

PART II

Case No.11 - Killing of ten (10) Muslim villagers
at Radella in Pottuvil police area, on 17th September 2006.

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Summary of Investigations & Inquiries

Public Inquiry before the Commission

Before

Justice N.K.Udalagama
D. Premaratne P.C

Ms. J. Ismail
M. F. Razeen

S. S. Wijeratne
D.J.Gunaratne P.C

Counsel assisting the Commission :

From the Official Bar
Y.Kodagoda DSG

D.H.Jayakody SSC

Ms. L. Karunanayake SC

Counsel representing the STF :

H.A.A.Prasanna

Ms. S.Jayasuriya

Suren de Silva

Observers present at inquiry sessions

None, as they were no longer in Sri Lanka.

Date of Commencement	Date of Completion	Sessions	Witnesses
05.01.09	06.04.09	16	29

Dates of Inquiry Sessions - 2009

January	05	06	12	19	26	27
February	16	24				
March	09	12	16	17	23	26 30
April	06					

Witnesses

M.L.A. Aziz	M.C.M.Mohideen	A.M.A.Rasheed	M.L.Sahabdeen	A.Nazurdeen
A.M.A.Majeed	N.W.Narangam..	M.S.A.Wasid	J.M.Zackariya	A.L.A.Rasheed
A.Uduma Lebbe	S.M.A. Bawa	M.S.M.I.Maja	Dr. M. I. M. Lafir	P.M.I.Prasanna
W.Jayatissa	S.L.A.Rahuman	P.T.Nazeer	A.L.Jamaldeen	M.L.M.Farook
Dr.Mrs. R.S.Pillai	H.U.P.L.de Silva	N. Ratnayake	I.L.M. Siiddique	S.M.Bawa
Dr. M.W. Saleem	S.L.M.Sanoon	G. Jasmin	S.N.Gunaratne	

FIELD VISITS TO THE SCENE OF THE CRIME AT POTTUVIL

First Visit - 01 to 03 Sep. 07

The Commissioners who took part are : Justice N. K. Udalagama, Dr. D. Nesiah, Mrs. Muttetuwegama, Mrs Jezima Ismail, Mr. S. S. Wijeratne, Mr. Javid Yusuf, Mr. Douglas Premaratne P.C.

Second Visit - 01 to 03 Feb. 09

The Commissioners who took part are : Mrs. Jezima Ismail, Mr. Douglas Premaratne P.C.

INVESTIGATION BEFORE THE COMMISSION

Before:

Justice N.K.Udalagama
Ms. J. Ismail
D. Premaratne P.C

Dr. D. Nesiah
S. S. Wijeratne
K.C. Logeswaran

Ms. M. Muttetuwegama
A. J. Yusuf

Counsel assisting the Commission :

From the Official Bar
Y. Kodagoda DSG

D.H.Jayakody SSC

Ms. L. Karunanayake SC

From the Unofficial Bar
Nuwan Peiris

Observers present at investigation sessions

Professor I. Shearer (1) A. Mavromattis (2)
1-2 IIGEP Assistants were present at every session.

Date of Commencement	Date of Completion	Sessions	Witnesses
29.11.07	25.01.08	06	03

Dates of Investigation Sessions-2007/2008

November	29		
December	03	10	17
January	03	25	

Witnesses:

IP E.H.M.Karunaratne ASP A.L.Jamaldeen A. Amarasinghe

Introduction

Case No 11 of the mandate relates to an incident which took place in Radella in the Pottuvil Police Division on 17 Sep. 2006 where 10 Muslim villagers, engaged in repairing the Radella tank, were brutally killed by making deep cuts in the neck region. .

The workers left in the morning by tractor, which normally returned to Pottuvil after dropping them, and went back in the afternoon to pick them up. On this day, the tractor which went to pick them up, failed to return with the workers.

The area in which the incident occurred was largely under the control of the Special Task Force (STF), with the closest camp at Shastraveli being 4 km away. Radella was surrounded by 7 other Camps at Panama, Arugam Bay, Lahugala, Sengamuwa, 10th Mile post, Urani and Komari. The Headquarters of the STF was at Arugam Bay.

1. Facts and Circumstances

1.1 The Incident

On 17 Sep. 2006, a group of 08 Muslim workers who went in the morning in a tractor to repair an inlet sluice gate at the Radella tank, 10 km away from Pottuvil, and 03 others who went to bring them back in the afternoon, failed to return at the usual time. Initial inquiries made by several persons drew a blank and the Special Task Force (STF) was informed.

Several persons went in search of the workers, and In the early hours of the following morning, some villagers found the bodies of 10 workers, blindfolded and with neck injuries, and one Meera Mohideen, lying semi conscious with serious neck injuries.

The injured man was taken in a 3 wheeler to Pottuvil Hospital, and from there in an ambulance to Kalmunai Hospital On the way to Kalmunai Hospital, the ambulance was re-directed to Amparai Hospital by the Police. He survived.

1.2 Arrival of the Police

On the day in question, one M.LA.Aziz made a complaint at 6.30 a.m. to the Pottuvil Police Station about the disappearance of some workers. Accordingly, a team of Police Officers from the Pottuvil Police Station led by the Officer in Charge, Inspector of Police/Mahinda Karunaratne left the station at about 06.45 a.m.

On the way, they met a 3 wheeler taking an injured person to hospital and the IP learnt that the injured person was not in a fit condition to speak.

They arrived at the crime scene at about 8.45 a.m. and by this time, about 100 persons had gathered there.

The IP found and made his observations of 10 dead bodies lying in different places on either side of the tank bund, carried out the formal crime scene investigations, made his notes and also videoed the crime scene.

He contacted the Magistrate, who informed him that due to the situation prevailing in the area, he was unable to come and was advised to bring the bodies to Pottuvil Hospital.

Accordingly, they loaded the bodies into 2 tractors, and left at about 10.30 a.m. in order to take them to the Pottuvil Hospital.



Victim1



Victim 2



Victim 3



Victim 4



Victim 5



Victim 6



Victim 7



Victim 8



Victim 9



Victim 10

1.3 Unrest at Pottuvil

By the time the tractors reached Pottuvil, large crowds followed the tractors, and an emotionally charged atmosphere prevailed. The angry crowd demanded that the bodies be taken to the Pottuvil Grand Mosque premises, in close proximity to the Hospital. Under the circumstances, there was no option, but to do so. Part of the crowd blamed the STF for the killing of the workers.

1.4 The Post Mortem Examination

The Medical Officer of the Pottuvil hospital, Dr. A. M. M. Izzadeen conducted the post mortem examination of the following persons at the Grand Mosque premises on 18 Sep. 2006 and his report is as follows:

1. Majeed Fairoos - Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
2. Abdul Rahuman Mohamed Samsudeen – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
3. Nasardeen Anverdeen – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
4. Meera Mohideen Nawas – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
5. Noohu Lebbe Asmeen – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
6. Abdul Fareed Faizal – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
7. Gafoor Anees – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the posterior neck.
8. Abdul Razool Rizard – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
9. Kalanther Jahfer - Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.
10. Mohamed Farook Mohamed Siyam – Death due to heavy bleeding and respiratory arrest due to deep cut injury at the anterior neck.

1.5 The Visit of the Magistrate

The Magistrate, Akkarapattu visited the Grand Mosque at about 2.15 p.m. on 18 Sep. 2006. He found a large number of Muslims on the

road, inside the mosque and in the compound of the mosque. He heard them shouting slogans against the STF. He gained access to the place where the bodies were kept and made his observations and directed the Medical Officer in charge of the Hospital to hold the post mortem examination.

1.6 The Scene of the Crime

The Rattal Kulam, as the Radella tank is known, is an ancient tank located in jungle terrain about 10 km from Pottuvil town. One of the access roads to the area is the road from Nawal Aru Junction and a right turn near the tank takes one on to the tank bund. A short distance away from the turn along the tank bund is the new spillway.

On either side of the new spillway are two areas of shrub jungle. The survivor was found lying about 50 m from the new spillway on the left side of the bund. The body of another worker was found a short distance away. The other 9 bodies were found on the right side of the bund lying in different places, within a 50 m area from the new spillway. The old spillway is located 1 km from the new spillway along the tank bund and the inlet sluice gate under repair was located some distance away from the old spillway. On the left side of the tank bund on this 1 km stretch is the tank, which was dry at this time. On the right side are the paddy fields.

The tractor was found facing the new spillway, about 75 m from it, closer to the shrub jungle areas where the bodies were found, indicating that it was stopped when the workers were returning after work, on their way back to Pottuvil.

1.5 The Background

This incident occurred in the immediate aftermath of two separate incidents in the area.

The first was the dispute on 16/17 Sep. 2006 between the Muslim villagers and a group of Sinhala and Tamil villagers from the Sinna Ulla area over the attempt to bury the remains of one Tamil named Yacoub Pulendran alias Nagesh in the Muslim section of the Pasarachchenai

cemetery. It was speculated that the Officer in Charge (OIC) of the STF Shastraveli Camp was supporting the action of the Sinhala and Tamil villagers on this matter.

The second was the handing over on 16 Sep. 2006 of 18 carts with illicit timber and the Muslim suspects involved in illicit felling in the Radella area by the OIC of the STF Shastravel Camp to the Beat Forest Officer of the Pottuvil Forest Office, who were then brought to the Pottuvil Police Station amidst security provided by the STF.

In addition to the above incidents, the following incidents for which the LTTE is believed to be responsible have been reported in the area:

- 15 May 2006 LTTE cadres fired at a water bowser supplying the STF base and the public in Komari, injuring a STF officer.
- 20 May 2006 LTTE cadres shot dead a Sinhala civilian in Kalugolla in Lahugala
- 25 May 2006 LTTE cadres opened fire at the vehicle of the President of the Lahugala Pradesiya Sabha, who escaped unhurt
- 08 Aug. 2006 LTTE cadres detonated a claymore mine on a STF water escort in Panama in Pottuvil killing 2 STF officers.

2. The Victims

Persons who died

1. Majeed Fairoos – 18 yrs. Labourer. Resident of Pottuvil 4.
2. A. R. Mohamed Samsudeen – 15 yrs. Labourer, Resident of Pottuvil 2.
3. Nasardeen Anverdeen – 18 yrs. Driver. Resident of Akkarapattu.
4. Meera Mohideen Nawas – 17 yrs. Labourer. Resident of Pottuvil 6.
5. Noohu Lebbe Asmeen – 17 yrs. Labourer. Resident of Akkarapattu 6.
6. Abdul Fareed Faizal - 18 yrs. Labourer. Resident of Akkarapattu. 6.
7. Gafoor Anees.- 18 yrs. Labourer. Resident of Pottuvil 21.
8. Abdul Razool Rizard – 21 yrs. Labourer. Resident of Pottuvil 21.
9. Kalanther Jahfer - 26 yrs. Labourer. Resident of Pottuvil 6.
10. M. Farook Mohamed Siyam - 24 yrs. Labourer. Resident of Pottuvil 4.

Person who survived

1. M.C.Meera Mohideen – 60 yrs. Farm work. Resident of Pottuvil.

Source. SSP Amparai

3. Circumstances that may have led to the crime

3.1 Version of the incident according to the media

3.1.1 Extract from Muslims.com

10 MUSLIMS HAD BEEN BRUTALLY MASSACRED IN POTTUVIL Monday, 18 September 2006

Ten poor Muslims from Pottuvil and Akkaraipattu areas who had been working as ad hoc employees in the Heda Oya construction project were brutally massacred in a jungle area that comes within the purview of the Sasthiraveli STF Camp, about 10 kilometres from Pottuvil Town. Tension is building up in the Pottuvil town area and as result of it shops, schools and other Government offices now remain closed.

.....
One person who escaped death, 60 year old Meera Mohideen is at present admitted to Ampara Hospital for further treatment. He is unable to talk and therefore unable reveal anything about the incident.

SLMC Leader Rauff Hakeem had already contacted the Presidential advisor Basil Rajapakse and briefed him of the situation in Pottuvil. Hakeem and along with the STF Commandant and the IGP is expected to reach Pottuvil by helicopter around 2 pm. The Muslims of Pottuvil are in a catch 22 situation and unable to tell us as to who would have been responsible for this massacre.

The SLMC Leader Rauff Hakeem and NUA leader Ferial Ashraff had already issued statements requesting the Muslims not to resort to violence. Western Province Governor Alavi Moulana had already gone on record blaming the LTTE for this massacre.

3.1.2 Extract from the Sunday Times of 24 Sep. 2006

Pottuvil massacre: SLMC calls for independent inquiry

By N. Dilshath Banu

Is it the LTTE, the STF or some other unidentified group that allegedly massacred the ten Muslims in Pottuvil are glaring questions that still remain unanswered while the government and the LTTE accuse each other of the crime.

Last Sunday, eleven labourers who went out to affect repairs to the anicut at Raththal Kulaum in Pottuvil had gone missing. The next day a search party of villagers found the workers blindfolded badly mutilated and hacked to death. One among them though seriously injured had survived the ordeal and was rushed to the Ampara hospital.

Though police reports said the sole survivor Meera Mohideen (60) had made a statement to police detectives implicating the LTTE in the massacre, but what his 23-year-old-daughter, Rujja said was quite the contrary.

"My husband and other family members visited him in hospital and found his condition to be critical. He is unable to speak at all. A tube was inserted into my father's throat," Rujja said.

3.1.3 Extract from UTHR Report No. 23 of 07 Nov. 2006

3.1 Accusations and Counter-Accusations

On 17th September, 8 Muslim labourers who went south to repair the bund of Rattal Tank and some others who went in a tractor to bring them back in the evening were abducted. The following morning a search party found 10 bodies blindfolded, tied and hacked to death.

.....
In the judgment of the local Muslims the area was totally under STF control. They ruled out any possibility of LTTE involvement. They accused the STF and demonstrated demanding the immediate removal of Gunaratne. The SLMC leader Rauf Hakeem reported what the people had told him and called for a UN inquiry. Many still had reservations about excluding LTTE involvement until the widely felt impact of the Government's subterfuge in dealing with it.

Locals pointed out that the nearest LTTE encampment in Kanjikudichcharu was more than 25 miles away and the LTTE had not been responsible for abductions or killings around Pottuvil in more than 10 years. To commit a crime in Shastriveli at 5.30 PM, the LTTE would either need to travel by day or arrive earlier and hide in those parts. Either way, it would have been risky for them. And escape would have been difficult.

Meera Mohideen, the injured man, was sent by ambulance with written instructions from District Medical Officer, Pottuvil, to have him admitted to hospital in Kalmunai. Kalmunai has Ashraff Memorial Hospital and the older base hospital in the Tamil division, both of which were well equipped after the 2004 tsunami. The ambulance had gone past the STF check point in Karativu and was in Maliyakkadu on the outskirts of Kalmunai, when the Police there stopped the ambulance and ordered the patient taken to Amparai Hospital. The people in Pottuvil understood that the order for this transfer had come from ASP Jamaldeen of the Kalmunai police. This change was something the victims' families would have been extremely anxious over since Amparai is a Sinhalese town where the STF has its regional HQ and the STF was being accused of the crime. Moreover, the Muslims felt home at Kalmunai that was within easy access of Pottuvil. The move had nothing to do with the interests of the patient to whom it meant a further delay and mental unease.

3.1.4 Extract from UTHR Report No. 25 of 31 May 2007

4. Pottuvil Case: The Singular Fate of the Acclaimed Star Witness for the State
On 17th September 2006, 10 Muslim labourers were hacked to death allegedly with the involvement of the STF (see Special Rep. No.23). The lone survivor Meera Mohideen who had a gash on his throat was the following day dispatched by ambulance to Kalmunai Hospital that is in a predominantly Muslim area. From almost the doorstep of Kalmunai Hospital, the Police on the order of DIG Amparai, re-routed the ambulance to Amparai Hospital in a predominantly Sinhalese area. From Amparai Hospital the Police claimed that Mohideen had testified to the LTTE being the perpetrators of the crime. Further, a Muslim Minister Athaullah was sent to obtain a video testimony from Mohideen to implicate the LTTE, which was posted on the Defence Ministry web site. The video showed a medical man in overalls holding something against the throat of the injured victim as he spoke haltingly.

The Press, especially the government media, went to town with the 'evidence' against the LTTE. The Amparai Hospital authorities told the media that the victim was almost recovered and would be discharged in a few days. This was reported in the Daily News of 4th October 2006. In the normal order of things the Police should have reported to the Akkaraipattu Magistrate Mr. Manaf the testimony he supposedly gave them implicating the LTTE and it would have been the Magistrate's duty to summon him, test the evidence in court and put to shame all those misguided Muslims who had been accusing the STF of the massacre. But, lo and behold, the star witness became the victim of an astounding disappearing act. The media who had elevated him to stardom simply forgot, after 4th October, that he ever existed.

Inquiries by interested persons in Pottuvil revealed that producing him before the Akkaraipattu Magistrate was the last thing the authorities had in mind.

3.2 The Magisterial Inquiry

The inquest proceedings conducted by the Magistrate, Akkarapattu, commenced on 18 Sep. 2006 and was concluded on 07 Dec. 2006 after recording the evidence of the following 17 witnesses, which

included the survivor, M. C. Meera Mohideen whose statement was recorded on 31 Oct. 2006:

A.M.A.Hasith, S.L.A.Rahuman, M. Karunaratne, M.I.M.Lafir, S.L.S.Premasundera, A.H.Jamaldeen, H.Noordeen A.C.A.Latiff, M.L.M.Siddique, M.L.M.Farook, M.M.Bawa, I.L.M.Siddique, A. Meera Mohideen, J.Jasmin M.C.Meera Mohideen , C.S.Raviya Umma, M. L. Mansoor,

The Magistrate determined the cause of death on 07 Dec. 2006 and directed the Police to investigate into the incident, arrest the suspects and to produce them before court.

A certified copy of the case record was produced on 11 Jun. 2007 before the Col.

3.3 The Investigations by the Commission

3.3.1 Investigations by the Investigation Unit (IU) of the Commission

Investigations were carried out in accordance with a Plan of Investigation approved by the Commission and the IU recorded statements from 80 witnesses.

3.3.2 Investigation before the Commission

The investigation before the Commission commenced on 29 Nov. 2007 and was concluded on 25 Jan. 2008. 06 sessions were held and 03 witnesses gave evidence, including the OIC of the Pottuvil Police, who conducted the crime scene and preliminary investigations.

3.4 The Public Inquiry

The public inquiry into the incident commenced on 05 Jan. 2009, and was concluded on 06 Apr.2009.

17 sessions were held and 29 witnesses gave evidence.

3.5 Summary of Evidence

3.5.1 Eye-witness - M.C.Meera Mohideen

Meera Mohideen was the only person who survived the attack and his was a most traumatic experience lying in a semi conscious state throughout the night in a jungle area with cut injuries on his neck. A feature of his evidence at the public inquiry was that he could not remember the details of what exactly happened, or the contents of

several statements he made from time to time and he attributed it to his weak memory.

His evidence at the inquiry was that he was hired to work as a cook and this was his first day at work. The workers were returning after work in the tractor when they were stopped by a group of persons who spoke in Tamil, they blindfolded him with his own shirt and took him away a short distance. and cut his neck. Parts of his evidence are as follows:

'They spoke to us in Tamil. They asked us to get down from the tractor, and they took hold of our hands and dragged us and made us sit down and then I could hear even some noises, they were cutting our necks.'

'They first blindfolded me and after that I couldn't see or count anybody.'

He was shown a video clip where he is seen making a statement on 27 Sep. 2006 to Hon. Minister Athaulla in the Govt. Hospital, Amparai in the presence of the Medical Superintendent, but he could not remember that either. This statement he made to the Hon. Minister was telecast on 27 Sep. 2006 on Rupavahini and some other TV stations. The transcript in English of the relevant portion of the telecast is as follows:

Q. You were coming in the tractor ?

A. They stopped us and asked where you are going.

Q. Is it in Tamil ?

A. Yes, we said we are going to Pottuvil.

Q. What were they wearing ?

A. Some of them were wearing khaki shirts and big khaki trousers, some others were in shirts and T. shirts. They wanted us to take their goods.

Q. In the tractor?

A. Yes.

Q. They told in Tamil ?

A. Yes.

Q. Were you able to recognize them ?

A. Yes, when I saw them I realized that they were LTTE men – tigers. They told us not to worry and that they will not harm us, and they said that we were not a threat to them, two of them brought some more men and they all surrounded the tractor and they wanted us one by one to go and tell our real names, it was around 5.30 pm. When we asked where you are taking us, they said to their Periyawar (Chief).

Q. Did they say "Periyawar" ?

A. *Yes, they said " Periya anna " (big brother), they also asked if we had our ID cards, we told we didn't bring. They took us in one after the other.*

Q. *Were there others in the tractor ?.*

A. *Yes, when they called each time one of us got down and went. I was the last person, it was around 7.00 pm. As I went in they asked what I had in my pocket, I said I have Rs.150/-, a few cigarettes and a box of matches, which my brother-in-law gave me when going to work, they grabbed (Rs.150/-), they blind folded me, after that I couldn't see what happened but I heard a thundering noise, with that they hammered on the back of my head. Then one of them said I was already dead, other one argued that I was still alive, and they thought I was dead because I fell unconscious. After a while I gained conscious but I could not see anything.*

It was too dark in the jungle, following day morning villagers who were combing the jungle came in bikes, tractors and other vehicles, found us after they saw the abandoned tractor. Then they found dead bodies here and there in the jungle.

Q. *Were you conscious at that time ?.*

A. *I was conscious, but I could not talk or move.*

Q. *How many LTTE men would have been there ?.*

A. *There were 5 on the road, I am not sure how many were in the jungle.*

Q. *How did you come to the conclusion that they were LTTEers ?.*

A. *Their dress and Tamil conversation.*

Q. *Were they talking in good Tamil ?.*

A. *Few cigars, match box and Rs.150/-. I had were taken away by one of them. Grabbed from me saying " Eduda Ellam ". (Filth)*

Q. *This helped you to conclude that they were Tamil?*

No, no Sinhalese cannot speak that type of Tamil for sure.

Q. *You would know who they were? "Allah" has saved only you as a witness . A lot of people are having doubts as to who would have done this. You are the only witness in this incident, in the name of God you have to reveal the truth ?.*

A. *All what I have to say is that Tamil speaking people only did this.*

Q. *But when they talk in Tamil you would know whether they are Tamil or Sinhala people ?.*

A. *They were Tamil people, I have no doubt whatsoever, they were Tamils.*

He also made a statement to ASP Jayantha Wickremasinghe on 19 Sep. 2006 and made 2 other statements to the CID on 24 Sep. 2006 and 01 Oct. 2006. whilst under treatment at the Amparai Hospital. He said that he cannot write and therefore usually places his thumb impression and that he cannot remember making any of these statements.

He made a statement again to the Akkarapattu Magistrate on 31 Oct.06 at the inquest.

The contents of these statements are more or less on the lines of the statement he made to Hon. Minister Athaullah, but in the latter statement he says that he received some blows before he lost consciousness.

A translation of the relevant extract of the statement made by him in Tamil to the Magistrate is reproduced below :

“When we were going a little away from our work place at the tank bund 5 people wanted us to stop the tractor. I was in the trailer. The driver stopped the tractor. 3 of them were wearing black coloured trousers. Also they were wearing the same colour shirts. 3 of them were having guns. They were having big guns. Other 2 were wearing sarongs. They were wearing shirts. Those who were wearing sarong had small water gallons. We told we are coming after work. They asked what work. We told bund construction work . Thereafter they were talking among them. Later the gun holders talked something together. One of them came forward and asked to come down one by one. Firstly the person who came near the driver got down and went. All got down and went one after the other to the jungle . I am not aware what happened to the person who went before me. Lastly they took me. They took me into the jungle and removed my shirt and tied my eyes. Little later I heard some noise like cutting by a weapon. Thereafter I didn’t know what happened to me I am not aware who and took us to the jungle. I have not seen them anywhere before. They talk in Tamil. They were talking in Tamil fluently. I am not aware what happened to the people who were taken from the tractor before me. I didn’t hear not even one of them crying. They did not take me to the side where they took the others. They took me to another side.”

He also made a statement to the Investigation Unit of the Commission on 05 Jan. 2009. A copy of this statement is at Appendix 1.

3.5.2 Persons who accompanied Meera Mohideen to Hospital

A. Nazurdeen

Nazurdeen was one of those who accompanied the injured Mohideen in the 3 wheeler that took him from the scene of the crime to Pottuvil Hospital. His testimony was that Mohideen was semi-conscious and did not speak on the way.

Indika Prasanna

Indika was the driver of the ambulance that transferred Mohideen from Pottuvil Hospital to Amparai Hospital. He said that the ambulance which was taking the injured person to Kalmunai Hospital was stopped at Maligakadu junction by the Police and directed that the patient be taken to Amparai Hospital.

3.5.3 Transfer of Meera Mohideen to Amparai HospitalPS 27857 W. Jayatissa

Jayatissa was the Police officer who manned the Maligakadu junction check point in Kalmunai. He received a message from the telephone operator of the Kalmunai Police Station at about 11 .00 a.m. on 18 Sep. 2006 to direct an ambulance that was bringing a patient, to Amparai Hospital and he took action accordingly.

Sub Inspector P.T.Nazeer

SI Nazeer was the OIC Traffic of the Kalmunai Police Station. On 18 Sep. 2006 he was instructed by ASP/Jamaldeen to stop an ambulance traveling from Pottuvil and direct it to Amparai Hospital. Accordingly, he went to Maligakadu junction and was informed that the ambulance had already been directed to proceed to Amparai Hospital.

Supdt. of Police / A.L. Jamaldeen

SP/Jamaldeen was the ASP in charge of the Kalmunai District. On 18 Sep. 2006 he was informed over the phone by DIG/Lasantha de Silva about an incident in Pottuvil and to ascertain and let him know whether the surgeon was available at Ashroff Hospital and the distances to each Hospital. He telephoned Dr. Rani and was informed that the surgeon was on leave. He advised that the patient be sent to Amparai, as it was the closest and the safest, instead of sending him to Batticaloa. He instructed SI/Nazeer to intercept the ambulance and direct it to Amparai Hospital.

Police Constable No. 64302 A.M.N. Ratnayake

PC Ratnayake was the telephone operator at the Kalmunai Police Station. On 18 Sep. 2006 he received a message from the Police Post at Amparai Hospital to divert an injured person being sent from Pottuvil to Kalmunai Hospital, as arrangements had been made at Amparai Hospital to receive the injured person, and he conveyed the message to the Police Officer at Maligakadu Junction.

Deputy Inspector General of Police, H.U.P. Lasantha de Silva

DIG/de Silva was in charge of Amparai, Kalmunai and Pottuvil Police Divisions. On 18 Sep. 2006 he received information from OIC Pottuvil, IP/Karunartne that a seriously injured person was being sent from Pottuvil Hospital. He contacted the Ashroff Hospital at Kalmunai and found that the surgeon was on leave. He spoke to ASP/Jamaldeen who informed him that the patient was being transferred from Pottuvil to Kalmunai. He directed ASP/Jamaldeen to send the patient to Amparai Hospital, because Amparai Hospital had better facilities and because Amparai was more secure than Kalmunai. He also stated that terrorists mingled with Tamil civilians and that the Pottuvil jungle was also frequented by the LTTE.

3.5.4 Treatment of Meera Mohideen

Dr. M.I.M.Lafeer

Dr. Lafeer was attached to the Pottuvil Hospital and on 18 Sep. 2006 the injured Mohideen was brought there for treatment. Dr. Izzadeen of the same Hospital had advised him to transfer Mohideen to the Ashroff Hospital as the Pottuvil Hospital was not sufficiently equipped to deal with a patient like him and accordingly Mohideen was sent in an ambulance to Ashroff Hospital.

Dr. Rani. Sithambarampillai

Dr. Rani was on duty at Kalmunai Ashroff Hospital on 18 Sep. 2006. On this day, the surgeon was on leave. She said that she cannot remember whether ASP/Jamaldeen contacted her, but she came to know that someone had inquired from the Base Hospital, Kalmunai if

the surgeon was there. She added that the Ashroff Hospital had an Intensive Care Unit (ICU), but there was no ICU at the Base Hospital

Dr. M. W. Saleem

Dr. Saleem was the Medical Officer in charge of the ICU in Amparai Hospital on 18 Sep. 2006. He stated that Mohideen had a cut injury in the throat and a tube was inserted into his throat to facilitate breathing. In order to make a statement he had to manoeuvre the tube. He assisted Mohideen to make a statement to the Hon. Minister Athaula, which was video filmed. He testified that no force or compulsion was used on the injured person and that Mohideen said that people carrying knives attacked them and that he thought they were LTTE cadres.

3.5.5 Relatives and friends of the deceased persons

M.L.M.Farook

Farook is the father of deceased Mohamed Shyam, who was 24 years of age, married and had 2 children. Shyam operated the tractor owned by Rasheed and on this day he came home for lunch and went back to the site with 2 others. At about 7.00 p.m. Farook tried to contact Shyam on the phone, but there was no answer. Later in the night he had gone to the area, and observed a boot mark on the side of the tank on the tank bed. He had shown the mark to contractor Rasheed.

According to him, his son had told him that when he was loading sand to the tractor, he was warned by the Officer in Charge (OIC) of Shastraveli Camp not to load sand from that area. In his statement to the Investigation Unit he had said that his son told him that he was threatened by the OIC about a week prior to the incident, but when giving evidence said that he did not know who had threatened his son. Farook confirmed that Shyam's wife received Rs. 100000/- as compensation and that she re-married and is living abroad and that the 2 children of the deceased's son are in his care and custody.

M.L.Sahabdeen

Sahabdeen, a fisherman, was a friend of the deceased Shyam, the tractor driver. He had tried to contact Shyam on the night of the 17

Sep. 2006 between 11.00 p.m. 12.00 midnight but the phone was switched off. On the following morning he went in search of the workers, and found the tractor on the tank bund facing Pottuvil, about 200 metres from the place where they were working. About 10 metres away from the tractor he saw the body of a person, blindfolded and bleeding. He was frightened and left the place and informed some villagers who were on the way. He had also informed some Special Task Force (STF) personnel whom he met, and they had put up a road block to prevent people from going to the scene.

They had advised him to inform the Officer in Charge (OIC) of the Shastraveli Camp. He met the OIC at the camp, who had been already informed by Majeed about the disappearance of the workers. The OIC became tense when he informed him about finding a body. The OIC spoke to Arugam Bay Camp and he overheard the OIC Arugam Bay Camp telling him to wait until the buffel vehicle arrived.

He then went back to Nawal Aru Junction and saw that a large crowd was trying to go into the jungle against the orders of the STF manning the road block. He went to the scene once again and saw the bodies lying along an animal track. There were 300 to 400 persons at the scene and they removed the bodies in 2 tractors notwithstanding the orders of the Police. He also stated that he saw a boot mark on the side of the tank.

About 2 days prior to the incident Shyam is said to have told him about LTTE movements in the area.

Sahabdeen also referred to 2 incidents caused by the LTTE prior to the incident.

ILM Siddique

Siddique is an uncle of the deceased Kalandar Abdul Jabbar, who was 26 years of age and unmarried. He identified his nephew's body. He confirmed that the family received Rs. 100000/= as compensation.

S.Mohideen Bawa

Mohideen Bawa is an uncle of the deceased Mohamed Samsudeen, who was only 16 years of age. He identified his nephew's body. He stated that the deceased's father was dead and it was he who looked after the deceased's mother and the two young siblings. He confirmed that the deceased's mother received a sum of Rs. 100,000/=

G. Jasmin

Jasmin is a brother of the deceased Gafoor Aneez. He identified his brother's body. He said that his brother used to 'do jobs' for the OIC of the Shastraveli Camp, who was also known as Boxer.. According to him, 'Boxer' had told his brother about 4 days prior to the incident not to go to Radella as there was going to be some trouble there. However, he said that he did not suspect any one of committing the crime.

M.L.A. Aziz

Aziz was engaged in rice milling and was a distant relation of Kalandar Lebbe, who lived in the next house and who worked in the mill for about 3 years until a few months prior to the incident. Aziz made a complaint to the Pottuvil Police on the morning of 18 Sep. 2006 about the disappearance of the workers. Later, he went to the mosque after the bodies were brought and he heard people accusing the STF of the crime. He identified the body of Kalandar Jabbar. The family received Rs. 100000 as compensation.

3.5.6 Visit to the worksite by the Engineer and ContractorN.W.K.C.C. Narangammana

Narangammana was the Asst. Engineer at the Irrigation office in Pottuvil. He supervised the repairs at the Radella tank. He visited the work site at about 12 noon on the day of the incident and left it at about 4.00 p.m. Before leaving at about 3.45 p.m. he contacted the tractor driver on the phone and was informed that he was on the way to Radella to pick up the workers. Later, he was informed by the contractor that the workers were missing and he accompanied the

contractor to Arugam Bay STF Camp and spoke to the Officer in Charge. He was then informed that they would go in the morning. He said that he was aware that the LTTE was present in the area, as they had recently attacked a water bowser.

A.M.Abdul Rasheed

Rasheed undertook the contract to repair the sluice gate and on the day in question he visited the workers around 11.00 a.m. Around 5.30 p.m. he tried to contact Kalandar Jabbar and Shyam on their mobile phones, but there was no answer. Narangammana, who was the Asst. Engineer of the Irrigation Dept. had told him that he had spoken to Shyam at about 3.30 p.m on the mobile phone. Later he had gone with Narangammana to Arugam Bay Camp and met the Officer in charge (OIC). OIC Arugam Bay spoke to OIC of the Shastraveli Camp CI Gunaratne who told him not to worry in his presence. In the night, he had gone to the area, and found the tractor but not the workers. Next morning he made a second trip and found them lying dead. Farook a parent of one of the workers told him about a boot mark which he had seen.

According to him, CI Gunaratne was a popular figure in the area until this incident took place. He said that at a meeting at the Irrigation office some said that the LTTE did it, some said that the STF did it, and some even said that the Sinhala and Tamil people did it.

3.5.7 Contacts by the LTTE

M.S.A. Wasid – a Pradeshiya Sabha Member

Wasid received a call from one 'Jaya' who was the political head of the Thirikkovil LTTE office, and who was known to him, .at about 10.00 a.m. on 18 Sep. 2006. Jaya had assured him that the LTTE did not commit the crime and that he will receive a call from someone higher up. TNA MP Chandrakantha Nehru also spoke to him and said the same thing. Later he received a call from someone who claimed that he was Tamil Selvam and he too claimed that the LTTE was not involved and offered to help.

A.M.A.Majeed

Majeed is the brother of Rasheed, who was given the contract to repair the sluice gate at Radella tank. Majeed's tractor was used to transport the workers to the work site. He was aware that the LTTE moved about in the area and a week prior to this incident, a STF water bowser was blasted by a bomb. Abdul Wasid spoke to him and he too called one Jaya of the LTTE who blamed the STF for the incident. However, his impression was that the LTTE was trying to create enmity between the STF and the Muslim villagers.

3.5.8 Police Interpreter

PS 2081 S.L.M.Sanoon

Sanoon assisted ASP/Wickremasinghe who recorded Mohideen's statement at Amparai Hospital on 19 Sep. 2006. According to him, the injured person said that those who caused the injuries spoke Tamil, were youngsters and that they were LTTE cadres.

3.5.9 ASP/M.K.S.N. Gunaratne – OIC, Shastraveli Camp

CI Gunaratne was the Officer in Charge (OIC) of the Special Task Force (STF) Camp at Shastraveli and was also known as Boxer because of his boxing skills. He stated that In view of the widespread allegations among the Muslim community at the time of the incident that the STF was responsible for killing the workers he was transferred out on 20 Sep.2006.

He also stated that on the day in question he was in the camp attending to his routine duties and that no officer can go out of the camp without his knowledge.

On the night of 17 Sep. 2006 he came to know from the OIC Arugam Bay Camp that some workers were missing and that he learnt about the incident from a person called Sahabdeen who came to the camp on the following morning. He contacted the OIC Arugam Bay Camp and was advised to await the arrival of the buffel vehicle.

He did not deliberately delay leaving the premises, but took a different route thinking that this was a trap laid by the terrorists. He was aware that Muslim people often helped the terrorists. He did not wait for the

arrival of the buffel vehicle, but arrived at the scene at about 9.30 – 10.00 a.m.

When questioned , he denied that –

- he ever visited the house of Nagesh; he said that he was informed about the incident, and having examined the documents they brought with them, he informed the OIC Pottuvil Police Station to look into the matter.
- he associated with the deceased Aneez or that he warned him against going to Radella area.

3.5.10 Dispute at the Pasarachenai cemetery on 16 Sep. 2006

A.U.Lebbe

Lebbe's house is situated close to the Pasarachcenai cemetery. It was his evidence that preparations were being made to bury a Tamil person named Nagesh and he was present when the Muslim villagers objected to the burial. . A Tamil boy, related to Nagesh, threatened "if you don't allow the burial of the body now, there will be a situation where 10 of your people will be buried here". He added that this boy and another who accompanied him, have now left the village.

S.M.A.Bawa

Bawa was present at the Pasarachchenai cemetery at the time of the dispute over the burial. He heard Nagesh's son say "if you don't allow us to do the burial here, we will kill your people and set fire to your place" Nagesh's son was no longer in the village and his whereabouts are unknown. According to him the STF was not present at the time of the incident.

S.L.A.Rahuman

Rahuman is a resident of Jumma Mosque Rd. Pasarachchenai. He was present when Nagesh's son uttered the following words: "if we can finish 10 Muslims only, we can find a solution to this problem" and he saw 'Boxer' from the STF at Nagesh's house. He said that people suspected that the crime was committed by the people in Ulla area with

the support of “Boxer”. However, he added that “Boxer” was a good man who helped the villagers during the tsunami.

J.M. Zackariya

Zakariya was the Secretary to the Pradeshiya Sabha. He was present at the cemetery when a dispute was taking place because a non Muslim’s body was being brought there for burial. The Officer in Charge of the Pottuvil Police Station was also there. He was there for about half an hour and during this period he did not see the STF there.

3.5.11 Illicit felling of timber in the area

M.S.M. I.Maja

Maja was the Beat Officer from the Pottuvil Forest Office. He was aware that there was illicit felling of timber in Pottuvil and that the STF was conducting raids.

On 17 Sep. 2006, 18 carts and the suspects, all Muslims, apprehended by the STF in the Radella Area were handed over to him by the Officer in Charge of the Shastraveli Camp. The STF provided security to bring the carts and suspects to the Pottuvil Police Station.

On the way, they saw a large gathering at the Pasarachenai cemetery and learnt that there was a protest about a burial. The STF did not get involved in this incident.

3.5.12 Alternative route to Radella tank

ALA Rasheed

Rasheed ran a tea kiosk on the road leading to the anicut at Radella, which was 2 miles away. Only people who turned at the Naval Aru junction and took the Rattal Rd. go past his kiosk. The workers did not use that road on that day, and they would have taken the Pulliyady Road. He did not see anyone going past his kiosk after 4.00 p.m. on this day. According to him, villagers said that the LTTE had killed the workers.

3.5.13 Statements of 2 other eye – witnesses

Ganeshan Wijayakumar & Nagamani Pakyarasa

The evidence of these 2 witnesses could not be recorded as the term of the Commission was due to end on 03 May 2009 and the inquiry had to be concluded. Their statements had earlier been recorded by the District Criminal Investigation Unit, Amparai, the CID and the Investigation Unit of the Commission in relation to the finding of an abandoned boat in the Okanda area on 24 Sep. 06 . Both were in prison at the time some of the statements were recorded.

Ganeshan Wijayakumar's statement is as follows:

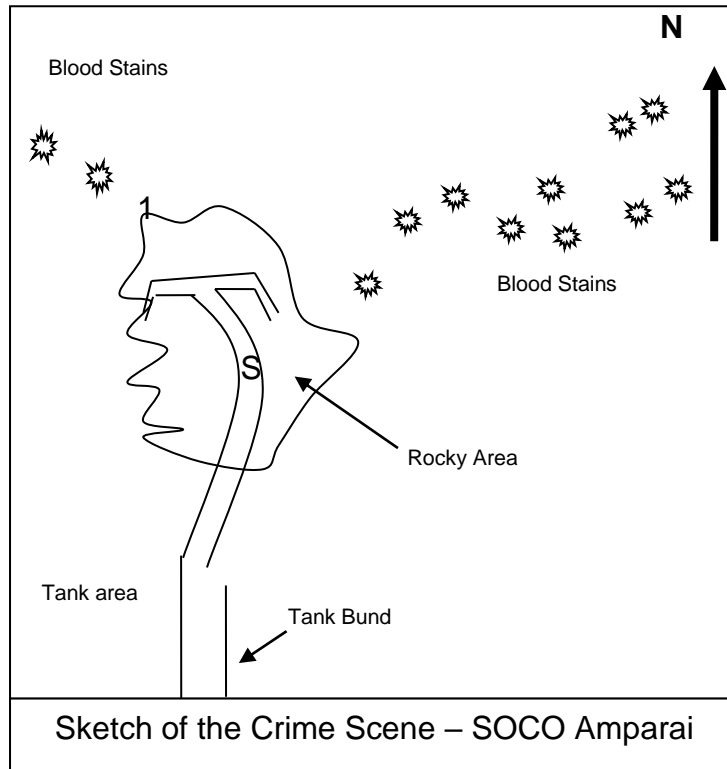
- in Sep. 2006 he, Sivarasa, Pakyarasa and another accompanied Christy, Pavamaran, Kadal Ibban, Weera and 2 others of the LTTE who were armed, in 2 boats to Okanda. The boats belonged to Pakyarasa and Sivarasa who also went with them
- one of the boats was abandoned after striking a rock and they reached Okanda in the other boat;
- from there they walked to the interior using jungle tracks, and entered the Radella jungle;
- the LTTE encountered a group of workers returning home in a tractor, stopped it and asked the people to get down one by one;
- Christy had a knife and he went into the jungle area;
- Pavamaran blindfolded each person and Weera took them towards the jungle;
- Weera told them those who came in the tractor will be 'cut';
- it took about one hour.
- he did not see the massacre but saw Christy washing the knife at a stream.

Nagamani Pakyarasa's statement is as follows:

- he admits having accompanied a group of LTTE cadres to the Radella jungle in Sep. 2006;
- he corroborates the contents of Wijayakumar's statement; however, he says that to his knowledge Wijayakumar did not accompany the group.

Their statements in full are at Appendix 2.

Radella Tank Spillway & Bund



Sketch of the Crime Scene – SOCO Amparai

3.6 Analysis of Evidence

3.6.1 The Victims

The victims were 11 ordinary Muslim villagers engaged as labourers at the Radella worksite.

The oldest among them, the cook, was 60 years of age and this was his first day at work. He is the only one who survived the attack.

The youngest was only 15 years of age, and 7 of them were under 20 years of age. while the other 3 were under 30 years of age.

3.6.2 The Nature of the Attack

Witnesses who arrived at the scene, found that the bodies were lying scattered, in different places, not very far from each other, were blindfolded, with hands tied, and all had cut injuries on their necks. The Medical Officer who held the post mortem examination recorded that they died of cut injuries in the neck area. The brutality of the killing by slitting the throats of these workers appears reminiscent of some of the atrocities believed to have been committed by the LTTE in a similar manner at other places in the past. There are no known instances where security forces have been accused of committing similar atrocities.

3.6.3 The Assailants

Meera Mohideen, the survivor described the assailants as a group of persons who were young, dressed in shirts and shorts/sarongs, in the way the LTTE cadres normally dress, and they spoke Tamil fluently. He made similar statements to Hon Minister Athaulla, ASP Wickremasinghe, the CID, the Magistrate and to the Investigation Unit of the Commission. At the public inquiry, however, he said that he did not know who attacked them.

The witness was shown the video recording of his statement, and he did admit that he told the Hon. Minister that he suspected the LTTE to be the perpetrators.

This is the only direct evidence about the assailants.

The weapons used to cause the injuries on the victims were not found.

3.6.4. The Suspects

Immediately after the bodies were discovered, and before anybody knew what Meera Mohideen had to say, it was widely believed that the STF had killed the workers and this belief was so great that a STF vehicle was attacked by a Muslim mob, the OIC of the camp CI Gunaratne was transferred out of the Shastraveli camp 3 days later, and a demand was made for an international inquiry. Demonstrations and hartals were organized against the STF.

The LTTE was also suspected to have carried out the attack, and witness Wasid claimed that he was assured on the phone by Jaya, the Amparai LTTE leader and Tamil Selvam of the LTTE Peace Secretariat that the LTTE did not carry out the attack. They put the blame on the STF.

A third group that came under suspicion was the family members of the late Nagesh , at whose funeral, the threat was made to kill 10 Muslims, due to the dispute that arose at his burial.

3.6.5 Evidence linking the STF to the crime

- a) evidence of M. L. Sahabdeen that the STF did not arrive at the scene promptly, after being informed about the incident;
- b) evidence of M.L. Sahabdeen that he saw the imprint of a boot at the scene, implying that it may have been the boot mark of the STF,
- c) evidence of M. L. Sahabdeen that CI Gunaratne looked tense when he was informed about seeing the body of one of the workers;
- d) evidence of S.L.A.Rahuman that he saw CI Gunaratne at Nagesh's funeral house;
- e) evidence of S.L.A.Rahuman that people suspected that the crime was committed by the people of Ulla area with the support of the OIC of the Shastraveli camp, CI Gunaratne;
- f) evidence of Gafoor Jasmin that the OIC of the Shastraveli camp

had told Gafoor Aneez , one of the deceased, not to go to Radella as there was going to be trouble there; this was denied by CI Gunaratne.

- g) evidence of M. L. M. Farook, father of deceased Shyam that the OIC of the Shastraveli camp had warned tractor driver Shyam, one of the deceased, about loading sand in the area and threatened him ; this was denied by CI Gunaratne.
- h) allegation that the diversion of Meera Mohideen from Kalmunai to Amparai was to prevent treatment of the only surviving witness and thereby obliterate testimony that might have implicated the STF in the crime - however, this was proved false because the real reason for the transfer was the absence of the surgeon at Kalmunai Ashroff Hospital to treat the patient, as testified by the medical and police personnel.

3.6.6. Evidence linking the LTTE to the crime

- a) that the assailants spoke Tamil fluently and were dressed in shirts and shorts/.sarongs like LTTE cadres – evidence of Meera Mohideen;
- b) that the LTTE was responsible for several incidents that took place in May and in Aug, 2006 in the area, which have been listed earlier – Police reports;
- c) that two witnesses, Wijaykumar and Pakyarasa, in their statements made to the CID claimed that they accompanied a group of LTTE cadres to the Radella area, where the killings took place; they witnessed the workers being taken to the jungle one by one; they spent about an hour there; they were threatened not to disclose anything; and one of them saw the knife used being washed in a stream;
- d) that Shyam had told his friend about the presence of the LTTE in the area – evidence of M.L.Sahabdeen .
- e) that Tamil Selvam and Jaya took an undue interest in the killings, and gave telephone calls to a Pradeshiya Sabha Member , blaming the STF for the killings;

- f) that the mode of killing and its brutality appear similar to some of the killings for which the LTTE was accused earlier.

3.6.7 Evidence linking the family members of Nagesh and the STF

- a) that Nagesh's son threatened to kill 10 Muslims, when the Muslims protested about burying the body in the Muslim part of the cemetery.
- b) that the OIC Shastraveli Camp was seen at Nagesh's house

3.6.8 The transfer of Mohideen to Amparai Hospital

The UTHR Report No. 23 of 07 Nov. 2006 is critical of the action taken by the Police to send the injured Mohideen to Amparai Hospital for treatment and refers to it as follows:

Meera Mohideen, the injured man, was sent by ambulance with written instructions from District Medical Officer, Pottuvil, to have him admitted to hospital in Kalmunai. Kalmunai has Ashraff Memorial Hospital and the older base hospital in the Tamil division, both of which were well equipped after the 2004 tsunami. The ambulance had gone past the STF check point in Karaitivu and was in Maliyakkadu on the outskirts of Kalmunai, when the Police there stopped the ambulance and ordered the patient taken to Amparai Hospital. The people in Pottuvil understood that the order for this transfer had come from ASP Jamaldeen of the Kalmunai police. This change was something the victims' families would have been extremely anxious over since Amparai is a Sinhalese town where the STF has its regional HQ and the STF was being accused of the crime. Moreover, the Muslims felt home at Kalmunai that was within easy access of Pottuvil. The move had nothing to do with the interests of the patient to whom it meant a further delay and mental unease.

However, it was the evidence of Dr. Mrs. Sithambarampillai of the Kalmunai Ashroff Hospital, that it had an Intensive Care Unit (ICU) but the surgeon was on leave on that day and that the Base Hospital did not have an ICU. The Police had to make split second decisions in regard to the transfer of the patient, and the Police have acted wisely in transferring Mohideen to Amparai Hospital. The Commission is satisfied that the transfer was done solely in the interests of the patient, both medical wise and security wise.

3.6.9 The video film of Meera Mohideen's statement

The UTHR Report No. 25 of 31 May 2007 refers to this incident as follows:

.....From Amparai Hospital the Police claimed that Mohideen had testified to the LTTE being the perpetrators of the crime. Further, a Muslim Minister Athaullah was sent to obtain a video testimony from Mohideen to implicate the LTTE, which was

posted on the Defence Ministry web site. The video showed a medical man in overalls holding something against the throat of the injured victim as he spoke haltingly.

The Hon. Minister visited the Hospital to speak to Meera Mohideen after his statement was recorded by the Police and at a time when the situation demanded that the disturbances taking place in the Pottuvil area be quelled to avoid escalation of a conflict between the Muslim community and others. Political considerations required that the government takes necessary steps to calm down the situation, as it was widely believed that the STF was responsible for the crime. This was an exceptional situation and the action taken in the view of the Commission was necessary, although it was unusual.

3.7. Finding

At the time of the incident, the STF were the prime suspects. The evidence linking the STF to the crime, which is entirely circumstantial, does not add up to anything more than a remote possibility and it is surprising that on this flimsy evidence a climate deeply hostile to the STF was created by some interested parties, possibly those responsible for felling illicit timber or the LTTE with the aim of reducing the STF's presence in the area.

Suspicion certainly falls on Nagesh's family in view of the threat made in the presence of others, to kill 10 Muslims, the exact number that was killed a day later. However, apart from this threat made in the heat of the dispute, there is no evidence to link them with this crime and Meera Mohideen did not identify any local people in the group that stopped the tractor.

On the other hand the evidence of Meera Mohideen alone, together with the known presence of the LTTE in the area, and the brutality of the killing places the crime at the doorstep of the LTTE. The statements made by Wijaykumar and Pakyarasa support Mohideen's view that the assailants were from the LTTE.

4. Persons responsible for the crime

The Commission is of the view that allegations made against the STF have no basis whatsoever.

However, there is a greater probability that cadres of the LTTE committed this crime. for the following reasons:

- the brutality of the mode of killing ;
- undisputed LTTE attacks at Aranthalawa, Dollar Farm etc on previous occasions.;
- the statements of 2 witnesses who accompanied the LTTE cadres to Radella,;
- the undue interest taken by Tamil Selvam and Jaya in giving telephone calls to deny LTTE involvement and place the blame on the STF.
- the evidence of the sole survivor.

5. Nature, propriety and efficacy of investigations

5.1 The Investigation by the Pottuvil Police

The crime scene investigation was carried out by the OIC Pottuvil Police Station and a team of officers. IP Karunaratne is an officer who has undergone specialized training and had video filmed the crime scene. His investigations would have been hampered to some extent by the presence of a large number of unruly people, who defied police orders and who may have disturbed the scene of the crime prior to his arrival.

5.2 The Investigation by the CID

The CID took over the investigation on the following day on 19 Sep. 2006 and ASP/Mevan de Silva and a team of officers recorded 62 statements including those of the survivor Meera Mohideen, IP Karunaratne, and Mr. Azad Salley.

The CID investigation too had to be carried out in the midst of disturbances and demonstrations, during the initial stages.

5.3 Propriety of investigations carried out

The Pottuvil Police and the CID have carried out the investigations in accordance with accepted procedures and under trying circumstances during the initial stages. The CID has also been successful in locating persons who had accompanied the LTTE perpetrators to the scene of the crime. A proper investigation has been carried out into the incident.

5.4 Efficacy of investigations carried out

The CID has correctly identified the LTTE as the perpetrators of the crime after an exhaustive investigation and the Commission is satisfied with the efficacy of these investigations.

6. Measures to be taken against those responsible

The perpetrators have been identified as a group of unknown LTTE cadres and therefore no action can be taken against them.

7. Reparation to be provided to the victims

7.1 Compensation paid

Shortly after the incident the families of the victims have been paid compensation in a sum of Rs. 100,000/= by the Government. However, the survivor Meera Mohideen complained that he was not paid any compensation and that he is suffering from the after – effects of the incident and that he is unable to earn a livelihood, and that his wife is also a patient.

The Commission recommends :

- i. the payment of an additional 25% to the heirs of the deceased persons.
- ii. the payment of a reasonable sum of money as compensation for the loss of his livelihood as a result of this incident to Meera Mohideen.

8. Any other recommendations arising out of the findings

8.1 Sanctity of Muslim burial grounds

In the course of the inquiry evidence was led in regard to a dispute which took place when an attempt was made to bury a Tamil person in the area set apart for Muslim burials at the Pasarachenai cemetery .

During the police investigations, it transpired that some people had encroached on the area set apart for the Tamil/Sinhala burials and built houses, as a result of which space is limited for Tamil/Sinhala burials.

Historically, separate burial grounds have been provided to the Muslim community throughout the island, and any encroachment into them by other religious denominations is bound to hurt their religious susceptibilities.

The Commission recommends that :

- action be initiated by the District Secretary to re-demarcate the whole cemetery;
- a national policy be formulated by the Ministry of Local Government to avoid such incidents.

9. Acknowledgments

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

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

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

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

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