REPORT

OF THE

SPECIAL RAPPORTEUR

on Conflict Related

HUMAN RIGHTS VIOLATIONS

NATIONAL HUMAN RIGHTS COMMISSION OF SRI LANKA

Report of the Special Rapporteur
on Conflict Related Human Rights Violations

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Report of the Special Rapporteur

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I. Introduction

There was an escalation in violence in the country during the months of November and December 2005. Consequently there were allegations of human rights violations such as arbitrary killings, rape, [illegible]assment of persons during cordon and search operations, unlawful arrests and detention of persons both in the North and the East and to a very much lesser extent, in the other parts of the country.

The Human Rights Commission (HRC) realizing the fact that its present cadre is inadequate to cope with the problems consequent to such incidents, thought it fit to appoint a Special Rapporteur with a team of two others to look into such incidents and advise the HRC on the measures that need to be taken to protect the rights of persons; to gather evidence from whichever sources possible in connection with such incidents and monitor compliance by the police and security forces with human rights norms; to guide the Regional Co-ordinators of the HRC in the North and East and to submit periodic reports to the Chairperson of the HRC.[1]

The Special Rapporteur and his team were appointed with effect from 1st January 2006 for a period of three months ending 31st March 2006. During the first month the resources made available to us were limited in spite of which we were able to collect information on the incidents by making formal contact with various officials in the field. An office was provided for us with effect from 1st February 2006, but the necessary office furniture and the staff were not available till about the end of the first week of February 2006 when an Investigating Officer and a Secretarial Assistant were made available. But it took one more week for the office to be operational with the provision of the necessary office equipment.

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[1] Vide *Annex I - a copy of the Press Release of the HRC announcing the appointment.*

II. Activities

The Regional Co-ordinators of the HRC in the North and East were summoned for a meeting at Anuradhapura on the 29th of January 2006 to brief them of the functions of the Special Rapporteur and to seek their co-operation in collecting information on incidents of conflict related human rights violations. They were also given guidance on how they should handle such cases. Mr. N. Selvakkumaran, the Board Member of HRC in charge of supervising the work of the Investigation Division, joined us at the meeting.

On 2nd February we attended a Board Meeting of the HRC where the Chairperson briefed us on their expectations and we informed them of the manner in which we proposed to proceed with our work.

On 20th February we had a meeting at the UNDP where the Senior Adviser on Human Rights to the UN Country Team was made aware of the constraints under which we were functioning.

Subsequently on 23rd February 2006 we had two meetings, one with some of the local NGO's and the other with a representative group of International NGO's to discuss issues relating to our task and seek their co-operation in our efforts.[1] It was conceded that with the limited resources at our disposal we will not be able to deal with all the conflict related incidents. So it was decided that we would deal with high profile cases and allow the Regional Co-ordinators of the HRC to deal with the other cases. Among the matters discussed with the local NGOs was the need for the HRC to make its presence felt in regions such as the Mannar district where quite a number of violations had taken place in the recent past and no officials from the HRC had gone there to hear their grievances. Hence we decided to pay a visit to Mannar on 3rd and 4th March 2006 and meet the Civil Society Organisations and give them a hearing. Following this meeting we met the Superintendent of Police and heads of the Army and the Navy in the region. A report on the responses we received from them was sent to the Citizen's Committee of Mannar .[2]

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[1] Vide Annex II - A list of those who attended these meetings .
[2] Vide Annex III – A copy of the Report sent to the Citizens' Committee of Mannar.

III. Cases Investigated

Based on the information we were able to collect from the Regional Officers, a list of 30 conflict related incidents were identified as those that need investigation.[1] Out of this list 13 cases were chosen for prioritized consideration.[2] This list included the abduction of some members of the staff of the Tamil Rehabilitation Organisation, the killing of five students near the Beach at Trincomalee, the rape of a 20 year old girl at Pungudutivu, the killing of Muslims at a mosque in Akkaraipattu, and, the murder of the Divisional Secretary of Kattankudy. These investigations were conducted expeditiously in respect of these incidents as they were high profile cases. Our reports on each of these incidents set out below -

(a) **Abduction of Tamil Rehabilitation Organisation (TRO) Staff**

The Executive Director of TRO made a request to the Human Rights Commission on 6th February 2006 to investigate the abduction of members of their staff on the 29th and 30th January 2006 on their way from Batticaloa to Kilinochchi. At the incident that took place on the 29th, five members of their staff including the driver had gone missing. Three of them - Ms. S. Dosini, a pre-school co-ordinator and two pre-school teachers- Nadeswari and Sivamathi, were among the abductees who had later been released and had returned to their homes in Batticaloa. K. Ganeshalingam, the Secretary of the Pre School Education Development Centre of the TRO and driver Thangarasa are still missing.

We were told that two of the abducted persons who had been released, namely ,Nadeswari and Sivamathi were available at the office of the TRO in Colombo for questioning. They were said to be scared to travel about in Colombo. So we decided to go to the TRO Office in Colombo and conduct the inquiry.

Mr. Ganesharuban, an officer of the TRO who had taken the released pre-school teachers- Sithravel Sivamathy and Punniyamoorthy Nadeswari from their homes, to the Batticaloa police station to lodge a complaint about the abduction before they were brought to Colombo was present at the TRO Office along with Ms. Gunamathy

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[1] Vide Annex IV – A List of incidents identified for investigation.
[2] Vide Annex V - A Prioritized List of incidents.

Subramaniam, Attorney- at- law who had appeared for the TRO at the Batticaloa police station.

From the statement made to us by the released teacher Sithravel Sivamathy it appears that she and the other teacher Punniyamoorthy Nadeswari were to have travelled the following day 30th January 2006 by bus to get to the TRO office in Kilinochchi for a workshop that evening. Since a TRO van was going to Vavuniya on the 29th evening, Dosini the pre-school co-ordinator had asked them to join her in that van. This van had set out for Vavuniya from Navatkuda in Batticaloa at about 5.45 p.m. on the 29th with K. Ganeshalingam, Secretary of the Pre-School Education Development Centre, Dosini pre-school co-ordinator and the two pre-school teachers Sivamathy and Nadeswari. The driver of the vehicle was Thangarasa.

It is in evidence that Ganeshalingam had to meet someone on the way and thereafter they had reached Welikande around 7.45 p.m. Most of the passengers had been sleepy during the journey. The driver of the vehicle was not familiar with the route to Vavuniya. At junctions he had been asking Ganeshalingam, who was in the front seat, for directions on which road to take.

Sivamathy stated that after passing the Welikande check point the road was "bumpy and full of ruts". Therefore the vehicle had to travel very slowly. After about two hours of travelling from the Welikande check point the vehicle had been suddenly stopped by masked men who had come in a van. They had got into the TRO van with weapons, blindfolded, gagged and tied up all those who were in the TRO van. The driver and Ganeshalingam had been put into the rear of the vehicle and the vehicle was driven away. She stated that as they were being blindfolded, the abductors had asked those in the front seat as to why they came along that route.

Sivamathy and Nadeswari stated that they were first taken to a bunker with sand bags and then to a concrete building where the blindfolds of the females were removed. Their bags and jewellery were removed by the abductors. The males continued to be blindfolded and tied. Later they were taken to a separate room in the same building.

They had heard Ganeshalingam and Thangarasa being assaulted while being questioned. Though the females too were questioned they had not been assaulted. They had been photographed and told not to talk to each other.

The following morning the bags and the jewellery of the females had been returned. They were given food to eat. They had noticed the words *Eela Makkal Viduthalai Puligal* written in chalk on the door of the room. At about 4.30 p.m. the following day, Dosini was taken to another room while the two teachers were asked to get ready, to be released. They had then been taken in a van to the main road at about 9.00 or 9.30 p.m. and put into a bus to Batticaloa.

This evidence was corroborated on all material points by the other witness Punniyamoorthy Nadeswari who was kept elsewhere in the building, while Sivamathy was making her statement. While the evidence of these two teachers were being recorded Ganesharuban, the TRO officer and Ms. Gunamathy Subramaniam, the Attorney at Law were present at the place where the inquiry was being conducted at the TRO office.

An assessment of the evidence of these witnesses indicates that the van in which they had left Batticaloa to go to Vavuniya had been driven by a driver who was unfamiliar with the route. He had strayed into a by-road "full of ruts and pot holes" after passing the Welikande check point. The road from Welikande to Polonnaruwa is reasonably good and it takes less than an hour to cover this distance. The fact that the van in which the TRO officers traveled had taken about two hours from Welikande to get to the point where they were abducted, confirms this contention that they had strayed possibly into an uncleared area. That area was perhaps controlled by an armed group. The first question asked from those in the front seat had been, "Why did you come along this route?" That again indicates that the van had gone through a road other than the Batticaloa /Polonnaruwa Road.

Dosini who had been released subsequently was said to be in Batticaloa. She had expressed fear of travelling to Colombo. Attempts to arrange safe transport for her through ICRC were not successful. So we had to get our Investigating Officer at the

Batticaloa office of the Human Rights Commission to record Dosini's statement and forward it to us. Her evidence is basically the same as the evidence of the other witnesses except that at crucial moments she appears to have been asleep.

Taking the evidence as a whole, it appears that the TRO officials who traveled in the van to Vavuniya on 29th of January 2006 had taken a wrong turn at some point after passing the Welikanda check point and had driven along a road leading perhaps to an uncleared area where an unknown armed group had stopped them and abducted them to find out why they had taken that route. After questioning they may have been convinced that this group of TRO officers had mistakenly strayed into this area. Of the five persons in the vehicle, the three who were released are persons from Batticaloa. Of the other two, Ganeshalingam is a man from Jaffna, educated at the Mahajana College, Tellipalai. The driver Thangarasa is from Kilinochchi which is in the North and had been a farmer until 21st January 2006. Thereafter he had been employed as a driver in the TRO, just about a week before his abduction. The Tamilnet website confirms this information. The fact that the persons who were released were from Batticaloa and the others detained are from the North indicates the possibility of an anti- Jaffna armed group being responsible for the incident.

On 30th January 2006 another incident had taken place during which five other members of the TRO staff are said to have been abducted and are still missing. The Special Rapporteur could not proceed to conduct any inquiries into this incident yet.

(b) **Killing of five students at Trincomalee**

At about 7.30 p.m. on 2nd January 2006, there had been an incident of a grenade being thrown at some students at the Trincomalee Beach. Following this there had been shooting by the security forces. Consequently the following had died -

1. Shanmugarajah Sajendran
2. Thangathorai Sivanandan
3. Manoharan Ragayar
4. Lohithadasan Rohan
5. Yogarajah Hemachandran