumitra, who were injured during the incident, and who received treatment at the Kandy General Hospital gave evidence. The nature of the training they received during their short stay at the facility was elicited from them.

3.3 Public Inquiry

The Public Inquiry was held before the following members of the Commission, on 12 & 31 March, 2009.

Justice N.K.Udalagama, Mrs. Jezima Ismail, Mr. S.S.Wijeratne, Mr. Douglas Premaratne P.C., Mr. M. F. Razeen and Mr. Denzil J. Gunaratne.

The Panel of Counsel from the Official Bar assisting the Commission were : Yasantha Kodagoda, and Ms. L. Karunanayake
Meesrs. Gomin Dayasri and Chaminda Karunadasa watched the interests of the Air Force.

Evidence was recorded from the 2 witnesses who made statements at the investigation and from Wing Commander Ajith Nishantha of the Air Force.

3.4 Summary of the Evidence

3.4.1 2 girls who were in the camp at the time of attack

According to their evidence, a representative of the LTTE came to their school and informed students that they should assist the “movement”, implying the LTTE, and informed that those who failed to do so, would not be permitted to attend school or tuition classes. Therefore they were compelled to attend lectures conducted by the LTTE. They were informed of a training program, that was to be conducted shortly and to be prepared for it. It was stated by those conducting the program that the students must join the fighting arm of the movement.

Ms. Siripathi Kasthuri,

Kasthuri was a resident of Mullativu and a student of the Vidyananda Vidyalaya in Mullativu.

According to her, school children were addressed by the leader of the LTTE student wing Mayuran on 6 occasions. These lectures were given during the religious activity period, and were based on the necessity of joining the training camp of the LTTE. On 09 August 2006 Mayuran briefed the students regarding a 15 day training and stated that both male and female students should be present.

Accordingly, 100 female students and 100 male students were transported in buses belonging to the LTTE to the camp situated in Vallipuram, an approximately two hour drive away. At the camp site there were 300 students who had arrived earlier to the camp. The camp was guarded by 10 LTTE female cadres in uniform, and they were carrying arms.

The camp area was encircled by forest cover with a large ground at the centre of the camp. 15 mud huts were built around the grounds. During their stay at the camp, approximately 500 students were given military training and included:

- First Aid training on the first day – 11 August 2006;
- Treating the injured during a conflict on the second day – 12 August 2006;
- Dismantling and assembling guns on the third day – 13 August 2006..

On 14th August 2006 at about 6.45 a.m, planes belonging to the Sri Lanka Air Force bombed the camp. Kasthuri was injured and hospitalized..

Ms. Balasingham Sumithra

She is a resident of Mullativu and a student of the Vidyananda Vidyalaya in Mullativu. In August 2006 school children were addressed by Mayuran the student leader of the LTTE in Mullativu, clad in a LTTE camouflage uniform. The students were given instructions on a training program and warned that those who do not receive the training, will not

be allowed to return to school. On a different occasion, Mayuran along with another member of the LTTE student union, Thaleearasan instructed the students to be at the school gate at 02.00 hrs on 10 August 2006.

On the 09 August 2006 the children in GCE/AL classes were summoned to the grounds by Thaleearasan, who in the presence of the Principal, gave instructions to the students to arrive at the school to leave for training on 10 August 2006.

On arrival at the NDMK camp most students were emotionally disturbed and crying. The camp had facilities for 400-500 resident students.

During their stay, students ,

- received training in First Aid
- were expected to participate in strenuous exercises during which the LTTE flag was hoisted
- had to stay awake on a roster basis for 1 or 1.5 hours keeping watch through the night.

When the exercises came to an end for the day, a large screen was put up in the grounds and a film was shown on the dropping of bombs on a school at Trincomalee. The film included scenes on how students were injured and other damage was caused as a result of the bombing. There were scenes showing people dying as a result of bombings by the Air Force and how parents were weeping at the loss of their children. A second film showed the LTTE waging war.

On 12 August 2006, students were assembled to witness the hoisting of the LTTE flag by Sister Vennila, the leader. At this time all present were asked to remain silent. Thereafter they were given a 3 ft long baton like the handle of a mamoty to be used as a gun and the morning exercises commenced.

After the exercises, Sister Venilla conducted a class during which she briefed them on the LTTE organization, Great Heroes Day, success stories of the LTTE , the aims of the LTTE and on waging war to win a separate country. In the after noon, again there were exercises.

On 13 August, 2006, after the usual exercises, Sister Vennila showed how to dismantle a gun, clean it and re-assemble it. In the afternoon

there were exercises, and the students were trained to follow commands using the baton as a gun.

On 14 August 2006, the camp was bombed by air planes at about at 6.45a.m. The students ran in fear to take cover. After receiving an injury to her neck the witness lost consciousness, and regained consciousness only at the Vavuniya Hospital.

All inmates of the camp were GCE A/L students from schools in the area controlled by the LTTE.

The witness identified the camp where the LTTE intimidated and forcibly took students, and gave them military type training.

3.4.2 Legitimacy of the target and the false propaganda of the LTTE.

Wing Commander, Ajith Nishantha

Nishantha was in charge of Air Surveillance and Operations of the Air Force at the time of the incident.

Intelligence Information

According to his evidence, the camp at NDMK was under comprehensive surveillance for a long time and intelligence from several sources revealed that there was in existence a functional, live, highly developed military complex of the LTTE, which was a threat to national security.

The Air Force was also satisfied from a study of all available material that there no genuine civilians were stationed within the complex and thus NMDK became a legitimate target of the Air Force.

Nishantha summed up the cumulative results of all surveillance activities carried out as follows:

1. In July 2004, during the period of the Cease Fire Agreement (CFA), surveillance by an Unarmed Aerial Vehicle (UAV) revealed a developing complex of buildings in a terrain which was heavily forested, and hidden beneath a canopy of jungle trees which gave rise to suspicion.
2. A disturbing feature was the existence of a perimeter earth bund which was characteristic of a military installation, together with an appearance of a secondary protective cover as a possible hideout

for a leader of a terrorist organization. Further scrutiny appeared to be necessary .

3. Therefore the said information together with photographs was forwarded to the Combined Forces for further verification.
4. The Combined Forces pointed out that NMDK was, on information then available, an area with a high density of LTTE activity. They had also been informed that from 1998 there were a number of reports of LTTE developments in this thick jungle cover and the following information was gathered during the period October 1998 and December 2003
 - Information of LTTE sites at NDMK
 - Location of the training base surrounded by many LTTE sites
5. In March 2004, the Combined Forces received a complaint that a girl abducted from Puthukudiyiruppu was taken to a place called Senchola, where children were being given military training.
6. Combined Forces continued to receive field information about this location and surrounding areas while the CFA was still in force and information became more frequent and more active from 2006, and these developments were being monitored.
7. In February 2006 the Combined Forces received information that the LTTE was maintaining a training base in this area and young persons were recruited forcibly and taken to this area, and that they were given training. Satellite images were used to confirm the identified location and confirmed the correctness of the previous information.
8. Field information received in March 2006 further indicated a development of a transit and a training base at this location. It indicated that the base was being used as an intermediate zone prior to dispatch of LTTE cadres to other areas. Further the same source indicated that this location was used to provide compulsory military training. Satellite images confirmed the existence of a camp, which could be used for the purpose.
9. Accordingly a Target Report was developed by the Combined Forces and was forwarded to the Air Force for onward action. This

contained information received from live ground sources and intelligence gathering exercises, together with satellite pictures and UAV videos and confirming that there was a well developed military installation of the LTTE at NDMK.

10. As there were sufficient grounds to believe that this was a focal point in the deployment of LTTE personnel, it was identified as a legitimate target of the Air Force.

LTTE attacks during the period April 2006 to August 2006

Wing Commander Sugunapala thereafter referred to the following incidents for which the LTTE was believed to be responsible, all of which were violations of the CFA by the LTTE, which forced the Government to commence military operations.

- Attack on the Commander of the Army on 25 April, 2006
- Closure of the sluice gate of the Mavil Aru Anicut on 20 July 2006
- Attacks on Muttur, Mahindapura and Selvanagar in the last week of July 2006
- Attack on Muhamalai and Kayts on 11 August 2006

Attack on the facility

The Air Force therefore commenced air attacks and targets were selected on a priority and logistical basis in order to paralyze the activities of the LTTE.

There was sufficient evidence that this base was emerging as one of the largest bases providing training and a collecting centre for LTTE cadres, prior to being sent to the battlefield.

Accordingly, it was decided by the National Security Council to interdict this training target immediately, in order to -

- negate LTTE's capability to launch more and more cadres to the battlefield and
- in support of humanitarian operations of the Combined Forces.

The target was interdicted on 14 August 2006. The entire training complex was taken as the target. The UAV images received the same day showed that several buildings of the training base were hit.

The aftermath of the attack disclosed military characteristics of the location and footage recorded soon after the attack taken by an UAV at an altitude of 14,000 ft was presented to the Commission on a multimedia screen.

The footage included the following:

- smoke emanating from the location showing the presence of ammunition and other inflammable material.
- signs of the location as one used for military purposes.

Post-operation video

According to the witness, the post operation video reveals the successful attack on the target identified which was also confirmed by the GPS coordinates. In his view, the above evidence establishes conclusively that NMDK was a military installation and not a civilian facility.

Wing Commander Sugunapala also presented to the Commission the following still footage taken after the area was liberated by the security forces:

- rusted plaque with partially legible Tamil engravings which translates into “NO ENTRY” and at the bottom says LTTE
- large tank to store water camouflaged in green to cater to large numbers training within the location
- small rooms that have been constructed to be used as training cells, believed to be for black tigers.

The witness pointed out that if it had been a civilian facility the need to camouflage the structures in such a manner would not arise. and that later investigations revealed the following:

- storage space for ammunition
- place for producing cyanide capsules

According to the witness, NMDK was a legitimate target for the Air Force from a strategic perspective since they believed that the location was a vital logistical centre from which it could feed fighting cadres to both battle fronts in the area.

3.4.3 LTTE claim that the Senchola Children's Home was bombed

Wing Commander Sugunapala was questioned on the following claims that appeared in Tamil Net of 14 August 2006

61 school girls killed , 129 wounded in air strike

- i.school girls were attending a residential course in first aid"
- ii.dropped 16 bombs on the premises of the Senchola children's home in Vallipunam on Paranthan Mullativu Rd. killing at least 61 school girls.....
- iii.more than 400 school girls were staying in Chencholai.....

Re (i) above, Sugunapala pointed out that school children need not have been brought to a jungle location to provide them with first aid training, and that there was a sinister purpose in doing so.

Re (ii) above, Sugunapala produced a Tamil Net Report of 15 January 2006, to the effect that "Leader of the Liberation Tigers, Pirapaharan, opened the new Senchola campus, a Children's Home established to care for children who had lost both parents in the war at a location in KillinochchiCurrently Senchola is located in Vallipunam near Vishvamadu and along Iranamadu Rd. in Killinochchi....."

He added that Senchola was the name of the first female suicide bomber of the LTTE and that her name was given to an orphanage first set up in Jaffna, later shifted to NDMK, and shifted again to Killinochchi, 7 months prior to the air strike.

Re (iii) Sugunapala said that the presence of approximately 300 female school children and 300 male school children was not known to the Air Force on 14 August 2006 when the attack was launched. The Air Force had knowledge that various persons of all ages were being brought to this location for training but there was no information as to who was due for training on that particular day.

3.4.4 LTTE claim of a "Leadership, Self Awareness and First Aid Workshop" Tamil Net of 14 August, 2006

The LTTE claimed that it was a 10 day residential program initiated by the Zonal Dept. of Education, but Sugunapala pointed out that the Ministry of Education by letter dated 5 September 2006 had denied that any such program was initiated by the Zonal Dept. of Education. The St. John's Ambulance Brigade had informed that no such program was initiated or organized by that Association.

3.4.5 LTTE claim that the program was organized by the Mullaitivu Principal's Association and Kandavalai Principal's Association - Tamil Net of 18 August 2006

Sugunapala pointed out that by letter dated 5 September 2006 denied the existence of any such Associations and admitted the existence only of a Principals' Association of Jaffna.

3.4.6 LTTE claim that 51 children killed in the attack were studying in the AL classes.

Sugunapala produced letter dated 01 September 2006 from the Department of Examinations which revealed the following:

1. Only 16 students could possibly be in the AL classes as they had passed the OL examination from these schools and 01 had appeared for the AL examination;
2. the balance could not have been students in the AL classes;
3. there were no records at all of 23 persons named by the LTTE as having been students .

However, the above information is not conclusive, and as published in Tamil Net of 18 August, 2006, the persons who died appear to have been of school going age and were probably students of the schools named by them.

3.4.7 Views of UNICEF representative regarding the facility – Sunday Times of 20 August 2006

Sugunapala produced the following quotes from the news report:

1. that it did not look like a school
2. that the girls were camping out and did not carry school bags but back packs.;

3. that 90% of the girls were clad in trousers, not the common dress of Tamil girls in remote areas;
4. that the girls were wearing belts around their waist.

3.4.8 Comment on the contradictory positions of the LTTE by a well known journalist, D. B. S. Jeyaraj – Sunday Leader of 20 August 2006

Sugunapala produced the following extract, which is self explanatory:

“LTTE went to town initially saying that its orphanage “Sencholai” had been bombed and orphaned children killed. As more information came to light the Tigers began changing stance. Contradictory statements were made by Tiger agencies. As more details were revealed it became clear that the LTTE had not been stating the whole truth”.

3.4.9 LTTE claim one year later – Tamil Net of 15 August 2007

Sugunapala pointed out that once again, at this stage, the LTTE referred to the killing of 53 school girls at the Vallipunam Sencholai Orphanage premises, although no such orphanage existed there on and after January, 2006.

3.4.10 Concern of parents

According to the evidence of Kasturi and Sumithra, parents were extremely worried about their children, and when parents arrived at the school at night they were told by the Principal that the students were taken away by the LTTE.

Parents then went to the LTTE office where they were informed about the whereabouts of the children.

Parents then came to the place where the children were taken, at about 10.00 or 11.00p.m. and tried to take their children home, but were not allowed to do so. However, they were allowed to talk to the children for sometime.

3.5 Analysis of the Evidence and Finding

Wing Commander Sugunapala outlined the results of intelligence activities undertaken over a period of several years since 1999, the

increased activity observed in mid 2006 and the circumstances under which the Air Force bombed the facility. His evidence establishes that it was a legitimate target military target at a time when the LTTE had commenced a series of provocative attacks, while the CFA was in force, and while Cease Fire monitors were in the country.

The evidence of the girls who were on the ground at the time of the bombing is consistent with information received by Air Force. Namely -

- The facility was not an orphanage or a children's home but a training camp manned by armed LTTE cadres;
- Classes were conducted on the activities of the LTTE, their fight for a separate state, the effects of the war, the need for students to join the fighting arm, and other material to indoctrinate the students;
- Participants were informed that a training in first aid would be provided, but the training in first aid was confined to the first 2 days, and on the third day, training of a military nature commenced with demonstrations of how to dismantle, clean and re-assemble a gun.
- the facility was bombed on the fourth day of training.

The Air Force, acting on intelligence available to them, was satisfied that this was a military complex and a training camp.

In the circumstances, the Commission finds that the Air Force was justified in targeting the location and there was no human rights violation in doing so.

The Commission further finds that the LTTE exposed school children to the risk of an air attack by taking them to an isolated camp situated in a jungle area against their consent at a time when the LTTE had commenced a series of attacks on the security forces, warranting retaliatory actions in turn, and thereby has violated the human rights of the school children.

4. Persons responsible for causing death and injury

An air attack launched by the Air Force on a legitimate military target at a time when the LTTE had renewed its attacks on the security forces in violation of the CFA, caused death and injury to school children who happened to be at this location.

Under the circumstances, the LTTE is responsible for indirectly causing death and injury to the school children by exposing them to the risk of an air attack at a LTTE training facility in a jungle area.

5. Nature, propriety and efficacy of investigations conducted.

The Terrorist Investigation Division carried out a preliminary investigation into this incident, after the injured girls were transferred to Kandy hospital, and no further investigations could have been carried out as the incident occurred in a LTTE controlled area.

6. Measures to be taken against those responsible

The Air Force cannot be held responsible for carrying out an air attack on a legitimate military target.

The LTTE leadership no longer exists for any measures to be taken against them.

7. Measures of reparation to victims

The incident occurred at a time when the LTTE was in control of the NDMK area. Therefore the question of reparation did not arise.

However, now that the area is under the control of the government, and considering the fact that those who died were school girls who were forced by the LTTE to undergo training at the facility, the grant of compensation to the next of kin of the deceased persons, in accordance with government policy is recommended.

8. Measures to prevent occurrence of such incidents

It is unlikely that the Air Force will need to carry out air strikes in the foreseeable future in view of the total defeat of the LTTE.

9. Any other recommendations arising out of findings.

The intelligence on which this air strike was based may be compared with the intelligence on which the US concluded that Iraq had Weapons of Mass Destruction and found none after the invasion, which caused so much death and destruction.

In this instance, intelligence revealed the existence of a LTTE facility to train combatants, but on the day of the attack, training of a military nature was certainly taking place, although the trainees turned out to be school children, undergoing such training possibly for a limited period and against their consent.

At a time when the LTTE had unleashed a wave of attacks, commencing from the attack on the Army Commander, the security forces had to respond in order to cripple their ability to launch such attacks, and this attack on a legitimate target was one of several that was designed to achieve that end.

In the circumstances, the attack which was based on adequate intelligence, was justified, although the deaths of the school children are a matter for deep regret.

In the view of the Commission, the LTTE is more to blame for this tragic incident, because they had exposed school children to the risk of an air attack, when they were fully aware that retaliatory attacks would be launched, in response to their own attacks on the security forces, which were being carried out with renewed vigour at the time.

The tragedy could have been prevented if the Principals of these Schools or any parent informed the Education Dept. about this activity but the brutality of the LTTE has been such that no Principal or parent would have dared to take the risk.

It is recommended that as a gesture of reconciliation and recompense, a public building such as a school library be constructed for the common use of school children in the area and that a plaque containing the names of all children who died be erected within the premises.

10. Acknowledgements

The Commission wishes to convey its appreciation of the services rendered to the Commission by the Panels of Counsel from the Official and Unofficial Bar, the Head and staff of the Investigation Unit, the Head and staff of the Victim and Witness Assistance and Protection Unit, including the Advisors, the Secretary to the Commission and his staff, and the translators and interpreters.

The Commission also conveys its thanks to the Presidential Secretariat and the Director General and staff of the BMICH for providing the necessary facilities for the smooth performance of the work of the Commission.

The Commission wishes to thank the International Independent Group of Eminent Persons and their Assistants for the cooperation and assistance extended by them to the Commission and for their valuable contribution.

Considerable coverage and publicity was given to the proceedings of the Commission by the print and electronic media and the Commission wishes to convey its appreciation to all media personalities who were involved in this exercise.

The Commission wishes to express its appreciation to His Excellency the President, Mahinda Rajapakse for the confidence placed in the members of the Commission.

List of witnesses and Productions

IN CHRONOLOGICAL ORDER

Date	Witness	Exhibit No.	Document
12.03.09	W1 Ms. S. Kasthuri	Inq/Sen/W1/E1	Statement to COI 11/14 Jan. 08 in Tamil (Invest.Proceedings)
		Inq/Sen/W1/E2	Statement to Kandy Police ID in Tamil (Kandy Intelligence Div. IB)
		Inq/Sen/W1/E3	Statement to TID on 06.09.06 in Tamil (CID)
		Inq/Sen/W1/E4	Statement to TID on 11.10.06 in Tamil (CID)
		Inq/Sen/W1/E5	Statement to CM Col. 11.10.06 in Sinhala (Addl.M.C.Col)
		Inq/Sen/W1/E6	Statement to TID on 03.09.06 in Tamil (CID)
	W2 Ms. Sumithra	Inq/Sen/W2/E7	Statement to Kandy Police in Tamil (CID)
		Inq/Sen/W2/E7A	Statement to CID
		Inq/Sen/W2/E8	Statement to CoI in Tamil (Proceedings)
31.03.09	W3 A.N.Sugunapala	Inq/Sen/W3/E9	Affidavit of 26 Mar. 09 with Exhibits Exhibit A1 Video of the area Exhibit A2 – Intelligence extracts Exhibit A3 – Intelligence extract Exhibit A4 – Relocation of Sencholai Exhibit A5 – Intelligence information Exhibit A6 – Intelligence information Exhibit A7-Target Report Exhibit A8 – UAV Report Exhibit A9 – TN Report of 14 Aug. 06 Exhibit A10 –TN Report of 14 Aug. 06 Exhibit A11- Ltr from M.of Education Exhibit A12– TN Report of 18 Aug. 06 Exhibit A13 – Ltr. from Dept. of Exams Exhibit A14 – Sunday Times 20 Aug. 06 Exhibit A15 – Sunday Leader 20 Aug. 06 Exhibit A16 – TN Report of 15 Aug. 07 Exhibit A17 – Intelligence extracts Exhibit A18 – Pictures of the site

Annexe II - Written Submissions of Counsel for the Air Force

Annexe III - Photographs of the Site