Fact Finding Mission to Pesalai
28th June 2006

Representatives from INFORM (Sunila Abeysekera and Udaya Kalupathirana) and The Centre for Policy Alternatives (Dr. Devanesan Nesiah, Bhavani Fonseka and Mirak Raheem) traveled to Mannar, Pesalai and Talaimannar on the 28th of June, to assess the prevailing situation there.

BACKGROUND

Mannar District, in the north-west of Sri Lanka, is among the least developed districts in the country, but has a long and proud history. It has one of the earliest settlements in the island. In addition to a substantial Tamil and Muslim population, there is a significant seasonal migrant population of Sinhalese fisher folk. The Catholic community is large and influential and the Catholic Bishop of Mannar, Bishop Rayappu Joseph, has played a critical role in highlighting the abuse of human rights and the rights of civilians in the context of the conflict and of the peace process. Home to two of Sri Lanka's most holy sites for two religions - Madhu for Catholics and Tiruketheeswaran for Hindus, also in close proximity to Tantirimalai for Buddhists, Mannar is a distinctive part of Sri Lanka in terms of geography, history and culture.

As a result of the conflict the co-existence that characterized the relations between the communities in Mannar have come under increasing pressure. In 1990, the expulsion by the LTTE of Muslims from Mannar along with those from the Northern Province, has meant that only a faction of the Muslim population still remain but it has also strained relations between the two communities.

Mannar affords the island's closest proximity to South India and historically was the entry point for many travelers. In the modern period, too, much of the exodus of Tamils to southern India in times of extreme crisis in the North and East has been through Mannar, and in particular through Talaimannar. The Sri Lankan Navy has always had a significant presence in the area due to the need to patrol the waters off the Mannar coast for smugglers and poachers. In the context of the present conflict, both the Sri Lankan Navy and the LTTE have had several major sea battles in the area.

Pesalai is a largely Catholic community situated roughly halfway between Mannar Town to the South East and Thalaimannar to the North West. It is also home to a small Hindu and Muslim population. Fishing is the dominant trade of this community. At the heart of Pesalai Town lies the Church of Our Lady of Victories, newly built and re- consecrated in December 2004. The church lies in close proximity to the beach and has served as a refuge for the community throughout the conflict period. In particular, since a series of incidents in December 2005, Pesalai has had to face a number of incidents of violence, forcing sections of the community to seek sanctuary in the church.

Talaimannar is a town that grew as a consequence of being the last point on the railroad-ferry track linking Sri Lanka to South India. The ferry services were suspended in 1984 as a result of the conflict, but the illegal migration of persons to Southern India from then right up to the present has taken place primarily along the coast of Talaimannar.

Throughout the second half of 2005 and the first six months of 2006, life in Mannar has been marked by a series of confrontations between the LTTE and the Navy, including grenade attacks on Navy and Police security positions, and a number of attacks on civilians, allegedly by SL Navy personnel. The worst incidents have been the attack on the 100 Houses Housing Scheme on 23/24 December 2005 in which 11 homes were burned down and 4 persons burned to death; and the killing of four members of a family, parents and 2 children, in Vankalai on June 8 2006.

Following recent clashes between the SL Navy and LTTE at sea, the Navy banned all fishing from the Mannar coast on June 22 2006. This ban was lifted in some parts of the District but the ban on fishing at any time of day or night remains in effect in Pesalai and Vanklalaipadu.

THE INCIDENT OF PESALAI OF JUNE 17, 2006

In the early hours of the morning of June 17, there was a clash between the LTTE Sea Tigers and the SL Navy in the seas just off Pesalai. Fishermen who had gone out to sea returned to shore with the news and the people of the area began flocking to the church fearing that the conflict would spread to the land.

The people's fear also stemmed from a confrontation between the Police and the LTTE on June 15, in which several houses had been damaged. Almost 6000 people had spent the night of June 15 in the church.

As the Navy and LTTE engaged in a sea battle on June 17, the church filled up with 2,000-3,000 people, who expected that the church would be a safe refuge. They closed the windows and doors in order to prevent bullets from causing damage to the church and injury to the people seeking refuge.

According to some eyewitnesses who spoke to us, a group of armed men in shorts and blue t-shirts came along Church Road towards the Church. Later it transpired that they had set fire to boats in Vankalaipadu prior to moving towards Pesalai. The men were firing at random at homes along the way and down the small lanes leading off Church Road to the beach. The people walked with us down the roads and pointed out the numerous bullet holes and the fences that had been damaged by the firing. If people had remained in their homes, they stated, there would have been many more casualties. Fortunately for them, by this time they were all gathered inside the church. A woman with three children all below the age of 7 described to us how she and her children reached the church, running, crawling and ducking bullets across the main Church Road during each lull in the firing.

Some men on motor bicycles came to the church premises. Most of them were also wearing shorts and blue t-shirts and had a cloth wrapped around their face to mask their identity. Setting their gun on a stand, they began firing at the side wall of the church at random for about ten or twelve minutes. They also used grenades. One grenade hit a window and ricocheted back. To ensure that the second had more of an impact, an attacker reportedly put his hand through one window that had not been properly shut and rolled it along the ground. One woman told us 'It was as if he was playing ball.' This grenade exploded, killing one woman, 75 year old Manaval Claramma Leela and injured a number of other people. Reportedly 47 members of the community received injuries, either as result of the firing inside or outside the church. The attackers then moved to the front of the church and continued firing.

Eye witnesses spoke of the chaos that prevailed within the church throughout this time: people screaming, crying out, wailing, praying, bullets and shrapnel flying, people being wounded, fainting, crawling to and fro, trying to avoid the bullets and moving towards the altar for greater safety.

The outside walls of the church, the main doors to the church as well as inside walls are pockmarked with bullet holes. The grenade has made an indentation in the floor of the church with a splay of smaller marks across the wall from the explosion. The glass case enclosing the statue of Our Lady of Victories at the altar, around 100 meters away from the front door, has three bullet holes in it. The walls by the altar also bore bullet holes. The clock in the church had stopped at 7.30, marking the time of the attack.





Bullet marks on the exterior wall of the church and on the glass casing of the statue

The attackers then moved to the beach. According to the reports compiled by the Bishop of Mannar based on eye witness accounts and the Bishop's own account of the scene of the crime on the beach, 4 fishermen were lined up and shot through the mouth, as they kneeled on the ground. Another fisherman was killed by the beach side and his body was found burned in one of the boats. A sixth fisherman managed to run away with serious injuries and is presently receiving medical treatment. The assailants set about burning the fishing boats and the wadiyas (the wood and thatch huts in which nets, engines and other

fisheries equipment were stored). The remains of the fibreglass boats reduced to charred fibres and the remains of a number of wadiyas burnt to the ground were still in evidence, when we visited, 11 days after the events. 39 boats and 45 wadiyas were destroyed in the incident, and people estimate that their losses will exceed 50 million rupees. The five fishermen killed were Jesudasan Jude Nixon (23), Cyrilappar St Jude (22), Turairaja Vijekumar (39), Kodalingham Linganathan (20), Abdul Raheem Latheep (28).





Boats and wadiyas which were burnt in the attack in Pessalai

Most of the people were anxious as to what would happen next, many being gripped with fear due to the nature of the attack. It was reported that if both grenades had gone off, before people had moved away from the open window, there could have been around 200-300 casualties.

The injured in the attack included children, women and men. The seriously injured were brought to the residence of the parish priests and four were later taken to the hospital. We were informed that the first ambulance dispatched to the scene was turned back by the Navy. It was only later that an ambulance was allowed to reach the church. During the shooting the priest and some others were in his residence, and he had notified the Bishop of the incident. Several sources informed us that the Bishop and Government Agent for Mannar had not been allowed to enter the area soon after the incident by the Navy. The Bishop was even barred from going to the beach where the bodies of the fishermen lay for two hours after he had arrived in Pesalai.

When we visited Pesalai 11 days after the incident, it seemed to be a town still trying to cope with the aftermath of the violence of that day. We spoke to some individuals from the community, including the Pesalai Parish Priest, Fr. Vincent Patrick, who had been on the church premises during the attack. Many of them seemed to be traumatized after their experience, and in a state of grave insecurity regarding the future.

By the 28th, when we visited the church, the priest informed us that there were up to 2,000 people staying the night at the church and returning to their homes in the daytime. He also noted that there were around 200 persons remaining in the church permanently. Further, we were informed that many of the displaced were now living with family and friends.

There did not seem to be a coordinated effort to provide assistance. It was reported that dry rations were provided soon after the incident but this had stopped and presently there were no dry rations being provided. There was no immediate crisis in terms of food, since people cooked their own meals, but with no assistance being provided, and many having lost their livelihoods, people were running out of supplies and starting to face difficulties.

The immediate issues on the church premises were of sanitation and water. There were inadequate toilets for the numbers of people sleeping in the church. Since the experiences of the past point to the fact that the vulnerability of the people of Pesalai remains very high, equipping the church to cope with sudden influxes of large numbers of people is an important point to be considered.

COPING WITH THE AFTERMATH:

Beyond the physical damage to buildings and property, the violence in Pesalai has had a significant impact on the community in both economic and psychological terms.

The priest of Pesalai identified three main categories of people affected by the most recent violence, whose needs have to be addressed: the injured, those who lost their livelihoods and the community at large.

Of the injured there are at least three who are receiving treatment in hospitals outside Mannar: one in Anurdhapura and two in Kurunegala. The priest spoke of the difficulties faced by their families, some of whom are very poor and cannot even afford the bus journey, and who are also afraid of undertaking the long journey into 'Sinhala' territory.

According to a report compiled by the Divisional Secretary of Pesalai, 39 boats and 45 wadiyas were destroyed in the incidents of June 17. The fisher people we were able to speak to mentioned that they are not insured against terrorist attacks. How the community will replace the boats, wadiyas and other fishing equipment is a critical question they confront.

In addition, the ban on fishing has created a situation in which the majority of the population of Pesalai is effectively unemployed. Some of the people we spoke to pointed to the fact that while the ban was in place for Sri Lankan fishermen, Indian trawlers were fishing within Sri Lankan territorial waters without any hassle. The injustice of Indian fishermen poaching in their fishing area in full view while they face restrictions is an issue they felt strongly about.

For a fishing community like Pesalai, fishing is a source of livelihood not just for the fishermen but for the entire community, as other professions such as rope binders and transporters ('coolies') depend on the fishing industry.

The psychological impact of the continued and systematic violence has rendered the people of Pesalai a community in deep shock and fear. In the church in Pesalai we met

the husband of Theresa Cruz who lost his wife and their son, Dilakshan (4) in the attack on the 100 Houses Housing Scheme last December. He is still waiting for justice; the remains of the bodies found in the ruins of the charred houses were sent for forensic examination to Karapitiya Hospital in Galle in late December 2005. **There has been no progress in the case since then. At that time too, the people ran to Our Lady of Victories Church for sanctuary. The fact that the last attack was on the church itself has meant the community has no real refuge here any more.**

The priest and community members spoke of the need for counseling to deal with the trauma they experienced. He also spoke of the need to build confidence within the community that their safety can be assured. For example, the feeling of fear and insecurity has a serious impact on children's education. Not only do they fear to attend school because of potential harassment at checkpoints along the way, but their state of mind also does not allow them to concentrate. Observers told us that the location of the biggest girls' school in Pesalai, St. Mary's Vidyalaya, next to a SL Navy camp, made parents and schoolgirls reluctant to attend school.

KEY ISSUES

Responsibility for Attack: The eyewitnesses who spoke to us stated that the men who attacked the church wore what they identified as 'military civvies.' In particular the blue t-shirt worn by them, is very similar to the ones normally worn by Navy personnel. The motorcycles used by some of the attackers, according to the eyewitnesses, looked like those that are used by Navy personnel. Although in the initial days following the attack the government laid the responsibility for the attacks at the door of the LTTE, the strong report compiled and widely disseminated by the Bishop of Mannar pointed directly to Navy involvement. None of the many we met had the slightest doubt on this issue.

The restitution of livelihoods of the fisher people of Pesalai is also an issue of urgent concern. A group of cabinet minister visited Pesalai on June 24th to look into the incident. The Divisional Secretary of Pesalai has already submitted an initial assessment regarding the damages to the boats, wadiyas and other fishing equipment. This can serve as a starting point for providing compensation and support for those affected. Damages to the church should also be examined.

There have been demands from the Church, human rights groups, politicians etc for an independent investigation in order to identify the perpetrators of the attack. As reported in the Daily News on June 26, President Mahinda Rajapakse appointed a Presidential Commission of Inquiry, but as of July 1st names of its members have yet to be publicly announced. While identifying and prosecuting the perpetrators should be a key focus of any investigation in to these incidents, impartial Commissioners need to be appointed so as to ensure that the investigation process is transparent and thorough and will serve the cause of justice for the victims and survivors of this incident. As part of this process adequate compensation for those killed is an issue that should be looked at. In addition the commission should suggest concrete steps to prosecute individuals and to identify ways of ensuring accountability in terms of the command structure. It is important to note

that if the outcome of the investigation is substantive it will have consequences far beyond Pesalai and to the issue of impunity of the armed forces and the human rights record of this government.

It should be noted that the investigations into the incidents in the 100-Housing Project in Pesalai of December 27th 2005 are still ongoing. The charred human remains that were sent to Karapitiya Hospital for forensic examination have still not been positively identified. The reasons as to why the forensic examination should take six months have yet to be explained. If it is due to inadequacies in terms of advanced equipment the Government should request international assistance as in the investigation into the identity of the suicide bomber who attempted to assassinate Lt. General Sarath Fonseka. However, this delay may be more symptomatic of the investigations into multiple cases of killings of civilians. The slow pace of these investigations, the lack of adequate investigation by the police and the inconclusive findings suggest that this is part of a wider problem in the law and order and judicial process in Sri Lanka, where victims of human rights abuses cannot find justice be it the 5 youth killed in Trincomalee in January 2006 or the 28 youth killed in Bindunuweva in October 2000.

The issue of impunity is one that has dogged the human rights record of successive Sri Lankan governments since 1971. In more recent years, since the intensification of the conflict in Sri Lanka, the LTTE has also acted with impunity against civilians, especially against members of Tamil political parties that oppose their views, and in the form of abductions of children.

Thus, the incidents in Pesalai demonstrate the importance of highlighting human rights abuses in order to address the issue of accountability and the culture of impunity with regards to the government, the LTTE and other actors.

Displacement: Mannar as a district has experienced various forms of displacement. In Pesalai a significant population is now living in displacement, in the church or at friends' and relatives' homes. As highlighted there are a number of resulting issues such as relief, sanitation, security of the displaced which need to be adequately addressed. Pessali has in fact experienced waves of displacement over the last six months with an incident of violence prompting the population to move away from the vulnerable parts of the town. Mannar has also had to deal with an influx of displaced from outside the district, who are attempting to seek refuge in India.

On the same day, June 28, we visited St. Lawrence's Church in Thalaimannar in response to many reports that had reached us regarding a large influx of persons from Trincomalee to Talaimannar, seeking to travel to south India. According to our reports, these IDPs had started arriving in Thalaimannar in mid-April and May, fleeing the escalating violence in the Trincomalee area. By June 28, the church was emptied of its IDPs. We could not get confirmation of whether they had actually gone to India or to other parts of the Mannar District.

Official church records showed that at one point there had been 193 persons staying in the church and awaiting information about travel to India. There were also 400 families staying at the St. Lawrence Roman Catholic Mixed School in Thalaimannar. Assistance was provided by the church with food distributed by the TRO and OFFER. Many of the people who had stayed in the church had attempted to cross over to India but had been arrested by the Navy who had in turn handed them over to the GA. The GA had brought the people to the church. Though the church had advised the IDPs not to travel to India, taking the added initiative of telling boatmen not to take people, people seem to have secretly crossed over to India. It is estimated that 3,000 people are now living in the Dhanushkodi camp in South India. It was reported that people would pay up to Rs 10,000 per person to the boatmen to be taken to South India. The illegal passage was being conducted, according to what we were told, with the connivance of many authorities on all sides of the conflict and of geographic borders as well.

Security: The attack on the Church at Pesalai and its environs needs to be understood in the wider context of violence taking place in Mannar and the North East at large. A number of individuals from Mannar who spoke to us impressed on us that the attack needs to be investigated and condemned. Yet, in order to devise solutions to the day-to-day security problems and the underlying factors for the attack, the overall security crisis in Mannar has to be understood. Daily incidents of violence have become the norm: the night before we visited there was an attack in the heart of Mannar Town when a grenade was thrown at the TELO Office; the day we visited there was firing close to the District Court in Murunkan that forced a suspension of proceedings and a claymore attack in Musali that night that killed three civilians. In fact people had been seeking refuge in Pesalai Church during the nights preceding the attack as a result of violence in Pessali and the resulting fears. In Mannar Town there is an undeclared curfew at night where people fear to step outside after dusk. The violence has also had an impact on the turnout at the Madhu Festival. Army personnel told us of how in previous years there would be traffic jams as they would have to check the convoys of vehicles making the pilgrimage, this year they said that there was barely a trickle.

Reflecting the steady deterioration of the security situation across the North East there has been an increasing level of violence in Mannar over the last six months. The clashes at sea between the Navy and the Sea Tigers are just one indicator. A number of claymore attacks have also taken place in Mannar and there have been grenade attacks on security and police positions. In addition, there have been a number of claymore attacks in LTTE controlled Mannar against key LTTE leaders, particularly during May. As a local told us Mannar has become increasingly militarized. He pointed to the increasing presence of the LTTE in Mannar and the training given to civilians by the LTTE as heightening the existing tensions.

In addition to the multiple impacts listed above there has been a steady deterioration in the relations between the civilians and the Navy in particular. Key steps need to be taken to restore confidence through some dialogue and security measures to better ensure that military-civilians relations and the security situation can be strengthened.

Re-examining the fishing ban is critical in order to ensure that communities in Mannar and the local economy can function. In order to better ensure that overall security is improved in Mannar it is critical that all armed actors (Security Forces, LTTE etc.) who are active in the area need to be involved and some understanding devised. This process of dialogue requires multiple actors both within and outside Mannar.

Desecration of a place of worship: As the eyewitness accounts state this was a direct attack on the Church and those who had sought refuge there. The firing on the building and inside was not a result of cross fire as the assailants tried to fend off an attack. Instead it seems that the assailants attacked the church with intent, despite the fact that it was a place of worship, thereby violating a whole series of norms and conventions. Sri Lanka's rich multiculturalism and culture of respect for all religions has ensured that places of worship are respected. International conventions and protocols on armed conflict and humanitarian law note that religious places serve as refuges for civilians and should be protected accordingly. There have been significant attacks on sacred places through the conflict and even during the present 'no war no peace' situation with the grenade attack on the Akkaraipattu Mosque in November 2005 and the assassination of Member of Parliament Joseph Pararajasingham within the Batticaloa Cathedral on Christmas Eve 2005. This act of desecration needs to be condemned, especially given that the attackers must have known that it was serving as a refuge at this particular time

Empathy: A striking aspect of many of the conversations we had with priests, members of the affected community and police personnel was that they empathized with the other's predicament. When we were stopped at a police post in Thalaimannar for instance the policeman having inquired as to why we were going to the church responded to our question as to the police role in dealing with those who are arrested while trying to cross over to India expressed sympathy. He also stated that the people fleeing from Trincomalee and trying to cross over from Mannar are dong so for a reason. A local priest told us of the high stress faced by members of the armed forces as they could come under attack at any moment with someone throwing a grenade or setting off a claymore. Yet, at the same time he noted that the security forces tended to blame the Tamil civilians for not reporting military activity by the LTTE without taking into consideration the consequences for civilians doing so. The willingness of both sides to empathize shows that there is a starting point for a constructive dialogue to find ways of addressing each other's needs and fears.