

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

Research Response Number: LKA35652
Country: Sri Lanka
Date: 11 November 2009

Keywords: Sri Lanka – Seeduwa – Gampaha – Squatters – UNP – PA – Political violence – Police – State protection – Western Province elections

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Questions

- 1. What do we know about the PA using a strategy of instigating/encouraging/protecting illegal occupation of the land of UNP supporters, particularly in the region around Seeduwa?**
- 2. If so, for how long have such strategies been utilised?**
- 3. Deleted.**
- 4. What information is available regarding action being taken by the PA against UNP supporters and organisers in the Seeduwa region?**
- 5. What information is available regarding the effectiveness and impartiality of the police force in dealing with complaints such as these, and the availability of state protection generally, particularly in the Seeduwa region?**
- 6. What information is available regarding the particular party in power in Seeduwa and the names and details of the key political figures in this area, including the results of the most recent election in this area.**
- 7. What is the extent (if any) to which recent elections in the Seeduwa region were marred by inter-party violence between the UNP and PA?**

RESPONSE

- 1. What do we know about the PA using a strategy of instigating/encouraging/protecting illegal occupation of the land of UNP supporters, particularly in the region around Seeduwa?**
- 2. If so, for how long have such strategies been utilised?**

Preliminary Note

Seeduwa forms part of the Greater Negombo area for administrative purposes:

The proposed Greater Negombo area covers 139 sq. Km. including administrative areas under the Negombo Municipal Council, Katunayake-Seeduwa Urban Council and Katana Provincial Council with a population of nearly 375,000 (Att 1 ('World Habitat Day 2009' 2009, *Daily News* website, 12 September. <http://www.dailynews.lk/2009/09/12/news31.asp> - Accessed 28 October 2009 - Attachment 1).

Although there is no information on the PA encouraging land occupation of UNP landowners in Seeduwa, there is general information which indicates that this practice has been occurring for a long period:

A major problem was that a majority of those displaced did not own the land their houses were built on – a result of generations of selfish politicians encouraging squatters on state land for vote grabbing reasons. Housing has been a perennial problem in the country... (Untitled document. 2009, Rotary Sri Lanka website, undated. <http://www.rotary-srilanka.org/why-schools.php> – Accessed 28 October 2009 - Attachment 2).

Corrupt politicians are reported to have encouraged people to occupy land:

One of the three top nature reserves in Sri Lanka, a biodiversity hotspot, is being threatened by encroachment and commercial cultivation involving corrupt politicians, bureaucrats and business, a new report says.

Court rulings to stop the encroachment and evict squatters from the Hakgala Strict Natural Reserves in the central hills have been repeatedly ignored, says Environmental Foundation Ltd., a non-profit public interest law group.

This has given rise to fears that the site's unique and endangered biodiversity is doomed.

"It is clear that there are rich and powerful individuals, both domestic and foreign, who have benefited from the wanton rape of the Hakgala Strict Natural Reserve," says the report.

"There undoubtedly exist short-term political and economic gains from destroying biodiversity in areas such as Hakgala for agriculture.

Blind Eye

The report says that poor, landless peasants are initially allowed to encroach, encouraged by politicians from the local to the highest levels, with the authorities turning a blind eye. "Benefited from the wanton rape of the Hakgala Strict Natural Reserve," says the report ('Wanton Rape' 2008, *Lanka Business Online*, 6 July, <http://www.lankabusinessonline.com/fullstory.php?nid=1283764269> – Accessed 28 October 2009 - Attachment 3).

There is a report of an UNP parliamentarian who had supported land encroachment in 2003:

Despite the alleged land encroachment by the UNP parliamentarian Olitha Premathirathne, being brought to the notice of Premier Ranil Wickremesinghe, no action has been taken so far to stop the continuing encroachment. Houses and huts are continuously being erected, while construction material is transported to the site in order to carry on the illegal construction, The Sunday Times learns.

When contacted last week by The Sunday Times, Interior Minister John Amarathunga said that he has given orders to the police to evict people from the land, yet they are still in occupation. Mr. Paul Perera, whose 99 acres were also grabbed, said that he has lodged three complaints at the Seeduwa, Negombo and Peliyagoda police stations but so far no action has been taken. Police have shown their incompetence by not pursuing action against the relevant MP, he

added (Nonis, N. 2003, 'Squatters carry on amidst alleged police inaction' *Sunday Times* website, 20 July. <http://www.sundaytimes.lk/030720/news/4.htm> - Accessed 28 October 2009 - Attachment 4).

Further evidence that this practice has existed in Seeduwa for several years is contained in the following report:

A Zimbabwean style land grabbing case with powerful political backing has led to the cutting down of more than 5000 highly productive coconut trees with squatters moving into state land in the Negombo area.

A private plantation company claims to have suffered losses running into millions of rupees because its estates are being destroyed and encroached on by people in the area with alleged political backing.

...

During our visit we were made to understand that this episode had begun due to an election promise allegedly made by Minister of Plan Implementation, Parliamentary Affairs and MP for Negombo District, Jeyaraj Fernandopulle. However the Minister denied the allegations.

...

A letter sent by the Katana AGA to the Ministry of Agriculture and Lands states that there are 6800 homeless people in the Katana Divisional Secretariat, which included Katunayake, Seeduwa, Raddoluwa, Liyanagemulla etc. It further states that Minister Fernandopulle had instructed the AGA in February 1999 to distribute these lands to reduce the number of homeless people in the area.

(Fernando, T. and Farook, F. 2000, 'Echoes of Zimbabwe roar in Negombo', *Sunday Times* website, 11 June. <http://www.sundaytimes.lk/000611/news2.html> - Accessed 28 October 2009 - Attachment 5).

Professor Perera, former Head of the Department of Town and Country Planning, University of Moratuwa, makes the following comments in a recent report which confirm that land occupation can span decades:

These squatters had been living in the location for well over 20 years.

Several obvious questions that arise in regard to the modus operandi of the re-location process are:

1. Why were the squatters not prevented from putting up unauthorized dwellings in the first instance?
2. Why were they allowed to remain in the location for such a long period? (Perera, A. 2008, 'Problems and prospects of promoting harmonious cities' *The Island* website, 14 October, <http://www.island.lk/2008/10/14/features4.html> - Accessed 28 October 2009 - Attachment 6).

3. Deleted.

4. What information is available regarding action being taken by the PA against UNP supporters and organisers in the Seeduwa region?

There are scant reports of political violence between the PA and the UNP; however, the following recent reports indicate that political differences can be expressed by violent means.

One incident involved a UNP parliamentarian in Colombo who was attacked by an unspecified gang and the other a UNP candidate in Gampaha attacked by the UPFA (ruling coalition which includes the PA):

(1) Sri Lanka opposition United National Party (UNP) parliamentarian Mr. Palitha Ranga Bandara informed the Speaker Friday that "cadres of an armed political group based in eastern province have been sent to Colombo to harm him. A gang of masked men in motor bikes have been already following me wherever I go," Mr. Bandara, who represents Puttalam district in the West coast of Sri Lanka stated in a letter addressed to the Speaker Mr.W.M.J. Lakkubandara ('UNP parliamentarian says his life is under threat' 2009, TamilNet website, 17 October - <http://www.tamilnet.com/art.html?catid=13&artid=30461> – Accessed 29 October 2009 - Attachment 7)

(2) Grappling with violence

Margeret Rose Fernando, the UNP candidate from Gampaha who faced a recent attack, while on the campaign trail however complained about the lacklustre attitude of the Police, specially when giving protection to female candidates.

"My convoy was attacked on March 18 by a gang of about 25 UPFA supporters, while travelling to an election rally. They also took one of my supporters by force and forced him to make a statement to the Police, saying that our group assaulted them first," Fernando said. "It is very difficult to deal with violence," she said, adding that the Police had refused to provide any security for her despite having requested for it after this incident ('Weerasekara, P. 2009, 'Sri Lanka still lagging behind in women political leadership', *The Bottom Line* website, 1 April - http://www.thebottomline.lk/2009/04/01/special_report.html - Accessed 29 October 2009 - Attachment 8)

5. What information is available regarding the effectiveness and impartiality of the police force in dealing with complaints such as these, and the availability of state protection generally, particularly in the Seeduwa region?

There are several incidents involving police misdemeanour in Seeduwa:

A team from the Special Investigation Unit (SIU) of Police headquarters was dispatched to the Seeduwa Police station yesterday on the orders of the IGP to investigate an alleged assault of a 12-year-old boy on New Year's Day at Seeduwa. It was alleged a group of drunken policemen stripped the child naked and assaulted him.

It was also alleged that when the boy's mother arrived at the scene on hearing about the assault on her son, the drunken cops had threatened to rape her. Two other friends of the victim who had gone to the victim's rescue, too, had been assaulted by the group of policemen, eye witnesses said.

Various versions transpired when The Island inquired into the incident. First Police headquarters denied that any such incident had taken place and said no complaints had been lodged with the Seeduwa Police.

...

The IGP ordered a speedy investigation and a report submitted to him. It was also reported that some high ranking policemen were making an attempt to sweep the whole incident under the carpet (Palihawadena, N 2009, 'SIU probes Seeduwa police attack child', *The Island* website, 18 April - <http://www.island.lk/2009/04/18/news5.html> - Accessed 29 October 2009 - Attachment 9).

The following report by the Asian Human Rights Commission claims that Seeduwa police officers were allegedly involved in the torture of a criminal suspect in 2006:

At around 11:30 am on 27 October 2006, several police officers took Mr. Pasquelge Don Dudley Mervyn, a 56-year-old casual labourer to the Seeduwa police station in Seeduwa.

Negombo District II, Negombo Division, Sri Lanka and arrested him in charge related to a robbery of a house of Prasanna Sandaruwan, which Mr. Pasquelge claims that he did not commit. The mother of the victim, Mrs. Pasquelge Dona Violet Lilian, learned of the detention of her son in the evening of the day he was arrested.

When Lilian visited her son to the Seeduwa police station with food, Dudley told her that he had been severely tortured by police officers and had been forced to admit to the robbery that he did not commit. Lilian saw the injuries on his body and realised that her son was in great pain.

On November 2 when Lilian again visited the police station to see her son, she witnessed that he was not in the holding cell but was seated on a chair in the police mess and handcuffed to a steel bed by his right hand.

Shockingly, Dudley had been detained at the police station for 7 days until November 3 without being produced before a magistrate. A person arrested must be brought before court within 24 hours after the arrest according to law. Furthermore he had allegedly been tortured constantly by the police while he was in custody ('SRI LANKA: Brutal torture of a man who was wrongly arrested by police officers' 2009, Asian Human Rights Commission, 20 November 2006 - <http://www.ahrchk.net/ua/mainfile.php/2006/2081/> - Accessed 29 October 2009- Attachment 10)

Another case involved death caused by torture by Seeduwa Police in 2002:

A Man Tortured to by Seeduwa Police is further tortured to death by prison officers -- AHRC

Mr. Lamahewage Lal Meddagoda (36), a coconut plucker who lived in Seeduwa South was a father of three children (two daughters and one son). He was arrested by the Seeduwa Police with another person named Wewalage Shelton Fernando for allegedly stealing Sri Lanka Rupees 300 worth 'kehel kana' (a plantain bunch). He was arrested on the 05 November 2002. According to the evidence of Mr. W. Shelton Fernando at the inquest conducted by the Magistrate Negombo M. N. Buran, both persons were tortured by the Police.

On the following day evening they were remanded by the Negombo Magistrate. At that moment the prison officials asked them why they were remanded. When they gave the reasons why, then four prison officials and few inmates of the remand prison began to attack them. According to Shelton he withstood the attack, but Lal was unable to bear the torture and he began to run here and there. They attacked with batons and boots in a very inhuman way.

On the 08 November 2002, when Shelton was being taken to the courts, he has seen that body of Lal was taken on a stretcher and later he heard that Lal had died ('A man tortured to (sic) by Seeduwa Police is further tortured to death by prison officers – AHRC' 2002, Newsletters Asian Human Rights Commission (AHRCHK), 15 November - <http://newsletters.ahrchk.net/js/mainfile.php/0128/147/> - Accessed 29 October 2009 – Attachment 11)

The police were also reported to have attacked soldiers in the year 2000:

Two soldiers who were injured in the incident had later gone to the Seeduwa police station to make a complaint of assault, but instead of hearing them out in a fair manner the constables manning the night desk had allegedly pushed them into a cell. The constable reportedly said their case would be taken up in the morning once the officer-in-charge of the station arrived (Berenger, Leon 2000, 'Seeduwa seething after bar brawl' *Sunday Times* website, 23 January

- <http://sundaytimes.lk/000123/newsm.html#2LABEL7> – Accessed 29 October 2009 - Attachment 12)

There was a recent arrest of corrupt officials in Seeduwa:

Two Pradeshiya Sabha (PS) chairmen, one from Seeduwa-Katunayake and the other from Southern Manmunei in Eastern Sri Lanka have been arrested on different charges. According to the Bribery or Corruption Commission, the chairman of the Seeduwa-Katunayake PS was arrested by the Commission over a bribery case. He has asked for a Rs. 500,000 bribe to grant permission to renew a sign-board license for a private company in the area. The chairman of the Manmunei South PS was arrested by the police over a kidnapping of Rs.15,000 worth dog from a restaurant at Kaththankudi in Batticaloa last night. The police have also arrested two policemen attached to the Kaththankudi police who escorted the chairman to commit the crime ('Two Sri Lankan Pradeshiya Sabha chairmen arrested' 2009, Colombo Times website, 17 January 2009 - Attachment 13)

Additional information on the issue of state protection is contained in the following Research Response: RRT Research & Information 2007, *Research Response LKA32318*, 24 September (Q2) - Attachment 14)

A recent study carried out by Munich University has found that inefficiency and corruption have increased under the current government:

3 Rule of Law

...

Inefficiency, anomie and corruption are widespread at all levels of government as is the impunity with which such practices and human rights violations are perpetrated. The latter especially has ascended to new heights under the Mahinda Rajapaksa government. Recent reports suggest that President Mahinda Rajapaksa's brothers may be involved in questionable practices as well, and some reports in Sri Lanka have been referring to one brother as "Mr. 10%." No high-ranking politician or public servant has been prosecuted for abuse of power while in office despite evidence that seemed to warrant prima facie cases. Successful prosecutions after political defeat are extremely rare. There is no practice relating to disclosure of financial interests while in office (Bertelsmann Stiftung, BTI 2008 — *Sri Lanka Country Report*. Gütersloh: Bertelsmann Stiftung, 2007 - http://www.bertelsmann-transformation-index.de/fileadmin/pdf/Gutachten_BTI_2008/ASO/SriLanka.pdf - Accessed 29 October 2009 – Attachment 15)

6. What information is available regarding the particular party in power in Seeduwa and the names and details of the key political figures in this area, including the results of the most recent election in this area?

7. What is the extent (if any) to which recent elections in the Seeduwa region were marred by inter-party violence between the UNP and PA?

The results of the most recent Provincial Council elections in the Western Province, which took place on 25 April 2009, are attached. They indicate that the UPFA obtained the most votes in the Gampaha District (Gampaha District includes Negombo polling division) ('Provincial Council Elections – 2009 – Final District Results. Western Province. Gampaha District.' Sri Lankan Department of Elections website,

<http://www.slections.gov.lk/Provincial/2009/Western/district/gampaha.html> - Accessed 30 October 2009 – Attachment 16)

The elected candidates are:

Former Provincial Minister Prasanna Ranatunga secured 186,338 preference votes, the highest in the Gampaha district and in the entire Western Province from the UPFA. Nimal Lansu received 76,156 votes, the second highest in the Gampaha District for the UPFA (Perera, C.2009, 'Prasanna Ranatunga tops WPC preference votes' 28 April, Daily News website, <http://www.dailynews.lk/2009/04/28/pol01.asp> - Accessed 30 October 2009 - Attachment 17)

The UNP candidate for Gampaha was Lawrence Madiwela ('Western Provincial Council polls on Apr. 25' 2009, *Daily Mirror* (Sri Lanka), 27 February. <http://www.spot.lk/article1751-western-provincial-council-polls-on-apr-25.html> - Accessed 30 October 2009 - Attachment 18)

Members of the same party use violent means to compete with rivals:

In-fighting between rival candidates of the same party contesting the Western Provincial Council (WPC) elections is reaching dangerous levels, say independent observers.

...

According to reports, a UPFA candidate contesting for the Colombo district has warned other hopefuls, including candidates belonging to his own party, to stay away from certain parts of the city or face the consequences, Mr. Tennakoon said. "This candidate is also believed to have commandeered several underworld figures for his campaign in order to intimidate the others, and he is being reportedly financed by senior persons in the government," Mr. Tennakoon said.

"As a result of the threats and attacks, frustrated candidates are trimming their personal campaigns. It is a jittery ground situation," he said. "What is especially disturbing is that these attacks are taking place in the so-called high-security zones, where there is a strong security forces and police presence. Despite mounting complaints, there have been zero arrests so far," he said.

Some 85 incidents of polls-related violence have been reported, 65 of them cases of serious assault ('In-fighting within parties intensifies ahead of polls' 2009, *The Sunday Times* website, 19 April - http://sundaytimes.lk/090419/News/sundaytimesnews_16.html – Accessed 30 October 2009 – Attachment 19).

Although monitors found that relatively speaking the elections were not as violence as in previous years, they were not free or fair:

Given Sri Lanka's violence-ridden elections in its recent history, the run-up to yesterday's polls in the Central and North Western Provinces was surprisingly calm and peaceful, according to police and polls monitors. There was violence, but it was few and far between. But this did not mean that the playfield was level ('Monitors say polls relatively violence-free but not free and fair' 2009, *The Sunday Times* website, 15 February - http://sundaytimes.lk/090215/News/sundaytimesnews_19.html - Accessed 30 October 2009 - Attachment 20)

There were 22 complaints from Gampaha:

The Centre for Monitoring Election Violence (CMEV) said it received 62 complaints on election violence and violations -- 27 from Kalutara district, 22 from Gampaha and 13 from Colombo.

A CMEV official said more than 50 of the complaints related to identity cards acceptance, illegal election campaigning, threats and dual registration issues. He said nine major incidents including an attempted killing, threats and intimidation and use of firearms.

He said 35 of the complaints were against the UPFA and nine against the main opposition UNP (Fazlulhaq, N. 2009, '65% turnout at WPC elections', *The Sunday Times* website, 26 April - http://www.sundaytimes.lk/090426/News/sundaytimesnews_18.html - Accessed 30 October 2009 - Attachment 21).

List of Sources Consulted

Internet Sources:

Government Information & Reports

UK Home Office website <http://www.ind.homeoffice.gov.uk>

US Department of State website <http://www.state.gov>

Immigration and Refugee Board Canada <http://www.irb-cisr.gc.ca/>

United Nations (UN)

UN High Commissioner for Refugees (UNHCR) website <http://www.unhcr.ch/cgi-bin/texis/vtx/home>

Non-Government Organisations

Amnesty International website <http://www.amnesty.org/>

Human Rights Watch (HRW) website <http://www.hrw.org/>

International News & Politics

BBC News website <http://news.bbc.co.uk/>

Region Specific Links

Lanka Tribune <http://www.lankaeverything.com/>

TamilNET www.tamilnet.com

Daily News www.dailynews.lk

Sri Lanka Colombo Page www.colombopage.com

Sri Lanka News www.lankanewspapers.com

Daily Mirror... www.daily.mirror.lk

The Lanka Sun www.lankasun.com

Lanka Business Online www.lankabusinessonline.com

The Sunday Times www.sundaytimes.lk

World Bank www.worldbank.lk

Topic Specific Links

Department of Elections (Sri Lanka) www.slelections.gov.lk

Search Engines

AlltheWeb search engine <http://www.alltheweb.com/>

Google search engine <http://www.google.com.au/>

Yahoo search engine <http://search.yahoo.com>

Copernic search engine

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)
MRT-RRT Library Catalogue

List of Attachments

1. 'World Habitat Day 2009' 2009, *Daily News* website, 12 September. <http://www.dailynews.lk/2009/09/12/news31.asp> - Accessed 28 October 2009.
2. Untitled document 2009, Rotary Sri Lanka website, undated. <http://www.rotary-srilanka.org/why-schools.php> – Accessed 28 October 2009.
3. 'Wanton Rape' 2008, *Lanka Business Online*, 6 July, <http://www.lankabusinessonline.com/fullstory.php?nid=1283764269> – Accessed 28 October 2009.
4. 'Nonis, N. 2003, 'Squatters carry on amidst alleged police inaction' *Sunday Times* website, 20 July. <http://www.sundaytimes.lk/030720/news/4.htm> - Accessed 28 October 2009.
5. Fernando, T. and Farook, F. 2000, 'Echoes of Zimbabwe roar in Negombo', *Sunday Times* website, 11 June. <http://www.sundaytimes.lk/000611/news2.html> - Accessed 28 October 2009.
6. Perera, A. 2008, 'Problems and prospects of promoting harmonious cities' *The Island* website, 14 October, <http://www.island.lk/2008/10/14/features4.html> - Accessed 28 October 2009.
7. 'UNP parliamentarian says his life is under threat' 2009, TamilNet website, 17 October - <http://www.tamilnet.com/art.html?catid=13&artid=30461> – Accessed 29 October 2009.
8. Weerasekara, P. 2009, 'Sri Lanka still lagging behind in women political leadership', *The Bottom Line* website, 1 April - http://www.thebottomline.lk/2009/04/01/special_report.html - Accessed 29 October 2009.
9. Palihawadena, N 2009, 'SIU probes Seeduwa police attack child', *The Island* website, 18 April - <http://www.island.lk/2009/04/18/news5.html> - Accessed 29 October 2009.
10. 'SRI LANKA: Brutal torture of a man who was wrongly arrested by police officers' 2009, Asian Human Rights Commission, 20 November 2006 - <http://www.ahrchk.net/ua/mainfile.php/2006/2081/> - Accessed 29 October 2009.
11. 'A man tortured to (sic) by Seeduwa Police is further tortured to death by prison officers – AHRC' 2002, Newsletters Asian Human Rights Commission (AHRCHK), 15 November - <http://newsletters.ahrchk.net/js/mainfile.php/0128/147/> - Accessed 29 October 2009.
12. Berenger, Leon 2000, 'Seeduwa seething after bar brawl' *Sunday Times* website, 23 January - <http://sundaytimes.lk/000123/newsm.html#2LABEL7> – Accessed 29 October 2009.

13. 'Two Sri Lankan Pradeshiya Sabha chairmen arrested' 2009, Colombo Times website, 17 January 2009. (FACTIVA)
14. RRT Research & Information 2007, *Research Response LKA32318*, 24 September.
15. Bertelsmann Stiftung, BTI 2008 — *Sri Lanka Country Report*. Gütersloh: Bertelsmann Stiftung, 2007.
16. 'Provincial Council Elections – 2009 – Final District Results. Western Province. Gampaha District.' Sri Lankan Department of Elections website, <http://www.slelections.gov.lk/Provincial/2009/Western/district/gampaha.html> - Accessed 30 October 2009.
17. Perera, C.2009, 'Prasanna Ranatunga tops WPC preference votes' 28 April, Daily News website, <http://www.dailynews.lk/2009/04/28/pol01.asp> - Accessed 30 October 2009.
18. 'Western Provincial Council polls on Apr. 25' 2009, *Daily Mirror* (Sri Lanka), 27 February. <http://www.spot.lk/article1751-western-provincial-council-polls-on-apr-25.html> - Accessed 30 October 2009.
19. 'In-fighting within parties intensifies ahead of polls' 2009, *The Sunday Times* website, 19 April - http://sundaytimes.lk/090419/News/sundaytimesnews_16.html – Accessed 30 October 2009.
20. 'Monitors say polls relatively violence-free but not free and fair' 2009, *The Sunday Times* website, 15 February - http://sundaytimes.lk/090215/News/sundaytimesnews_19.html - Accessed 30 October 2009.
21. Fazlulhaq, N. 2009, '65% turnout at WPC elections' *The Sunday Times* website, 26 April - http://www.sundaytimes.lk/090426/News/sundaytimesnews_18.html - Accessed 30 October 2009.