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Sri Lanka

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Insinuations regarding the Muttur Massacres

There has been much publicity recently regarding the killing of 17 ACF workers in Muttur last year. This is particularly worrying to the Secretariat for Monitoring the Peace Process, since it will contribute to a further erosion of confidence amongst stakeholders. While one of our main purposes now is confidence building, as the National Peace Council noted at a recent consultative meeting, it is equally important to deal with the erosion of confidence.

This has been increased by the recent press release of the International Commission of Jurists. In dealing with it however, it is also necessary to go back into the history of the allegations concerning the event, as well as the event itself, in order to get a clearer picture of the use being made of this tragic episode.

The Birnbaum Addendum, the Secretary-General's Letter and the ICJ Press Release

The ICJ release is based on an addendum to his initial report issued by Mr Michael Birnbaum, the observer into the inquest that it appointed. Though there are some procedural points in this report too, as media reports indicate, the main focus is the question of a discrepancy between two descriptions of one bullet found in relation to the killing. Mr Birnbaum's report is based on a report by the Australian Forensic Pathologist, Dr Malcolm Dodd.

Obviously such a discrepancy could have arisen for two reasons, either because two experts reached different conclusions, or because they were looking at two different bullets. Sadly Mr Birnbaum assumes the latter without any reasons.

As he is well aware, Dr Dodd has photographs taken at the examination on October 24/25, at which he observed the work of the Sri Lankan pathologist Dr Waidaratne, whom he commends. The description in Dr Dodd's subsequent report seems to be based

on those photographs. It would therefore have been proper to have checked as to whether the bullet on which the subsequent description was made was a different bullet, or the same one as in the photographs.

The identification that is in dispute was by a Sri Lankan ballistics expert, who has no doubt that it is the same bullet. The ICJ insistence that it was a different bullet, which has been substituted, makes no sense when clearly there has been no attempt to inspect the bullet in question and compare it with Dr Dodd's photograph. When he was given Dr Dodd's report, the government expert stood by his description, and sent his reasons to Dr Dodd, and suggested a discussion. There has as yet been no response to this.

Though one or the other may have been mistaken, neither has at any stage suggested that there was tampering with a bullet or a photograph. It is unfortunate therefore that Mr Birnbaum claims there are 'powerful grounds to suspect that someone removed from the exhibits a bullet that he thought might be incriminating and substituted another' and that the ICJ release speaks definitely of evidence. Such an assertion would be laughed out of court in any serious judicial system. More worryingly, it strikes at the heart of the confidence that the ICJ should command.

The matter itself can be swiftly resolved by recourse to photographs, those Dr Dodd has and those of the object – still available – on which the Government analyst made his report. It should be noted that Dr Dodd is a forensic pathologist, and not a ballistics expert. If there is a discrepancy between his views and those of the Sri Lankan ballistics expert, perhaps the services of a ballistics expert, Australian or the British acquaintance Mr Birnbaum mentions, could be obtained.

It should also be noted that Mr Birnbaum adds to the emotive impact of his report by citing selectively countries in which Dr Dodd has worked. The impression seems to be that he wants Sri Lanka to be seen in the same light at Kosovo and East Timor and the Solomon Islands, whereas here we have a case of a government voluntarily requesting assistance which has been graciously supplied by the Australian government.

To exacerbate Mr Birnbaum's excesses, it was conveyed through a letter from the ICJ Secretary General that incorporated even more staggering leaps of faith. Dr Dodd's one disputed bullet has turned into 'bullets' and there is a claim of 'evidence of tampering' which is an advance on Mr Birnbaum's 'powerful grounds to suspect'. The ICJ release seems to rely on its Secretary General's egregious interpolation rather than Mr Birnbaum's report, let alone the professional report by Dr Dodd. That the Secretary General's letter has also been made public is apparent from some newspaper reports that use the word 'tampering' which appears neither in Mr Birnbaum's report nor in the press release.

Finally, the ICJ report includes what seems comprehensive knowledge of the weapons issued to Sri Lankan armed forces and their movements which is not sourced. It is possible that this information was supplied by elements that are anxious to discredit the armed forces. This is worrying for the reasons given below.

General Henricsson's prejudices

The sustained prejudice against the Sri Lankan armed forces in this connection began with the initial report furnished by the Head of the Sri Lankan Monitoring Mission who ruled categorically that the killing of the 17 workers was a gross violation of the CFA by the Security Forces of Sri Lanka.

Gen Henricsson's reasoning is however bizarre. One reason he gives is 'Firstly the SLMM cannot find the reasons for the restrictions of movements into the said areas especially in above mentioned circumstances acceptable, thereby strongly indicating the GOSL's eagerness to conceal the matter from the SLMM.'

Firstly, Gen Henricsson confuses the security forces with the GOSL. Secondly, that the SLMM does not accept the reasons given cannot be taken as indicating something. Thirdly, his refusal to accept the reasons, namely the safety and security of the SLMM, is particularly preposterous, given that this is the same man who withdrew SLMM monitors from naval vessels, partly because of 'statements by the LTTE instructing SLMM to limit its activities and refrain from sailing with SLN vessels or face the risk to put their monitors into danger'. Clearly threats from particular sources work with Gen Henricsson whereas advice of danger is immediately suspect.

Gen Henricsson's ruling goes on to say that 'At the same time as denying SLMM entry into the area, the GOSL had provided escorts for a number of journalists wishing to enter the area, by this showing that the restrictions put on the SLMM freedom of movement were grounded on other reasons'. Since such journalists were amongst those who highlighted the killing of the ACF workers, suggesting that GOSL had nothing to hide in taking them in, Gen Henricsson seems to have lost all control of logic in his prejudice against the Sri Lankan government as well as its armed forces.

Then, for his next reason, Gen Henricsson says that 'Taking into consideration the fact that the Security Forces had been present in Muttur at the time of the incident it appears highly unlikely to blame other groups for the attack. Provided that was the case it would be particularly illogical for the security forces to prevent the SLMM from entering the area and making proper inquiries in order to find the perpetrator(s).'

This is absolute nonsense, perhaps caused by Gen Henricsson's lack of familiarity with the English language. There is no indication of what is supposed to be the case, whether it is 'it appears highly unlikely' or 'the fact that the Security Forces had been present in Muttur'. There is no discussion of whether other groups might have been present in addition to the Security Forces, even begging the question of the precise timing of the incident.

The nonsense is aggravated by Gen Henricsson's confused chronology. He states categorically that the LTTE withdrew 'from Muttur center during the day of Thursday August 3rd bringing the the GOSL troops back into town. This information has been confirmed by the reports provided to the SLMM'.

Whilst it must be accepted that the chronology of those days is uncertain, even at the time the general impression was not in accordance with Gen Henricsson's pronouncements. The **Sunday Leader** claimed on its front page on August 6th that 'The LTTE pulled out its cadres from Muttur Friday evening after three consecutive days of fighting and the Security Forces moved into the city and started clearing operations'. Though elsewhere the **Leader** (which has been concerned throughout, even at the risk of self-contradiction, to fix the blame on the government) had another view, a more reliable source is the Jaffna University Teachers for Human Rights report which, also reproduced in the **Leader**, shows the LTTE pulled out of the town area on August 4th. Incidentally, the **Leader** four weeks later cited the only source that Gen Henricsson names in his ruling, 'the Political Wing leader, Mr Elilan' (of the LTTE, though that is not specified) to the effect that 'the LTTE went into Muttur town on August 1st and withdrew at 12 midnight on August 3'. That, despite his interview with Mr Elilan Gen Henricsson got his chronology all wrong in an official report, is simply another element that indicates the frivolous nature of his ruling.

Whilst there are arguments to suggest that the incident in fact took place later, it is astonishing that the international community continues to place reliance on a man who categorically makes statements that are highly dubious.

Finally, there is a third reason for Gen Henricsson's definite ruling, namely 'confidential conversations with highly reliable sources regarding the party who most likely has been responsible for the act.' In the references cited in the report he cites nine such sources, as well as 'Observations made by the Head of SLMM and the Head of SLMM Trincomalee'. Three of the sources are security personnel, but they are all from the police, and based at Trincomalee. He has not interviewed anyone in the security forces at Muttur, nor anyone in the army, nor is there any suggestion that he tried to do so. He also interviewed personnel of the Trincomalee hospital, though there is no reference in his report to the post mortem examination of the JMO.

In addition there are 'Interviews with the international personnel of the ACF' and 'Communication with relevant actors within the International Community'. Who these last are is not mentioned, which is unfortunate since one of the reasons for the ruling is that 'The views have not proved contradictory and the security forces are widely and consistently deemed to be responsible for the incident'. Then there is an interview with 'family members of one of the victims', though where these persons are based is not indicated. Most tellingly there is an 'Interview with the Political Wing leader, Mr Elilan', who obviously needs no other identification. Whether it was stupidity or cunning that led Henricsson to omit that this is the Political Wing of the LTTE, the fact that he is the only person mentioned by name in the report is a particularly telling *faux pas*, not least in the context of the characterization of him as 'highly reliable'.

Finally there is 'Information received from an eyewitness'. We are not told what the person was an eyewitness of. The word in this context would imply an eyewitness of the killings, but the failure of the report to assert categorically that there is direct evidence of

who did the killing indicates that the eyewitness account was of something else. What this was remains shrouded in mystery.

Equally significant is the use here of the word 'information' as opposed to 'interview', indicating that this evidence was received at second hand. Apart from the culpable failure of Gen Henricsson and his cohorts to interview such an important witness, or to indicate why they failed to do so, the question arises as to their source for this information. If it was one of their interviews, the suggestion, given the order in which the sources are cited, is that it was Mr Elilan. Sadly, none of this is publicized internationally, as opposed to Gen Henricsson's definitive conclusion.

Initial suspicions about Gen Henricsson's objectivity were compounded by his further pronouncements on the incident. He seems to have delivered them at a commemoration by Action Contre Faim of the second month anniversary of the deaths of their workers. It was not clear whether this was in Paris, and whether he had been specially flown in for the occasion. Needless to say, his statement that categorically put the blame on the Sri Lankan armed forces was given prominent coverage by the LTTE.

Why Gen Henricsson has not been taken to task for his message to ACF remains a mystery. The current Head of the SLMM has assured the Sri Lankan Peace Secretariat that there are strict conditions on monitors, including a ten year moratorium on going public with their experiences. Whilst obviously there are rogue elements in any establishment, it is sad that, instead of taking such elements to task, the international community continues to rely on their assertions.

The role of Action Contre Faim

Finally, it is clear, if only from their assiduous cultivation of Gen Henricsson, that the Agency to which the murdered workers were attached is anxious to establish that the Sri Lankan forces were responsible for the deaths. One reason for this may be that, were this established, their own role in putting their workers at serious risk would not come under scrutiny. If for instance the workers were killed by say the LTTE, or perhaps home guards of the area who had responded wildly to the initial LTTE attack on Muttur, the Agency would certainly be found culpable for not having taken sufficient precautions. However, by focusing attention on the Sri Lankan armed forces, and claiming that the massacre definitely occurred after Sri Lankan forces were in control of the area, they divert attention from their own culpability in having sent the workers into a war torn area and having kept them there when the workers themselves had asked to be evacuated.

Though there is no need to think in terms of one current conspiracy theory, that the ACF actually wanted the workers killed, so as to attack the Sri Lankan government, it takes only one rotten egg, briefed by someone who wanted such aid workers placed in a dangerous situation, to create mayhem.

But, rejecting the idea of guilt, as opposed to culpability, the role of ACF as a whole in this episode is distinctly unsavoury. The report of the University Teachers for Human Rights has drawn attention to at best the ignorance, at worst the callous indifference, of the ACF, when it notes that, 'On 1st August the army had commenced a large military operation south of Muttur the previous day and the ICRC was also pulling out of the area. Why the ACF sent a group of local workers by vehicle from Trincomalee without a French national accompanying them, suggests their ignorance of the ground situation. When the local workers agreed to go by themselves despite advice to the contrary by the non violent peace force cannot now be answered'.

Who this 'non violent peace force' was is not mentioned. But certainly the 'international personnel of the ACF' cited by Henricsson should be questioned in detail, which they have thus far managed to avoid because of their determination to criticize the Security Forces. Certainly there must be suspicion at least of the *bona fides* of some members of the organization, international or local ones, given its determination to keep the 17 aid workers in Muttur in spite of the advice they received from so many disinterested sources. The UTHR report begins by citing a brother of one of the 17 who called an acquaintance in Colombo on August 2nd, to ask for help. Since at this time clearly communication with the aid workers direct was not a problem, one would assume such concerned relations were also indicating to them that they should vacate the place.

The report goes on to mention 'a church official with the acting Divisional Secretary for Muttur' advising them to leave the office on Thursday. The same official and the DS went again on Friday morning with the same advice. In the afternoon (when, according to Gen Henricsson, the aid workers were already dead), a relative of 'M Narmathan, one of the ACF workers' spoke to him and advised him to leave, and later a Roman Catholic nun 'told another ACF worker Kodeeswaran very strongly that he should either go with them or stay with Father the parish priest'.

The UTHR Report notes the aid workers rejected this advice because 'their head office had asked them to stay in the premises'. Narmathan had explained that they were asked 'to remain in the office for transport that would be sent the next day'. Arulrajah obviously believed this too. But given the situation, which must have been reported to the 'international personnel of the ACF', that the residents of the area strongly advised either immediate withdrawal from the city, or else refuge at a church, it is quite extraordinary that those personnel are reported, on Thursday, and on Friday, to have asked the workers to stay on in the office.

Perhaps realizing how suspicious their actions looked, in a context in which the ICRC 'was also pulling out of the area', ACF later pointed out that 'At the time the workers went to Muttur the security situation was normal'. That is ridiculous, and the attitude of the privileged Europeans in the ACF is made even clearer by what the **Leader** notes, that 'The advice from the Trinco ACF office to the workers who had planned to return that evening (August 1) was to wear their ACF t-shirts, raise the ACF flag in the office compound and stay inside the office which is in Muttur town'. That workers sent in on August 1st should have wanted to get back that very evening, and been dissuaded by the complacent foreigners in Trincomalee, has not been sufficiently highlighted, and should be raised forcefully both by those in Paris who govern the organization as well as journalists and human rights activists universally.

The desire to return was on August 1st. By Thursday it seems the workers, 'reportedly in a good mental state' until then (while battles by all accounts raged around them in what the **Leader** claimed were 'three consecutive days of fighting' until Friday evening), got upset. 'Some started to cry', though how that was ascertained and by whom is not indicated. 'Meanwhile' (whatever date is referred to, following the earlier sanguine assumption that wearing ACF t-shirts would keep the workers safe) ACF 'endeavoured to evacuate their employees - "We pleaded with everyone possible, the police, army, navy, ICRC, LTTE to check on the safety of our workers," ACF sources said'. This is contradicted by the UTHR report that one of the workers had claimed that 'their head office had asked them to remain in the office for transport that would be sent the next day'.

Obviously this is something else that clearly should be checked, particularly with the ICRC, given too that David Vignati of the ICRC is quoted as saying that "'Among the civilians escaping Muttur fighting on August 4th, there were effectively also three ICRC national staff'". This exodus had begun about 6 am on the 4th, when even according to Gen Henricsson's account the ACF workers were still alive. The detailed account by the UTHR of the several attempts made by civilians to persuade the ACF workers to take shelter elsewhere is ignored in the **Leader's** later account, with its heavy reliance on its ACF and ICRC and LTTE sources, the first of which, suspiciously enough, remains anonymous.

It is astonishing then that the international community has not subjected ACF to much greater scrutiny about its actions. This may be an unfortunate consequence of international organizations necessarily standing by each other whatever the evidence of culpability. It could also be a result of the concerted campaign, in which ACF so skillfully enlisted Gen Henricsson, to insist on the culpability of the Sri Lankan forces.

Certainly the sustained campaign, that has used a biased and inaccurate report, compounded now by arbitrary pronouncements by the ICRC, can only contribute to increasing suspicions in a context in which confidence in basic principles of justice and fair play must be promoted. Whilst confirming the need for a full and free inquiry therefore into the deaths, the Secretariat for Coordinating the Peace Process calls for the international community also to ensure that the decision makers at ACF and General Henricsson are questioned as to their role in this process, along with the officials at the ICJ responsible for twisting the contents of Prof Dodd's report.

A handwritten signature in black ink, appearing to read 'Rajiva Wijesinha', is centered on the page. The signature is fluid and cursive, with a prominent initial 'R'.

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