

**University Teachers for Human Rights (Jaffna)**

**Sri Lanka**

**UTHR(J)**

**Special Report No.30**

**Date of Release: 1<sup>st</sup> April 2008**

**Unfinished Business of the Five Students and ACF Cases**

**– A Time to call the Bluff**

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## **0. Summary**

On 4<sup>th</sup> August 2006 17 aid workers were extrajudicially executed in their *Action Contre la Faim* (ACF) compound in Muttur town. Through blatant cover up by the Sri Lankan authorities, their experts, Attorney General and diplomats overseas the facts of killings have been suppressed along with any potential association between this massacre and the killing of five students on the Trincomalee foreshore on 2<sup>nd</sup> January 2006.

With the support of individuals equally interested in bringing out the truth and finding justice we have uncovered information that reveals that the 17 aid workers were killed by at least one member of the Muslim Home Guard (Jehangir) and two police constables (Susantha and Nilantha) in the presence of the Sri Lankan Naval Special Forces. Four different types of guns were used. Evidence suggests that the killers had prior approval from ASP (Sarath Mulleriyawa) and OIC (Chandana Senayake) for their vile enterprise. But it is highly unlikely that the ASP and OIC would have taken a reckless approach or that they had any particular reason to want the aid workers killed and they had earlier received orders from Trincomalee to ensure the safety of the aid workers. We believe they may have received an instruction from their superiors in Trincomalee (namely the DIG Rohan Abeywardene and SSP Kapila Jayasekere) that the aid workers should be killed. The commandos must have been informed by their superior to let the killings take place and may be directly responsible for firing the bullets that killed at least one of the aid workers.

SSP Kapila Jayasekere, along with Zawahir (OIC Crime Harbour Police, Trincomalee), is widely known to have been responsible for planning, orchestrating and covering up the killing of the five students by STF assassins amidst a naval security cordon and hundreds of witnesses, who were part of a captive audience. The intimidation of families and witnesses and the killing of witnesses and a journalist who pursued the case are well documented. This includes the family of Hemachandran, one of the five students killed, in particular

Hemachandran's brother, Kodeeswaran. Kodeeswaran had spoken to a member of the STF killing team, believed to be VAS Perera its head, who answered one of the victims' mobile telephone just prior to the killing of the five students. Kodeeswaran was then systematically harassed by the security forces until he was killed in the ACF massacre seven months later. We believe that the 17 aid workers would have lived, had disciplinary action been instituted against SSP Jayasekera over the killing of the five students.

The murders of the 17 aid workers and the five students are among thousands who have died by violence during the past 26 months. Perhaps we know more about these 22 tragedies because of contact with some of the families, but the ones we do not know are no less poignant. The stories of thousands of young dying and maimed in the Vanni, having been forced to fight for the LTTE against their will, remain a closed book until perchance a plaintive unsent letter is recovered from a dead cadre.

These two cases, given also the international interest, remain the most promising means of making cracks in the prison of impunity, which grips the nation. In the history of crimes of this nature, even when they lead to investigation and court proceedings, we are left in the dark about the deeper political underpinnings of the crime, instigation at higher levels, the thinking behind and motivations, knowledge of which are key to exposure and deterrence.

The country has learnt to be comfortable with grave crimes going unpunished one after another, with the certainty that even graver ones would follow. The answer to the question why Sri Lanka is steeped in recurrent gross crimes, especially against the minorities, that go unchecked is not far to seek. The rulers without good sense or vision would fight hard against command responsibility being invoked in judicial practice. This would have been relatively harmless if the politicians and security forces were reasonably law abiding. Unfortunately, this country is determined to earn the contempt and ridicule of the rest of the world.

For years the State has gone on denying, obfuscating, abusing detractors, intimidating or killing witnesses and making matters progressively worse. Our envoys like the foreign minister, foreign secretary, minister for human rights, Attorney General and many more have tried to cover the country's shame with rhetoric – *'We have our Supreme Court, our judges, our own Police Force, Attorney General, forensic pathologists and ballistic experts. We don't need foreign help in investigations that are progressing well'*.

The ACF case by itself proves this rhetoric to be empty – not because of local incompetence but because of malice. Malice against justice and against the minorities. We use the word malice advisedly because it is an unvarying condition, with no desire for correction.

As for the Police that was directly responsible for the killing of both the Five Students and the ACF staff, it has largely ceased to be a police force. The Police are more involved in perverting the evidence and silencing witnesses than in any real investigation. In a state that has deliberately truncated itself to a Sinhalese State, the Police have been increasingly used as its criminal arm.

The hypocrisy about our state institutions has to stop and the fact has to be faced that there has now been a long history of justice being out of the reach especially of minorities even for sensational crimes that draw world attention.

It is not without great pain that we appeal to the outside world for justice. -It abases us and hurts our pride and often, for unfair reasons, our self-respect. When we had working institutions solving the cases above was routine work. But today the criminality of the very institutions that are meant to deliver justice has thrown huge barriers against justice and the people are helpless.

### **1. A Window to Lighten an Abyss**

The five students were killed by STF assassins amidst a naval security cordon and hundreds of witnesses, who were part of a captive audience. That was on 2<sup>nd</sup> January 2006, more than two years ago. The ACF killings followed seven months later on 4<sup>th</sup> August 2006. These make up 22 deaths among thousands who have died by violence during the past 26 months. The stories of thousands of young dying and maimed in the Vanni, having been forced to fight for the LTTE against their will, remain a closed book until perchance a plaintive unsent letter is recovered from a dead cadre.

Perhaps we know more about these 22 tragedies because of contact with some of the families, but the ones we do not know are no less poignant. Each has its unique story. Most of the dead were ordinary boys and girls. Often a tragedy strikes us not in the immediate anguish as in a calm commonplace remark by a mother on a peculiar trait of her son, which signals a void time cannot heal.

Narmathan was one of the ACF victims wearing a bath towel at the time of his death. The time of the incident had long been a point of controversy and it seemed knowledge of the victim's bathing habits might throw light on it. Narmathan's mother reflected, "*He was always bathing, starting at five in the morning before he set off to give tuition classes. He would bathe at least five times a day.*"

There is however one pressing reason why these 22 deaths remain important. These are from two incidents over which there has been enormous international pressure on the Government to find the culprits and punish them. Notwithstanding public assurances and the appointment of a Commission of Inquiry with a group of eminent persons (IIGEP), the Government of Sri Lanka has remained adamant that nothing of significance should come out. Every independent attempt to bring out the truth has been met with attack and abuse. We have dealt with several instances in our reports and will not repeat them here.

These two cases, given also the international interest, remain thus the most promising means of making cracks in the prison of impunity, which grips the nation. In the history of crimes of this nature, even when they lead to investigation and court proceedings, we are left in the dark about the deeper political underpinnings of the crime, instigation at higher levels, the thinking behind and motivations, knowledge of which are key to exposure and deterrence.

At the core of these crimes in Sri Lanka is the endemic refusal of the rulers to move from criminal responsibility to command responsibility. This means that however grave a crime, a few from the lowest ranks of the security forces are brought to court for carrying out the wishes of their superiors, and inevitably the public feels sorry for them. Thus in the Bindunuwewa massacre (Special Report 19 Part I), the High Court passed death sentences on two junior officers. A superior of ASP rank who was on the scene was not touched and the Supreme Court released those convicted. The country has learnt to be comfortable with grave

crimes going unpunished one after another, with the certainty that even graver ones would follow.

For these reasons following up the Five Students and ACF crimes to their root and bringing out the main institutional and political underpinnings is worth every bit of energy we put into the effort. We are certain that it would open windows and throw light on other crimes of this nature. This report is a follow up on our previous reports. Because of a system where the Police are more involved in perverting the evidence and silencing witnesses than in any real investigation, we are often reduced to exposing procedural aberrations and the intimidation of witnesses.

As time passes we move on to another case and do the same thing. As human rights advocates we are reduced to another bunch of entertainers rather than actually help bring out the truth and deter crimes against humanity. We could best try to make some real progress in bringing out the truth, however long and onerous. First, the ACF case.

## **2. ACF Massacre: The Hard Road to the Truth**

Almost everything said on this case by anyone trying to bring out the truth has come under fire. The first was the statement by the SLMM Head Ulf Henricsson of 30<sup>th</sup> August 2006 blaming the security forces. The ICJ came in to observe magistrate's proceedings and issued two reports and several statements. In April 2007 the ICJ merely stated the identification by the Australian pathologist Dr. Dodd of a 5.56 mm calibre bullet found in the head of victim Miss. Romila Sivapragasam and what it would very likely imply. And hell broke loose. This was just one among many criticisms the ICJ had made on the conduct of the investigation. In particular it faulted the police investigation of proceeding as though the LTTE were the perpetrators, virtually ruling out any other possibility.

The Attorney General in June 2007 tried to prove what Dr. Dodd called a 5.56 mm bullet was in fact the core of a 7.62 mm bullet. Amazingly, Dr. Dodd went back on his earlier identification on flimsy reasons without even demanding from the Government the missing, certified, original photograph of the bullet, and unjustifiably tried to shift the controversy on to the ICJ, which had in fact relied on Dodd's original claim. We dealt with this question in '*A Bullet for a Fig Leaf*', Special Report No. 27.

Interestingly, the controversy evoked an array of writings locally, from lawyers and even the odd academic, free with their moral indignation against foreigners allegedly trying to exonerate the LTTE. The absence of hard evidence for their arguments was made up with semantics and insinuation. There was the danger that in the absence of any real investigation the case was going to be mired in verbal controversy, and the truth obscured. In the Addendum to this report we provide further strong evidence that backs up Dodd's original identification of the 5.56 mm bullet.

Indications we received from the beginning were that the SLMM's identification of the security forces as the likely perpetrators was right, but their estimate of the time as early morning 4<sup>th</sup> August 2006, which was also the time given officially by the Sri Lankan pathologist Dr. Waidyaratna, was wrong as we had testimony that the victims had been seen until the afternoon. The Sri Lankan pathologist contrary to what he put down in the inquest reports had, we later learnt, told Peter Apps of Reuters that the probable time of death was the 4<sup>th</sup> afternoon. This the JMO from Anuradhapura told Apps after examining some of the bodies

at Trincomalee Hospital on 8<sup>th</sup> August 2006, well before preparing the post mortem reports. A list of our reports dealing with this case is given at the end.

From what we earlier knew the killings could have taken place any time from 4<sup>th</sup> Friday afternoon to 5<sup>th</sup> Saturday morning when the deaths were reported. Very early, in September 2006, we obtained through one of our contacts the testimony of an elderly man from Mutur who lived close to the ACF office that an army patrol went into the ACF office at 4.15 PM. They left after a very short time. At 5 PM masked men in commando uniform came in a cavalcade of motorcycles. A senior officer followed in a vehicle with guards and they entered the ACF office. In about half an hour, he said, they went away.

What confused us was that the source gave us the day as the 5<sup>th</sup> of August, Saturday, when the town itself was fairly quiet. This source has subsequently been un-contactable. We should have paid more attention to this testimony, but were (Special Report No. 23 of November 2006) misled by strongly held opinion in Trincomalee that the killings took place on the 5<sup>th</sup> morning. It was later from other testimonies that we realised that people remembered events during the crisis as first day, second day etc and not by the date or day of the week.

We also mention another testimony we received in February 2007 from a youth known to the ACF staff who was in Mutur two weeks after the incident. A Muslim elder met him in a shop and told him that the ACF was in Mutur helping the Muslims during the crisis by distributing potable water and relief during the siege and also helping with sanitation in camps. He added that some of 'our boys' had been involved in the killings. He said that he was on the road when he saw the security forces and some of the Muslim home guards coming from the ACF. Two home guards were mounted on an ACF motorcycle. One of them was Jehangir.

This youth, although giving us genuine information, which matched the earlier testimony, made the kind of mistake we initially made. He had in mind what the SLMM concluded and said it happened on Friday morning. It was after several conversations with this youth that he remembered that the elder had also told him that he had seen this after he had attended prayers at the Mosque, and was subsequently convinced that it happened in the afternoon. His attempts at contacting the man again proved futile.

These two testimonies focused our attention on the Naval Special Forces (which in the first testimony were mistaken for the more familiar STF because of the commando uniform) and Muslim home guards.

Making the initial slip on the time was helpful in that once we realised it, we tried to reconstruct events more carefully with whatever new information we received. It was in respect of the Five Students and ACF cases that for the first time we were up against an outright cover up by the Sri Lankan authorities, their experts, Attorney General and diplomats overseas, and needed to be much more vigilant in pursuit of the truth. Fortunately, on the way we encountered more people who were equally keen and willing to do things that would have been pointless doing if no one was going to bring out the truth. It is to them we owe what we set out below.

### 3. Piecing together, Painfully

#### Communications and further Indications of the Time

A circumstance that led the SLMM to decide on the time of the incident as before 7.00 AM on 4<sup>th</sup> August 2006, was that ACF Mutur was un-contactable by radio or other means from that time. We received reports from Trincomalee that calls were received from Mutur ACF staff on the 4<sup>th</sup> evening and 5<sup>th</sup> early morning. But attempts to track them to the reported sources brought negative results. The course of the investigation also showed that the Government was very reluctant to release the phone call records.

On the other hand, other testimonies of direct or indirect contact by Mutur residents earlier in the day appeared to stand. A religious leader in Mutur told us that he had been to the ACF around 8.00 to 8.30 AM in the morning and advised the staff to join them as they were leaving Mutur on foot. The ACF staff refused saying that their superiors had told them to remain in the office to be picked up.

A member of the ACF staff who was not staying at the office and left Mutur on foot with most of the residents, was positive that the staff members were alive when they left about 10.00 AM on the 4<sup>th</sup>. He had not met them but a lady who cooked had met them after 9.00 AM. This was further supported by a report in the *Sunday Virakesari*, a Tamil language Sunday newspaper of 13<sup>th</sup> August 2006: *“Finally, the sister next door who fed them also met them and said, “Everyone is packing up and going and you are staying. There will be no point in worrying after something happens.”*

The decision by Tamils to pack up and go seems to have been taken on the 4<sup>th</sup> morning and not before. A refugee at the Methodist Church told us that the LTTE came that morning and told them that they are going to fire mortars at the Jetty naval garrison, and if they are staying they must dig bunkers or they must go. Some started digging bunkers and found the ground too hard and decided that they must all leave. It was then that people began scurrying to make some last minute arrangements.

When we contacted the lady interviewed by *Virakesari*, she was scared to talk. Muslim friends also told us that Muslims who were leaving had after mosque prayers asked the Muslim ACF employee Jaufer to join them and leave on foot, but he wanted to stay with the others. This may be any time after 11.00 AM, as prayers usually conducted at Friday 1.30 PM may have been held earlier.

About mid-2007, a senior Sister at the Mutur Convent told us that sometime after their exodus from Mutur, she met some Muslims in Trincomalee, who told her that after the LTTE had left, some at the ACF had walked down to a grocery store on the Main Rd. close to the Hospital to buy tea and some eatables. This seemed afternoon on the 4<sup>th</sup> since the general consensus was that the LTTE vacated the town around noon on that day. Another source told us that two boys from a Tamil family that was staying with Muslims had met Narmathan and some others from the ACF at a shop close to the Hospital late afternoon on the 4<sup>th</sup>. In neither of these were we able to trace the sources.

A concerned Muslim lady gave us information that supported the general drift. Abdul Hakim, a Muslim militant leader in Mutur, was shot dead by the LTTE on 30<sup>th</sup> September 2005. After that the militants divided. One group remained armed. The other felt that Jihad is a deeper

ethically demanding concept that is much more than carrying arms and became a non-violent religious group. The second group became law abiding citizens and started exposing crimes of the militant section. (See Appendix I)

A member of the second group told this lady that the killings had taken place around 5.30 on Friday 4<sup>th</sup> evening and some of the Muslim militants had been involved. The informant promised more, but was thereafter unreachable. The lady gathered that people in Mutur were being intimidated to be silent on this.

While sharing an end of the day stimulant, a Muslim man in Mutur told a friend recently that the ACF killings took place on the afternoon of Friday 4<sup>th</sup> August. He identified Home Guard Farook (No.68069) as one of those involved. Farook was notorious in that before August 2006 the security forces allegedly used him to abduct, torture and kill Tamils coming from the LTTE-controlled area. We also received testimony that he went out with the Special Forces on the 3<sup>rd</sup> August evening. But we have so far not received information on what he was doing on the 4<sup>th</sup>. Unlike Jehangir who was garrulous, Farook was quiet.

Another incident that was not taken seriously at that time is significant in retrospect. On Friday 4<sup>th</sup> afternoon an ACF group went with expatriate officer Elias to collect their colleagues in Mutur. They returned to the ACF office about 7.00 PM. One of those who came back was informed by a friend that the Programme Manager Alabdeen had got a call and he then told Frank Kano that about 15 bodies had been found in a house in Mutur. The others did not take it seriously as rumours were coming in that the ACF staff had left and were seen in various places. It now appears that one of the neighbours of the Mutur ACF had seen the bodies and phoned Alabdeen whom he knew. Alabdeen very likely felt bad and gave a euphemistic version. Our source thinks the call came about 6.00 – 6.30 PM.

Inconclusive as things were, it appeared almost certain that the killings took place in the afternoon or evening of 4<sup>th</sup> August. At least whatever the cause of the breakdown of radio communication, it seemed to have to do with mundane causes, such as an inability to run or restart the generator that powered the communications rather than deliberate damage. It is conceivable that the LTTE did visit the ACF office on Friday morning, as they did the Methodist Church, and again advised them to leave. If the ACF staff had told them that their orders were to stay, the LTTE may have got angry and done something to the radio. But there is nothing to support this except a report from some of the ACF staff of a cable linking the radio to the antenna being pulled out. It falls to the courts to ask the ACF for the radio and clear the matter. The inability to find confirmed instances of calls using cell phones was problematic but not crucial. If they were unable to run up their generator and charge the batteries, their cell phones too may have run out of charge.

But one factor is worth mentioning. The Police very early obtained all the cell phone numbers of the victims and details of calls made from the cell phone companies. But to date this evidence has not been made public. Is it because calls were made during the course of the day that conflict with the Government's version that the victims were killed early in the morning?

#### **4. The Mutur Police and the Special Forces**

When the LTTE came into Mutur on the night of 2<sup>nd</sup> August 2004, the Police left their positions in town and regrouped at Mutur police station. Government artillery shells were falling wildly. Magistrate Ganesharajah and the Magistrate's police security, which included



Sergeants Mahendran and Padmananda, went to the Police Station. The Police warded off the Tigers with small arms and mortars.

One witness (hereafter referred to as W) who remained in the Sinnamattakalappu area near the courts saw in the morning of 2<sup>nd</sup> August about 40 bloodied sarongs. Many sarongs had on them weapons and ammunition. The LTTE cadres who came were all in sarongs, not in uniform. This witness saw a group of LTTE cadres having a meal and is certain from their accent that they were neither from Batticaloa, Mutur nor Jaffna, but seemed to speak with a Hill Country accent.

The Police Station was under siege. On the 2<sup>nd</sup> little before noon around half a dozen policemen and home guards went to the Jetty to obtain ammunition and some weapons from the Navy who managed to hold on. The Police were quite well stocked with weapons but lacked ammunition. While these were being brought back in a tractor, an LTTE shell from the direction of Pachchanoor landed close to it, killing, according to a member of the party, a police sergeant and a home guard. The rest abandoned the cargo. Most of the survivors returned to the station. One who went missing returned to Mutur some days later. Nilantha who worked at the armoury was slightly injured, but was able to function and got back to the station.

At the Police Station itself the men fought valiantly even though the officer in charge was only the Acting OIC, Inspector D.M. Abeywardene. Mutur was one of those stations where the superiors usually kept away in Trincomalee. The policemen felt the absence of more senior officers who could lead and told the IGP when he talked to them. The night of 2<sup>nd</sup> August was critical with the Police running low on ammunition. About mid night an LTTE shell exploded killing a policeman. Meanwhile Judge Anton Balasingham of the Trincomalee High Court was trying his best to get the Mutur Magistrate out. But the Police in Trincomalee wanted him kept there. It looked to sources close to Judge Balasingham that the Police wanted to keep the Magistrate as a shield.

Around 11.30 AM on Thursday 3<sup>rd</sup>, the Police were contemplating abandoning the station and moving to the Jetty where the Navy was. Their superiors at Trincomalee persuaded them to stay until relief arrived. Naval Special Forces Commandos were landed at the Jetty and they came along the coast reaching the Police Station about 1.30 PM the same day, bringing enough ammunition and arms.

A point of importance is that ASP Sarath Mulleriyawa and OIC Chandana Senanayake of the Mutur Police arrived at their station with the commandos. Thereafter the ASP, OIC and the officer in charge of the commando unit, referred to by others present as a major, stayed together at the Police Station.

That afternoon things looked quieter and about 4.30 PM some commandos with home guards who knew the area went towards the Hospital. Although the hospital had suffered shell damage, some displaced persons were there. Those who went checked them and were coming away when an LTTE man who had disguised himself as a Muslim in a prayer cap fired and killed one commando and injured two others. The dead man and the injured were carried to a point on the beach close to the Police Station where a naval vessel docked, quickly loaded and took off. The incident at the Hospital deterred the commandos from venturing into the south and east of the town the same day (3<sup>rd</sup>). They returned to the Police Station.

On Thursday night the news quoted the Army Commander that Mutur is 80% captured and the LTTE were trapped and cannot escape. The security forces radio at the police station announced at 6.30 AM on Friday 4<sup>th</sup> morning that they had captured Mutur town and several LTTE bodies were strewn around including 50 to 60 bodies close to the Jetty.

With regard to the ACF killings these claims caused controversy. The *Daily News* of 4<sup>th</sup> morning quoted cabinet spokesman Keheliya Rambukwelle claiming (on the 3<sup>rd</sup> night) that ‘*Muttur town is under the total control of the Security Forces*’. But the same spokesman after the SLMM statement pointed to the security forces as the party most likely behind the ACF killings, maintained that the crime, committed around the 4<sup>th</sup> morning according to post mortem reports, was the work of the LTTE.

Another event on Thursday 3<sup>rd</sup> is of considerable, but also misleading, significance. Jehangir was as mentioned, one of the home guards at the Police Station. Being natives of the place, several of them were moving in and out of the Police Station and bringing intelligence. Jehangir had a brother named Zahir Khan who was in the armed Muslim group. According to a story reaching the Police at that time, a Tamil boy who described himself a member of the Karuna group got friendly with him. Zahir believed him and told him the truth about himself. The boy being really an LTTE cadre pulled out a weapon and shot Zahir dead. Jehangir who heard about this the same day, was seen very angry, swearing revenge.

## **5. Friday 4<sup>th</sup> August – Some Real Evidence at Last**

On Friday morning the Special Forces went on patrol with some of the home guards. Jehangir was keen to show them the places where the LTTE supposedly were. About 8.30 AM, the officer commanding the Special Forces at the Police Station gave orders to his men on patrol, “*Demala kathakaranna kattiya civil ekeng hitiyanang...*” (whose purport was, “If you encounter any Tamil speakers (i.e. Muslims or Tamils) in civilian dress, finish them off [if you have any suspicions]”). This order appeared to reflect the shooting dead of a commando by an LTTE cadre wearing a Muslim prayer cap the previous day. The significance of the order for the ACF killings lies in that it made arbitrary killing of civilians permissible.

We mentioned that Jehangir was angry about the LTTE’s killing of Zahir Khan and he was regularly getting information from Muslims who were moving about quite freely on Friday. The fact that most civilians had left Mutur on foot by 10.00 AM and the ACF people were still there was bound to attract attention.

Going back to our witness W, having been cut off from developments to the east of his area, he went out of his home in Sinnamattakalappu and by then the area was deserted. He then walked in the direction of the Roman Catholic and Methodist churches, to see if he could find his wife and children whom he had sent to the Methodist Church, but by then all had left. (They had gone to Kantalai with the Tamils and later phoned him from there.) On the way he met two Muslims on bicycles, who told him that the Army had come into town. He then came across a tea boutique that was open, and the few people who were there offered him food. He had not eaten for some days, and said that he preferred only a cup of tea for a start. He got back around 1.30 PM and it was then that he saw the Army (Special Forces) near the DS’s office west of the Hospital in the direction of the Police Station further west.

The Special Forces, home guards and possibly policemen who accompanied them returned to the Police Station at about 4.00 PM and after a short time went out again and came back by

5.00 PM. Among those who accompanied the Special Forces were the home guards Jehangir, Ramzan, Fahid Rilvan, Sultan Faseeth and Ganguly (nickname).

A witness who saw them on their return opines that it was on this last trip that the ACF killings took place. His reasoning was that Rilvan had told him that he came back on a motorcycle, although this motorcycle was not brought into the Police Station. Rilvan had not talked about the killings. This also matched one of the earliest testimonies we received, that after the incident Jehangir and another were seen leaving the ACF on one motorcycle – one of the two stolen from the ACF, the second presumably later (see Appendix I). The time also fell into place and matched the pathologist's honest opinion given to Peter Apps – Friday late afternoon.

This also made it certain that the Police and Home Guards knew much more about the killings and that was the place to make further inquiries. Indeed, Jehangir was not the type to remain silent as we learnt.

## **6. The Truth Finally**

Early attempts to get information from sources close to the Police and Home Guards were fruitless. What was clear was that they knew, but were very scared to talk. And so, it was maintained, their superior SSP (Operations) Kapila Jayasekere knew about the killings only when apparently an anonymous caller told Prem working at the Trincomalee ACF office on the 6<sup>th</sup> and he told the Police resulting in Jayasekere ordering SI Gunawardene to investigate. Contrary to what the Police maintain, a local councillor Ragees from Mutur had informed ACF Trincomalee on the 5<sup>th</sup> morning and also told the BBC the same day.

After a search by friends, we came across a number of sources with a good knowledge of goings on at the Police Station. Several sources are involved and we will merely describe what happened. A number of persons would speak out if they would not suffer adverse measures from the protectors of the law.

Having gone through over a year of deception by the Police and Attorney General's Department, a simple policeman with a sense of shame who was then in Mutur confessed, "*Ape kattiya thamai marala dhamma. Kaatath kiyanda bahe. Api boruwata thamai satchi dhunna.*" Rendering the Sinhalese idiomatically into Sri Lankan English, it reads, "*Our chaps only killed and dumped them. It is a shame we can't tell anyone. For lies only we gave evidence.*" Indeed, just before the policemen went before the Commission of Inquiry, a senior officer told them to maintain that they were stuck in the Police Station and did not know what went on outside.

About 3.00 PM on 4<sup>th</sup> August it got around the police station that a message had come from a senior officer of the Trincomalee Police that the ACF staff was stranded, to take care of them and send them to Trincomalee safe and sound. Our sources said that the police officers in charge did not act as though this was their intention.

After the Naval Special Forces patrol came back to the Police Station around 4.00 PM there was a sense of relief. They were sure that the LTTE had left Mutur town. Jehangir, who had come to know that the ACF staff had stayed back had been insistent about the ACF being an LTTE base. We believe that anything that Jehangir said in anger was a pretext for others high up who wanted to harm the ACF staff, as all responsible persons knew that it was civilians

who were at the ACF office. Jehangir as a home guard had no rank and was lower than a constable. Such persons are at best servitors and scavengers used in dirty work (See Appendix I). In Mutur, Jehangir had been guiding the commandos and had in the meantime become very chummy with them.

The ASP and OIC asked Jehangir, the OIC's bodyguard Susantha, and another favourite Nilantha, who received a minor injury on the 2<sup>nd</sup> from LTTE fire in an incident described above, to go with the Special Forces to see if there were any LTTE cadres at the ACF. A party of about two-dozen went including a dozen commandos (Naval Special Forces) and the rest home guards and policemen. On the way Jehangir spoke to men who came on a bicycle who confirmed that the ACF staff was there.

Led by the commandos, Jehangir and the rest of the party including policemen and home guards turned left from the main road past the Hospital, and went to the ACF. The commandos surrounded the place. Those at the ACF were drinking tea and eating biscuits, stuff they had bought a little while ago.

The commandos called the ACF staff and asked them in Sinhalese what they were doing there after everyone else had left. The latter replied that their Trinco office had asked them to remain. Jehangir butted into the conversation and without giving the ACF staff a chance to explain, insisted that the staff were LTTE. Susantha and Nilantha, the two policemen with him said nothing. The commandos remained passive. Jehangir got the staff to kneel, and the victims were fired upon as they begged for mercy. It was all over within five minutes from the time they arrived. Two were killed away from the others, apparently trying to run away and their bodies were found separately.

The main persons who fired at the ACF staff were Home Guard Jehangir, Police Constable Susantha and Police Constable Nilantha. The party got back to the Police Station by 5.00 PM. The word of a mere home guard and servitor of dubious reputation sufficed apparently for the commandos and policemen to commit the atrocity.

Upon their return, there was an air of celebration. Jehangir, Susantha and Nilantha were given a heroes' welcome by ASP Sarath Mulleriyawa and OIC Chandana Senanayake, who warmly shook hands with them.

This was very strange. The fact of the ACF staff being stuck in Mutur was much talked about in INGO circles. There had been a meeting of INGOs and NGOs at 11.00 AM the same day at the Trincomalee UN office where the matter was taken up. Most importantly, the ASP and OIC in Mutur had been asked to ensure that the ACF were safely conveyed to Trincomalee.

How does one explain the celebration of murder at the Mutur police station? The way it happened and the far reaching cover up, all go to suggest that it was not the ASP and OIC who took the decision to kill. Despite their receiving instructions from a senior officer to safeguard the ACF staff, someone else more powerful, it seems, gave instructions to use some pretext to kill them. Jehangir and perhaps some other hotheads who wanted revenge may have provided such a pretext. The commandos must have been instructed by their commanding officer to let it happen. We explain later why someone more senior in Trincomalee may have welcomed the pretext provided by Jehangir for the executions.

## 7. The Killers, Weapons and Dodd's First Report

We argued in Special Report No.27 '*A Bullet for a Fig Leaf*' that Dodd's reasons for going back on his initial identification of a 5.56 mm projectile found in Romila's body were entirely unacceptable. He changed his mind after the Sri Lankan Government Analyst sent him a purported photograph of the projectile that was not the original – the original we must assume has been destroyed. An elementary difference between a discharged 5.56 mm projectile and the core of a 7.62 mm projectile, which the Government Analyst claimed the object was, is that the former has lands and grooves visible to the naked eye, while a core has a smooth surface.

Further, Dodd said he had relied on three CID men present at the second autopsy to make the identification. Sub Inspector Sanjaya Perera had earlier submitted to court among productions from the scene objects that were cores of bullets with their distinctive grey blackish colouring as opposed to the copper colouring of a bullet. Neither he nor the expert, Dr. Dodd, could have mistaken a core for a discharged projectile.

Our sources said that while the Police were generally issued with T-56 weapons, which fired 7.62 mm bullets, Susantha's personal weapon was black in colour, the barrel about the size of one's forearm and fired bullets about the size of revolver bullets, thick and squat, like 9 mm bullets. From this and further information in the Addendum, we conclude that Susantha's was an 18.5 inches long Uzi submachine gun. Nilantha had an LMG (Light Machine Gun), which fired bullets fed by an ammunition belt. (The bullet types are 9 x 19 mm for the Uzi, 7.62 x 39 mm for T-56 and 5.56 x 45 mm for M-16.) Susantha was a technical buff who did handiwork such as electrical wiring around the station and was a particular favourite of OIC Senanayake whose bodyguard he was. Uzi is a bodyguard's weapon.

We further found that Susantha PC 59495 knew different kinds of weapons and had with two sergeants manned the 80 mm and 60 mm mortars during the defence of the Police Station. PC Nilantha, the other policeman involved in the killings was also close to the OIC. He assisted the sergeant in charge of the station's armoury. Their closeness to the OIC is a point of immense significance. They were trusted henchmen.

Susantha and Nilantha killed about six of the ACF victims, while Jehangir killed most of those remaining. Jehangir was also an expert in different weapons and taught policemen their use. A minimum of four types of ammunition were used at the scene. There is no reason for us to trust the Police's collection of productions. The earliest testimony we quoted above said that the killers soon departed and about half an hour later another group came in a cavalcade in commando type uniform. This suggests that someone higher up was alarmed by the ACF killings, and the group came to pick up traces of incriminating ammunition. The commando officer appears to have wanted to make sure that no 5.56 mm or other novel types of ammunition were left lying around – an indication that such bullets, distinct from the common 7.62 x 39 mm, were fired. We confirm this in the Addendum. The naval commandos were seen having M 16 and FN Minimi guns, both of which fired 5.56 x 45 mm ammunition.

What the foregoing tells us is that the whole question of weapons use in the incident had been distorted by the investigation and does not deserve any credit for professionalism. This also shows that Dr. Dodd, unethically, took what seemed the easy way out by going back on his earlier positive identification of a 5.56 mm projectile, rather than prolong a controversy over a

bullet he did not have in hand. He would have done better if he had simply demanded that the Government Analyst give him the original photographs taken and certified at the autopsy.

M-16 and FN Minimi (M 249) weapons, both of which fired both M193 and SS109 type 5.56 x 45 mm bullets, were definitely available at scene of crime. Whether one was used, or not, the commando unit shares the culpability for murder. If one was not used there was really no reason for the Government to get so thoroughly worked up about Dodd's initial identification of a 5.56 mm bullet in Romila's head.

While we postpone further discussion of the question of the bullet in Romila to the Addendum, we mention here that although initially reluctant one of our sources said that Jehangir killed the four women who were in a group. At some point Jehangir changed guns with one of the commandos he was chummy with. With the additional evidence in the Addendum, we may put an end to the controversy. Romila was on available evidence killed by a 5.56 mm bullet.

## **8. Did the Police Hierarchy Instigate the ACF Killings?**

The following points are striking:

1. Most Mutur civilians had left for Killiveddy and Kantalai on foot by 10.00 AM. By 3.00 PM the ASP and OIC had been told authoritatively the plight of the ACF staff and asked to look into their safety. Meanwhile Jehangir badly wanted revenge for his brother and was campaigning that those at the ACF are Tigers. But the general sense was that the Tigers had all left. That is what reports from the security forces were saying, the Special Forces upon return from patrol had not reported a Tiger presence in town and the Police had their own intelligence. Looking for Tigers at the ACF office at this point sounds bizarre.
2. Susantha and Nilantha who participated in the killing were very close to the OIC and the question arises if they had been instructed to kill. The ASP and OIC had completely disregarded advice from Trincomalee about the ACF staff around 2.30 to 3.00 PM and sent this patrol with the commandos around 4.00 PM ostensibly to see if there really were Tigers at the ACF.
3. The commandos were indifferent to the fate of the ACF staff, made no attempt to check if they were LTTE and completely disregarded their obvious civilian character. Jehangir, Nilantha and Susantha simply proceeded to shoot the staff based on Jehangir's absurd claim that they were Tigers, and Jehangir who had no rank is lower than a constable.
4. This strongly suggests that the ASP and OIC had in fact strongly hinted to the three that the ACF staff must be killed. They are very unlikely to have taken such a reckless approach unless some powerful superior in Trincomalee had given an instruction to kill rather than protect. The ASP and OIC who were with the commando officer at the Police HQ in Mutur must have obtained his compliance.

We now come to the police set up. The chief police officer in Trincomalee was DIG Rohan Abeywardene. Under him were three SSPs. The two original SSPs were SSP Trincomalee, Nihal Samarakoon, and SSP Kantalai. The third SSP was Kapila Jayasekera, earlier SP Operations and was in July, just before the ACF killings, promoted to SSP Operations. Mutur

police station came under SSP Trincomalee who is answerable for what happened there even if he was overridden by the DIG.

Police reports on investigations make no reference to SSP Nihal Samarakoon and the ACF case was from the beginning handled by Kapila Jayasekera and subsequently by the same pair Kapila Jayasekera and Zawahir, OIC Crimes, Harbour Police, who handled the investigation of the 5 Students' case – we have pointed out in Special Report No.24 that these two played a leading role in the latter crime and the cover up. Was there a connection between the ACF killings and the Five Students' case?

## **9. Kodeeswaran – the Link between the ACF and Five Students' cases**

We have noted in our reports the systematic intimidation of witnesses and families in the Five Students' case. Because of this a great deal of information was lost as witnesses and families were forced to flee and, as we mentioned before, an important witness, Balachandran, was killed. Among the witnesses forced to flee were the family of Yogarajah, which directly links the two cases. Of Yogarajah's three sons, the youngest, Hemachandran was one of the five students killed on 2<sup>nd</sup> January 2006 and his eldest Kodeeswaran was one of the ACF employees killed.

Kodeeswaran's house is about 60 yards from the beach. When the bomb blast was heard at about 7.35 PM on 2<sup>nd</sup> January 2006, his mother became anxious and told the others that Hemachandran had gone that side. Yogarajah went towards the beach. He got to the junction in front of the Urban Council. He was caught by men in military uniform (whom he takes to be the STF or Police and we know to be STF), gave him a blow on the back and ordered him down. He lay flat, back up, with another 25 or so persons, including women. An STF man who looked crazed pointed a gun, threatening the people, "*They are all Tigers, all must be shot.*" Some women who were detained screamed. The Navy was nearby, but did not interfere. Soon afterwards, the powerful light that was on the side of the road was switched off, Yogarajah thinks by the STF. Few minutes later, he heard boys shouting, "*Aiyo Amma*" (Help, Mother). Then he heard gunshots. Ten minutes later the same persons ordered them to get up and go back the way they came.

While the father was at the scene, Kodeeswaran was desperately trying to get through to the cell phone of Hemachandran's friend Rohan. Twice there was no answer. The third time someone answered and spoke to the caller for three minutes until 7.52 PM. The firing took place shortly afterwards.

The middle brother Baskaran said that Kodeeswaran never fully disclosed the import of the conversation, but from hints dropped, he believes the speaker at the other end was VAS Perera, the head of the STF team, and he had got Kodeeswaran's address and personal details.

Before inquest proceedings began in the Trincomalee District Court on 10<sup>th</sup> January, two men came home in civils about midday and threatened the family not to testify. The next day some persons came home and shouted '*Ado*' (a rude threatening way of addressing people in Sinhalese).

Ten or twelve days after the beach incident, auto rickshaw driver Balachandran came home around 10.00AM and spoke to them from the gate. Balachandran knew the Yogarajahs from their former residence at Railway Approach Avenue near where he lived (Madaththady). He

said that Driver Hemachandran (alias Aathavan) drove the green auto rickshaw from which the bomb was first thrown at the students (Special Report No.24). Further inquiries by victim families brought the information that the two persons seated at the back of the auto rickshaw who threw the bomb at the students were a son of Weerakody and a Sinhalese vegetable seller whose son with an unruly record was killed a little earlier, probably by the LTTE. Weerakody Senior had been killed by the LTTE nine days before the students were killed.

Yogarajah reflected that the auto rickshaw driver Hemachandran knew his son of the same name as they all lived in the same neighbourhood earlier and the former used to come occasionally seeking his son. Yogarajah knew that Driver Hemachandran was a thug and enjoyed close ties with and protection from the Police. He warned his son not to consort with him as that might have repercussions from the LTTE.

Balachandran left after telling the Yogarajahs not to tell anyone about this, as it would place him in danger. He was reluctant to come there afterwards. Baskaran thinks what Balachandran told them was heard by the policemen at the checkpoint for the Prison and Old Police Station barely a few feet away. The policemen were usually behind cover. Balachandran was abducted from his home on 24<sup>th</sup> August 2006 and killed. Weerakody's son in the Navy, Udawatte, reportedly supervised the killing.

The families on 2<sup>nd</sup> February 2006 observed the 31<sup>st</sup> day at the same beach where the incident took place. At that time SP Kapila Jayasekere passed them while driving from the direction of the courts towards Fort Frederick. A little later six or seven policemen, two of them in civils, came from the direction where Kapila Jayasekere went. They approached Kodeeswaran and asked threateningly, "*What are you doing?*" Kodeeswaran was the sort who gets quickly worked up and talks back strongly. A Tamil police sergeant who knew him observed, "*He was the sort who reacts quickly, but is scared within.*"

Just about that time a letter came home warning the Yogarajahs that they must all leave the country or everyone of them would be shot dead.

Kodeeswaran was going about on the motorcycle that Hemachandran used to ride. One day the Police stopped him late evening on Green Rd. while he was returning home. An officer, whom Baskaran thinks may have been Kapila Jayasekere, looked at the number and asked Kodeeswaran, "*Are you keeping well?*" Baskaran said that even stopping someone on Green Rd. was unusual

On another occasion Kodeeswaran was returning home from the ACF office pushing his motorbike with a deflated tyre towards the petrol shed in front of the Buddhist temple to inflate it, when an army vehicle stopped in front of the temple. Seven or eight soldiers came towards him and questioned him for a long time holding him up. Kodeeswaran later told his father that he realised that they held him up to abduct him, but he somehow made his escape.

After the killing of the five students, Trincomalee folk who often find out what is going on within the security forces, formed a strong conclusion that Inspector Zawahir, Deputy OIC of the Harbour Police had connived with Kapila Jayasekere to stage the Five Students' tragedy. It happened on a day when the OIC for that area was on leave and Zawahir was acting.

Baskaran reflected that Kodeeswaran used to get very angry when he saw Inspector Zawahir passing in his vehicle. He used to remark, "*I feel like throwing a bomb at him.*" Also



remarkably, after the ACF incident where Kodeeswaran was killed, one policeman was placed on duty opposite their house to check visitors. All these factors indicate that Yogarajah's family was being closely watched. It is not just the original killing of the five students, but also the killing later in January of reporter S.S. Rajan who provided media publicity for the killings and funerals, the continuous intimidation of those who might move the case forward and the killing of Balachandran, are all manifestations of the ruthlessness with which the Police in particular was determined to suppress the evidence.

In the light of this the Police and especially SP Kapila Jayasekere and his superior DIG Abeywardene would have felt nervous about Kodeeswaran. Having gone to the lengths they did in crime, their careers were threatened by exposure in court. Kodeeswaran's ACF colleagues knew he was under threat. One told us that he avoided going out of Trincomalee town, and should never have been sent to Mutur under these uncertain conditions.

When persons wanting to harm Kodeeswaran found that he remained exposed in Mutur due to bad instructions from the ACF, and there was on the other hand Jehangir crazy about revenge campaigning that the ACF office was a Tiger stronghold, what happened is not surprising. The planned massacre of the five innocent students was an eloquent statement of government thinking on active young Tamils. The stranded youths at the ACF were an opportunity not to be lost. The Yogarajahs were aware of the danger and blame the ACF for not listening to other NGOs and to the parents and allowing this to happen.

One could not have expected anything from the police investigation under SSP Kapila Jayasekere other than to suppress evidence of the State's culpability. Inspector Zawahir who was unfavourably identified with Kapila Jayasekere in the Five Students' case visited an elder whom we believe was one whose testimony we cited above. According to Zawahir he left home on 3<sup>rd</sup> August because of LTTE terror and got back just the day, 9<sup>th</sup>, when Zawahir interviewed him. This elder Haji Abdul Rahuman has been missing from late September 2006.

Zawahir's bullying of witnesses was also in evidence in the Five Students' case. The Police first wanted the parents to certify that their sons were LTTE cadres before releasing the bodies. He told Dr. Manoharan, the parent of Ragihar, one of the Five Students, at Trincomalee Hospital at 7.00 AM on the morning after the killings, "*My son learnt table tennis from your son. I will release your son's body, but why do you want to interest yourself in the others?*" A number of features of the ACF case places it a potential fiasco like the Bindunuwewa case.

## **10. Similarities to the Bindunuwewa Massacre**

Inmates of the Bindunuwewa Rehabilitation Centre, all young Tamils, were attacked on the morning of 25<sup>th</sup> October 2000 by a mob of an estimated 2000 comprising villagers and outside elements ferried in, while the Police stood by, abetted and participated in the outrage. 27 youths from the Centre were killed and 14 injured. The youths were either LTTE surrendees or persons picked up on suspicion, none of whom had been charged with any offence.

The Trial-at-Bar comprising High Court Judges, Sarath Ambepitya, Eric Basanayake and Upali Abeyaratne delivered death sentences on five of the accused in July 2003. Two of the defendants were police Inspector Senaka Jayampathy Karunasena and Sub-Inspector Tyronne

Roger Ratnayake. By 27<sup>th</sup> May 2005 the five-member bench of the Supreme Court comprising Justices T.B. Weerasuriya, Nihal Jayasinghe, N.K. Udalagama, N.E. Dissanayake and Raja Fernando had acquitted all five on appeal. The bench led by T.B. Weerasuriya ruled that the Attorney General failed to prove the charges without reasonable doubt. We discussed this in Special Report No.19 Part I of 12<sup>th</sup> June 2005.

For many observers justice was parodied even at the High Court level by prosecuting relatively junior officers acting under orders from their superiors, when in fact these superiors – ASP Dayaratne and HQI Jayampathy Seneviratne – were also present at the scene of crime. B.M. Premaratne, SSP of the region too is answerable under command responsibility. Especially also because he gave the media a biased and twisted account that the Tamil youths had broken into the store of the Centre, armed themselves with implements for attack and provoked the villagers by displaying their genitals and throwing stones.

In our report we furnished strong reasons why Uva Province Chief Minister not only knew about the massacre beforehand but also was among the instigators.

Against this build up involving the high and mighty, legal proceedings trying to pin the blame on an Inspector and Sub Inspector made a mockery of justice. The Supreme Court thankfully put the finishing touches and brought the farce to a close.

The answer to the question why Sri Lanka is steeped in recurrent gross crimes, especially against the minorities, that go unchecked is not far to seek. The rulers without good sense or vision would fight hard against command responsibility being invoked in judicial practice. This would have been relatively harmless if the politicians and security forces were reasonably law abiding. Unfortunately, this country is determined to earn the contempt and ridicule of the rest of the world.

Where the ACF and Five Students' cases resemble the Bindunuwewa case lies in that all occasioned intense lobbying, propaganda and perversions of the legal process aimed at obscuring the truth. If more evidence turns up against obstruction by the State, we could see who would be sacrificed if, as is now the norm in Sri Lanka, the prosecution works towards criminal responsibility. It may just be VAS Perera and one or two of his men in the Five Students' case.

In the ACF case, it would be confined to PCs Susantha and Nilantha and Home Guard Jehangir. The ASP and OIC would maintain that they only asked these subordinates to go and see if there were Tigers at the ACF. They would deny instigation to kill. There is no police force here with the independence and integrity to question all who were there individually and build up a case against senior officers.

## **11. Command Responsibility**

Command responsibility is no secret in the Five Students' case. The Human Rights Commission's Special Rapporteur and many locals, besides us, have identified SP (now SSP) Kapila Jayasekere as the executor of the plot. Defence Advisor H.M.G.B. Kotakadeniya sent the STF team with, according to him, the Defence Secretary's consent. Insufficient attention has been paid to DIG Rohan Abeywardene under whom Kapila Jayasekere was acting. We have since learnt that the same night the students were killed, there was a late night meeting at the DIG's office to plan the cover up. Thereafter intimidation of witnesses with a strong

Sinhalese hegemonic flavour proceeded shamelessly without any check. Both DIG Abeywardene and SP Jayasekera had an STF background.

Apart from the Five Students' case, Rohan Abeywardene was the presiding DIG during the organised communal violence of 12<sup>th</sup> April 2006, when the Police were asked to keep off and all telephones of senior officers did not answer. This was followed by the ACF incident, also under DIG Abeywardene, remarkable so far for the high level cover up which we have documented. Lakshman Seneviratne MP said in Parliament on 6<sup>th</sup> June 2007:

*“Robberies, murders and extortions are going on unchecked in Colombo today. For the last several weeks we attempted to find the persons involved in the incidents. DIG Rohan Abeywardene who was in charge of the Eastern Province is today DIG Colombo. He is a close confidante of Defence Secretary Gotabhaya Rajapaksa. I categorically state that they are responsible for what is going on in Colombo today.”* (The Nation 10 Jun.07.) The DIG naturally denied the charge. Those who know his record in Trincomalee would find the MP's charge hard to dismiss (see also Appendix I). DIG Colombo, invariably a political appointment, to which Abeywardene succeeded, was at a time the State was at its criminal worst.

There were a number of alerts about the ACF staff stranded in Mutur and unless command responsibility is called into force, the ASP and OIC in Mutur at the time are not going to say what instructions they received from their superiors in Trincomalee. They all knew there were unarmed civilians at the ACF office. The ASP and OIC sending two trusted subordinates with Jehangir and the commandos to look for Tigers in the ACF office, who then took it into their head to shoot the staff, is not going to wash. The commandos who went with them have not, so far as we know, been questioned. What instructions they had is crucial to assigning degrees of culpability.

Also of importance is the tracing of alerts to the security forces by the various INGOs and NGOs on the ACF staff stranded in Mutur on Friday 4<sup>th</sup> August and what was done with these alerts. A major cited below was aware and 'working on it'. What did he mean? A meeting of INGOs and NGOs was held at the Trinco UN office at 11.00 AM to discuss the stranded staff, before an ACF team set off at 1.00 PM to try to bring them back. It would be very, very unusual if after the discussion the departure of another rescue mission were undertaken without at least telephone consultations with the security forces commands in Trincomalee.

In Special Report No.25 we cited ACF sources: *“On the 4<sup>th</sup> afternoon Frank Kano of ACF/ Trincomalee spoke to an army major from its civil affairs office. The Major responded that he was aware of the problem and is working on it and would get back if he had any information. On the same afternoon, Frank Kano went to the office of Nihal Samarakoon, SSP Trincomalee, to hand over a list of their staff in Mutur. Although the SSP was not in, the list was handed over to an assistant who promised to pass it on.”*

The foregoing is crucial to disentangling what happened, along with the fact that by 3.00 PM a message had been sent to the Mutur Police to look after the safety of the ACF staff. Was it SSP Nihal Samarakoon who sent that message? Was Samarakoon really out of office when the ACF arrived or was he avoiding the issue knowing something untoward was taking place? Samarakoon has not been an effective officer, nor was he known to be a dirty man. Before answering these questions we must say a word about the extraordinary impunity brought into the Police Force by the constant interchange of personnel between the Police and the STF.

## 12. An STF Mafia within the Police

The STF, which was formed as a paramilitary force in counterinsurgency by selecting persons from the Police, was the initiative of President Jayewardene's son Ravi in 1984. From the time it was deployed in the East in early 1985 it quickly earned notoriety as ruthless and lawless, beginning with the Thambattai massacre to the Kokkadichcholai massacre in 1987, the scores of headless bodies in 1990, victims strangled at the STF HQ in lakes in 1995 and the Pottuvil massacre in 2006. Observers who are careful with their language, readily called the STF 'racist'. After finishing a tour in the STF, men went back to the Police supposedly to enforce the law. In referring to colleagues who served in the STF, policemen would often grimace and say, "*They are that type*".

In Trincomalee during 2006, the balance was tilted heavily towards the STF types. DIG Rohan Abeywardene and SP (later SSP) Operations Kapila Jayasekere were from the STF. Even so, when a government wants the STF as an institution to play a different role, it has the command structure where it could function credibly. Unfortunately, the present Government's outlook dominated by Gotabhaya Rajapakse and Defence Advisor Kotakadeniya is geared towards tapping the worst traditions of the STF.

An STF team brought into Trincomalee and taking instructions from ex-STF men Rohan Abeywardene and Kapila Jayasekere accomplished the exhibition killing of the five students on 2<sup>nd</sup> January 2006. The intimidation and racist threats against witnesses came from the same quarter. Appointing Maj. Gen. T.T.R. de Silva Rtd. to the civil office of Government Agent Trincomalee augmented the repressive approach. The ex-STF men among the Police in Trincomalee District acted as a mafia and decent policemen were helpless.

From the very top persons who did things policemen should never do were encouraged and protected. Ex-STF men exercised their influence in advancing this culture of impunity. Kithsiri was an ex-STF man in the Mutur Police during 2006. One of his specialities was to organise Muslim home guards to commit atrocities under the protection of the security forces.

Kithsiri was behind the incident on 10<sup>th</sup> June 2006, where a Muslim gunman boarded the bus in Mutur town and shot dead two passengers including the 12-year-old-boy Sajeevan. The boy's *sitthi* (mother's younger sister) who was a witness was taken away by Kithsiri and threatened not to give evidence. But she was very angry and gave the evidence.

Sub Inspector Athula was a good officer who did his duty in apprehending armed Muslim elements extorting money from a Saudi NGO. He was transferred out on orders from DIG Abeywardene. According to police sources in Mutur, it was Kithsiri who was behind the DIG making the transfer.

Rohan Abeywardene and Kapila Jayasekere, must be held responsible for the encouragement to criminality throughout the District. Soon after the Mutur exodus on 4<sup>th</sup> August 2006, Muslim criminal elements protected by the Police in Mutur continued their depredations among the displaced in Katalai under the very noses of the Police (see Appendix I). Kantalai is a different SSP's division from Mutur. This could not have happened unless DIG Abeywardene wanted it that way.

Inspector D.M. Abeywardene who was OIC Crimes at Mutur was considered a good officer. He was helpless. He used to complain to friends that elements having the approval of

powerful persons were bringing the Police to disrepute, thwarting his efforts to keep order. He said that the way things were he was going to get transferred.

It was Inspector Abeywardene who was in charge of the successful defence of the Mutur police station in the face of the LTTE attack. It is surely galling for him that his bravery and achievement in leadership have been tarnished by the ASP and OIC who took charge everything was over. They went above him to impose the cowardly and abominable crime of the ACF massacre on the Mutur Police. To add insult to injury, he was forced to assist in the cover up. This backdrop places the crime in perspective.

### **13. Final Pieces of the Puzzle: Events of Friday 4<sup>th</sup> August Afternoon**

How does one explain the two seemingly incongruous events on 4<sup>th</sup> August: One, the radio message from the Trincomalee Police to protect the ACF staff stranded in Mutur and send them to Trincomalee at 2.30 to 3.00 PM and the ASP's and OIC's order around 4.00 PM to go and see if there were Tigers at the ACF office?

The answer is that information about the stranded ACF staff was coming through two different channels – one benign, and the other potentially sinister. It is safe to say that the ACF staff in Mutur did not become a major issue until Friday afternoon. Everyone was too preoccupied with their own problems. In Mutur itself the fact that the ACF staff had not left with the others would have caused some surprise. By then the LTTE was outside town or on the fringes and people were moving about.

Their presence would have reached the Mutur police station through the Muslim home guards who were moving in and out and possibly through other police informants. It was an unusual development and would have been communicated to their superiors in Trincomalee in their regular briefs about the ground situation. The emergency was not over. A plan to bring journalists to Mutur on Friday was postponed to the next day.

The second channel was the ACF itself. They had asked the staff to stay in the office and had planned to fetch them. We have confirmed that after the morning's meeting in the Trincomalee UN office, one group with expatriate officer Elias went towards Mutur with the intention of fetching them. Another group with expatriate officer Frank Kano, Alabdeen and Anthony Romulet Perera set about the task of obtaining help from the security forces.

We verified that this group made telephone contact with SSP Nihal Samarakoon early in the afternoon and told him about the plight of their colleagues. They also made an appointment to meet him and give him the details of those in Mutur. We could be quite certain that this was the cause of the police message to Mutur police station asking them to take care of those stranded. Samarakoon was the SSP in charge of Mutur.

This message was of a general public character. Inspector D.M. Abeywardene was in charge of the radio and the message was heard by several people and got around the police station quickly. Inspector Abeywardene would routinely have communicated this to the ASP and the OIC. There were other radio messages directed to individual officers. In such an event Inspector Abeywardene sent for the person, usually the OIC. The OIC then went into a room alone leaving his bodyguard outside to answer the call in private.

We also learnt from police sources that the officers communicating with and giving instructions to the Police in Mutur were usually one of SSP Operations Kapila Jayasekere and ASP Saman Ratnayake. Inspector Keerthi Ranaweera, OIC Administration, Mutur, was also then in Trincomalee, and was among those who spoke on the radio.

As often happens, someone who did the right thing places a crime in context, which would otherwise have been a blank. Such is the nature of the publicly known radio message from Trincomalee enjoining the protection of the ACF staff. It should normally have deterred anyone intending to cause them harm, but for the arrogant impunity encouraged by this government among sections of the security forces.

The foregoing strongly suggests that the decision to kill the ACF staff was based on local information and exchanges with certain superiors in Trincomalee. The radio message enjoining protection was a nuisance that was bound to raise questions among many of those present, but was ignored. If not for that message it would have been easier to cover up the crime. We reliably understand that one of the earlier efforts at a cover up was to write off the crime as LTTE cadres killed by Muslim home guards.

Several factors point to the crime being a deliberate act in the full knowledge that the victims were humanitarian workers.

It was widely felt among the constabulary in Mutur that Home Guard Jehangir was intent on killing Tamils on that Friday. His homicidal disposition on that day featured in discussions among policemen. For the ASP and OIC to send Jehangir with two of their henchmen and the Special Forces to go and see if there were LTTE at the ACF is none other than an instigation to kill. Jehangir was already railing that the LTTE were there.

The ASP and OIC would not have made such a fatal move by themselves without instruction and cover provided by DIG Trincomalee. Kapila Jayasekere may have been a super SSP who could ignore Nihal Samarakoon, his senior, but an ASP tasked with murder would have wanted further guarantee.

There were no exigencies of war, which might have allowed the explanation of the incident as a mishap. There was no fighting in the vicinity at that time. No one challenged the party that went to the ACF office at any point. The victims were clearly unarmed and were well known in Mutur as humanitarian workers.

It could not have been lost on the ASP and OIC that the ACF premises as those of an international humanitarian agency enjoyed quasi-diplomatic status. Nor could they complain of an exigency or difficulties of communication, which prevented them from communicating with superiors in Trincomalee.

There was radio communication with facilities to speak confidentially. No less importantly, there was ready cell phone access. A cell phone would have been part of a senior officer's equipment. Although the Dialog cell tower in Mutur was down, there was ready access to the Trincomalee signal from the Police Station, which is close to the sea and across Cottiar Bay. Many of those at the Police Station were calling their friends and families on Friday. There can be no doubt that the killing party was sent to the ACF after full consultation with superiors in Trincomalee.

When the ACF party in Trincomalee went to meet SSP Samarakoon sometime around 4.00 PM in keeping with an appointment already made, he was unavailable. This too is strange. It is likely Samarakoon knew that something unpleasant was going on.

Most such crimes are accompanied by curiosities that seem unimportant at first glance, but speak loudly on further reflection. Around midnight on the second a policeman was killed by LTTE shelling. His body was to be transferred to Trincomalee by sea the following day, 3<sup>rd</sup>, where the post mortem was to be done. The Trincomalee Magistrate wanted an order from the Mutur Magistrate. Since the latter was at the Police Station, the Police got him to view the body and make the order, which he did.

Early on the 5<sup>th</sup> morning, local councillor Ragees saw the ACF bodies in the compound and informed ACF Trincomalee about 9.00 AM. The Police certainly knew that the talk was getting around. The Mutur Magistrate was still at the Police Station, but the Police did not ask him to make the order for the post mortem, nor did they protect the site. The tragedy was withheld from the Magistrate who left Mutur later in the morning. We have pointed out that ASP and OIC Mutur would not by themselves have taken the decision to order or instigate the killing of the ACF staff. Who was it in Trincomalee that encouraged them to kill? The following information we received to our inquiries brings us very close to the answer.

#### **14. SSP Kapila Jayasekera and Mutur, 3<sup>rd</sup> to 5<sup>th</sup> August 2006**

We have already said that SSP Jayasekera was in close radio contact with Mutur and what we give below suggests that he was given virtually a ball-by-ball briefing and consulted minutely on every development.

On the 3<sup>rd</sup> when the Police in Mutur contemplated evacuation Jayasekera asked them to hold on saying the Naval Special Forces were coming to relieve them. There was then a move to evacuate the body of the slain policeman with some relatives along with the Magistrate. According to police sources Jayasekera and Inspector Ranaweera told them to keep the Magistrate until they arrived and that they would come soon. The body went, but the Magistrate was kept behind.

The strange developments surrounding the killing of the ACF staff has been described and also the celebration and congratulations from the ASP and OIC that followed. This was 4.00 to 5.00 PM on the 4<sup>th</sup>.

SSP Jayasekera and Inspector Ranaweera arrived at the Mutur police station about midnight on 4<sup>th</sup> August, hours after the ACF massacre. Jayasekera slept in what was a sort of reception room. In the morning the SSP was with the officer in charge of the commando unit, thought by those present to hold the rank of a major. The ACF bodies had been seen early in the morning and the Police certainly knew that the talk was getting around. Yet Jayasekera who had held the Magistrate back in Mutur did not breathe a word to him about the work he had in hand. The bodies lay in the sun and rotted. According to official police records, Jayasekera was told about the killings by ACF Trincomalee on the 6<sup>th</sup> upon which, the DIG presumably, appointed Jayasekera to investigate the crime, bypassing SSP Nihal Samarakoon.

DIG Rohan Abeywardene must explain how he appointed or at least allowed Kapila Jayasekera to be in charge of the investigation of both the Five Students' and ACF cases, where Jayasekera was himself the chief object of investigation. The similarity of the crimes

too could hardly escape notice. In both instances young, unarmed Tamils were surrounded and executed after any prospect of escape was blocked.

Jayasekere and DIG Abeywardene need to be investigated very thoroughly in respect of both the cases. These two officers along with SSP Nihal Samarakoon are liable in virtue of command responsibility. Samarakoon needs to explain himself. Even if he was just conning along with some nasty officers, he is as liable. Why did he miss the appointment to see the ACF representatives on Friday 4<sup>th</sup> August 2006 afternoon? Did a superior ask him to take a break?

Further issues on both the cases and some testimony will be dealt with in the Appendices and the Addendum.

### **15. Calling the State's Bluff – Time for Concerted Action**

One thing is certain about the ACF killings. They would not have happened if minimally, timely disciplinary action had been taken against SP Kapila Jayasekere once his role in the Five Students outrage became widely known. Instead he was promoted to SSP in July 2006. The ACF killings followed just after – a celebration observed by the Mutur ASP and OIC with handshakes. Jayasekere may not have spelt out the order for the ACF killings, but in his presence the air in the Police Force was reeking with impunity – anyone could do anything. Both killings flowed from the same compulsion to kill young Tamils.

That brings us to the State. For two years it has gone on denying, obfuscating, abusing detractors, intimidating or killing witnesses and making matters progressively worse. Our envoys like the foreign minister, foreign secretary, minister for human rights, attorney general and many more have tried to cover the country's shame with rhetoric – *'We have our Supreme Court, our judges, our own Police Force, Attorney General, forensic pathologists and ballistic experts. We don't need foreign help in investigations that are progressing well'*.

The ACF case by itself proves this rhetoric to be empty – not because of local incompetence but because of malice. Malice against justice and against the minorities. We use the word malice advisedly because it is an unvarying condition, with no desire for correction.

Take the Chief Justice's role as ex-officio chairman of the Judicial Service Commission. He had the ACF case transmitted to the Anuradhapura Magistrate after the Mutur Magistrate had issued orders in the exercise his investigative function (Special Reports 25 and 27). The public senses the true intention of such meddling. For one, it scares off witnesses. An important witness Haji Abdul Rahuman, who was earlier down to testify, is now missing. A bold local magistrate who is strict with the Police can do a great deal for justice and this instance, the case was moved out of the locality. There are at least two more important instances of the JSC removing magistrates from cases to cover up for the security forces (Special Report No. 25 and Appendix III of Special Report No.29)

The Attorney General's Department that has led the evidence at the Commission of Inquiry purposefully relied on the distorted evidence and accounts provided by the Police. It has not helped in making any honest breakthrough, in contrast with the alacrity with which it set out to quash Dodd's identification of a 5.56 mm projectile.



We must also question the bona fides of JMO Anuradhapura who was mysteriously imposed as pathologist for this case. We now know that the time he put down in the inquest reports, 'Most likely in the early morning of 04 August 2006' was very misleading. He must also explain the missing original photograph of the '5.56 mm' bullet found in Romila at the second autopsy that has remained a subject of controversy. Now that we know that Uzi submachine gun and other bullets had also been used that did not turn up in the investigation, we must ask if the Anuradhapura JMO removed any evidence during the first post mortem.

Further, the fact that only one type (7.62 mm) turned up in the investigation, whereas the fact that at least three different types of bullets were used, along with controversy about the type of bullet found in Romila, questions the integrity of the process of collection, preservation and transmission of evidence and ballistic analysis.

As for the Police that was directly responsible for the killing of both the Five Students and the ACF staff, it has largely ceased to be a police force. In a state that has deliberately truncated itself to a Sinhalese State, the Police have been increasingly used as its criminal arm.

The hypocrisy about our state institutions has to stop and the fact has to be faced that there has been a long history of justice being out of reach especially for the minorities, even in respect of sensational crimes that draw world attention. This hypocrisy reaches bewildering heights when our Foreign Ministry secretary Dr. Kohona, an Australian citizen, articulates Asianness (*New York Times* 9 Mar. 08) as governments who are nice and courteous to each other – leave alone however abominably they treat their own people.

The ACF case has been an act of grand perjury where the entire hierarchy down to the Attorney General's Department and Police have misled the evidence. We will not insult the AG's Department by supposing that the truth evaded their intelligence. The President disingenuously cited the paucity of witnesses in the Five Students case and allowed Kapila Jayasekera to get a promotion. The Government has piously refused any foreign role in checking our institutions citing their virtues that now lay naked before the world. Who will now see that a measure of justice prevails in Sri Lanka?

It is not without great pain that we appeal to the outside world for justice. In our courts and police we had institutions that were working quite well until the communal violence of 1977 when the new UNP regime used the Police as an instrument of appalling crime against a minority. The institutions never recovered since, but deteriorated further. This is not going to change overnight and certainly not under this Government. We have no alternative but to eat humble pie and accept outside help.

It abases us and hurts our pride and often, for unfair reasons, our self-respect. When we had working institutions solving the cases above was routine work. But today the criminality of the very institutions that are meant to deliver justice has thrown huge barriers against justice and the people are helpless.

In this connection we welcome UN Human Rights Commissioner Louise Arbour's statement on 15<sup>th</sup> January with regard to the Sri Lankan conflict where she pointed out that international law prohibited all sides in the Sri Lankan conflict from committing unlawful killings or torture, arbitrary detention, recruiting or deploying child soldiers, and forcing people out of their homes. She said "***Violations of these rules by any party could entail individual***

*criminal responsibility under international criminal law, including by those in positions of command.*” It is now time for her and others of a similar mind to get a move on.

### **A Note on the Addendum and Witness Protection**

We received important testimony that corroborates aspects of the evidence cited above. Every revelation of sensitive evidence at present leaves someone potentially vulnerable. We are constantly faced with the dilemma of balancing the public good that revelation would bring with the danger faced by witnesses. Young Tamils are being targeted by the Defence Ministry’s killers simply because they were active or showed some spirit – that is all the 22 victims considered in this report were guilty of. The recent case at the end of Appendix II shows how little a life counts under this Government. No investigation and even the Press too scared to report it. The Tamils certainly need liberation from the Tigers but not to live under a regime that is no better.

After 15 months of the Commission of Inquiry there is no meaningful protection for witnesses or others. Three witnesses were killed. Haji Abdul Rahuman, a key witness in the ACF case, is missing from late 2006 after the Police had identified him as a witness. The Police has thoroughly misinformed the CoI about him. Others affected in the two incidents have been continually harassed and intimidated into leaving the country. Some did not have the means or the will to carry on in Sri Lanka. Asylum in a few prominent cases cannot be the solution to a much larger problem. This should never be lost sight of.

[Appendix I Armed Muslims in Mutur \(File Attached\)](#)

[Appendix II Trincomalee Where What Seems is Not Quite \(File Attached\)](#)

[Appendix III Mr. Yogarajah’s Testimony Concerning his Sons \(File Attached\)](#)

[Addendum Guns, Bullets and Wounds](#)

[Press Release for Special Report No 30 \(File Attached\)](#)

### **Appendix I, Special Report No. 30**

#### **Armed Muslims in Mutur**

In recent years Muslim militancy gained ground as a reaction to the LTTE treating them very badly after the 2002 CFA. The LTTE resorted to abductions, killings and organised Tamil mobs to attack Muslims. An undercurrent of this activity was to constrict the space and economic life of Muslims, and importantly use terror as a means to keep Muslims out of certain areas. The LTTE was interested in circling Trincomalee harbour with its own military and naval bases to interdict the Navy’s use of the harbour whenever hostilities broke out. To this end the LTTE tried to dominate the land between Mutur and Kinniya in addition to Mutur East. (See Special Report 14 and Bulletin 33.) The Karuna split in 2004 made the LTTE’s ambitions in the East unrealistic.

We mentioned earlier that Abdul Hakim, a Muslim militant leader in Mutur, was shot dead by the LTTE on 30<sup>th</sup> September 2005. Muslim groups were loosely called different names depending on the area. In Mutur there were two types of Muslim armed groups. One was generally referred to as the Osama group – just a label and nothing more, though during the anti-Muslim violence by the LTTE early in the CFA this seemed a useful name by which to refer to armed Muslims to promote the LTTE in the West. Armed Muslim activity in Mutur was purely a local reaction to the LTTE without further ramifications.

After Hakim died the militants divided. One group remained armed. The other felt that Jihad is a deeper, ethically demanding concept that is much more than carrying arms and became a non-violent religious group. The second group became law abiding citizens and started exposing crimes of the militant section.

Another set of armed Muslims is the home guards. Often in the same family, one would be a home guard, while another would be a militant without a state affiliation. The security forces did not bother about this as both served their purpose of controlling the LTTE by lawful and dirty means.

With the CFA breaking down in 2006, the Government began using armed Muslim groups openly as they were using the Karuna group. They were used to target Tamils supposedly friendly to the LTTE, inasmuch as the LTTE continued to target Muslims. When the Government definitely decided to restart the war by May 2006, it wanted the International NGOs out. To this end the Army assigned an officer widely known as Captain Silva to use armed Muslim elements to do the job.

From early May tensions built up with reports of the Army inducting members of the Karuna group and hosting them at Kattaiparichchan army camp as a prelude to an operation to capture Sampoor and Ralkuli. By 15<sup>th</sup> May, tensions reemerged between Muslims and Tamils because of some killings and disappearances on both sides. On 15<sup>th</sup> May, 700 Muslim people were reported displaced at 58<sup>th</sup> and 59<sup>th</sup> Milepost (Azathnagar, Jinnahnagar and Koorkandam). Mutur also saw some scare mongering with leaflets signed by such unknown groups as a Tamil Eelam Village Force of unknown origin threatening Muslims and Sinhalese to leave Tamil Eelam.

On 21<sup>st</sup> May grenades were thrown at the Mutur offices of the Non-Violent Peace Force (NVPF), ZOA and InterSOS, with no intention of harm to persons and at Emergency Architects a few days later. To a large extent such harassment succeeded. On the Magistrate pushing the Police, towards the end of July the Police arrested six persons in connection with the bomb throwing.

We documented in Special Report No.26 the use of Muslim home guards on 10<sup>th</sup> June 2006 morning to murder Krishnapillai Ravichandran (43) of Menkamam who was returning home by bus with his wife from Mutur Hospital. The killing was done on a short stretch of the road in town where the Army was present. A home guard got into the bus, killed the victim, and unintentionally a 12-year-old boy, and just got down and went away.

On the night of 15<sup>th</sup> June 2006, Emergency Architects was robbed. Two local security guards and two expatriates were threatened. Organisation money and documents from expatriates were stolen. While the earlier organisations functioned also in the LTTE-controlled area, Emergency Architects was involved in an uncontroversial housing scheme among Muslims

and employed mainly Muslims. After this expatriates in Mutur left for a time. ACF was the first to return at the end of July.

Two weeks before there was an attempt to extort money from a Saudi Arabian NGO. The extortionists were trapped in a sting operation where fake money was taken in a suitcase and the Police arrested those waiting to receive it. The string of attacks and attempted robbery during this period was an indication that something was brewing.

The last incident was an interesting comment on what the Police hierarchy wanted. The sting was organised by Sub Inspector Athula, a man with a good reputation. He was then transferred out. According to persons close to him, the transfer was made on the order of DIG Rohan Abeywardene who was unhappy with Athula's action in checking crime.

A number of persons were also remanded and a combination of home guards and militants was involved. The persons remanded over the robbery at Emergency Architects were militants Seiyathu M. Aameem and Kochi Mohamed Marzook. These two were in the remand prison in Mutur during the siege of August 2006. Someone at the Police Station, possibly home guards, had helped them to bend the gate of the cell and get out. There was no attempt to apprehend them later.

Mohamed Haniffa Mohamed Fareed, a home guard, and another (possibly the well known criminal Amir Naheem), had been arrested in connection with attempted extortion of the Saudi NGO and sent to Trincomalee prison. Jehangir, a home guard and helper of the militants had been wanted for the extortion case. He fled Mutur and had returned two weeks before the siege. It was he who took part in the ACF massacre.

A point that needs to be mentioned here concerns the group that functioned as a religious group after breaking off from the militants. In the Emergency Architects robbery case, two of them gave evidence before the Magistrate that led to the arrest of the culprits. They were Nazar and Ghazali. In connection with this case threatening calls had been made to the court and the Mudaliyar had been threatened. The witnesses had also told the court that they were under threat.

### **After the Siege: Crackdown on the Militants**

During August 2006 itself the security forces had been tolerant of the Muslim militants and even helped them to get rid of their enemies. We reported the following in Special Report No.22 of 23<sup>rd</sup> August 2006:

*“The Muslim refugees reached Kantalai on 5<sup>th</sup> August. That same evening S. Sriskandarajah, a Tamil tailor aged 35, was abducted after dusk and was found shot dead in a paddy field with his hands tied. On the 7<sup>th</sup> a Muslim woman relief worker had dinner at the home of a Tamil woman. The hostess remarked sadly over dinner, “They are catching our boys one by one, taking them and killing them.” After dinner she went to the Periatruveli (Moor through which the Big River flows) School, which had Muslim refugees and found the place in a commotion. She was told that some persons had come into the camp about 9.30 PM and woken up two sleeping refugee men. Those who came evidently knew the refugee men, who followed them into an auto rickshaw, which drove off. She also observed some masked security personnel who were posted in the camp supposedly to protect the refugees.*

*“People were generally reticent about the affair, except to say that the men were important, who stood up for the community, and were planning to go to Ganewela the next day. The bodies of the two men with faces partially burnt were recovered from the neighbourhood about 3.30 AM. Subsequent inquiries identified the men as Nazar and Ghazali. Nazar’s story is a sad one. His wife died of her injuries when a shell struck Al Hilal School in Mutur. His daughter was injured by shelling at Kiranthimunai during the march. (She and her two brothers are now with their grand father.) Nazar was planning get a vehicle from Ganemulla to go back and collect his wife’s body. The people suspect that their murder may have to do with the robbery of an NGO in Mutur, for which Nazar and Ghazali gave evidence and had the robbers convicted. But the fact that the killers, whose identities cannot be hard to trace, got away so easily raises pertinent questions.*

*“It appears likely that the killers here were Muslim criminal elements originally from Mutur, presently used by the security forces and placed in Kantalai to monitor the refugees coming in.”*

That was the story of Nazar and Ghazali whose evidence helped to convict the robbers of Emergency Architects who escaped from the Mutur remand during the siege and are now free men. As for the atmosphere at the refugee camp from which the two hapless men were abducted and killed, we give a photograph below taken at the camp the same night Nazar and Ghazali were abducted and killed. The place was well guarded by policemen wearing masks.

The State’s use of armed Muslims to screen the Muslim and Tamil displaced has a strange parallel with what the LTTE was doing. We have argued before that the LTTE’s purpose in taking Mutur and using the exodus, which they encouraged, to screen the refugees at Kinanthimunai, was to pick out and get rid of Muslims and Tamils close to the security forces or involved in armed activity against them.

### **Crime as Part of Government Policy**

This meant that the police were using the same criminal elements calling themselves Osama or whatever to screen the refugee population coming into Mutur – both Muslims and Tamils – and helping them to get rid of enemies who exposed their crimes. Even stranger is the sighting of Jehangir in Kantali on Saturday 5<sup>th</sup> August 2006, the day after the ACF massacre in which he took part. They were making good use of the motorcycles stolen from the ACF office to have another field day for their criminal activities in Kantalai, with the connivance of the Police.

On 5<sup>th</sup> August 2006, Mathivanan who was the court mudaliyar in Mutur and was part of the exodus, was travelling to Trincomalee with AGA Seruvila, a Sinhalese, in the latter’s vehicle. Muslim thugs from Mutur who were under the patronage of the Police stopped them at Kantalai Junction. It became clear that they singled out Mathivanan, because some of the armed Muslims in Mutur had been remanded by the Mutur court over several crimes. The thugs threatened him, *“Your people threw our friends behind bars. We will kill you wherever you are.”* They also issued threats against the Mutur Magistrate.

Mathivanan, recorded the incident in an appeal letter to the Judicial Service Commission, where he requested a transfer from Mutur because of threat to life. He took it to the JSC’s assistant secretary who refused to transfer him out of Mutur. Mathivanan had no choice but to resign his job. He is back at home in Kekirawa, teaching English for a living.

This falls into one pattern with Trincomalee DIG Abeywardene's transfer of Sub Inspector Athula who apprehended the persons attempting extortion from a Saudi NGO. Indeed, extortion, abduction and murder involving Tamils and Muslims, where the Police turned a blind eye, had become standard fare in Colombo at that time. Crime was deliberate policy to cramp the minorities.

One event panicked the security forces and pushed them into cracking down on Muslim militants.

### **One Show Ends, What Comes Next?**

We observed that two motorcycles were stolen from the Mutur ACF and the ACF had lodged a complaint about this. Before or about the end of August, two Muslim home guards were produced before the Magistrate for the theft of the motorcycles. They were Abdul Faleel Abdul Cader and Jamaldeen Muhamathu Imsham. The motorcycles were recovered in Kinniya. The two arrested said that they had found the motorcycles abandoned during a clearing mission. Of course they could not say that one at least was stolen in the presence of the Police and Navy commandos during the massacre.

What rattled the authorities is that during the siege from 2<sup>nd</sup> to 4<sup>th</sup> August, Cader and Imsham had been taking guns out of the Police Station and hiding them outside with the intention of selling or giving them to the militants. During the siege the Police were dependent on the home guards for intelligence and they were moving in and out. It was easy enough for them to walk out with a gun as though for their protection. Scores of firearms went missing, perhaps in the region of a hundred.

Further, once the Government started capturing areas of the East under LTTE control, the threat from the LTTE receded and the Muslims also became upset by moves towards Sinhalisation. The latter took the form of claiming lands for possible Sinhalese settlement and putting up new Buddhist temples in contested sites. This was when the authorities became nervous about the loss of weapons from the Mutur Police Station.

In June 2007, a CID team came from Colombo and began arresting Muslim militants and trying to recover weapons. Some weeks later the militants were released. According to local talk, they had all been tortured, given a severe thrashing and warned that they must not go to a hospital to dress their wounds. In early March 2008, the Police marched a companion of the notorious home guard Farook through Mutur in handcuffs. Evidently he was suspected of having arms.

The honeymoon was over. But if the Tamil case is any guide, this will not be the end of the story when the community is left feeling bitter and cheated. Like in the Tamil case when the community felt alienated, the people backed the armed groups to a point, and then felt thoroughly disillusioned by their crimes and authoritarian approach.

[Masked troops on Duty at the Periatruveli School Camp at the time of the Abduction of Nazar and Ghazali](#)

## Further Background to the Five Students' case

### Trincomalee Where What Seems is Not Quite

In Trincomalee District where the three communities live together and deal with each other, a form of governance dedicated to equality and fair-play would have helped them to find their balance. Their economic life for example is interdependent. Soon after the December 2004 tsunami there was a manifestation of spontaneous unity and mutual sympathy. These relations have suffered both by governments intent on pushing Sinhalese as well as the spur this provided for the growth of a countervailing Tamil extremist force – the LTTE. The present government has shown a strong tendency to use the slogan 'fight against terror' to crush the minorities and push for Sinhalese aggressively.

While the conflict has perverted relationships and concentrated power in a few players leaving the people out in the cold, the fact that the three communities are culturally very close has also factored into these relationships. Because of this inherent closeness, tragedies too became poignant during outbreaks of violence.

Until July 1987 Tamils were at the receiving end of violence by the security forces when a large number of Tamil houses and premises were destroyed and scores were killed. Soon after the Indo-Lanka Accord, in September 1987, a Tamil mob, which also included Tamils released from detention under the PTA, went on the rampage in Trincomalee against the Sinhalese. Special Report No.8 gives a scene whose poignancy is enhanced because the two communities are far from being strangers:

*"An old [Sinhalese] man who went to a Tamil house to purchase milk for his grand-daughter when confronted by Tamil hoodlums pleaded for his life from the lady of the house. She was unable to stop them chasing the man and beating him to death."*

Under the perverting influence of conflict, inter-communal cooperation tends to show up in criminal activity and in the deplorable activities of intelligence agencies rather than in healthier activities that promote goodwill. This made Trincomalee a place where what seems is not quite what is.

**Sakthy Festival 2000:** On 12<sup>th</sup> April 2000, Sakthy TV organized a New Year Tamil music festival at McHeyzer Stadium Trincomalee. A bomb was thrown at the back of the stage 10 minutes before the concert, killing eight, including a policeman and injuring scores. In the dark the bomb thrower was seen getting away. The universal opinion among Tamils was that the bomb was the work of Sinhalese extremist elements among the security forces who could not stand any assertion of Tamilness in Trincomalee. The fact that the bomber was not apprehended added to this suspicion.

It was recently that we received the testimony of a bodyguard of Paduman, the former LTTE leader for Trincomalee, now in Switzerland. He said that Ruban (an LTTE political leader now dead) paid Rs. 2000 to the Sinhalese underworld element Ice Manju to throw the bomb at the music festival. Ice Manju whose father used to break ice for packing at the Trincomalee fish market managed to operate keeping links with both the LTTE and the security forces. One could name a number of Sinhalese businessmen in Trincomalee who functioned in this manner. It was realpolitik.

The LTTE had business dealings with Chooty Mudalali, whom it gave fishing rights in Pudawaikkattu, Kuchchaveli and areas to the north of these. A Sinhalese underworld element Kapila used to attack Chooty as pro-LTTE. Ice Manju shot Kapila in the fish market during the CFA guarded by four members of the LTTE. Manju also acted as an informant to army intelligence, which the LTTE used to lure Colonel Meedin of army intelligence and kill him in October 2005. Manju is now believed to be with the LTTE.

Both sides are guilty of actions calculated to spread misery and keep tensions high in Trincomalee. The bomb at the music festival illustrates the brand of politics advanced by the LTTE. Such actions

were a way of fostering the ferment of extreme Tamil nationalism among the young, greatly aided by the constant threat of Sinhalisation pushed by several governments and the security forces.

Many Tamils understood that extreme nationalism is disastrous. The LTTE constantly countered such voices. One was its notable assassination of the moderate Tamil MP A. Thangathurai on 5<sup>th</sup> July 1997. Even among the young it allowed no room for alternative views and it used persons in civilian life to spy and do its dirty work. Pakkiyanathan Vijayashanthan (Vijayan) was a young activist who on Human Rights Day in December 2000 spoke at a meeting making a plea for Tamils to accommodate Muslim aspirations.

A few days later, *Thandaham*, an NGO in Valaichenai brought fisher folk for an outing in Trincomalee hosted by local fisher folk. Some who wanted to see Koneswaram Temple from the sea were taken in a fishing boat. Three of those in the boat, who were pro-LTTE nationalists pushed Vijayan into the sea and did nothing to rescue him. Some who saw it some way off rushed there in their boat and pulled him out. Those who pushed him in simply said that they wanted to see if Vijayan could swim!

While the LTTE attempts to manipulate the political space in Trincomalee, Tamils had also to rely on the goodwill of some influential Sinhalese to negotiate life in an environment dominated by Sinhalese security forces. Albert Hendrik Weerakody of Orr's Hill, a largely Tamil neighbourhood, was one such person to whom Tamils turned.

Opinions among Tamils about Weerakody vary. Some credit him with being a good man who stopped attacks against Tamils after 1985. Some felt he was communal minded but they could not live in Orr's Hill without him. Whenever people had problems with the security forces regarding for instance arrests, they went to Weerakody and he helped. The LTTE in mid-October 2005 inexplicably began killing a number of Sinhalese businessmen.

In mid October 2005, Rupasingha Arachchilage Hemapala (56) better known as Baby Mudalali, a strong UNP supporter and a well-known businessman in Mattikali, who had lived more than 50 years in Trincomalee and had very good relations with the Tamils, was killed by the LTTE.

On 3<sup>rd</sup> December, K.B. Hemasiri alias Lokka Aiyya (49) was shot dead. He grew up in Trincomalee since he was 13 years of age and owned a fish stall in Trinco. He was killed at his business premises.

On 19<sup>th</sup> December H.M. Chandradasa, a father of six, of Lenin Street, Abhayapura, who had been in the vegetable business for over 25 years at Anuradhapura Junction, was killed in an eating house nearby.

This is the context in which Defence Advisor Kotakadeniya, with the Defence Secretary's consent sent an STF team of 28 persons under Inspector VAS Perera to operate under the instructions on SP Operations Kapila Jayasekera. The killing of Weerakody followed on 24<sup>th</sup> December 2005, immediately after which two Tamil auto rickshaw drivers were killed in reprisals.

A person of mixed parentage who attended Weerakody's funeral had told others that Weerakody's son who was a security guard at People's Bank had threatened at the funeral that ten Tamils must pay for his father's life.

In the normal vein of its politics the LTTE wanted to heighten tensions in Trincomalee. On the other side there was a new government dominated by Sinhalese extremists who wanted to teach the Tamils a lesson. We have no doubt that the incident where the Five Students were killed was planned with a vindictive purpose with the full force of the Defence Ministry behind it, with all arms of the security forces ordered to cooperate with the Police that was executing it (Special Report No.24).

As to why the beach was chosen for exhibition murders, it was a place the young gathered in the evenings and the friends who were targeted were also there regularly. We have also pointed out that the LTTE moved aggressively to control all the openings for political discussion and opinion. Wherever the young gathered, the LTTE was there in some form canvassing support for its destructive politics. For this reason many parents discouraged their children from going to meeting points. With the extremist drift of politics in the South, many, or even most, young Tamils are bound to accept LTTE propaganda about the plight of the Tamils uncritically and that is not their fault.



A student who was present at the scene who was two years senior to the five boys killed. For his own sake his testimony must be obtained and the matter cleared. We will refer to this student as S.

\*About 5.00 PM on 1<sup>st</sup> January, S with the circle of boys that included the victims were eating at Kumar's restaurant that is next to Jothy Theatre. An STF vehicle that came very fast stopped at the restaurant and then STF men came in, questioned the boys, checked their identity cards and went away taking S. But they dropped him at the Post Office Junction within a short time.

\*We have given in Special Report No.24 and earlier, a number of indications that the incident of that evening had been planned. A brother of one of the victims described what a stallholder at the beach next to EHED told him he witnessed. That evening one of the victims Rohan and some others bought some sweetmeats at the stall and as a friendly gesture gave a piece to the navy man on duty at the checkpoint nearby. The navy man told them not to hang around there but to go away quickly.

\*When the bomb was thrown from the green auto rickshaw, S too received a slight injury on the foot and ran away, possibly through Customs Rd. and was in hiding for several months. He apparently did not go to any clinic to treat his shrapnel injury.

Because S himself was at the scene and was injured, it seems very unlikely that he was in any way party to what happened. Quite possibly when the STF took him the previous day from the restaurant, as one of the parents thinks. They may have talked in a friendly manner with the frightened boy and obtained information about the habits and movements of the others. It would be better for him if he testified and put the record straight.

As for Hemachandran-Aathavan, who drove the auto rickshaw from which a son of Weerakody's and a vegetable seller threw the bomb at the boys, he is now believed to be in Qatar. He is the Tamil version of Ice Manju. Trincomalee awaits a healthier political dispensation where the two communities would have a meeting point in true friendship rather than in crime.

### **After January 2006**

Trincomalee has since the killing of the Five Students been continually troubled and polarised. On 12<sup>th</sup> April afternoon, a bomb blast in the Trincomalee market which resulted in six deaths led to a rampage by the Navy, some members of the Army and a Sinhalese mob in which seven Tamil civilians were killed, nearly 30 Tamil business premises being burnt and violence spread to surrounding areas led by the security forces. What was striking was that the riot started within five minutes of the bomb and we now have a senior navy officer telling a Tamil friend that the Navy was involved in the organisation. The Police kept away and the phones of all the security forces commanders in Trincomalee failed to answer.

To this day even the best-informed are not sure about who planted the bicycle bomb. One businessman told us, "*The LTTE has not denied planting the bomb, but then there was organised rioting within five minutes of the blast.*" Some with a good knowledge of the workings of the intelligence services are skeptical about the LTTE planting the bomb. They see it as part of the trend of the State's actions at that time, starting from the abduction of TRO members and the killing of the TNA politician Vigneswaran in Trincomalee five days before the market bomb blast. It was a time the Karuna group and some cadres of the EPDP were being used by the State in dirty operations.

The trouble at that time was that there was no qualitative difference between the actions of the LTTE and those of the State. The killing of the Five Students served for the LTTE the same purpose served by the Sakthy festival bomb blast. But one was the work of Sinhalese extremists while the other was the work of the LTTE.

On 25<sup>th</sup> April 2006, following a suicide attempt on the Army Commander by the LTTE, naval shelling from Trincomalee and air force bombing killed 13 Tamil civilians around Sampoor. This was attack for the sake of attack. An air attack on an uncertain target killed four Muslim civilians in Vattam adjoining Mutur town. To cover it up the Police prevented the Magistrate from going in saying it was dangerous.

On 1<sup>st</sup> May an LTTE bicycle bomb apparently aimed at a navy patrol on Vidyalayam Rd. killed four Tamil civilians, a mother her two children and their auto rickshaw driver, besides a navy man.

From August 2006, the security forces, Sinhalese home guards and Tamil paramilitaries began killing, quite openly, anyone with a past association of even the most innocuous support for the LTTE. The latest innovation is a novel addition to the modus operandi of state terror anywhere.

**The Hearse:** In the wake of government bombing in the Vanni and LTTE bomb attacks targeting civilians in the South in January and early February 2008, a Sinhalese mob in Abhayapura wanted to attack the Tamil area of Anbuvelipuram. The Police stopped it. But that was not the end. On 6<sup>th</sup> February at 6.45 PM some youths were chatting on the road at Anbuvelipuram. Ten security forces men on five motorcycles appeared accompanying an auto rickshaw with its sides draped in black like a hearse. The funeral procession stopped. A man in the auto rickshaw, who could not shoot straight, opened fire. The intended targets, two youths who had during the CFA helped to decorate for the LTTE inspired Pongu Thamil celebrations, ran through a saloon and escaped. Two youths **Jeevakanthan** and **Kutti**, who had nothing to do with the LTTE were killed. An aid worker who was talking to friends received a slight injury on his foot.

The next day the Army washed the bloodstains from the road. For the State, murder is so simple. No newspaper reported this.

In the same area again another sadistic act was performed on 29<sup>th</sup> February 2008. On 4<sup>th</sup> February three youths were abducted from the area of whom nothing more was heard. One of them was Thiyoda Christopher (20) whose wife was under 18. On 29<sup>th</sup> February Christopher phoned his wife and told her that he was being released and was coming home. The wife happily spread the word. But her husband did not come. The same night, a van came into the area, dropped a man, made a turn, shot him dead and went off. It was in the morning that the wife found the victim to be her husband. There were marks on his hand to suggest that he had been administered saline, probably after torture. The same day the Karuna (Pillayan) group came and explained to the people that these killings and abductions are not done by them. The people are now convinced that the Navy and Sinhalese home guards are behind these. So much for Sri Lankan culture as portrayed by this government.

### **Appendix III, Special Report No. 30**

#### **ACF and the Question of Responsibility**

### **Mr. Yogarajah's Testimony Concerning his Sons in the Five Students and ACF Tragedies**

**February 2008**

#### **Introductory Notes:**

There are several important questions for the ACF. Were they sensitive enough to the plight of their local staff in forcing them to go to Mutur on pain of losing their jobs, at a time when several among them had anxieties that in retrospect were well founded and nearly all other NGOs advised against it? Was correct procedure followed in sending the staff to Mutur, procedure in this case designed for a situation of Security Level 3? Why was the decision of middle level managers and lower level staff on Friday 28<sup>th</sup> July 2006 that Mutur was unsafe, because of hostilities nearby, simply vetoed by those at high level?

Was enough done once the danger became evident? Were the actions of ACF adequate in securing justice for the dead and respecting the rights of the families including assisting with access to legal representation, to information in Tamil, assisting in securing adequate Government compensation and facilitating protection from harassment or worse? Are the ACF adequately assisting in facilitating

security and continued employment for staff involved in the collection of their colleagues' bodies? providing comfort for the families? We wrote in Special Report No.23:

*“As for the ACF itself, we understand that they were operating on security level 3 after the troubles affecting Trincomalee last April. When the Air Force bombed Vattam in Mutur killing 4 Muslim civilians, an ACF vehicle distributing water was just 200 yards away. Security level 4 is one that prompts evacuation. At security level 3, all decisions to send the staff away from base, Trincomalee town in this instance, to work in an outlying area, we learn, must be routed through the head office in Colombo...”*

*“Those sent to Mutur were normally sent in vehicles on Monday to stay over in Mutur until Friday when the vehicle would return. Those coming back in-between would use the ferry. Fighting between the LTTE and the Army was going on ten miles south of Mutur and there was fear that it could affect Mutur any time. The local staff members who were to go to Mutur on Monday 31<sup>st</sup> July did not want to go. We are told that two of them applied for leave and were turned down. About 5 food security workers were sent to Mutur on Monday.”*

Kodeeswaran's family, especially his mother, who knew the ill will of the security forces towards him did not want him to go to Mutur at that time. One of the girls, Kovarthani cried at home when she was asked to go. Ganesh, the driver, Konesh and Murali had also been against going. Ganesh and his daughter Kavitha died in Mutur.

The earlier Programme Manager who left in mid-June had ruled that no staff should be sent out of the base without consulting them on their assessment of the situation and had ruled that girls should not be sent to Mutur. All this was suddenly changed and the four girls who were sent did not return alive.

Regardless of any mistakes or negligence on the part of ACF the targeted killings of civilians, even during war, is not acceptable. These were not civilians caught in crossfire or killed in the shelling of the town. They were deliberately sought out, forced to kneel down on the ground and shot repeatedly leaving no survivors. Any attention given to the ACF should never detract from bringing to justice the perpetrators of this heinous crime. We will let Mr. Yogarajah speak on the tragedies involving two of his three sons.

### **Mr. Yogarajah's Testimony**

#### **Part I The Five Students' Affair, 2<sup>nd</sup> January 2006**

Note: What Mr. Yogarajah calls the Army here must be read STF. There were no reports of army personnel being present at that place. Where Mr. Yogarajah saw them was very near the Old Police Station where they were quartered. This is yet another indication that the STF personnel who remained at the Old Police Station had come out to the Junction and switched off the light, while the group that was at the Clock Tower came along Fort Road to the Gandhi Statue. This further discredits Inspector VAS Perera's claims about his movements, motives and the deployment of those under him.

Mr. Yogarajah: “My property is the third from the beach to the interior. Just 50 metres away and the beach could be seen from my house. We heard the bomb blast around 7.30 PM. My wife drew my attention to the blast and wanted me to go and have a look. When coming out on to the main road, I saw the army personnel at the junction. As I got close, they stopped me,

hit me on my back and asked me to sit down. I fell down and lay with my chest down. I saw 20 to 25 persons there in that condition. There was a Navy checkpoint there at the Guest House corner. Naval personnel are usually there. As I squatted a powerful light that was by the side of the road was switched off. I think it was the Army that switched it off but I did not see who did it. A few minutes after the light went off, I heard several boys shouting, “*Aiyo Amma*”. Their screams lasted about five minutes. Then I heard gunshots. Yes, I marked that they were not shots fired upwards, but had the distinct pound of shots fired at the ground. I realised that a tragedy had taken place. I must have heard 20 to 30 gunshots. About 10 minutes later we were asked to get up and go back the way we came. There were also navy men there in blue uniform. They did nothing to us. It was persons in khaki who ordered us to sit, hit us and asked us to go. They could be the Police or the STF. Those who were made to lie on the road included women. I was the last to come there. I did not see them hitting anyone except for the fact that they punched me on my back.

I went home and told my wife that there had been a calamity and that I would go to the Hospital. There was that heavy prompting within me that something had happened to our son Hemachandran and that one of the voices I heard was his. It must then have been about 7.50 PM. I got on to my bicycle and took an interior route.

Asked if he saw any vehicles while he was at the UC, Mr. Yogarajah replied, “I could see nothing because the lights were switched off. It was all very dark. I saw no movement of people or vehicles while I was there. Those who stopped me were wearing military-type uniforms. One man pointed the gun at us and shouted aloud in Sinhalese, “*Okkama Kotti, vedi thiyanda ona*” (All are Tigers, [and] must be shot). Some of the women there began screaming.

**At the Hospital:** I saw naval personnel here and there on my way to the Hospital and passed three or four of their checkpoints. They neither stopped me nor asked me anything. At the time I went there were no military personnel at the Hospital entrance. I saw some doctors standing looking at the entrance. I asked some of the *kanganies* (supervisors) if there had been an incident, to which they replied they heard there had been one, and that is why they are on alert. It was past 8.00 PM when a jeep arrived. It stopped at the entrance to the hospital building. I went near and peeped inside. I saw two bodies and nothing else at the back. Two policemen were seated in front. I climbed into the jeep from a side. I turned the bloodstained faces to see if either was my son. My son was not there. The *kanganies* came with stretchers when the vehicles with the victims arrived. I too helped to carry the bodies. Two jeeps arrived 10 minutes later. The first brought three bodies and the second, two. I got into the first as before. I could not recognise the faces, but my son was not there. In the third, I saw one, which from the features and the dress I recognised as my son. I began screaming.

Upon unloading the bodies the jeeps speeded away.

Inside the hospital, all seven bodies were laid out in a row. Two or three doctors came in. One doctor who spoke in Tamil noticed the twitching of the jaws in two of the bodies and ordered them to be taken to the clinic and the rest to the mortuary. My son was among those destined for the mortuary. I became fully conscious of the loss of my son. I stayed in the hospital for about an hour. Once my son’s body was taken to the mortuary, I sat outside for a short time and cried. I then went home.

Three days after the incident I went to the Hospital and saw Kokilaraj and Poongulalon, the students who were injured in the incident. They did not say anything, nor were they in a state to converse. I saw that they were in much pain. Two policemen for their security had been posted in the room of the ward.

**A Point of Importance:** I must make a note of importance. Near the place of the incident, under the Bo tree at the corner of the Gandhi statue and the Urban Council facing the sea, it is usual for a policeman to sit at a table. I have noticed this many times. I later learnt that it is his job to record the numbers of the vehicles going towards the Fort. He is usually there till 7 or 8 PM. He must have been there on the day of the incident.

**The Green Auto Rickshaw:** Ten or twelve days after the incident, in January 2006, Balachandran came to my house in his auto rickshaw. He inquired about my loss, and then popped the information that the person who drove the green auto rickshaw from which the bomb was thrown at the boys is Hemachandran. He told me not to tell anyone. This auto driver Hemachandran has the nickname Aathavan by which he is usually called. Driver Hemachandran was well known to my son [also of the same name]. On occasions he has come home in search of my son. Driver Hemachandran is a *chandiyan* (a street fighter or thug), famed for rowdy actions, and had good police connections. These were well known. It was widely known that he was in danger [from the LTTE]. I told my son several times to avoid contact with him. Balchandran told me about the green auto rickshaw and of the danger to him if it came out, from the gate of my house.

Some time later I heard that Balachandran had been abducted and killed and his body was at Murugapuri. I went for the funeral the next day. The last time Balachandran met me he told me that his younger brother had died. I did not make detailed inquiries about it.

## **Part II: On the ACF Tragedy**

As far as I am concerned, the entire blame lies with the ACF organisation. It is because of negligence on their part that so many lives came to be lost. The first problem was the Tigers blocked the water. Following this the conflict between the Tigers and the Army intensified. The Trincomalee NGO Council came to the decision that employees of international NGO's would not be sent for fieldwork until the conflict is resolved. The other organisations did not send any of their local staff for field work in this region. But my son's organisation insisted that its employees must do field work. My son told me this. They were compulsorily told to work in Mutur. My son went to work on the morning of 2<sup>nd</sup> August. Normally he comes home before 5 PM. But on that day he did not come. The reason was that there was a battle between the LTTE and the Navy at 3.00 PM, just outside Trincomalee harbour. The movement of boats was stopped, so my son couldn't come home. We telephoned his Mutur office at 7 PM. It was then that my son said that there are no boats and that he is staying at the Mutur office. He said that the LTTE had come in. But they had no fear. He added that the ACF organisation would come and fetch them and told us not to worry.

On the morning of 3<sup>rd</sup> August I went to my son's office in Trincomalee. Several other parents in my position were also there. We spoke to one of the senior African officers. He told us that the NGO consortium has met, discussed and come to a decision on this matter. He said that they would go and fetch them back safely and that they were presently safe in their office. He told us not to be afraid and they would bring the Mutur staff safely. Some of the parents went home after this assurance. I with some of the other parents remained behind. That afternoon at

1.00 PM about 15 persons went with an African officer in two or three vehicles. I did not return home. I remained there with a few of the parents. The party that went returned about 6.30 PM. They told us that they could not go beyond Killiveddy. The officer assured us that they would go the next morning and somehow bring them back. We went back home and contacted my son around 8.30 PM. My son told me that they were all staying in the office and were hearing explosions outside. My son told me that their senior heads had told them to stay inside and they would fetch them. I told my son, in reply, "Don't trust your senior officers. You get out of your office, go to the church and stay with the priest, that would be safe." My son replied that the priest had come to see them and invited them all to come and stay with them, but they replied to the priest that their senior officers had promised to come and fetch them from the office. My son told me again, that staying at their office is quite safe and told us not to worry. That was the last time I spoke to my son. We heard on the evening of the next day that the people in Mutur had left in the morning. I went to my son's office at 7.00 AM on the 4<sup>th</sup> morning, Friday. Those in the office told us, that a meeting had been called in the UN office to discuss the problem of the ACF staff. Following the meeting they said they would go and fetch the Mutur staff. They went for the meeting at 11.00 AM and proceeded to Mutur by vehicle at 1.00 PM. We waited in hope because the civilian population was leaving Mutur. Later some of the government officers who go to work in Mutur returned to Trincomalee. Some civilians also came back with them. They had walked to Killiveddy and taken a bus from there. This group of people had not encountered any problem with the Army or the LTTE. This was around 7.00 PM. But none of our children returned. Those who returned told us that many of those who set out from Mutur are stuck in Killiveddy. Those who came said that they were expecting the ACF employees to come with the people to Killiveddy but they had not come. We were shaken by what we heard. The ACF senior officers had been replying to us indifferently without serious concern because people from Mutur had even come away with their cattle and chickens. These officers told us that they would go again the following morning and they would definitely bring them back.

I couldn't speak to my son that night because the telephone was not working. I went to my son's office on the 5<sup>th</sup> morning. Two foreign officers were there including an African. I spoke to them and they said that they are trying to go. Time passed. And around 9.00 AM we heard that a member of the local staff in the office received a call from Kinniya. Because I was near the telephone, I heard what was said. I heard the voice saying that those in the office had been shot dead and their bodies were strewn outside. I then heard the local member of the staff repeating this message to a senior officer. This time there was no doubt. I was angry. I screamed and went forward to hit an expatriate officer. Other members of the staff restrained me. I passed out. When I regained consciousness my surviving son took me home in an auto rickshaw.

I did not go to my son's office after this. On the 7<sup>th</sup> some from the office came and told us that they are going to Mutur to fetch the bodies. The bodies were given to us on the 8<sup>th</sup>. Not all the bodies were in a state to be taken home. We decided to take the bodies directly to the cemetery and inter them.

Therefore the entire blame must be borne by the ACF administration. It is their negligence that led to this tragedy. They must give us an answer.

## Addendum to Special Report No.30

**March 2008**

In the main section of the report, we described an authentic account of the killing of the 17 ACF staff. We also identified tentatively the weapon carried by Susantha, the OIC's bodyguard, as an Uzi submachine gun, which fired 9 x 19 mm bullets. Despite the attempt at a cover up, we argued in *Bullet for a Fig Leaf*, Special Report No.27, that the Australian forensic pathologist Dr. Dodd's original identification of the bullet found in **Romila** as 5.56 mm has far better standing than his revised opinion that it was the core of a 7.62 mm. The revision was made without asking for the original photograph taken and certified at the second autopsy that should have been with the Sri Lankan pathologist, but is now unaccounted. His claim that he had relied on three CID officers present who misidentified the bullet is absurd. Dodd's complete first report is appended to Special Report No.27.

We have stated in the main report that Romila was killed by Jehangir, who some of the time was using a weapon belonging to the naval commandos. He was reputedly an expert with guns and had become very chummy with the commandos. The commandos had both M 16 and FN Minimi (M 249) weapons which fired 5.56 x 45 mm bullets.

In Special Report No.27, we pointed out from Dodd's report that the types of injuries in two others besides Romila Sivapragasam, among the eleven exhumed victims, are indicative of bullet fragmentation. The bullet in Romila's head, first identified as 5.56 mm, had fragmented on its downward journey.

*One bullet entered Miss. Romila Sivapragasam's head just above her left forehead and exited through the back of her neck. This rules out her having been on the ground face down. A second entered through the back of her right upper arm and exited through her forearm, which rules out her lying on her back on the ground. The two considerations tell us that she was in all likelihood kneeling on the ground and was shot with a gun held above her head pointing down. The entry wounds for the two injuries were 2 x 1 cm and 1.5 x 1 cm respectively, which suggests (see 7.4) that the bullets did not explode or fragment on entry. Two objects were found in her cranium.*

*Yogarajah Kodeeswaran had three penetrating injuries on his head. These were, an injury to the mid forehead measuring according to Dodd's first report 15 x 1 cm (1.5 x 1?), between the eyebrows measuring 2 x 3 cm and a large injury to the middle third of the face measuring 8 x 6 cm. Dodd observed that there is a suggestion of at least three entry wounds to the mid-facial area with a common large irregular exit at the back of the head measuring 14 x 5 cm.*

*Another entry wound on the upper right anterior chest measuring 5 x 5 cm resulted in apparently two projectiles travelling through his torso and being extracted from his left knee, both described by Dodd as 7.62 calibre... Six small irregular metallic fragments were identified on the right side of the upper part of the victim's head.*

*Miss. Vairamuththu Kokilavarthani had an entry wound of 2 x 2 cm on the right side of her face and an exit measuring 15 x 8 cm through the middle third of her face. There was also rib disruption in the area of bullet fragmentation and a vertically oriented irregular laceration at the back of her right chest measuring 14 x 6 cm. Although the entry wound is not identified, Dodd suggests in a diagram that the bullet may have come from above her right shoulder*

*while she was kneeling, leading to fragmentation in her chest. The largest of these fragments measuring 5 x 4 cm was recovered as evidence.*

Citing the work of Dr. Martin L. Fackler, we pointed out in Special Report No.27 that such bullet fragmentation in the body, which is characteristic of 5.56 mm projectiles, is exceptional for the usual Russo-Chinese FMJ 7.62 x 39 mm type ammunition.

The foregoing lends greater weight to Dodd's original identification. But to go further we needed something more.

A former member of the ACF staff told us several months ago about finding ammunition remains that were different from the standard 7.62 x 39 mm remains pertaining to T 56 or AK 47 guns, the only remains to feature in the productions of police investigators. At that time we had nothing to connect his information with. He had spoken of a short and squat type of cartridge thicker than the 7.62 mm. We asked him again after we received an account of what happened at the scene, including a physical description of the guns used. After some reflection the former member of the ACF said that they were casings of 9 mm bullets used by Uzi machine guns, commonly used by bodyguards – or 9 x 19 mm ammunition.

This immediately agreed with the description of the weapon our sources told us that Constable Susantha was carrying. This former member of the ACF staff was among the team that went to collect the bodies of their dead colleagues and had since faced intimidation. He had the presence of mind to show these remains to a civilian very knowledgeable in weapons. The former ACF staff member told us that the expert had identified the remains.

In the course of our exchange with the former ACF staff member, he drew the ellipses in a photograph taken when the bodies were collected. The photograph shows that the four women were in a group when they were killed. Kokila, Kovarthani and Kavitha had fallen forwards while Romila had fallen aslant. Her body could be seen enclosed in the red ellipse. The former ACF member told us that the casings found in the red ellipse were 5.56 mm and were hidden. They were in the bloody muck in which Romila's body was. This former ACF staff member collected some when he put his hand into the muck in the process of trying to pull out Romila's body, which was distinguished by a missing left arm. It was the bullet in Romila's head that Dodd had first identified as 5.56 mm.

The green ellipses were where they found the 9 mm remains. Of 5.56 remains there seemed quite a number and about three were collected by hand. Of 9 mm remains there were in his judgment a significant number. Most common were 7.62 x 39 mm remains, both casings and disfigured bullets. What came as a surprise was the identification by the expert of some casings of 7.62 x 51 mm cartridges. The former ACF staff member told us that if the expert said so we could be absolutely certain.

There were, the former ACF man told us, only a few of the 7.62 x 51 mm type remains and were to the right of the photograph below, with the bodies but nearer the wall. We completely trust this former ACF member's word. The persons who gave us information about the incident itself knew about the normal T 56 rifle, but were not knowledgeable about others. What the former ACF member told us, together with the earlier testimony that Jehangir who sometime used a commando weapon had killed the women, makes it virtually certain that Romila was killed by a 5.56 mm bullet.



This along with **Kokilavarthani's** injury involving bullet fragmentation described above makes it very likely that she too was killed by a 5.56 mm bullet, which is notorious for fragmentation. She was among the women who we learn were killed by Jehangir. **Kavitha Ganesh** was another woman victim who featured in the second autopsy. From Dodd's report her death was caused by a bullet causing an injury of 1 cm in diameter entering through the parietal bone above her left eye and exiting near her right jaw leaving an 8 x 8 cm injury. There were no fragments. **Kovarthani Kanagaratnam** did not feature in the second autopsy. According to Waidyaratna's report, one bullet entered the back of her head (2 x 2 cm) and exited around her mouth (8 x 8 cm).

The 5.56 mm remains in the muck near Romila may represent bullets fired at other women as well. A 7.62 mm projectile was found in Kavitha's clothing but with no evidence of an entry wound. Dodd opined this was one not fired at her but was the result of a ricochet or one that had passed through another.

We will see below that bullets from the Uzi gun used by Susantha do not fragment. 7.62 mm bullets deform but fragmentation in the human body is extremely rare by the work of Martin Fackler cited in Special Report No. 27. An article by Fackler is also attached to this Addendum. What about Nilantha and his weapon?

Our sources said that Nilantha was using a light machine gun with belt-fed ammunition. If it was obtained from the police armoury at Mutur, it should not be hard to trace. From what we are able to gather, police stations in the North-East have been given a variety of weapons because of the war situation, but from what information we have, most rifles and light machine guns with the Police use 7.62 x 39 mm ammunition. Mutur police station also had M 16 rifles using 5.56 mm ammunition. This is not a light machine gun as described and the evidence on the ground identified just one patch where 5.56 mm remains were found. What the Mutur Police had as light machine guns include 84 S guns and belt ammunition is used in several guns using 7.62 x 39 mm type. This is to be expected as policemen would not have had sophisticated weapons training, unless they had been in the STF. Varied types of ammunition have different recoil properties and changing over requires practice.

Sri Lanka did purchase a few thousand G3 rifles of Pakistani make in the early 1980s. These use 7.62 x 51 mm type ammunition corresponding to some remains at the scene. These are often used in sniper rifles because of their long-range accuracy, but the American and NATO FMJ 7.62 x 51 mm type bullets (in contrast to the German) are not known for severe or complex injuries (see Fackler's article attached). We doubt that this type of weapon would be common in police stations. We might as a first guess suppose that Nilantha's weapon used standard 7.62 x 39 mm ammunition.

Assuming that 7.62 x 51 mm casings were correctly identified, how does one explain them? A friend who is a former army officer told us that typically in the Special Forces, a group of say a dozen men, could have possibly six different types of weapons, which also confuses responsibility for an atrocity. The 7.62 x 51 mm bullets were likely fired by naval commandos.

Our sources on the incident told us that the commandos stood by passively when the massacre began. It was plain butchery. But there seems to have been an unusual development where two or more of the victims tried to escape. This may have prompted the naval commandos to intervene.

About **Kodeeswaran** we said in Special Report No. 27, *“The [7.62 mm] bullets may not have been immediately fatal. It might appear that someone shot him downwards from the back while he was kneeling and was also shot perhaps by another gunman separately on the face.”* This is a bit obscure.

The photograph attached shows him fallen away from the others and facing the wall. The premises were initially surrounded by commandos, who remained passive. The three main killers were in general firing downwards. This would also have been partly to avoid hitting those in the surroundings.

The complication with regard to Kodeeswaran is that he had an entry wound on the rear side of the upper part of his chest resulting in two 7.62 x 39 mm bullets, one deformed, in the region of his left knee, and he also had severe injuries consistent with a spray of horizontal, fragmenting bullets hitting him full on the face and neck leaving a vertical gash on the back of his head.

The most plausible explanation seems that he was first shot at from close behind, when he was in the kneeling position, with a gun firing 7.62 x 39 mm bullets, which did not immobilise Kodeeswaran, but rather shocked him into springing up and attempting escape. The fragmentation suggests that he was hit by 5.56 mm bullets fired by one of the commandos, who went into action only when escape was attempted.

Two other bodies were found separately and are not in the photograph. They were those of Seelan (Jaseelan) found near the motorcycle shed to the left looking from the gate and of Konesh found in the corridor. Seelan was hit sideways through the left ear lobe and the bullet emerged from the right of the head – a single through horizontal shot almost from ear to ear. The victim was probably standing.

Konesh had two injuries, one through the outer left upper arm and over the left shoulder. The fatal injury hit the left side of the front of the neck and emerged through the right side of the back of the neck. He too was possibly standing.

The evidence of several 5.56 mm remains near Romila, suggest that she and perhaps other women close to her, received fire from a gun firing bullets of that type. Such remains were not found elsewhere at the scene. This brings us to another note of caution. The bullet remains found must not be taken to represent the whole picture. The very first witness we referred to said that the commandos came a second time in a cavalcade. It is very likely that they removed signs of bullets other than the standard 7.62 x 39 mm that would have pointed to the state forces. Apparently they did not scour the pools of blood, such the one in which Romila was. It is likely that a good deal more could be said from the injuries and the positions of bodies.

### **Some Technical Points**

We deal with a few technical points in closing. The Naval Special Forces Commandos had both M16 as well as FN Minimi weapons, both of which fired the standard M193 5.56 x 45 mm as well as SS109 5.56 x 45 mm bullets, although M 193 is the standard bullet for M 16 and SS 109 (US equivalent M 855) the NATO standard for the FN Minimi. While both have identical cartridge dimensions the SS 109 has a bullet or slug 23 mm long and heavier than the M 193 slug which is 19.3 mm long.

The difference is that the rifling in M 16 has one twist in 12 inches of barrel length and the FN Minimi one twist in 7 inches, giving bullets fired by the latter a significantly greater angular spin. When speaking of 5.56 mm bullets it is necessary to clarify whether it is M 193 or SS 109 (M 855). We suspect it is the first that was found in Romila's head, but with the original photograph at the autopsy missing, we have only the X-ray photograph to go by. Dr. Martin Fackler who has studied wounding patterns says in '*Military rifle wound patterns*' that the injury patterns of both bullets are similar:

*“The slightly heavier and longer American M855 bullet shot from the M16A2 assault rifle is replacing the M193 bullet shot from the M16A1 as the standard bullet of the US armed forces. FN Herstal originally developed this bullet type (which has a steel "penetrator" as the forward part of its core - Fig. 1) designating its bullet the SS109. The wound profile (Fig. 6) is very similar to that produced by the M 193 bullet. Although the SS109 and the M855 are not the same bullet, their differences are small and one almost needs a magnifying glass and a side-by-side comparison to differentiate the two. There is little difference in their performance in tissue. The abdominal and the thigh wound produced by the M855 or the SS109 bullets would be essentially the same as those described above for the M16A1 M193 bullet.*

*“The longer 5.56mm bullets (M855, SS109) need a higher rotational velocity to maintain stabilisation in air. FN claimed that this faster rotation also causes the SS109 to have a significantly longer path in tissue before marked yaw occurs, thus producing wounds of less severity. This is simply untrue (compare Fig. 4 with Fig. 6). Additional rotation beyond that needed to keep the bullet straight in air appears to have little or no effect on the projectile's behaviour in tissue.*

Fackler's full article has been linked to this addendum since it has much to say about the case in hand. One more question needs to be answered, what is the wounding pattern of 9 x 19 mm Uzi bullets, which were also used in the incident? A *Medical and Forensic Investigation* report by Physicians for Human Rights of 3<sup>rd</sup> November 2000, titled '*Evaluation of the Use of Force in Israel, Gaza and the West Bank*' says:

*“Introduced in 1902, the 9-mm Luger is the most widely used military handgun cartridge in the world. All modern submachine guns, including the Uzi, are chambered for this cartridge. The muzzle velocity ranges from 370 to 390 meters/sec (1214 to 1280 ft/sec). A 9-mm round is generally stable and does not break-up on striking the tissue. The loss of kinetic energy is much less than those encountered in high velocity rounds including the 5.56-mm and 7.62-mm, and hence the temporary cavities and the severity of injuries are less intense.”*

The Uzi causes uncomplicated wounds more in keeping with 19<sup>th</sup> century rifle bullets in speed and effect. For full-metal-jacketed bullets, the 7.62 x 39 mm has a velocity of 713 m/s (2339 ft/sec), the M 193 used by M 16, a velocity of 943 m/s (3094 ft/sec), the SS109 925 m/s (3035 ft/sec) and 7.62 x 51 mm 862 m/s (2828 ft/sec).

## Photograph of the Scene of Massacre: ACF Victims

### Military rifle bullet wound patterns – Martin L. Fackler

#### **Military rifle bullet wound patterns**

- by Martin L. Fackler

In addition to the full-metal-jacketed construction which makes them "military" bullets, the pointed ogival "spitzer" tip shape is shared by all modern military bullets. The obvious advantage of this streamlined shape is decreased air drag, allowing the bullet to retain velocity better for improved long-range performance. A modern military 7.62 mm bullet (with all-lead core) will lose only about one-third of its muzzle velocity over 467 m; the same weight bullet with a round-nose shape loses more than one-half of its velocity over the same distance.

More pertinent to the present discussion is this pointed shape's effect on the bullet's yaw in tissue. The first full-metal-jacketed bullets (1885-1910) were over four calibres long and round-nosed. Typical of this bullettype are the 6.5 mm Carcano and the 30-40 Krag bullets; they penetrate tissue simulatant travelling point-forward for 50 cm or more before significant yaw begins (Fackler, M.L., unpublished data, 1987). The very minimal wounding effect produced by these early round-nosed jacketed bullets was remarked upon by surgeons of the time (Kocher, Markins, Brunner, Abbott, LaGarde, etc.). Even those soldiers with through-and-through chest wounds in which the bullet missed the large vessels (but passed through the lung) would be fit to rejoin their units in a few weeks.

The distance that the military-type bullet travels point-forward before yawing is critical to wounding effects. The distance shown on the wound profiles is the average distance at which this occurs. However, it is important to recognise how much shot-to-shot variation from this average distance can be expected. Taking the M16 wound profile (Fig. 6) as an example, it shows significant yaw starting at a 12cm penetration depth. Seven out of ten shots can be expected to begin yaw within 26 % of this distance (between nine and 16 cm penetration depth). This plus or minus 25 % rule is a useful approximation that can be applied to the otherwound profiles. Let us apply it to the 50 cm distance-to- yaw for the older bullets; whether the bullet begins to yaw between 37 or 63 cm penetration distance does not effect most wounds of the human body because, in the great majority of cases, the total tissue path will be less than 37 cm.

Conversely, inconsistent effects have been noted in wounds caused by the M16 and other modern military bullets. Considering the variation in length of the possible tissue path through the human body, this "inconsistency" of effect is to be expected. Beware! This variation can be used to dupe the unsuspecting. A series of shots through a 14 or 15 cm block of tissue simulatant or the leg of a 25 kg animal can give enough variation so that, by selective choice of exit wound photographs, one can "prove" any point one wishes (such as one bullet being less "humane" than another). The author hopes, that understanding this, will make the reader less likely prey to this sort of deception.

Bullet mass and bullet striking velocity establish a bullet's potential; they set the limit on the tissue disruption it can produce. Bullet shape and construction determine how much of this potential is actually used to disrupt tissue; they are the major determinants of bullet effect. Far and away the most disruptive bullet of those described is the West German 7.62 NATO round. Its fragmenting behaviour maximises utilisation of its much higher potential (bullet mass well over twice that of any of the 5.56mm bullets and velocity only about ten percent less than theirs) for tissue disruption.

This author has not tested other European 7.62 NATO rounds, but the "NATO standards" apparently allow bullet designers great latitude in the choice of bullet jacket material and thickness. In 1979 a published high-speed x-ray photograph showed the Swedish 7.62 equivalent to the 7.62 NATO bullet breaking in a soap block shot at a range of 100m. Although bullet fragments were not recovered and photographed (the importance of bullet fragmentation in tissue disruption was not well recognised at the time), one must suspect the same very disruptive behaviour from this bullet as from the West German round. This is particularly ironic since the Swedish wound ballistics program was using every means possible to discredit the M16 as "inhumane" while, at the same time, Sweden was producing a 7.62 mm military bullet that caused far more extensive wounds than the M16.

Whether we like to admit it or not, the primary purpose of military rifle bullets is to disrupt human tissue. Yet the effects of bullets on bodies - the characteristic tissue disruption patterns produced by various bullets - remains unclear even to many of those who design and produce bullets. Surgeons who are called upon to treat the damage bullets cause, with few exceptions, lack practical knowledge of bullet effects. Attempts to fill this information void with formulae, graphs, flawed experiments, invalid assumptions, and theories based on half-truth (or no truth at all) have only increased confusion.

The obvious - simply measuring, recording and describing the disruption produced by various calibres and bullet types - has largely been ignored in favour of more dramatic and complex methodology. To illustrate the problem: if a neighbour told you that a meteorite had fallen into his back yard, wouldn't you ask him how deep and how large a hole it had made? If he replied that he had, on good authority, an estimation of the meteor's striking velocity and the amount of kinetic energy it had "deposited" and gave you both these figures, you might be impressed by the sophistication of this information, but you still wouldn't know how big a hole he had in his yard.

Roger Frost, in his cogent editorial "Bullet holes in theories" (IDR 8/1988 p.875) suggested that the various groups interested in gunshot wounds need to "start to talk to one another". Let's add that the talk needs to be in terms that can be understood by all - to inform rather than to impress.

In order to illustrate the penetrating projectile-body tissue interaction, the "wound profile" method was developed. It is an attempt to present a useful approximation of the pertinent, useful, factual data to clarify bullet effects in a form that can be readily understood. The profiles depict the maximum disruption that a given bullet can be expected to produce in the elastic soft tissue of the living animal. The "permanent crush cavity" indicated on the wound profiles is the "bullethole" produced by the projectile crushing the tissue it strikes. The "temporary stress cavity" shows the approximate extent

to which the walls of this hole were stretched a few milliseconds after bullet passage (entirely analogous to a splash in water).

Anyone who has ever seen a bullet hole recognises that in many cases it is, in fact, more what might be called a potential hole; it need not be gaping open. One can, however, easily pass a probe through it, as is commonly done by forensic pathologists to establish the direction or angle of the shot. How deeply the bullet penetrated and its attitude (yawed or straight) and form (deformed or fragmented) as it penetrated, along with the approximate distance the walls of the hole were stretched after the bullet passed (temporary cavity) - this is the crucial information needed to understand the wounding mechanisms.

Figure 1. Fired bullets internal cross section from left: AK-47, AK-74, 5,56 x 45 NATO, 7,62 x 51 NATO.

To describe wounding patterns of the common military rifle bullets in use today, wound profiles will, along with a description of the two characteristic wounds for each bullet, be used. A simple abdominal wound, and an uncomplicated (didn't hit bone or large vessels) human thigh wound caused by each bullet, will be described to demonstrate how the material presented as wound profiles, can be put to practical use. This should give the combat surgeon some idea of what to expect. His descriptions of the wounds he actually treats, if they differ significantly from the expected pattern, might be the first indication of a change in enemy weapon or bullet type. Patterns of bullet fragmentation as seen on x-ray, or even the tissue disruption pattern as observed in the body, can be compared with the series of wound profiles to estimate the bullet type when the bullet has passed entirely through.

### **Current rifle bullets**

Soviet 7.62x39mm - The Soviet AK-47 Kalashnikov fires a full-metal-jacketed, boat-tail bullet that has a copper-plated steel jacket, a large steel core, and some lead between the two. In tissue, this bullet typically travels for about 26cm point-forward before beginning significant yaw. This author observed, on many occasions, the damage pattern shown in Fig. 2 while treating battle casualties in Da Nang, Vietnam (1968). The typical path through the abdomen caused minimal disruption; holes in organs were similar to those caused by a non-hollow-point handgun bullet. The average uncomplicated thigh wound was about what one would expect from a low-powered handgun: a small, punctuate entrance and exit wound with minimal intervening muscle disruption.

Figure 2. AK-47, 7,62 x 39 mm FMJ, 713 m/s 7,8g

Yugoslav 7.62x39mm - The Yugoslav copper-jacketed, lead-core, flat-base bullet, even when fired from the same Kalashnikov assault rifle, acts very differently in tissue. It typically travels point-forward for only about 9cm before yawing. Due to the lead core, this bullet flattens somewhat as it yaws, squeezing a few small lead fragments out at its open base, but this does not add significantly to its wounding potential. Referring to the wound profile of the Soviet AK-47 bullet (Fig. 2) and blotting out the first 17cm of the

projectile path will leave a good approximation of what one might expect from this bullet.

Since this bullet would be travelling sideways through most of its path in an abdominal wound, it would be expected to cut a swath over three times the dimension made by the bullet travelling point forward. In addition to the larger hole in organs from the sideways-travelling bullet, the tissue surrounding the bullet path will be stretched considerably from temporary cavitation. Actual damage from the stretch of cavitation can vary from an almost explosive effect, widely splitting a solid organ such as the liver, or a hollow one such as the bladder if it is full at the time it is hit, to almost no observable effect if the hollow organs (such as intestines) when hit contain little liquid and/or air. The exit wound may be punctate or oblong, depending on the bullet's orientation as it struck the abdominal wall at the exit point. The exit wound could be stellate if sufficient wounding potential remains at this point on the bullet path. The thigh entrance wound will be small and punctate but the exit wound will probably be stellate, measuring up to 11 cm from the tips of opposing splits. The stellate exit wound results from the temporary cavity simply stretching the skin beyond its breaking point. These stellate wounds generally bleed very little. Small-to medium-sized vessels are certainly cut or torn, but the temporary cavity tearing action generally stimulates the tiny muscles in the vessel walls to constrict and clots will form in their open ends, limiting blood loss. Being wide open, these wounds tend to drain and heal amazingly well even in situations of limited surgical resources. This increased tissue disruption of the leg will, of course, temporarily limit the mobility of the person hit to a greater extent than wounds causing less tissue disruption.

Soviet 5.45x39mm - This is fired from the AK-74, which is the Soviet contribution to the new generation of smaller-calibre assault rifles and which produces the wound profile seen in Fig. 3. The full metal-jacketed bullet designed for this weapon has a copper-plated steel jacket and a largely steel core, as does the bullet of its predecessor, the AK-47. A unique design feature of the AK-74, however, is an air-space (about 5mm long) inside the jacket at the bullet's tip (Fig 1). The speculation that this air-space would cause bullet deformation and fragmentation on impact proved to be unfounded, but the air-space does serve to shift the bullet's centre of mass toward the rear, possibly contributing to its very early yaw. In addition, on bullet impact with tissue, the lead just behind the air-space shifts forward into this space. This shift of lead occurs asymmetrically and may be one reason for the peculiar curvature of this bullet's path in the last half of its path through tissue (Fig 3). Only in a shot with a long tissue path, like an oblique shot through the torso, would this curved path be evident; it doesn't really add anything to wounding capacity, but might cause an occasional confusing path through tissue. This bullet yaws after only about 7cm of tissue penetration, assuring an increased temporary cavity stretch disruption in a higher percentage of extremity hits; other bullets need more tissue depth to yaw and in many cases cause only minimal disruption on extremity hits.

Figure 3. AK-74 5.45 x 39 mm FMJ 935 m/s 3,4 g

The abdomen and thigh wounds expected from this bullet would be essentially the same as those described above for the Yugoslav variation of the AK-47 bullet.

All pointed bullets that do not deform end their tissue path travelling base first, since this puts their centre of mass forward; this is their stable attitude. The rotation imparted to the bullet by the rifled gun barrel is sufficient to force the bullet to travel point-forward in air (in properly designed weapons), but not in tissue where such factors as bullet shape and the location of centre of mass far outweigh rotation effects. The bi-lobed yaw patterns shown in the profiles of the AK-47 and the AK-74 represent what is seen in most shots. Sometimes the bullet yaws to 180°, or the base-forward position, in one cycle. These variations, along with the curvature in bullet path at or near the end of tissue path, are of far less importance than the distance the bullet travels point-forward before significant yaw begins.

US M193 5.56x45mm - This bullet is fired from the US armed forces' first-generation smaller-calibre rifle, the M16A1. The large permanent cavity it produces, shown in the wound profile (Fig. 4), was observed by surgeons who served in Vietnam, but the tissue disruption mechanism responsible was not clear until the importance of bullet fragmentation as a cause of tissue disruption was worked out and described. As shown on the wound profile, this full-metal-jacketed bullet travels point-forward in tissue for about 12cm after which it yaws to 90°, flattens, and breaks at the cannelure (groove around bullet midsection into which the cartridge neck is crimped). The bullet point flattens but remains in one piece, retaining about 60 per cent of the original bullet weight. The rear portion breaks into many fragments that penetrate up to 7cm radially from the bullet path. The temporary cavity stretch, its effect increased by perforation and weakening of the tissue by fragments, then causes a much enlarged permanent cavity by detaching tissue pieces. The degree of bullet fragmentation decreases with increased shooting distance (as striking velocity decreases), as shown in Fig. 5. At a shooting distance over about 100m the bullet breaks at the cannelure, forming two large fragments and, at over 200m, it no longer breaks, although it continues to flatten somewhat, until 400m. This consistent change in deformation/fragmentation pattern has an important forensic application. It can be used to estimate shooting distance if the bullet is recovered in the body and has penetrated only soft tissue.

Figure 4. M193 5,56 x 45 mm FMJ NATO, 943 m/s 3,6 g initial mass, 2,3 g final weight, 36% fragmentation

The effects of this bullet in the abdomen shot will show the temporary cavity effects as described for the Yugoslav AK-47 and, in addition, there will be an increased tissue disruption from the synergistic effect of temporary cavitation acting on tissue that has been weakened by bullet fragmentation. Instead of finding a hole consistent with the size of the bullet in hollow organs such as the intestine, we typically find a hole left by missing tissue of up to 7cm in diameter (see permanent cavity in Fig. 4). The thigh entrance wound will be small and punctuate. The first part of the tissue path will show minimal disruption. The exit will vary from the small punctuate hole described for the Soviet AK-47 to the stellate exit described for the Yugoslav AK-47, depending on how thick the thigh is where the bullet perforates it. In a sufficiently thick thigh, the M193 bullet fragmentation is also likely to cause a significant loss of tissue and possibly one or more small exit wounds near the large stellate one.



Figure 5. NATO M855 / SS109 5,6 x 45mm

The slightly heavier and longer American M855 bullet shot from the M16A2 assault rifle is replacing the M193 bullet shot from the M16A1 as the standard bullet of the US armed forces. FN Herstal originally developed this bullet type (which has a steel "penetrator" as the forward part of its core - Fig. 1) designating its bullet the SS109. The wound profile (Fig. 6) is very similar to that produced by the M 193 bullet. Although the SS109 and the M855 are not the same bullet, their differences are small and one almost needs a magnifying glass and a side-by-side comparison to differentiate the two. There is little difference in their performance in tissue.

The abdominal and the thigh wound produced by the M855 or the SS109 bullets would be essentially the same as those described above for the M16A1 M193 bullet.

Figure 6. M856 5,56 x 45 mm FMJ 925 m/s initial mass 4 g, final mass 2 g, 50% fragmentation

The longer 5.56mm bullets (M855, SS109) need a higher rotational velocity to maintain stabilisation in air. FN claimed that this faster rotation also causes the SS109 to have a significantly longer path in tissue before marked yaw occurs, thus producing wounds of less severity. This is simply untrue (compare Fig. 6 with Fig. 6). Additional rotation beyond that needed to keep the bullet straight in air appears to have little or no effect on the projectile's behaviour in tissue. However, there is a situation concerning rotation rates whereby these longer 5.66mm bullets can cause increased wound severity. Shooting the SS109 or M855 bullet in the older M16A1 rifle barrel (they are not intended for use in this 1-in- 12 in twist barrel, but in the newer M 16A2 1-in-7in twist) produces a bullet spin rate insufficient to stabilise the longer bullets. Such a bullet will yaw up to 70° in its path through air. Striking at this high yaw angle (essentially travelling sideways), these bullets break on contact and the marked fragmentation, acting in synergy with the temporary cavity stretch, causes a large (over 15cm) stellate wound with the loss of considerable tissue (Fackler, M.L., unpublished data, 1988).

Figure 7. American 7,62x51 NATO FMJ, 862 m/s, 9,7g

NATO 7.62x51mm FMJ (US version) - This full-metal-jacketed military bullets wound profile (Fig. 7) shows the characteristic behaviour in tissue observed in all non-deforming pointed bullets. It yaws first through 90° and then, after reaching the base-forward position continues the rest of its path with little or no yaw.

The uncomplicated thigh wound might show very minimal tissue disruption since the streamlined bullet tends to travel point forward during the first 16cm of its tissue path. The abdominal wound, with a sufficiently long path so that the bullet will yaw, causing the large temporary cavity that is seen at depths of 20 to 35cm, would be expected to be very disruptive. If the bullet path is such that this temporary cavity occurs in the liver, this amount of tissue disruption is likely to make survival improbable.

Figure 8. German 7.62 x 51 mm FMJ NATO left, same american right

The design standards for ammunition that can be called "NATO" ammunition do not specify bullet jacket material or jacket thickness. The construction of the West German 7.62 mm NATO bullet differs from the US 7.62 mm NATO round in that, the jacket material is copper plated steel, whereas the US version is copper (or the so called gilding metal alloy, which is predominantly copper). The West German steel jacket is about 0.6mm thick near the cannelure and the US copper jacket is about 0.8mm thick at the same point. This design difference is responsible for a vast difference in performance in tissue. The German bullet, after travelling point-forward for only about 8 cm, yaws and breaks at the cannelure. The flattened point section retains only about 66 % of the bullet's weight, the remaining 45 % mass becomes fragments (Fig. 8). The wound profile can be described as an enlarged M16 profile (Fig. 3), with dimensions of the tissue disruption increased by 60 % (temporary stress cavity about 22 cm diameter; permanent crush cavity about 11 cm diameter, penetration depth of the bullet point about 58 cm). The uncomplicated thigh wound from this bullet is likely to have a large exit with the loss of substantial tissue near the exit; still, this might not be a very serious wound since the bullet fragmentation does not occur until beyond 10 cm penetration depth and, in most shots, the bullet will have passed well beyond the major vessels before this occurs. The abdomen shot, however, because of the much enlarged permanent cavity from bullet fragmentation, is likely to prove fatal in a majority of cases.

Soviet and Chinese 7.62 x 51 mm R (Rimmed case) - This bullet, although not nearly as common as the AK-47 or the others discussed above, is included because it is currently used in the Dragunov sniper rifle and the Communist bloc light machine-guns. Also, since it was the standard Soviet military round in WW1 and WW2 (in the bolt-action Mosin-Nagant), it might well be found in considerable numbers in some Third World countries. The bullet weighs 9,6 g; the base is hollowed out with a cone-shaped cavity - 5 mm deep for the Sovjet, 3 mm deep for the Chinese). The Sovjet bullet has a copper-plated steel jacket and the Chinese one has a jacket of what appears to be brass. The muzzle velocity is about 853 m/s and the wound profile closely resembles that of the 7.62 mm NATO (US version). Thigh and abdominal shots thus would be as described above for the US 7.62 mm NATO bullet.

Martin Fackler

Taken from

**Press Release for Unfinished Business of the 5 Students and ACF Cases**

**(Special Report No 30 of the UTHR(J))**

**Sri Lankan rights group finds state security forces responsible for murder of 17 aid workers**

A 29-page report released today by the University Teachers for Human Rights (Jaffna) names state security personnel responsible for the summary executions of 17 *Action Contre la Faim* (ACF) aid workers in Mutur, Sri Lanka on 4 August 2006. The report details the grisly killings, the role of senior police officials in the murders, and the failure of the government to properly investigate the crime.

Eyewitness testimony and other information uncovered by UTHR(J) reveals that the Sri Lankan aid workers were killed by a member of the Muslim Home Guards, and two police constables in the presence of the Sri Lankan Naval Special Forces around 4.30 pm on Friday, 4 August 2006. Evidence suggests that the killers were given the green light to murder the aid workers by police officials in Mutur, who may have gotten the go-ahead from senior police officials in the district capital, Trincomalee. UTHR(J) presents evidence that indicates at least one aid worker was killed by a member of the Naval Special Forces, who were present and did nothing to stop the killings. The report implicates several senior police officers, including Rohan Abeywardene, Deputy Inspector General, and Kapila Jayasekere, Senior Superintendent of Police in Trincomalee, as being complicit in the crime and names Jehangir, a member of the Muslim Home Guards, and two police constables, Susantha and Nilantha, as those who pulled the triggers.

“The evidence shows that state security forces, including police, killed the 17 aid workers and that senior police officials covered it up,” said Dr. Rajan Hoole of UTHR(J). “The killing of civilians during times of conflict is a war crime. The perpetrators and their superiors should be brought to justice for this grievous crime.”

The UTHR(J) report points to the strong link between the killing of the 17 aid workers and the earlier killing of five Tamil students on the beachfront in Trincomalee on 2 January 2006. One of the 17, Kodeeswaran, was the brother of one of the five murdered students. The report gives incidents suggestive of an ominous interest taken in Kodeeswaran by SSP Jayasekere, who was implicated in the planning and cover-up of the murder of the five students. SSP Jayasekere was never prosecuted for the deaths of the five students, despite evidence pointing to his involvement in the murders, but was instead promoted shortly before the killings of the aid workers. The murder of the 17 ACF workers occurred in the context of an attack on Mutur by the Liberation Tigers of Tamil Eelam (LTTE). The government has repeatedly blamed the LTTE for the killings, but UTHR(J)'s extensive research shows that they occurred after the LTTE had retreated from Mutur town. At the time of the killings, most of the town's residents had fled for safety, fearing further fighting. *Action Contre la Faim* had communicated to the authorities that the aid workers remained in their compound, so there should have been no confusion as to whether they were civilians or fighters.

Rather than seeking the truth and tackling impunity, the Sri Lankan authorities, their experts, the Attorney General and diplomats overseas have covered up the facts of the 2006 killings, along with any potential association between the ACF massacre and the killing of five students in Trincomalee.

“Had disciplinary action been instituted against SP Jayasekere over the killing of the five students instead of promoting him to SSP, the 17 aid workers would probably be alive today,” said Dr. Rajan Hoole. “The Sri Lankan government needs to end impunity to deter more abuses by the state security forces, the LTTE and other armed actors in Sri Lanka's quarter-century of conflict.”

UTHR(J) said that it hoped the report released today would open a window to lighten the abyss created by high-level cover-ups and official acquiescence in murder. These cases of the 17 ACF aid workers and the 5 students from Trincomalee, given the international concern, remain the most promising means of making cracks in the prison of impunity that grips the nation.

### **About the University Teachers for Human Rights (Jaffna)**

UTHR(J) have been documenting and publicizing human rights abuses in Sri Lanka since the late 1980s and were one of the pioneers internationally, in highlighting the abuses of non-state actors, particularly abuses by the Liberation Tigers of Tamil Eelam. In 2007 UTHR(J) were awarded the prestigious Martin Ennals Award for Human Rights Defenders. UTHR(J) has written extensively on the killings of the aid workers and the five students and this is the first report to shed light on the perpetrators of the killings and also the extensive high level cover-up of the truth.

These, and other, reports can be found at: [www.uthr.org](http://www.uthr.org)

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