

PART II A

Case No. 3 – The alleged execution of Muslim villagers in Muttur in early August 2006

(Inquiry was not held due to time constraints. Report is based on statements recorded from witnesses.)

CONTENTS

1. Facts / circumstances of the incident.....	2
2. Persons who have directly suffered death, injury or physical harm	4
3. Circumstances leading to death , injury or physical harm to victims	4
4. Persons responsible for causing death or injury	12
5. Nature, propriety and efficacy of investigations conducted.....	12
6. Measures to be taken against those held responsible	13
7. Measures of reparation to victims	14
8. Any other recommendations arising out of findings.	14

PART II B

Case No. 3 – The alleged execution at Welikanda of 14 persons from Muttur who were being transported in ambulances in early August 2006.

(Report is based on the Public Inquiry held by the Commission)

CONTENTS

Introduction	16
1. Facts / circumstances of the incident.....	16
2. Persons who have directly suffered death, injury or physical harm	19
3. Circumstances leading to death , injury or physical harm to victims	19
4. Persons responsible for causing death or injury	22
5. Nature, propriety and efficacy of investigations conducted.....	23
6. Measures to be taken against those held responsible	25
7. Measures of reparation to victims	25
8. Any other recommendations arising out of findings.	26
Acknowledgments.....	27

ANNEXES

- I. Index of Witnesses and Productions
- II. Photographs taken at the scene

Introduction

On the night of 1/2 August, 2006, the Liberation Tigers of Tamil Eelam (LTTE) launched a surprise attack on Muttur and its environs. The security forces and the police were compelled to take defensive action initially, before launching a counter attack to drive them away, which they did in a few days time.

At the time of the incident, the LTTE had already closed the Mavil Aru anicut, depriving the farming population in the area of their only source of water to irrigate their fields.

The LTTE took control of Muttur town, Pachchanoor up to Lower Thoppur , and in the immediate aftermath of the attack, there was a mass exodus of the civilian population to refugee camps set up at religious institutions and schools in the area, but when shells and mortar attacks caused casualties among the refugees, people started moving towards Kantalai.

Case No. 3 in the mandate refers to two specific incidents involving civilians fleeing the fighting. They are:

- the alleged execution of Muslim villagers in Muttur
- the alleged execution at Welikanda of 14 persons from Muttur who were being transported in ambulances.

This report is in respect of the first incident, involving Muslim villagers and took place at or near Galkanda in Pachchanoor on 04 Aug. 2006.

1. Facts / circumstances of the incident

1.1 Attack on villagers at Pachchanoor, Galkanda on 04 Aug. 06

Following the attack, on Muttur a large number of Muslim villagers and others who had taken refuge in places of religious worship, schools etc began to leave the area on 04 Aug.06 when these places also came under attack. When they were passing Pachchanoor Galkanda, some LTTE cadres directed them to take a circuitous route, as according to them, the direct route was mined. Accordingly, people who took the suggested route, mostly Muslim villagers, were screened by the LTTE at a make-shift checkpoint making use of a masked man, who identified some of the people as those who supported the security forces or were members of Jihad. Such persons had their hands tied

and were taken away. At this time, the area was shelled, and in the confusion, people began running away. The LTTE fired at the people who were running away. Some, including LTTE cadres are reported to have been killed as a result of the shelling, while others died due to LTTE fire. The remains of 2 people who died were recovered on 16 Aug. 2006.

It was reported in the media that there were bodies lying all over the area.

The area in which this incident took place is about 5 km south of the Muttur Police Station, known as Pachchanoor, Galkanda.

1.2 The Arrival of the Police

The Police could not have visited the scene during this time as the LTTE was present in the area and there was an ongoing conflict at the time. However, the police recovered the remains of 2 persons with the help of Red Cross officials, 12 days later, on 16 Aug. 2006. The Police conducted an investigation into the deaths.

1.3 The Post Mortem Examination

The remains of the 2 persons retrieved from the scene were not in a suitable condition to determine the cause of death and the post mortem report is as follows:

Amina Umma – unascertainable. Necessary samples were taken for DNA analysis.

Abdul Hameed – unascertainable. Necessary samples were taken for DNA analysis.

However, the sons of the 2 deceased said that they died of gun shot injuries.

1.4 The Inquest

The remains of the 2 Muslims referred to above, were released to the relatives after the inquest in the presence of the Magistrate, Kantalai on 18 Aug. 2006.

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

1. Ameenah Umma , mother of K. Ubair, Periyapalama, Muttur 05.

2. Abdul Hameed – father of A.T.Rajabdeen , Iqbal Rd. Muttur 07.

No records are available of any other deaths.

3. Circumstances leading to death , injury or physical harm to victims

3.1 Version of the incident as given in the media

3.1.1 *Extract from the Hindu newspaper of 06 Aug. 06*

Battle for Muttur ends as LTTE withdraws fighters

B. Muralidhar Reddy

50 civilians killed in hostilities, over 40,000 displaced

COLOMBO: The four-day battle between the Sri Lanka military and the LTTE for control of Muttur town in the Trincomalee district in east, which led to killing of over 50 civilians and displacement of nearly 40,000 persons, came to a halt on Saturday.

.....
The military alleged that LTTE gunmen, while shooting fleeing civilians, charged that civilians in Pachchanoor were collaborating with security forces and that they are traitors.

3.1.2 *Extract from the Nation of 06. 08.06*

Tigers massacre Muttur civilians

By Dharisha Bastians and Santhush Fernando

The LTTE allegedly shot dead up to 100 civilians fleeing the fighting in Muttur after charging them of being military informants, civilians and the Defence Ministry said yesterday, while truce monitors vowed to gain access into the area to verify the claims.

According to civilians who trekked the 63 km distance to seek refuge in Kantale, the LTTE was directing refugees leaving Muttur into the jungle and detaining men under 50 years of age in the Pachchanoor and Galkanda areas. Several refugees claimed to have seen the rebels shoot several suspected 'informants' dead after LTTE spies operating in their villages pointed the suspects out.

3.1.3 *Extract from Lanka Web Of 05.08.06*

OVER ONE HUNDRED FLEEING WAR REFUGEES INCLUDING WOMEN AND CHILDREN ARRESTED BY THE TAMIL TIGERS WERE SHOT DEAD SAY SURVIVORS

By: Walter Jayawardhana

August 5, 2006 – (LankaWeb) At least one hundred fleeing Muslim war refugees from Muttur taken into custody by the Tamil Tigers at one of their road block check points had been shot dead by them, eye witnesses said. Security services quoting eye witnesses said Tigers blocked the terrorists at PACHCHANOOR area and killed over hundred including women, youth and children during night on Friday , August 4.

Before the killing nearly one thousand Muslim protestors at Kathankudy said that the LTTE should stop killing innocent Muslims taken into custody by them. They alleged Muslims had been constantly kidnapped and killed by the Tamil Tigers. Many other fleeing war refugees said they witnessed this gruesome incident when they were passing the spot.

3.1.4 *Extract from UTHR Special Report No. 22 of 23.08.06*

5. The Flight of Muttur Civilians and a Dramatic Turn

Having faced government shelling, where the Hospital too was hit, and the uncertainties of the situation, the LTTE agreed to allow people to leave on Friday morning. Above 30,000 civilians, both Tamils and Muslims together, left Muttur on foot towards Killiveddy. They passed the Army position at 64th Mile Post and passed alongside a hill before another army camp about ¾ mile ahead. They were stopped by the LTTE who told them that the road ahead was mined and directed them along a detour through Kiranthmunai. On the main road they saw two ambulances, one that had crashed on a pile of stones, and the other was partially deflated. The understanding of the people was that the LTTE had shot at the ambulances because they did not stop. One ambulance had among its passengers the Tamil driver, his teacher wife and a boy from Colombo. The latter two died. After the Army went to the area, the wife's body was sent to Kantalai, where it was buried.

The detour included walking along a narrow path at Kiranthimunai where the 40,000 tired people in the afternoon, barely able to manage their children, were held up in a bottleneck. The LTTE had the men lined up, separated from the women, and made them walk past two masked men. The people felt very angry. A Roman Catholic nun went up to the LTTE and asked why they were being held up. The LTTE replied that they wanted to screen the people and pick out supporters of the Karuna Group and the Jihad. The line moved slowly and as a masked man nodded his head, the victim was taken out, trussed up and pushed onto the ground. Eyewitnesses place the number, nearly all of them Muslims, at 32 or higher.

One incident triggered off a dramatic turn in the fate of the fugitives. One Muslim woman who was pregnant began having delivery pains. Upon being told about this, a Muslim religious leader, who had been talking to the LTTE for years to try to keep matters calm, asked the LTTE leader Kunchan to let her go ahead. Kunchan was one of the leaders of the Muttur operation. Kunchan agreed to let the woman go, but began abusing the religious leader. The religious leader kept calm, but one of his disciples, who was deeply offended, sprang at the LTTE leader with his fists. An LTTE boy who stood nearby shot the disciple who fell down dead. The report of the gun alerted the Army at the two camps on the main road and changed the situation.

Soon shells were falling in the area. One struck the checkpoint killing about 7 Muslim men and some members of the LTTE. According to some who were there, they saw Kunchan fall dead. A masked man picking out suspects, as they filed past, was also felled by a shell blast. His mask had come off, and those present recognised him as a Tamil who sold vegetables in the Muttur market. One witness described the shells as coming from an MBRL. He saw trees being felled like dominoes. Immediately the LTTE boys ran in one direction and the civilians in another. A witness described the LTTE there as *chinna podiyangal* (small boys)

3.1.5 *Media Release of 12 August, 2006 by Society for Peace, Unity and Human Rights in Sri Lanka (SPUR) - Australia*

The Pachchanoor killing fields

The brutal assassination of over 100 Muslim men in Pachchanoor must not be left to the annals of history. It is with great contempt that we observe the silence of the so-called champions of democracy regarding this brutal execution of over 100 Muslim men and youth by the LTTE in the Pachchanoor area, South of Muttur. where the LTTE violently assassinated innocent unarmed Muslim men, women and children.

The activities of the LTTE that took place on the Pachchanoor Killing Fields must be given prominence and the people in Sri Lanka and the international community must be informed and educated about this crime where the LTTE selectively segregated men and youth from the elderly, tied their hand and brutally assassinated them in cold blood. There is eyewitness evidence of what took place on that fateful day. "The LTTE told us we could not escape Muttur by road as it was mined, Abdullah Salam, a

carpenter from Muttur, said. They told us it would be safe to go across country - through the villages they control. But then when we arrived, they pulled hundreds of people out of the line - all young men - and we never saw them again. We have no idea what happened to them and we were frightened because there were bodies everywhere around these villages."

3.2 Investigations by the Commission.

The members of the Commission visited the scene of the incident on 29 Apr, 2007.

Investigating Officers of the Investigation Unit of the Commission visited the area and recorded fresh statements relating to the incident.

3.3 Public Inquiry

The Public Inquiry was held on 05, 09 and 26 March, 2009. The inquiry was held before the following members of the Commission

Justice N. K. Udalgama, Ms. Jezima Ismail, S. S. Wijeratne,, D. Premaratne P.C, M. F. Razeen and Denzil J. Gunaratne P.C. .

The following witnesses were due to be summoned to give evidence, but the inquiry had to be concluded. without recording their evidence as the mandate of the Commission was due to expire on 03 May 2006.

Kalaldeen Ubair of A.C.Rd. Muttur	A.C. Rajabdeen of Iqbal Rd. Muttur
R. A.Aleel 54/03,Colombage Mw. Col. 5	S.Gomes. Main St. Thahanagar, Muttur
P. R. Naheem. Iqbal Rd. Muttur 07	Sinnadurai Najeem Knox Rd. Muttur
T.M.Nisfer of Sapinagar, Muttur;	A.R.Cassim Arabic College Rd. Muttur
SI/Athula.	

3.4 Summary of statements made by witnesses

The members of the Commission perused the investigation files into this incident, and noted that there is material evidence to indicate that the LTTE picked out certain Muslims who may have assisted the security forces or who were suspected to belong to other organizations like the Karuna faction or Jihad and kept them separately.

The statements reveal that at this time the area was shelled by the security forces, and the LTTE began to shoot indiscriminately, and some persons died but that the majority of the people escaped the clutches of the LTTE.

A summary of the statements made is reproduced below:

Kalaldeen Ubair, 30 yrs. A.C.Rd. Muttur.

On 04.Aug. 06 he left with his family members and parents in a 3 wheeler to go to Kantalai. On the way, near Pachchanoor, LTTE cadres asked them to take the Kirandimani Rd. About 500 m from the main road, LTTE cadres were searching people, and they all got down from the 3 wheeler and waited for their turn. Suddenly the LTTE opened fire and his mother Ameena Umma fell down. At the same time the army shelled the area and everybody started running. He also ran with his family. He could not take his mother. They went to a refugee camp. On 16 Aug. 06 he accompanied Red Cross officials to the scene and he identified the remains of his mother's body from her hair and the saree she was wearing. The body were brought to the Kantalai hospital. At the scene he saw the remains of others as well as a large number of cycles, The 3 wheeler was not there.

Abdul Cassim Rajabdeen, 32 yrs. Iqbal Rd. Muttur

He corroborates the statement made by Kalaldeen Ubair and said that his father was also shot during the LTTE shooting. He said that prior to the shooting some people were picked out and their hands were tied. On 16 Aug.06 he accompanied the Red Cross officials to the scene and recovered his father's body which was taken to Kantalai hospital.

R. A. Ashroff Aleel , 31 yrs. 54/03, Colombage Mw. Colombo 5

Aleel is a journalist of the Gulf Times. He went to Muttur on 05 Aug. 06, On this day, the army was establishing control in the area, and he went behind them with his media team. He went to the village of Kirandimunai and saw the remains of about 150 Muslim people on the ground lying scattered from place to place where there was a row of palmyrah trees. Dogs and crows were feeding on the remains. There were over 300 cycles, motor cycles, lorries, tractors and travelling bags belonging to the people. He said that on 16 Aug.06 he went again with the Red Cross officials and the persons who took charge of

the remains of 2 bodies but the LTTE cadres did not allow them to look for other remains. However, he had photographs taken on the earlier date.

Sarath Gomes. 46 yrs. Main St. Thahanagar, Muttur.

He is from the Sinhala community and was among the 200 Muslims who left the Arabic College to go to Kantalai on 04 Aug. 06. He followed the route pointed out by the LTTE with the others. On the way he saw the LTTE picking people and keeping them separately, with their hands tied. A masked man was pointing out the people. There were about 50 or 60 LTTE cadres. He said about 200 people were picked in this manner. At this time, the area was shelled and he saw injured people on the ground at various places. He does not know whether the 200 people were killed by the LTTE.

P. R. Naheem. 33 yrs. Iqbal Rd. Muttur 07.

Naheem is another person who had taken refuge at Arabic College with his wife and 4 children and who left for Kantalai on 04 Aug. 06 in a 3 wheeler belonging to his nephew. He said that at a certain spot, the LTTE separated some people when a masked man made a sign, and tied their hands. He was present when Saleem's son, who works in the court house was separated and the LTTE accused him of belonging to Jihad. Naheem too was picked out, but he did not let go his child, and managed to creep through some rattan bushes and escape . He was present when the area was shelled, and Abdul (Shahul) Hameed fell down. LTTE also fired at the same time. They escaped in the confusion. A few days later, he accompanied Red Cross officials and recovered the bodies of Abdul Hameed and Ubair's mother., but were not allowed to take anything else by the LTTE. He believed that there were remains of other bodies because dogs and crows were seen feeding at various places.

Sinnadurai Najeem. 36 yrs. Knox Rd. Muttur.

He left the Arabic school with his wife and children and the others to go to Kantalai. On the way near Kirandimalai, they were directed towards the jungle and as they were proceeding, they met 2 Tamil girls who told them to go back, as they were being taken to be killed. Some people turned back and he and the others went to Periyampalam. That place also appeared to be risky and some Tamil people advised to accompany them. A priest also advised them to go, and once again they left for Kantalai and reached the spot where the LTTE were picking out people. 2 masked men indicated by a nod, whenever they saw Muslim boys who supported the police, army or jihad. Their hands were tied and taken towards the jungle. At this time, the area was shelled, and thousands of people started running. LTTE also began to fire at the people. He saw the two masked men remove the masks and run. He identified them as 'Sonna' son of Basanravi of Periyapalam and 'Hamidu master' also known as 'Eros moulavi' who resides behind the Periyapalam school.

T.M.Nisfer. 23 yrs. Sapinagar, Muttur

He and other members of the family left Periyapalam mosque on 04 Aug. 06 to go to Kantalai when they saw the people at the Arabic school leaving for Kantalai. On the way they were directed by the LTTE towards a jungle road and 2 Tamil girls who met them advised them not to go on that road. However, they could not return as LTTE cadres were all over the road. He described what happened when they reached the LTTE check point and said that his hands were also tied. At that moment, shells started to fall and people began running. The masked men also removed their masks and he identified them as 'Sonna' and 'Eros moulavi', who is a teacher. He too ran away and reached the army camp and then went to Kantalai where he met the other members of the family.

A.R.Cassim. 30 yrs. Arabic College Rd. Muttur.

On 04 Aug. 06 Cassim and his family members left for Kantalai in his Izuzu Elf truck. At the LTTE check point, he noticed that women, children and elderly males were allowed to go and some others including him were kept back. He saw the LTTE firing at Saman of Periyapalam. Later Saman's hands were tied and he was taken towards the jungle. At this time there was shelling in the area, and the LTTE started to shoot indiscriminately. People ran away in the confusion and reached the Thoppur army camp. 13 days later, he came with others to collect his truck and the remains of those who died. The LTTE and the Red Cross handed over the remains of only 2 bodies. He was not allowed to take his truck. On this occasion, he saw the remains of about 20 persons and he believes that about 150 people would have died. On 02 Sep. 06 he accompanied army officers to the area and recovered the truck. He saw marks where the remains were.

3.5 Analysis of the contents of the statements

The statements disclose that during this incident the following events took place:

- a. about 200 Muslims were picked out by the LTTE, their hands were tied and they were kept separately or taken towards the jungle;
- b. the LTTE started shooting indiscriminately when the area was shelled;
- c. both civilians and LTTE cadres died as a result of the shelling.

Regarding (a) above, according to the statement of Gomes from the Sinhala community, he does not know if the 200 persons were killed. There is no evidence as to what actually happened to them. It is possible that most of them escaped in the confusion that ensued when the area was shelled as otherwise family members would have reported their disappearance.

Regarding (b) above, according to the documentary evidence, only the remains of 2 bodies of Muslims were recovered from the area, and

although the medical evidence is that the cause of death could not be ascertained due to the condition of the remains, the next of kin who were present at the time of the incident, say that they died when the LTTE started shooting indiscriminately.

Ashroff Aleel, the journalist from the Gulf Times says that he saw the remains of about 150 Muslim people on his visit to the scene on 05 Aug. 2006 and that he took photographs. He has not however produced the photographs and the contents of his statement are not supported by the statements of any others. Cassim says that about 150 people may have died. In the absence of any other remains it is not possible to say how many people died, in addition to the 2 persons referred to already, when the LTTE opened fire indiscriminately.

Regarding (c) above, according to the statements, both civilians and LTTE cadres died, due to the shelling but the remains of any other civilians were not found and reports of any missing persons after the attack have also not been received. It is possible that the LTTE removed the bodies of their cadres. In the circumstances there is no evidence to indicate that any civilian deaths were caused when the area was shelled.

3.6 Comment on the media reports

This incident has been described in the following terms in some of the media:

Extract from the Nation of 06. 08.06

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By Dharisha Bastians and Santhush Fernando

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By: Walter Jayawardhana

Media Release of 12 August, 2006 by Society for Peace, Unity and Human Rights in Sri Lanka (SPUR) - Australia

The Pachchanoor killing fields

The brutal assassination of over 100 Muslim men in Pachchanoor must not be left to the annals of history. It is with great contempt that we observe the silence of the so-

called champions of democracy regarding this brutal execution of over 100 Muslim men and youth by the LTTE in the Pachchanoor area, South of Muttur. where the LTTE violently assassinated innocent unarmed Muslim men, women and children.

Statements of witnesses do not disclose the execution of any of these people. The Commission was not able to discover any material to support the contents of these reports. The Commission regrets that due to lack of time, it was not possible to ascertain the truth or otherwise of these reports from some of those who witnessed the incident. Two of these reports appeared on 05 & 06 Aug. 06, while the 3rd report is probably based on them. It is possible that the earlier reports were based on information given by some civilians who were allowed to proceed by the LTTE, because they saw a number of Muslims picked out by the LTTE being separated with their hands tied. The reporters may have assumed that they were executed, but the evidence shows that when the shelling started a large number escaped during the confusion. If any persons were executed prior to the shelling, their bodies were not found, and their disappearance was not reported to the civil authorities.

4. Persons responsible for causing death or injury

The LTTE is responsible for indiscriminately firing at civilians and causing the death of 2 persons.

However, there is no evidence of an execution of persons, fleeing to safety, but according to the evidence, about 200 Muslims have been apprehended by the LTTE for their alleged links to the security forces or Jihad, prior to the shelling of the area.

5. Nature, propriety and efficacy of investigations conducted.

5.1. Nature of the investigations conducted

On 16 Aug. 06, the Muttur Police Station commenced an investigation into the deaths of Muslim villagers allegedly executed by the LTTE cadres in Pachchanoor, Galkanda on 04 Aug. 06.

The remains of Ameena Umma and Abdul Hameed were recovered by Red Cross officials, and handed over to the Police at the Serunuwara Police Station and brought to Kantalai hospital where the post mortem examination and inquest was held.

Thereafter SI/Athula of the Muttur Police Station recorded the following statements in regard to the above deaths as well as the deaths of Muslim villagers fleeing towards Kantalai.

K. Ubair	A.C.Rajabdeen	R.A.A.Aleel
S. Gomes	P. R. Naheem	S. Najeem
T.M.Nisfer	A.R.Cassim	

During this investigation, the next of kin of the deceased, who were present at the time, have confirmed that the 2 persons died when the LTTE opened fire indiscriminately.

5.2 Propriety and efficacy of investigations conducted

The investigations into these incidents have been carried out under difficult circumstances.

The LTTE was present at Pachchanoor on 04 Aug. 2006 and police visited the area on 16 Aug. 06 with Red Cross officials to recover the remains of 2 persons who died on 04 Aug. 2006. Statements reveal that LTTE cadres were present in the area even at that time.

Under these circumstances, it would not have been possible for the Police to conduct any investigations into incidents for which the LTTE was allegedly responsible.

6. Measures to be taken against those held responsible

As LTTE cadres were responsible for the deaths and the persons have not been identified, no further measures can be taken against those responsible.

7. Measures of reparation to victims

The Commission could not summon the next of kin of the persons who died as the inquiry was concluded prematurely.

The persons who died are as follows:

1. Ameena Umma , mother of K. Ubair, Periyapalama, Muttur 05.
2. Abdul Hameed – father of A.T.Rajabdeen , Iqbal Rd. Muttur 07.

The Commission recommends payment of compensation to the next of kin of the deceased persons in accordance with government policy.

8. Any other recommendations arising out of findings.

8.1 2 persons who acted as ‘moles’ for the LTTE

It is not clear whether these 2 persons acted voluntarily or were compelled by the LTTE to do so. The police had not traced these 2 persons at the time of the incident. One is a Tamil, and the other is a Muslim. According to the UTHR Report the Tamil person was struck when the area was shelled, but it is not known whether he died or not. It is desirable to further look into their activities, and determine whether any criminal charges could be brought against them, if they are alive and found.

PART II B

Case No. 3 – The alleged execution at Welikanda of 14 persons from Muttur who were being transported in ambulances in early August 2006.

(Report is based on the Public Inquiry held by the Commission)

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Introduction

On the night of 1/2 August, 2006, the Liberation Tigers of Tamil Eelam (LTTE) launched a surprise attack on Muttur and its environs. The security forces and the police were compelled to take defensive action initially, before launching a counter attack to drive them away, which they did in a few days later.

At the time of the incident, the LTTE had already closed the Mavil Aru anicut, depriving the farming population in the area of their only source of water to irrigate their fields.

The LTTE took control of Muttur town, Pachchanoor up to Lower Thoppur , and in the immediate aftermath of the attack, there was a mass exodus of the civilian population to refugee camps set up at religious institutions and schools in the area, but when shells and mortar attacks caused casualties among the refugees, people started moving from Muttur towards Kantalai.

Case No. 3 in the mandate refers to two specific incidents involving civilians fleeing the fighting. They are:

- the alleged execution of Muslim villagers in Muttur
- the alleged execution at Welikanda of 14 persons from Muttur who were being transported in ambulances.

The first incident , involving mostly Muslim villagers took place at or near Galkanda in Pachchanoor. The second incident also took place there and not at Welikanda as stated in the Mandate and according to the available statements of witnesses before this Commission involved the death of only 4 persons whilst fleeing to safety, and not 14, as stated in the Mandate,.

This report is in respect of the incident involving the ambulances.

1. Facts / circumstances of the incident

1.1. The Attack on 2 ambulances on 02 Aug. 2006.

Consequent to the surprise attack launched by the LTTE on 01 Aug. 2006 on Muttur, a group of employees of the Muttur hospital and several others, about 30 in all, were fleeing from the area on 02 Aug. 2006 in 2 ambulances attached to the hospital. The ambulances came under fire at Pachchanoor, Galkanda.

1 person died on the spot, 3 died in hospital, and 6 other persons were injured in the incident.



The first ambulance



Ambulance with a passenger who died

1.2 The Scene of the Crime

The area in which the ambulances came under attack is about 5 km south of the Muttur Police Station.

The ambulances passed the army camp at the 64th milepost, and reached Galkanda in Pachchanoor. The first ambulance had come under fire, the driver received gun shot injuries, lost control of the vehicle, and it came to rest after encountering the rock on the left side

of the gravel road. The second ambulance stopped about 100 m behind the first ambulance.

On 18 Sep. 2006 Police recovered 57 and 17 empty cartridge cases of 2 different sizes from a point close to the place where the first ambulance was found.



The second ambulance

1.3 The Arrival of the Police

On a directive issued by the SP/Serunuwara Division, the Officer in Charge (OIC) of the Serunuwara Police Station, Inspector of Police (IP) W. I. Thushara arrived at the scene, 3 days later, on 05 Aug. 2006 and found the decomposed body of a woman in one of the ambulances. The scene was photographed and video filmed. The body was not removed, as it was feared that the ambulance may be rigged with explosives. The IP went back with the Bomb Disposal Unit on the following day, and after due inspection by that unit, they removed the body and personal effects. This person was identified as Leona Amuthavalli, an Assistant. Teacher.

1.4 The Post mortem examination

Causes of death of the 4 persons are as follows:

Arulappu Amirthanandan – Cranio cerebral injuries due to discharge from a firearm

Leona Amuthavalli – Cardio respiratory arrest due to head injury xxxx. blast injury

Vadivel – xxxxxxxxxxxxxx

Kandasamy Ravindran – Head injury and bleeding due to gun shot xxxx blast injury.

1.5 The Inquest

The death of A. Amirthanandan, who was injured on 02 Aug. 2006 and admitted to Batticaloa hospital and transferred on 03 Aug. 2006 to Colombo National Hospital was reported to M.C.Trincomalee under Case No. 836/06 by OIC, Harbour Police, Trincomalee. on 08 Aug. 2006.

The death of 4 persons and injuries to 6 others while traveling in an ambulance was reported to M.C.Trincomalee under Case No. BR/54/07 by OIC, Muttur Police Station on 15 Feb. 2007.

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

2.1 Persons who died

1. Arulappu Amirthanandan – Ambulance driver , Muttur Hospital
2. Leona Amuthavalli – Asst. Teacher & wife of Amirthanandan
3. Vadivel – Community Officer, M.C.Muttur
4. Kandasamy Ravindran – Community Officer, M.C.Muttur

2.2 Persons who were injured

1. T. Sugunakumar – Prison Officer from Trincomalee
2. V. Hemachandran – Prison Officer from Trincomalee
3. Ms. S. Anjana of Muttur
4. Ms. S. Samanthi, Labourer Muttur Hospital
5. Ms. Rajeshwaran Nageshwari , Nurse, Muttur Hospital
6. Ms. Kavdani – Clerk of M.C.Muttur

3. Circumstances leading to death, injury or physical harm to victims

3.1 Version of the incident as given in the media

3.1.1 *Extract from UTHR Special Report No. 22 of 23.08.06*

5. The Flight of Muttur Civilians and a Dramatic Turn

Having faced government shelling, where the Hospital too was hit, and the uncertainties of the situation, the LTTE agreed to allow people to leave on Friday morning. Above 30,000 civilians, both Tamils and Muslims together, left Muttur on foot towards Killiveddy. They passed the Army position at 64th Mile Post and passed alongside a hill before another army camp about ¾ mile ahead. They were stopped by the LTTE who told them that the road ahead was mined and directed them along a

detour through Kiranthmunai. On the main road they saw two ambulances, one that had crashed on a pile of stones, and the other was partially deflated. The understanding of the people was that the LTTE had shot at the ambulances because they did not stop. One ambulance had among its passengers the Tamil driver, his teacher wife and a boy from Colombo. The latter two died. After the Army went to the area, the wife's body was sent to Kantalai, where it was buried.

3.2 Investigations by the Commission.

The members of the Commission visited the scene of the incident on 29 Apr, 2007.

Investigating Officers of the Investigation Unit of the Commission visited the area and recorded fresh statements relating to the incident.

3.3 Public Inquiry

The Public Inquiry was held on 05, 09 and 26 March, 2009. The inquiry was held before the following members of the Commission

Justice N. K. Udalgama, Ms. Jezima Ismail, S. S. Wijeratne,, D. Premaratne P.C, M. F. Razeen and Denzil J. Gunaratne P.C. .

Mr. C. M. Ekanayake, Attorney at Law from the Unofficial Bar, assisted the Commission..

The following witnesses gave evidence.

Mrs. L.G. Pushpakanthi & Mrs. S. Samanthi Renuka, Sanitary Labourers attached to the Muttur hospital who were traveling in one of the the ambulances, IP/ W.G.I.Thushara , SI / L. Akuretiyage, and PC/W. Sarath-photographer.

3.4 Summary of evidence

2 persons, employees of the Muttur hospital, who traveled in one of the ambulances gave evidence.

Mrs. L.G. Pushpakanthi, Sanitary Labourer, attached to the Base Hospital, Muttur. stated that on 01 August, 06 at or around midnight she heard continuous firing of bombs, mortar attacks and loud explosions within the hospital premises, On 02 August 06, five Tamil speaking persons dressed in black trousers and sarongs entered the hospital carrying weapons and asked them to leave the hospital. The former were LTTE cadres.

Accordingly, they left the hospital in 2 ambulances and reached nearest refugee camp at the Muttur Christian Church. Whilst there, a bomb exploded and once again they decided to leave the place and go

to Trincomalee or Kantalai Hospital. She traveled in the ambulance driven by Arjuna. The wife and the two children of driver Arjuna also went in this ambulance. When the ambulance passed the 64th mile post and at Pachchanoor, Galkanda, she heard the sound of gunshots and exploding bombs and the rear window pane of the ambulance was damaged. Samanthi one of the Sinhala workers who was seated in the rear seat was seriously injured and bleeding. The people who shot at the ambulance, dressed in black trousers and sarongs, came near the ambulance and speaking in Tamil ordered them to get down, raise their hands and walk forward. The driver of the ambulance Arjuna and his wife, who was dark in complexion, appeared to be dead.

They were taken to a L.T.T.E. camp and they had to virtually carry the wounded Samanthi. Samanthi was given saline at the LTTE medical facility and later she was taken to the Eachchilampattu Rural hospital on a motor bike with another Tamil worker by an L.T.T.E. cadre.

She described the ordeal she and the other Sinhala employees went through in trying to escape unscathed through LTTE held territory after Samanthi was sent to hospital.

She, Malathie and Chandrani were transported finally to Serunuwara in an ambulance and they were directed to their villages and after a month's time she reported to Muttur Hospital for duty. She is presently attached to Killiveddi Rural Hospital.

Mrs. Samanthi Renuka, Sanitary Labourer, attached to the Muttur Hospital, is the one who was seriously injured during the attack. She corroborated the version of the incident as given by Pushpakanthi. She was first taken to a LTTE medical facility, from there to Eachchilampattu Rural Hospital, and thereafter in turn to Valaichchenai hospital, Batticaloa hospital, Kurunegala hospital and finally to the National Hospital Colombo where 4 surgical procedures were performed and she was discharged after 22 days.

Now she is attached to Muttur hospital, once again. However, she complained that she cannot be seated for a long time because she

gets a backache and that she cannot stand for a long time because one leg gets benumbed.

She submitted a claim for compensation to the Trincomalee Health Department but received no response. She requested a transfer to Serunuwara Hospital and compensation for her disability.

3.5 Analysis of the evidence and finding

It is the evidence of the two eye witnesses from the Sinhala community that the ambulances came under attack while passing Pachchanoor, Galkanda and that LTTE cadres came up to the ambulances as soon as the ambulance came to a halt and made inquiries. The LTTE took one of the injured to a medical facility of their own and thereafter to the Rural Hospital at Eachchilampattu hospital. Only one person's body was found in one ambulance while 3 other injured persons were sent to hospital by the LTTE and died later. There is no doubt about the LTTE presence in this area on 02 Aug. 2006 and that they were the attackers.

The deceased persons had gun shot and blast injuries, according to the post mortem reports.

About 26 other persons who were traveling in the ambulances, who had minor injuries or were unhurt, were allowed to leave the LTTE area and they finally reached their homes.

In the circumstances, while the LTTE was responsible for causing the deaths of 4 persons and injuries to 6 others in this incident, it is likely that the attack was carried out in the mistaken belief that the ambulances were carrying security forces personnel. None of these people appear to have been executed.

4. Persons responsible for causing death or injury

The LTTE is undoubtedly responsible for the attack on the ambulances and for causing the death of 4 persons and injuries to 6 others who travelled in the ambulances.

However, there is no evidence of an execution of persons, who travelled in the ambulances.

5. Nature, propriety and efficacy of investigations conducted.

5.1. Nature of the investigations conducted

On 05 Aug. 2006, IP W.I.Thushara of the Serunuwara Police Station. received instructions from SP/ Serunuwara Division to recover the body of a foreign lady who had died whilst travelling in an ambulance which was attacked by the LTTE terrorists at Pachchanoor.

He went along with IP/ Dehigama and first they went to Lower Thoppur Army Camp and remained there until the clearing of the roads was done. At the site he saw that one ambulance was resting on a rock and the other had run off the road, and stopped about 100 meters behind the first ambulance. He saw a dead body inside the first ambulance and it was that of a local woman, and not that of a foreign lady. It was disfigured, decomposed and had maggots on it.

They suspected that the LTTE terrorists may have rigged the ambulance with explosives and wanted to get the Bomb Disposal Unit to clear the vehicle before retrieving the corpse. They were unable to do it on the same day, as dusk had fallen. The police photographer and the videographer were present and took photographs.

On the next day they went with the Bomb Disposal Unit which carried out an inspection. They did not find any explosives in the ambulance and authorized the retrieval of the body. They wrapped the decomposed corpse with plastic sheets and brought it in a tractor to Serunuwara Police Station.

IP Thushara was present at both the postmortem examination and the magisterial Inquiry.

SI L. Akuretiyage accompanied IP Thushara to the crime scene.

They found a lady's hand bag, with her national identity card, the identity card issued by the Director of Education, Trincomalee. There was a sum of Rs. 2500/= and a gold chain with a pendant and pair of earrings and four small bangles and three rings. There was a bunch of keys and several pawned receipts of Bank of Ceylon Muttur and pass books of several Banks.

IP/A.C. Rodrigo said that on the instructions of SP/Kantalai he accompanied the photographer and the videographer to the place where the 2 ambulances had come under attack and photographed/video filmed the scene.

PC 57691 W. Sarath, official police photographer produced 5 photographs taken at the scene of the crime and the 6th photograph was taken at the Kantalai mortuary.

No further investigations were done in this regard in view of the confusion and state of unrest that prevailed in the area following the attack launched by the LTTE on Muttur and surrounding areas on 01 Aug. 2006.

The following persons from whom the police recorded statements were not summoned for the inquiry:

Dr. M. A. M. Shukri, District Medical Officer, Muttur

P. Kandasamy – father of deceased K. Ravindran

Dr. B. Iruthanayathan – uncle of deceased Mrd. L. Amuthavalli

Mrs. S. Anjana, Com.Officer, M. C. Muttur – passenger in one of the ambulances

Z.M.Razik, Attendant, Muttur hospital – passenger in one of the ambulances

M. Pushparajah, Watcher, Muttur hospital – passenger in one of the ambulances

Mrs. R. Nageshwarai, Nurse, Muttur hospital – passenger in one of the ambulances

Ms. S. Saroja, Family Health worker, Muttur hospital

5.2 Propriety and efficacy of investigations conducted

The investigations into this incident has been carried out under trying circumstances.

The LTTE was responsible for the attack on the ambulances on 02 Aug 2006 and police were able to visit the scene only on 05 Aug. 2006 in view of the circumstances that prevailed..

It is the view of the Commission that it would not have been possible for the Police to conduct any investigations into incidents for which the LTTE was allegedly responsible.

6. Measures to be taken against those held responsible

As undoubtedly LTTE cadres were responsible for the deaths and the persons have not been identified, no further measures can be taken against those responsible.

7. Measures of reparation to victims

The Commission could not summon the next of kin of the persons who died as the inquiry was concluded prematurely.

7.1 Details of the victims :

Persons who died

1. Arulappu Amirthanandan – Ambulance driver , Muttur Hospital
2. Leona Amuthavalli – Asst. Teacher & wife of Amirthanandan
3. Vadivel – Community Officer, M.C.Muttur
4. Kandasamy Ravindran – Community Officer, M.C.Muttur

Persons who were injured

1. T. Sugunakumar – Prison Officer from Trincomalee
2. V. Hemachandran – Prison Officer from Trincomalee
3. Ms. S. Anjana of Muttur
4. Ms. S. Samanthi, Labourer Muttur Hospital
5. Ms. Rajeshwaran Nageshwari , Nurse, Muttur Hospital
6. Ms. Kavdani – Clerk of M.C.Muttur

7.2 Damage to property

On 14 Oct. 2006 . Rev.Fr. Anthony Augustus Navaratnam of Bishop's House Batticoloa made a complaint at the Batticoloa Police Station that he was a brother of Mrs. Leona Amuthavalli and brother in law of A. Amirthanandam , who died as a result of the attack on one of the ambulances on 02 Aug. 2006 and that the house and property of the deceased persons at Muttur were badly damaged and destroyed and that the total value of the damage is Rs. 1,150,000/=.

7.3 Payment of compensation

The Commission recommends payment of compensation to the next of kin of the deceased persons in accordance with government policy.

Of the persons who died, A. Amirthanandan and L. Amuthavalli, were husband and wife, and their 2 daughters, aged 6 and 4 years were also in the ambulance and survived the attack. Bastianpulle Iruthayanathan, a retired Medical Officer and uncle of L. Amuthavalli who identified the body on 07 Aug. 2006 in his statement has said that they had 3 daughters.

In the case of the injured persons, they may be required to submit medical reports from a government hospital on the after effects of the injuries sustained by them to the District Secretary, Trincomalee, who could decide whether they are entitled to any compensation in accordance with government policy.

8. Any other recommendations arising out of findings.

8.1 Use of 2 ambulances by hospital employees and others for a purpose other than transporting patients.

It is the evidence of 2 Sinhala employees of the hospital, that on the day after the LTTE launched the surprise attack on Muttur, on 02 Aug. 2006, some LTTE cadres arrived at the hospital and asked the employees to leave. Thereafter they had taken the decision to travel to a refugee camp in the ambulances, and that they decided to use the ambulances to travel to Kantalai or Trincomalee hospital, when a bomb fell on the refugee camp.

The mass exodus from Muttur took place on 04 Aug. 2006 and most of these people reached safety, although the journey was arduous and dangerous.

The decision of the hospital employees to leave the hospital could be justified on the ground that they believed that their lives were in danger, even though they left 2 days earlier than the civilians in the area, but the use of 2 ambulances for this purpose can be called into question. Had they travelled on foot, the 04 deaths and injuries to 06 persons could probably have been avoided.

This matter needs to be looked into by the hospital authorities.

Acknowledgments

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.