

**SHAVENDRA SILVA
CHIEF OF ARMY STAFF
SRI LANKA**

Dossier

29 January 2019

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██████ TRUTH ██████████
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MAJOR GENERAL L. H. S. C. SILVA

58 Division Commander in 2009



“Our aim was not to gain ground but to have more kills.”

Shavendra Silva¹

¹ *Soldiers followed all humanitarian norms - Maj. Gen. Shavendra*, Shanika Sriyananda, 27 Dec 2009, The Sunday Observer, <http://archives.sundayobserver.lk/2001/pix/PrintPage.asp?REF=/2009/12/27/sec02.asp>. Also cited on Silva's Facebook page: <https://www.facebook.com/Major.General.shavendra.silva/posts/815949115103954>

SUMMARY

Shavendra Silva was arguably the most important frontline ground Commander in the 2008-9 War in Sri Lanka, in which a United Nations investigation found reasonable grounds to say international crimes were committed. He commanded a large number of troops throughout the offensive in the north of the island who were instrumental in the attacks on all the strategic towns and villages in 2009. He was also personally present at the surrenders at the end of the War, at which point hundreds of Tamils disappeared in Army custody and others, including women and children, were subjected to summary execution.

Despite being one of the most notorious alleged war criminals and aligned to the Rajapaksa family, in January 2019 Silva was promoted to Chief of Staff of the Sri Lankan Army. This makes him number two in the Sri Lankan Army and next in line to become Commander. For those who survived the war he waged on them, this is a total affront. It also quashes any hope of Sri Lanka in the short term fulfilling its promise to deal with the past.

This dossier presents the most detailed body of evidence against any Sri Lankan military figure to date. It amalgamates photographs, contemporaneous SMS and witness testimony, including from insiders, with linkage evidence (in the annexures) such as official Army releases which were deleted offline after the War to hide the truth, as well as relying on the findings of past UN investigative reports. It also presents a legal analysis of the evidence gathered, cognisant that a more detailed examination would be needed to frame criminal charges, depending on the jurisdiction.

More than anything this is an exercise in truth recovery. The unmitigated horror of what happened in 2009 should not be whitewashed or forgotten. It is our view that the United Nations cannot in good conscience continue to deploy peacekeepers from an Army headed by a man who allegedly repeatedly and knowingly committed war crimes against hundreds of thousands of civilians. Major General Silva of course is not alone in being promoted post-War - there is a pattern of rewarding, honouring and promoting alleged perpetrators, deploying them in prestigious UN jobs, as diplomats and in the former conflict areas to administer the very people they defeated. This is a text book case of impunity.

1. CAREER

1.1. SRI LANKAN ARMY

Major General Shavendra Silva commanded the 58 Division during the final phase of Sri Lanka's Civil War². He reported to General Jagath Jayasuriya, the Vanni Security Force Head Quarters (SFHQ) Commander. One report said Shavendra Silva in early 2009 had 22 battalions under his command as opposed to the usual 9 in a Division³". He is currently the Colonel of the Gajaba Regiment and has remained loyal to the former Defence Secretary and President's brother, Gotabaya Rajapaksa, after the War⁴. He was promoted to Adjutant General of the Sri Lankan Army in 2017 by the Sirisena Government. In 2019, he was appointed Army Chief of Staff⁵.

22 Jun 1964: Date of Birth.
5 Mar 1984: Joined Sri Lankan Army, aged 20.
1987: Head of the Presidential Security Army Unit.
1992: 2nd in Command of 8th Battalion of the Gajaba Regiment in Mannar.
1998-90: His unit was based in Elephant Pass.
1995-6: (22 Aug 1995 - 1 Jan 1996⁶) Commanding Officer, 8th Battalion of the Gajaba Regiment.
2008-9: In the Vanni as Task Force 1 Commander, then 58 Division Commander. Commanded the Air Mobile Brigade
Jan-Sep 2010: Commander of the Commando Regiment.
Jul 2010: Promoted as the youngest Major General in the Sri Lankan Army and became the Operations Director⁷.

² para 116, OHCHR Investigation into Sri Lanka (OISL), Sep 2015, A/HRC/30/CRP.2.

³ "In early 2009, Brig. Shavendra Silva had about 22 battalions under his command, though an infantry Division comprised three brigades each consisting of three battalions".

P'karan suffers irrevocable loss at Anandapuram, 11 Dec 2012, The Island, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084

⁴ <https://www.facebook.com/Major.General.shavendra.silva/posts/we-will-never-hand-over-this-war-to-the-next-generation-president-mahinda-rajapa/815949115103954/>

⁴ "Many felt that the Defence Secretary, himself a one-time commanding officer of the first battalion of the Gajaba Regiment, too, was supportive of Brig. Silva." <https://lrrp.wordpress.com/tag/58-Division/>

⁵ *President receives list of nominees for Army's CDS position*, Sri Lanka Mirror, 1 Jan 2019, <https://srilankamirror.com/news/12293-president-receives-list-of-nominees-for-army-s-cds-position>

⁶ <http://222.165.180.163/gajabaregiment/8-gajaba-regimen>

⁷ *Major General takes over as the deputy head of the Sri Lanka's UN Mission*, 18 Oct 2010, JDS Lanka, <http://jdsrilanka.blogspot.co.uk/2010/10/major-general-takes-over-as-deputy-head.html>

2010-2015: Deputy Permanent Representative to the United Nations in New York, a position that afforded him diplomatic immunity from a prosecution attempt made against him for alleged war crimes⁸.

2010-2015 Alternative Representative of Sri Lanka to the United Nations Special Political and Decolonization Committee⁹.

2011: Speaks (on video) to disparage British citizen, Vani Kumar, and Sri Lankan Government doctor, Dr. Varatharajah, who appeared in the Channel 4 documentary on Sri Lanka¹⁰.

2015: Attended a 47-week course in National Security and Strategic Studies, Delhi¹¹.

2017: Promoted by President Sirisena to Adjutant General of the Sri Lankan Army.

Mar 2017: The Mullaitivu court refuses to call Shavendra Silva to testify in a mass-enforced disappearance case¹².

May 2018: Silva is awarded another medal on the anniversary of the War end¹³. He oversees War Anniversary celebrations¹⁴.

2018: Involved in running military garment factory, "Ranaviru Apparel"¹⁵.

9 Jan 2019: Appointed Chief of Army Staff¹⁶

21 Jun 2019: Due to retire¹⁷.

⁸ 'War criminal' gets a UN job, 21 Nov 2010, The New York Post, <https://nypost.com/2010/11/21/war-criminal-gets-a-un-job/>

⁹ <https://www.army.lk/news/major-general-shavendra-silva-new-chief-staff-army>

¹⁰ https://www.youtube.com/watch?time_continue=12&v=BuKfXwP0pGk

¹¹ Major General Shavendra off to National Defence College in New Delhi, 21 Dec 2014, The Sunday Times Lanka, <http://www.sundaytimes.lk/141221/sunday-times-2/major-general-shavendra-off-to-national-defence-college-in-new-delhi-128075.html>

¹² Sri Lankan Court rejects request to summon former Army Major General Shavendra Silva, 31 Mar 2017, Colombo Page, http://www.colombopage.com/archive_17A/Mar31_1490965564CH.php

¹³ 50 Tri-Service Senior Officers Awarded Prestigious Vishishta Seva Vibhushanaya (VSV) Medal, 19 May 2018, <http://www.army.lk/news/50-tri-service-senior-officers-awarded-prestigious-vishishta-seva-vibhushanaya-vsv-medal>

¹⁴ Victory day celebrated around the country, 18 May 2018, News First,

<https://www.newsfirst.lk/2018/05/18/victory-day-celebrated-around-the-country/>

¹⁵ <http://222.165.180.163/ranaviruapparel/manage.php>

¹⁶ <https://www.army.lk/news/major-general-shavendra-silva-new-chief-staff-army>

¹⁷ The service extension of the Army Commander determines the fate of 54 Generals!, 14 Jul 2018, <https://srilankamirror.com/news/9533-the-service-extension-of-the-army-commander-determines-the-fate-of-54-generals>

“...there is, at the very least, the appearance of a case of international crimes to answer by Mr. Silva.”

Navi Pillay in 2012¹⁸.

1.2 COURT CASE IN NEW YORK

On 23 Sep 2011, two plaintiffs filed a case for torture and wrongful killing against Shavendra Silva in New York¹⁹. The case was dismissed on the grounds of diplomatic immunity on 8 Feb 2012²⁰.

1.3 DIPLOMAT AT THE UNITED NATIONS

In 2012, Silva was removed from a top United Nations peacekeeping advisory committee because of the war crimes allegations against him²¹.

1.4 FAILED ATTEMPT TO GO TO SOUTH AFRICA

In 2012, Silva was prevented from being posted as a diplomat to South Africa by local NGOs who argued in a legal brief that substantial allegations he was involved in war crimes and crimes against humanity rendered him ineligible for the post and compelled South Africa to refuse to receive him²².

1.5 AS ADJUTANT GENERAL WAS IN CHARGE OF HUMAN RIGHTS

In 2017, Silva was promoted to Adjutant General – or chief administrative officer – for the Sri Lankan Army. As Adjutant General, Silva was ironically in charge of the Sri Lankan Army Directorate of Human Rights and Humanitarian Law.

Organisational Diagram from 2016 Sri Lankan Army report to parliament²³.

¹⁸ *Human rights advocates blast appointment of Sri Lankan commander to peacekeeping panel*, 17 Feb 2012, Foreign Policy, <https://foreignpolicy.com/2012/02/17/human-rights-advocates-blast-appointment-of-sri-lankan-commander-to-peacekeeping-panel/24/>

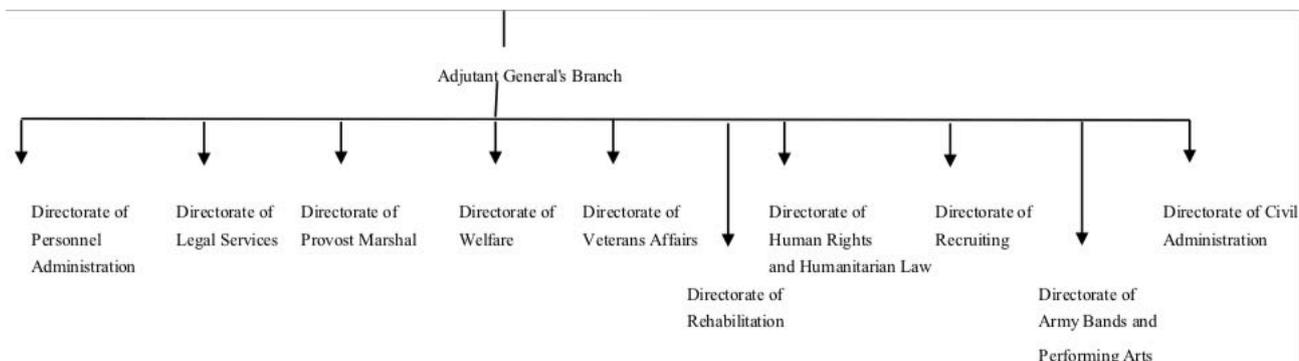
See: <http://cases.justia.com/federal/district-courts/new-york/nysdce/1:2011cv06675/385095/9/0.pdf?ts=1411559075>; also <https://www.colombotelegraph.com/index.php/sl-general-war-crimes-case-filed-shavendra-in-trouble/>

²⁰ See: <https://www.leagle.com/decision/infdco20120209c57>

²¹ <http://foreignpolicy.com/2012/02/17/human-rights-advocates-blast-appointment-of-sri-lankan-commander-to-peacekeeping-panel/>

²² *South Africa's Obligation to Refuse to Receive and Recognise Sri Lankan General and Suspected War Criminal Shavendra Silva as Sri Lanka's Deputy Ambassador to South Africa*, Southern Africa Litigation Centre.

²³ <http://www.parliament.lk/uploads/documents/paperspresented/performance-report-srilanka-army-2016.pdf>



1.6 FAMILY

His mother was Sumana Bandu Silva (died 2018) and his father was Sri Lanka Transport Chairman, Creasy de Silva. His siblings are Chief Executive Officer of the HDFC Bank, Lakshman de Silva, retired Air Vice-Marshal Ajantha de Silva and Neranji de Silva²⁴.

1.7 HIS DEPUTIES

See **Annexure 1** for dossiers on Silva's Brigade Commanders in 2009 (Col. Suraj Bansajayah²⁵, Col. Wanigasinghe and Col. Deshapriya Gunawardena and the 2 Commando's Lt. Col. Ramesh Fernando who was also attached to the 58 Division²⁶).

1.8 GAJABA REGIMENT

1.81 In the Final War

In the final phase of the War in Sri Lanka, the main fighting units in the Vanni offensive were 53, 55, 57, 58, 59 Divisions and Task Forces 2, 3, 4 and 8²⁷. Of these, the Commanders of the 53, 57, 58, 59 Divisions were all from the Gajaba regiment of the then Defence Secretary, Gotabaya Rajapaksa.

²⁴ *Death of Sumana Bandu Silva*, The Daily News, 9 Jan 2018, <http://www.dailynews.lk/2018/01/09/local/139365/death-sumana-bandu-silva>

²⁵ Promoted Aug 2009: 'Forty six Colonels have also been promoted to the rank of Brigadier considering their seniority and the contribution to the Wannu battle. Colonels C.V. Ravipriya Nishantha Wanniaarachchi, Mahinda Weerasoriya, Ralph Nugera, Athula Koddipili, Sudath Perera, Shantha Dias, Suraj Bansajaya and Laksiri Waduge, who were directly involved in the Wannu Operation, are among those promoted to the rank of Brigadier...' <http://archives.sundayobserver.lk/2009/08/02/fea02.asp>

²⁶ <https://lrrp.wordpress.com/tag/58-Division/> also says 'Interestingly, all three Brigade Commanders of the now famous 58 Division are Gemunu Watch veterans. Although all five infantry regiments contributed to Brig. Shavendra Silva's success, the majority of the infantry comprised Gemunu Watch, Gajaba Regiment and the Sri Lanka Light Infantry.'

²⁷ OISL

1989

Served in the Gajaba Regiment together

2009

Gajaba Regiment officers instrumental in final war



GOTABAYA RAJAPAKSA

Defence Secretary during final war and widely considered to be the official with overall command responsibility.



MAJOR GENERAL KAMAL GUNARATNE

53 Division Commander in final war. Was deputy ambassador to Brazil. Served in the Court of Inquiry that exonerated the Army of war crimes.



SHAVENDRA SILVA

58 Division Commander in final war. Deputy Permanent Representative to the UN. Currently Adjutant General.



BRIGADIER CHAGGI GALLAGE

59 Division Commander in most of Final War; brief spell with 53 Division. Failed attempt to arrest him in London in 2010.



JAGATH DIAS

57 Division Commander in final war. Ambassador to Germany & Switzerland. 2015 Chief of Staff of the Army.



MAJOR GENERAL UDAYA PERERA

2009-11 Deputy High Commissioner to Malaysia. 2012 US military training. 2015-17 Commandant at Defence Service Command and Staff College.



MAJOR GENERAL A.K.SUMEDHA PERERA

2009-11 ran "Joseph Camp". Deputy Chief of Staff of the Army. Served in the Court of inquiry that exonerated the army of war crimes.

1.82 The JVP Period

The roots of Sri Lanka's culture of violence and impunity lie in military offensives against Sinhala youth in the 1970s and 80s which only intensified in the ethnic conflict against Tamil separatists. What is referred to as the JVP²⁸ uprising was a conflict in which 60,000 Sinhala youth are reported to have been killed and the JVP assassinated at least 30 MPs. State-sponsored death squads operated in the south of the island with impunity, many of them with ties to politicians who are still in power. The Sri Lankan military committed atrocities against the majority Sinhala population during this period and then honed its brutal tactics in the ethnic conflict against Tamils. The disintegration of the rule of law has its roots not in the Rajapaksa regime but many decades before this era.

Shavendra Silva belongs to the Gajaba Regiment of the Sri Lankan Army and served with former Defence Secretary Gotabaya Rajapaksa in this regiment in 1989 when the Army was violently crushing the JVP. Gotabaya Rajapaksa's approved biography, *Gota's War*, says:

"Lieutenants Shavendra Silva, Jagath Dias and Sumedha Perera were among his Company Commanders in Matale... Gota remained the Security Coordinating Officer of Matale until the end of the second JVP insurrection".²⁹

This is significant because the Army's crushing of the JVP in the late 1980s involved credible allegations of summary executions, enforced disappearances, torture and sexual violence, and the detention of thousands of youth. Some of the violations occurred in Matale where Gotabaya Rajapaksa and Shavendra Silva were based.

1.83 The Matale Mass Grave

A mass grave with the remains of at least 154³⁰ people was discovered during construction work at the Matale Base Hospital. It is thought to date back to the JVP period. Matale is where the Gajaba Regiment was based and Gotabaya Rajapaksa was the Commanding Officer in the area May 1989 - January 1990³¹.

Tests carried out by archaeological and judicial medical officers indicated the skeletal remains dated to between 1987 and 1990³², and the victims had been subjected to very brutal methods of torture before execution³³. Families of the disappeared

²⁸ People's Liberation Front

²⁹ <http://ceylon-ananda.com/general-involved-in-january-8th-coup-attempt-to-be-sent-to-new-york-as-un-military-attache-posted-by-colombo-telegraph/>, p177, *Gota's War*.

³⁰ Some reports say 155, <http://www.sundaytimes.lk/150510/news/skeletal-remains-have-no-connection-to-1989-1990-disappearances-pci-148375.html>

³¹ <https://www.colombotelegraph.com/index.php/matale-mass-grave-dates-to-87-90-jvp-says-judge/> and <http://www.bbc.co.uk/news/world-asia-21964586>

³² Ibid

³³ 'On examining some of the bodies, he had observed that the victims were subjected to torture. This, his report to Court stated, was proved by the injuries found in the skeletal remains, such as decapitation, dismemberment of limbs, cutting of skulls with saws and nailing the toes. In one skeleton he had seen a metal noose in the left leg which, according to Prof Somadeva, is an adjustable device when fixing an interlock known as the "hangman's knot".'
<http://www.sundaytimes.lk/150510/news/skeletal-remains-have-no-connection-to-1989-1990-disappearances-pci-148375.html>

hoped to get information about the fate of their loved ones after more than a quarter of a century but were thwarted in June 2013, when a three-man presidential Commission of Inquiry was appointed by Mahinda Rajapaksa (the brother of Gotabaya Rajapaksa), taking the investigation away from the judiciary³⁴. In 2015 the Commission concluded that the skeletons dated to before 1950 and had nothing to do with the JVP period. The Commission's findings were rejected by the two Sri Lankan forensic experts who had supervised the digging of the grave, among others³⁵.

³⁴ <https://www.colombotelegraph.com/index.php/matale-mass-grave-the-investigation-has-been-taken-away-from-the-judiciary/>

³⁵ <http://srilankabrief.org/2015/05/matale-Commission-conclusions-an-insult-to-professional-experts/>

Note on the Final War

“Brigadier Shavendra Silva led his Division very efficiently and successfully.”

Gotabaya Rajapaksa³⁶
Secretary of Defence

LOCATIONS

Shavendra Silva was directing frontline combat in the north from 2008 to the end of the War in May 2009. He has confirmed the command structure remained intact³⁷. There are also numerous photographs placing him in the War Zone³⁸.

His troops fought in almost every major battle during this phase - in Mannar, Pooneryn, Kilinochchi, Paranthan³⁹, Tharmapuram, Vishwamadu, Thevipuram, Puthukkudiyiruppu (PTK), Iranapalai, Ananthapuram, Pokkanai, Putumattalan, Valayanmadam and finally Mullivaikkal. The UN report from 2015 also confirms the 58 Division's presence in these locations⁴⁰.

³⁶ Business Today, Dec 2008

³⁷ "It was not an easy walk. But we went ahead with a huge momentum and kept our pace and there were clear-cut instructions and leadership from our superiors," Brig Silva said. *How Sri Lanka's military won*, 22 May 2009, BBC, <http://news.bbc.co.uk/1/hi/8063409.stm>

³⁸ 19 Apr 2009 in Kilinochchi - <http://archives.sundayobserver.lk/2009/04/19/new80.asp> and <http://archives.dailynews.lk/2009/04/17/news01.asp>

Final thrust to totally annihilate LTTE, Daily News, 16 Jan 2009, <http://archives.dailynews.lk/2009/01/16/fea03.asp>

In pictures: Kilinochchi after liberation, Colombo Page, 5 Jan 2009, http://www.colombopage.com/archive_09/January5152830CH.html

Sunday Observer, 11 Jan 2009, http://archives.sundayobserver.lk/2009/01/11/main_News.asp

Photo from 15 Nov 2008 in Pooneryn, *Mission accomplished on western flank*, 25 Nov 2012, <http://slwaronterror.blogspot.com/2012/11/mission-accomplished-on-western-flank.html>; also http://archives.sundayobserver.lk/2008/11/16/main_News.asp

Photo in Troops focus on opening land route to Jaffna soon, 7 Nov 2008, <http://archives.dailynews.lk/2008/11/07/fea02.asp> Photo of Shavendra Silva on Vanni front, *Tigers retreat on all fronts*, 27 Nov 2012, <http://slwaronterror.blogspot.com/2012/11/>

³⁹ "The rebels never knew about the battlefield plans. We surprised them in many areas. For example, they didn't expect me to capture the strategically important town of Paranthan, near Kilinochchi, by outflanking them," Brig Shavendra Silva, commander of the Sri Lankan army's 58th division, told the BBC in a recent interview from the front line." *How Sri Lanka's military won*, 22 May 2009, BBC, <http://news.bbc.co.uk/1/hi/8063409.stm>

"The troops of the 58 Division under the command of Brigadier Shavendra Silva is now heading towards the eastern coast from the Paranthan junction having advanced 16 Km from Paranthan junction to the East on the A-35 Paranthan Mullaitivu road... Heavy fighting erupted in Tharmapuram village located some 15 Km East of Paranthan as LTTE cadres are holding these areas deploying their hardcore cadres. The 7 Sinha Regiment under the command of Lt. Colonel Kithsiri Liyanage and 11 Sri Lanka Light Infantry Battalion under the command of Lt. Colonel Kithsiri Ekanayake who are advancing in the front have confronted the LTTE in Tharmapuram inflicting heavy damages to the LTTE." *Final thrust to totally annihilate LTTE*, Daily News, 16 Jan 2009, <http://archives.dailynews.lk/2009/01/16/fea03.asp>

⁴⁰ "Between July and October 2008, as the 57th and 58th Divisions of the SLA advanced towards Kilinochchi", OISL para 791.

SHAVENDRA SILVA'S TESTIMONY TO SRI LANKA'S LESSONS LEARNED AND RECONCILIATION COMMISSION⁴¹.

Speaking to the domestic Commission, Silva boasted of his achievements, saying:

"..we as the 58 Division completely cleared the western coast and my Division was given the target up to Pooneryn and we managed to capture Pooneryn, we cleared Pooneryn before 2008. Thereafter the humanitarian operation as briefed was brought as the Commander mentioned to Paranthan, my Division managed to rescue the people there and thereafter Kilinochchi, then Elephant Pass and the famous township of Pudukiruppu... we managed to breach a gap of about a kilometer in Puthumathalan identifying the LTTE locations, identifying the LTTE ditches over a period of 3 weeks and my troops, actually my Division was tasked for this entire operation along with commandos and special forces went in and came behind their lines."

For a detailed list of sources to corroborate the exact locations where the 58 Division fought in 2008-9 see **Annexure 2** which collates mainly contemporaneous media and military sources to show the presence of Silva's troops in these places.

SOURCES

OISL: this was the OHCHR Investigation into Sri Lanka published in 2015 which used a 'reasonable grounds' threshold to say an event had occurred. This is sufficient to trigger a criminal investigation prior to indictment.

Lessons Learnt and Reconciliation Commission: This was sworn testimony to a Sri Lankan Government Commission.

Daily News: The State-run newspaper representing the Government's view.

Situation Reports: published by the Sri Lankan Ministry of Defence.

"After capturing Kilinochchi in early January 2009, the 58th Division of the SLA continued its advance eastwards along the line of the A35 highway towards the LTTE-controlled towns of Visuvamadu and PTK.", OISL, para 801.

Regarding PTK Hospital: "Security forces present included the 53th and 58th Division and Task Force 8 of the SLA.", OISL, para 840.

"The 58th Division of the SLA advanced on Putumattalan on 20 April.", OISL, para 846.

Regarding NFZ 3: "On 13 May, the 58th Division was pushing its way forward towards the coastline with the aim of advancing south from there", OISL, para 93.

"On 16 May, the 58th and 59th Divisions of the SLA linked on the coastline.", OISL, para 94.

⁴¹ <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

2. KILINOCCHI

“It was the 58 Division that came and the 57 Division joining up and finally took Kilinochchi on 2nd January 2009.”

General Jagath Jayasuriya⁴²
Vanni Commander

Kilinochchi lies on the A9 highway which is the main north-south artery in Sri Lanka. This was the largest town under LTTE control in the Vanni; described by the UN as its de facto capital⁴³. It was also where the international humanitarian operations were headquartered. There were numerous attacks on civilian objects in Kilinochchi during 2008, including UN sites and hospitals, as Shavendra Silva led one of the two formations attacking the town.

2.1 THE 58 DIVISION'S ROLE IN ATTACKING AND CAPTURING KILINOCCHI

Shavendra Silva testified to the LLRC⁴⁴ that he captured Kilinochchi and he is further credited for this achievement by the Defence Ministry⁴⁵ and the Sri Lankan media⁴⁶. When the Sri Lankan President visited the captured town in April 2009, the Sri Lankan Army said Shavendra Silva and his colleague Jagath Dias (58 and 57 Divisional Commanders respectively) briefed President Mahinda Rajapaksa on the operation⁴⁷. An insider witness said Silva was the officer

⁴² LLRC, 2011, Jagath Jayasuriya Testimony Transcript.

⁴³ OISL, para 80.

⁴⁴ <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

⁴⁵ *defence.lk*, Defence Ministry video, <https://www.youtube.com/watch?v=4fB4Zbv0FGs>

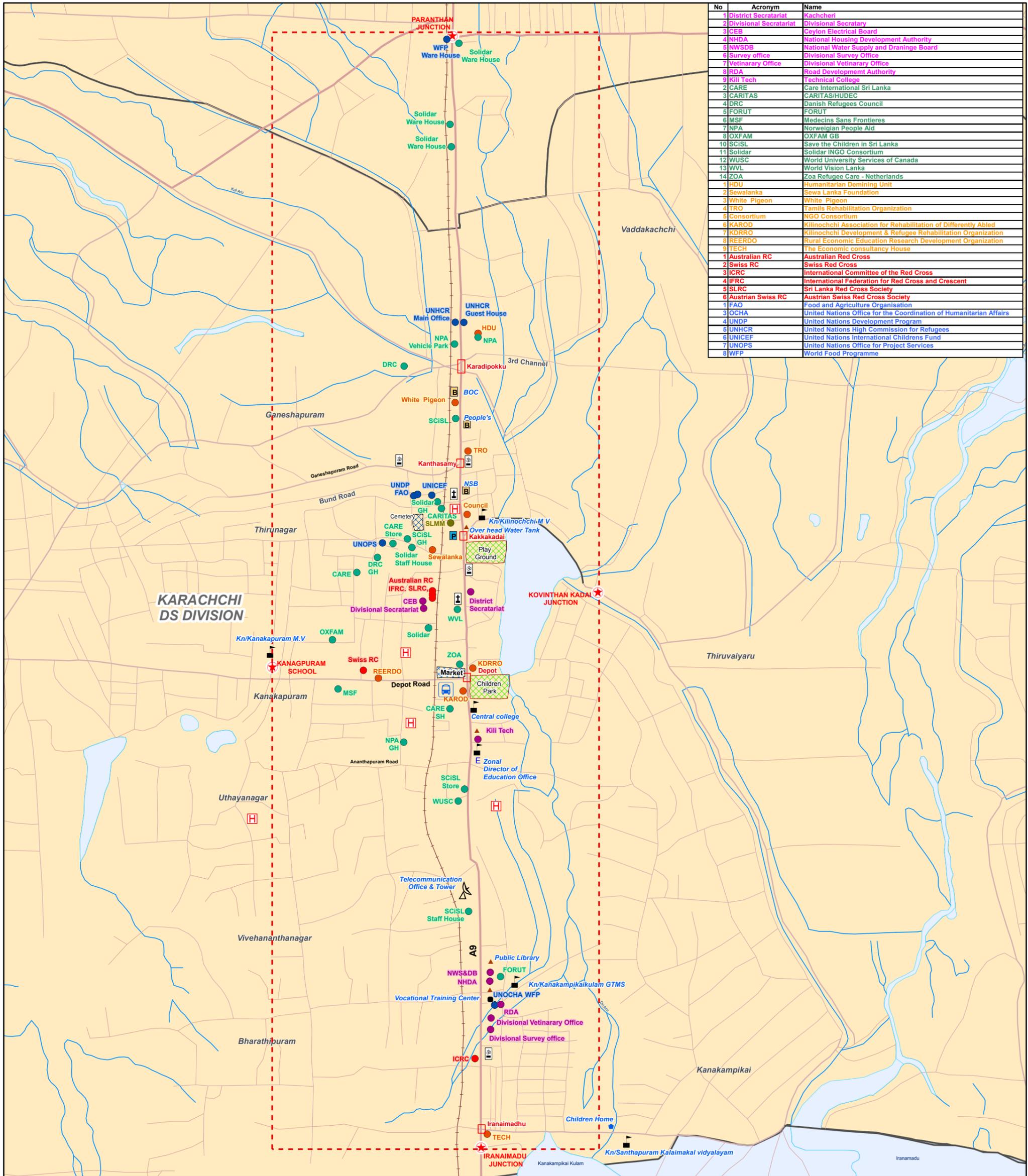
See also ITN video which says: “Commander of the 57th Division Major General Jagath Dias and Commander of the 58th Division Brig. Shavendra Silva briefed the President on the tiring long march made for the liberation of Kilinochchi by the respective Divisions from the commencement of the Wannai operations.” 16 Apr 2009, <https://www.youtube.com/watch?v=dD9S5dtDYKO>

Also see MOD Situation Reports in **Annexure 2**.

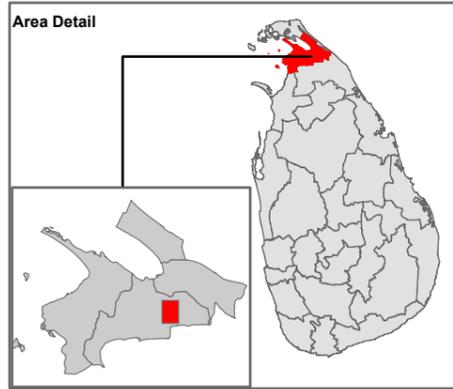
⁴⁶ The LTTE's bid to defend Kilinochchi collapsed in the wake of Major General Shavendra Silva's celebrated 58 Division crushing the town's northern defences, after having seized Pooneryn and Paranthan.

Channel 4 project: LTTE portrayed as relatively weaker force, army losses downplayed, 11 Mar 2014, The Island, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=99569

⁴⁷ “General Officers Commanding 57 and 58 Divisions Major General Jagath Dias and Brigadier Shavendra Silva briefed the President on the tiring long march made for liberation of Kilinochchi by respective Divisions from the commencement of the Wannai humanitarian operation.” *President Rajapaksa makes history visiting Kilinochchi*, no date on site, <https://www.army.lk/news/president-rajapaksa-makes-history-visiting-kilinochchi>



No	Acronym	Name
1	District Secretariat	Kachcheri
2	Divisional Secretariat	Divisional Secretary
3	CEB	Ceylon Electrical Board
4	NHDA	National Housing Development Authority
5	NWSDB	National Water Supply and Draining Board
6	Survey office	Divisional Survey Office
7	Veterinary Office	Divisional Veterinary Office
8	RDA	Road Development Authority
9	Kili Tech	Technical College
2	CARE	Care International Sri Lanka
3	CARITAS	CARITAS/HUDEC
4	DRC	Danish Refugees Council
5	FORUT	FORUT
6	MSF	Medecins Sans Frontieres
7	NPA	Norwegian People Aid
8	OXFAM	OXFAM GB
10	SCISL	Save the Children in Sri Lanka
11	Solidar	Solidar INGO Consortium
12	WUSC	World University Services of Canada
13	WVL	World Vision Lanka
14	ZOA	Zoa Refugee Care - Netherlands
1	HDU	Humanitarian Demining Unit
2	Sewalanka	Sewa Lanka Foundation
3	White Pigeon	White Pigeon
4	TRO	Tamil Rehabilitation Organization
5	Consortium	NGO Consortium
6	KAROD	Kilinochchi Association for Rehabilitation of Differently Aabled
7	KDRRO	Kilinochchi Development & Refugee Rehabilitation Organization
8	REERDO	Rural Economic Education Research Development Organization
9	TECH	The Economic consultancy House
1	Australian RC	Australian Red Cross
2	Swiss RC	Swiss Red Cross
3	ICRC	International Committee of the Red Cross
4	IFRC	International Federation for Red Cross and Crescent
5	SLRC	Sri Lanka Red Cross Society
6	Austrian Swiss RC	Austrian Swiss Red Cross Society
1	FAO	Food and Agriculture Organisation
3	OCHA	United Nations Office for the Coordination of Humanitarian Affairs
4	UNDP	United Nations Development Program
5	UNHCR	United Nations High Commission for Refugees
6	UNICEF	United Nations International Childrens Fund
7	UNOPS	United Nations Office for Project Services
8	WFP	World Food Programme



Legend	Symbol	Description
INGO	Green circle	INGO
Govt	Purple circle	Govt
UN	Blue circle	UN
Red Cross and Red Crescent Societies	Red circle	Red Cross and Red Crescent Societies
Rail	Black line with cross-ticks	Rail
Bund Line	Red dashed line	Bund Line
Foot Path Line	Black dashed line	Foot Path Line
Minor Road	Thin black line	Minor Road
Secondary road	Thick black line	Secondary road
Main Road	Thick black line with double yellow	Main Road
K	Blue square	District Secretariat
E	Blue square	ZDE Office
H	Red square	Hospitals
CH	Blue square	Children Home
BS	Blue square	Bus Station
PT	Black square	Post office
B	Black square	Bank
T	Black square	Temple
C	Black square	Church
S	Black square	School
SG	Black square	SG Staff House
GH	Black square	GH Guest House
P	Black square	Post office
B	Black square	Bank
T	Black square	Temple
C	Black square	Church
S	Black square	School
J	Black square	Junctions
R	Blue line	Rivers and Lakes

Data source(s):	UNDSS Kilinochchi.
Town Limits:	UNDSS Kilinochchi.
Town Buildings:	Pradeshhiya Sabha, Kilinochchi
Boundaries:	Survey Dept, Sri Lanka
Updated as at:	15-Mar-2008
Produced on:	15-Mar-2008
Projection / Datum	Transverse Mercator Kandawala
GLIDE number	TS 2004-0001470LKA
Admin boundaries provided by:	Survey Department, Government of Sri Lanka

MapNumber: OCHA/LK/OCHA_Kil_TownLimit/001/V1

This map is designed for printing on A3 size

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who ordered the attacks on Kilinochchi while there was still an international presence in the town.

2.2 UN OISL REPORT ON ATTACKS ON THE TOWN

The UN referred to the Kilinochchi town where they had their humanitarian operations in the Vanni as the Kilinochchi Box. This had long been recognised and accepted by the Government as a Safe Zone for the delivery of humanitarian aid. Despite the fact that the Government was aware of the UN locations, United Nations facilities in the Box were deliberately bombed by the Sri Lankan military. The UN Investigation into Sri Lanka (OISL)⁴⁸ said that between July and October 2008, Kilinochchi was subjected to aerial bombardment and shelling as the 57 and 58 Divisions approached – the latter under the command of Shavendra Silva. As the Sri Lankan Army attacked Kilinochchi, eyewitnesses say their shells (which included Multi Barrelled Rocket Launchers) landed on civilian areas⁴⁹.

2.21 The UN report (OISL) cites the following Government attacks in 2008 on civilian sites in Kilinochchi:

July: an aerial bombardment resulted in minor damage to the compound of an NGO.

3 September: the Sri Lankan Army (SLA) shelled Kilinochchi, with one shell landing in the Box, 300m from the compound of WFP and 100m from the compound of an NGO.

4 September: after these shellings the UN raised concerns with Government about the safety of its staff members based in Kilinochchi.

9 September: an artillery shell exploded near a United Nations warehouse in the Box. The Sri Lankan security forces continued their advance on Kilinochchi, causing thousands of civilians to flee, and United Nations facilities were further damaged.

10 September: the Sri Lankan Air Force bombed Kilinochchi, damaging United Nations facilities in the Box; some of the shells landed about 50m from a United Nations bunker, cracking the concrete walls.

28 September: five civilians were wounded when a shell landed near a United Nations compound.

3 October: an aerial bombardment by the security forces caused damage to three United Nations buildings in Kilinochchi Box.

It is worth noting that these incidents listed by the UN report are only some of the many attacks on civilian objects in Kilinochchi Town during the months it took to capture the town.

⁴⁸ OISL, 2015, op cit, para 794.

⁴⁹ In ITJP testimony, this man described his own homecoming under attack in September 2008: “In September I was outside my house at Paranthan Junction and security force heavy artillery was landing in our civilian housing area. I could hear the shells (artillery shells and multi barrelled shells) launch from the security force-held areas, travel, and then explode amongst the houses. The shells were hitting civilian housing areas and inflicting deaths and casualties amongst those civilians living there.”

2.22 The UN Report on Attacks on Kilinochchi Hospital

The UN Investigation⁵⁰ says that the Kilinochchi Hospital (a Government-run hospital), near to which it notes there were no LTTE positions, came under repeated shelling as Government forces advanced, on 25 October, 24 December and 30 December 2008, causing damage to buildings. Witnesses to the UN report stated that the shelling came from the direction of Sri Lankan Army positions to the south of Kilinochchi.

2.23 ITJP Witnesses to Attacks on Kilinochchi

Attacks on Kilinochchi Hospital and the privately-run Ponnampalam Hospital in Kilinochchi are also further corroborated by ITJP eyewitnesses:

“I witnessed many bad things that the Security Forces did to the civilians in Kilinochchi. I saw the hospital bombed. Luckily no one died in the hospital but in a house nearby a teacher was killed along with her daughter.”

Additionally, an LTTE medical wing cadre says he witnessed the bombing of the Kilinochchi District Hospital in 2008; he says three people from the same family were killed in the accommodation hostel of the hospital in the attack he saw. A pregnant woman witnessed an attack in which there were casualties in the maternity ward when it came under aerial bombardment:

“The hospitals that I was at when they were attacked included the Kilinochchi Government Hospital, the Kilinochchi Ponnampalam Hospital on 1 October 2008 when I was in the maternity ward Ponnampalam Hospital... I actually saw Kfir jets coming in and dropping the bombs. Many patients and medical staff in the operating theatre were killed and wounded.”

Aerial bombardment could only be by the forces of the Government of Sri Lanka as the LTTE did not have supersonic jets. In addition, helicopter gunships were called in to support of Shavendra Silva's forces according to Ministry of Defence press releases at the time. One specifically mentions Task Force 1, the name of the unit under Shavendra Silva's command in 2008 (which became 58 Division in 2009)⁵¹:

⁵⁰ OISL, 2015, op cit, para 796.

⁵¹ MOD Situation Report on 17 Aug 2008: “SLAF MI-24 Helicopters raid LTTE gathering point - Kilinochchi Sri Lanka Air Force MI-24 helicopters raided an LTTE's gathering point in general area Nachchikuda in Kilinochchi district this afternoon, 17 August.”

MOD Situation Report on 20 Aug 2008: “Four successive air raids targeting LTTE defences - Kilinochchi Sri Lanka Air Force fighter jets and MI-24 helicopters carried out air raids targeting four identified LTTE defences in Nachchikuda in Kilinochchi district this afternoon, 20 August.”

MOD Situation Report on 10 Sep 2008: “SLAF raids LTTE intelligence nerve center in Kilinochchi. Taking on offensive raids into the LTTE backyard, SLAF fighter jets made precision air sorties at the LTTE's main intelligence command and control center located 1km West of Kilinochchi, Wednesday.”

MOD Situation Report on 17 Sep 2008: “Air Force fighter jets target more terror positions - Kilinochchi - Sri Lanka Air Force fighter jets carried out two more air strikes targeting LTTE positions in the Kilinochchi district this afternoon (Sept 17), Air Force sources said.”

MOD Situation Report on 7 Aug 2008: "Air Force Raids LTTE strongpoint north of Vellankulama - Sri Lanka Air Force attacked an LTTE stronghold located in Pallawarayankadu area, 7 km, North of Vellankualama around this evening. According to Air Force spokesperson Wing Commander Janaka Nanayakkara, MI 24 helicopter gunships carried out the attack in support of the Army Task Force soldiers now operating in the Kilinochchi district. Citing reports received from ground troops, he added that the target was effectively neutralized."

MOD Situation Report on 15 Aug 2008: "Air Force MI 24 helicopter gunships raided a line of LTTE bunkers located in the east of Nachchikuda on the Kilinochchi War front around 1.10 this afternoon (Aug 15). According to the Air Force sources, the attacks were launched in support of the Army Task Force 1 soldiers marching northwards on the Mannar - Pooneryn road (A-32).

3. PUTHUKKUDIYIRUPPU (PTK)

Puthukkudiyiruppu (known as PTK for short) was a small town in the interior of the Vanni where many of the LTTE leaders lived. It fell to the Sri Lankan Army in early February 2009. It was not included in the first No Fire Zone (NFZ1) unilaterally declared by the Government of Sri Lanka in January 2009.

3.1 THE 58 DIVISION'S ROLE IN PTK

Shavendra Silva testified to the LLRC⁵² that he had “rescued” the people of PTK. In addition, contemporaneous reports charted his Division’s progress towards the town. For these see **Annexure 3**. This photo⁵³ also shows Shavendra Silva in PTK and the accompanying story says:

“The operation was spearheaded by Gajaba Regiment veteran Brig. Shavendra Silva.” It adds that “...the 58 Division captured Puthukkudiyirippu Government hospital and a special medical facility run by the LTTE in the same area to treat senior LTTE cadres wounded in battle⁵⁴.”



Brig. Shavendra Silva takes cover behind the Puthukudirippu name board to look at the Puthukudirippu junction situated about 300 meters away. Picture was taken by Capt. Wasantha Jayaweera immediately after the 58 Division evicted the LTTE from the area. From left Saliya Amunugama, Maj. Vijith Hettiarachchi, Col. Sanjaya Wanigasekera (58.2 Brigade Commander) and Brig. Suraj Bansajayah (58.1 Brigade Commander)

3.2 UNITED NATIONS

The UN investigation report (OISL) says that as the Sri Lankan Army advanced areas in and around PTK experienced significant bombardment from Government

⁵² <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

⁵³ *P'karan suffers irrevocable loss at Anandapuram*, The Island, 11 Dec 2012, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084

⁵⁴ Ibid

forces 10 Jan – 6 Feb 2009⁵⁵. The heavy shelling of PTK town, which the Army wished to capture in time for Sri Lankan Independence Day on 4 Feb 2009, eventually forced the medical staff (including 18 from the International Committee of the Red Cross) to evacuate the PTK hospital and move at least 300⁵⁶ patients in trucks and on the back of motorbikes to the village of Putumattalan on the coast⁵⁷. This meant transferring the injured from a district hospital to a makeshift site they set up in a school building without any proper equipment, even operating tables. At the time when it came under attack, the UN said 500 patients were in the PTK hospital receiving treatment, many of them lying on the floor as it was so overcrowded⁵⁸.

3.3 ATTACKS ON PTK HOSPITAL



Photo: PTK Hospital (supplied by eyewitness)

3.31 Hospital Clearly Marked

This hospital was clearly marked and the UN said the coordinates were well known

⁵⁵ OISL, 2015, op cit, para 801.

⁵⁶ Number 300 from ICRC statement 09/29 on 4 Feb 2009.

⁵⁷ OISL, 2015, op cit, para 88.

⁵⁸ OISL, 2015, op cit, para 825.

to the Government⁵⁹. In addition, the UN interviewed witnesses who described frequent surveillance of the areas by the security forces using drones or UAVs. The UN viewed UAV footage, which clearly showed the Red Cross emblem on the roof of the PTK hospital. Satellite imagery also confirms that hospital buildings referred to in this section were clearly marked with the Red Cross emblem⁶⁰. A UN employee also testified that he never saw LTTE defensive positions near PTK Hospital – that is to say within 10-15km of the hospital.

3.32 Attacks on PTK Hospital

This is a collated list of attacks on PTK (cited in the UN report and from ITJP witness testimony and UN SMS and the ICRC:

UN OISL Report⁶¹: 13 Jan, between 10 and 11 am, the hospital was directly hit by two rounds [of gunfire], reportedly fired from areas controlled by the SLA, causing damage to the buildings and severely injuring at least two patients.

ITJP Witness Testimony: “On 13 Jan there was a shell attack on PTK Hospital, I was not in contact with the PTK Hospital at that time, but on the following day I rode my motorbike to a meeting at the PTK Hospital and I was informed by Dr. X [name redacted] ...that one person had died and several others were injured.”

UN OISL Report: - 26 Jan and 4 Feb, the area in and around PTK hospital came under renewed attacks by artillery shells and rockets fired according to witnesses from SLA positions. Witnesses described multiple rounds falling sequentially on the hospital within a very short period of time, indicating the possible use of MBRLs by SLA. Over 500 patients were inside the hospital.

UN OISL Report: 26 and 27 Jan, shells and salvos of rockets were fired towards the hospital from the south and east, reportedly where SLA forces were located, causing damage to ambulances and other hospital vehicles.

UN OISL Report: 28 to 29 Jan, the area was shelled again during the night using heavy artillery and MBRL fire.

UN OISL Report: 29 or 30 Jan, one shell hit the male ward of the hospital, and two shells fell on the hospital grounds.

UN OISL Report: 1 Feb, PTK hospital was hit directly with shells on three occasions reportedly fired from SLA positions around Oddusadduan, and killing at least five people and injuring others, including children. Between 3 and 4 pm, two shells hit the hospital, the second killing at least one person. A third attack, later in the evening, hit a ward with women and children, killing at least four patients and injuring at least 14 others. The hospital was hit again

⁵⁹ OISL, 2015, op cit, para 823.

⁶⁰ OISL, 2015, op cit, para 782.

⁶¹ 146 OISL, 2015, op cit.

during the following evening, damaging the children's ward, reportedly killing seven people, including one medical staff member and a baby, and injuring 15 others. The hospital's operating theatre was also damaged in an artillery attack, probably on 3 Feb.

ICRC Statement: The International Committee of the Red Cross (ICRC) also issued a statement on 1 Feb 2009 (Ref.09/26) saying there had been two direct shell hits on the PTK hospital that day, killing two and injuring five people. "We are shocked that the hospital was hit, and this for the second time in recent weeks, said the head of delegation, who noted there were 500 patients being treated at the time. "Ambulances are constantly arriving, but people are also being brought in by wagon, pick-up truck, tractor and even motor scooter," the statement added.

ITJP Witness Testimony: On 2 Feb 2009 the witness was in PTK hospital when it was shelled; he hid in a bunker and when he came out he witnessed 3 killed and more than 15 injured; the operating theatre had been hit.

UN OISL Report: 3 Feb, "...the attacks continued throughout the night".

UN OISL Report: 4 Feb, "...intense shelling took place during the morning. At least 50 shells landed in the hospital grounds, causing deaths and injuries and extensive damage to the hospital buildings. Five people were killed when shells fell near the entrance of the hospital. One hospital worker described the situation in the hospital by 4 February as "carnage", the likes of which she had never seen before".

ICRC Statement: A statement (Ref.09/29) on 4 February 2009 said the PTK hospital had again been repeatedly shelled in the last 24 hours. "We are shocked that a medical facility has again sustained direct hits," repeated the head of delegation.

In addition to witness testimony, there is a sizeable amount of video footage and also photographs showing attacks on the hospital in PTK. Several of those involved in filming, photographing or editing the audio-visual material have survived the War and have testified to its authenticity.

The UN OISL Report found the PTK hospital was one of the most heavily hit medical facilities⁶². It described a shocking level of destruction:

"...satellite imagery indicated that between 21 January and 5 February 2009, at least 10 primary buildings and 20 auxiliary buildings of PTK hospital were either severely damaged or destroyed. At least 30 rooftop impact craters consistent with artillery fire were identified across the hospital complex."

The OISL report says UN officials informed the Government and Sri Lankan Army

⁶² OISL, 2015, op cit, para 822.

on multiple occasions that the hospital was coming under attack⁶³.

There are multiple eyewitnesses to attacks on PTK Hospital, many of them now abroad⁶⁴. Some were actually present in the hospital during attacks and witnessed wounded family members being injured again as a result of the attack on the hospital where they were being treated⁶⁵. Many survivors describe seeing or hearing drones fly over the hospital before the attacks⁶⁶.

3.33 Weapons Used on Hospital

The UN says PTK hospital was one of four hospitals whom their military analysts found were attacked with unguided weapons and ammunition such as Multi-Barrelled Rocket Launchers (MBRLs). Witnesses, including some with military expertise, described how they were able to hear the launch of the fire, estimate its direction of travel and, in some cases, determine the type of weapons being used⁶⁷.

⁶³ Witnesses described multiple rounds falling sequentially on the hospital within a very short period of time, indicating the possible use of MBRLs by SLA; OISL, 2015, op cit, para 825.

⁶⁴ For example a medic said she was coming to the hospital when she heard a noise and hid in a ditch near the entrance of the hospital in February 2009. She saw two pregnant women lying on beds who were killed in the attack. She didn't know they were pregnant but their crying husbands said so. She took the injured to Putumattalan Hospital. She collected the bodies from the entrance and had a vehicle she used, though the window glass was shattered. She heard screaming in the building and as people brought women out of the hospital she felt their pulses to check they were dead and tried to do first aid on two of the bodies. She took the corpses to Putumattalan Hospital.

Another witness recalls:

"I went to PTK hospital after one of the attacks on it which killed many people and damaged the building. It was day time when I went there. I don't recall the exact date." W117.

⁶⁵ Witness Testimony:

"I was there when PTK hospital was attacked. My aunt was re-injured (this time left hand side of stomach) because of the shell attack. She was inside the building. The drones went overhead all the time. If we can't hear the drone for an hour or two then we try to get out because it's safe." W119.

⁶⁶ Witness Testimony:

"While I was there, the Security Forces shelled the PTK Hospital. I could hear the explosions coming from the area of the hospital. Civilians who were running towards us from PTK said they had shelled the hospital, that is why they had come from there. The drones were there in the sky." W68.

⁶⁷ OISL, 2015, op cit, para 750.

UN SMS MESSAGES

PUTHUKKUDIYIRUPPU (PTK)

15 January 2009

6 injured closer to AGA office in PTK, 1 km from ICRC... Shelling in Uddayarkaddu Visuwamadu & PTK...

26 January 2009

we are in PTK again. I have no words to describe our today experience. I saw more than 10 dead bodies when crossing the road and heard over 60 people got killed in the same village.

28 January 2009

Heavy shelling continues close to PTK hospital within 1 km. We dug bunkers in the new hub, horrible scenes in PTK hospital with injured.

31 January 2009

17 killed and many injured, no actual figures yet by shelling. 5 dead bodies were taken to PTK hospital.

2 February 2009

More tension in PTK after hospital attack.

4 February 2009

PTK hospital being vacated, heavy shelling for about 16 hours, we are in trenches.

14 February 2009

Today score: 14 killed in a kfir attack in areas close to PTK hospital.

3.4 AIR ATTACK ON DR PONNAMPALAM MEMORIAL HOSPITAL IN PTK

The air attack on the Ponnampalam Memorial Hospital was part of the PTK offensive. It had the effect of emptying the town to facilitate the entry of ground troops.

3.41 A Private Hospital

The Dr. Ponnampalam Memorial Hospital was located north of the A35 junction at PTK and between PTK and Iranapalai, about 1.5-2km from the PTK District Hospital⁶⁸. Its location was well known to the Government of Sri Lanka for many years. It was a private hospital for civilians established in 1996 and registered in Colombo, officially recognised as such by the Sri Lankan Government with a board of directors comprising five Government doctors and two LTTE doctors⁶⁹. The main branch of the hospital was in Kilinochchi but by 2009 the sub-branch in PTK had become the only operational one until it was destroyed on 5 Feb 2009. Thereafter the staff and any remaining patients and supplies (X-ray spare parts and units) moved to merge with the Putumattalan (makeshift) Hospital. Witnesses say in 2009 there were no LTTE military hospitals in proper buildings; the LTTE medical corps worked in camouflaged bunkers underground near the frontline and in temporary locations in the jungle without lights or buildings⁷⁰.

3.42 Hospital Clearly Marked

Those who worked at Ponnampalam Hospital in PTK say in 2007/8 the ICRC recorded all the details of the locations of the hospitals, including this one and helped to paint red crosses on the roofs. Staff describe this hospital as clearly marked with a red cross⁷¹. The hospital was also the only building in the vicinity to have lights on all night and as well as red crosses on the roofs it had white flags flying. In addition witnesses say the LTTE did not mount attacks from inside or near the hospital⁷².

⁶⁸ There was another branch in Kilinochchi which was also attacked on 1 October 2008, according to witness testimony.

⁶⁹ Doctors say if they treated any LTTE cadres they would charge the LTTE finance wing for their services. This was until 2009 when all treatment was free for everyone because of the dire conditions. Furthermore Ponnampalam Hospital had during the ceasefire period obtained permission to bring in drugs from Colombo and they had a private pharmacy called Neelan which operated as a medical distributor for the northeast but was not part of the LTTE civil administration. Even the LTTE medics bought from Neelan until an LTTE financial section restructuring changed this.

⁷⁰ W137, W310, W128, W125, W143.

⁷¹ Witness Testimony: "Like all hospitals I have referred to in my statement, the Ponnampalam Hospital had Red Cross signs on the outside and a large one on its roof. The purpose of all the signage was to ensure the Security Forces knew what the buildings were so they would not be shelled or bombed."

⁷² "...At no time did I ever see any LTTE armed presence in any of the hospital compounds. The doctors and ICRC issued advisories for the LTTE to not bring weapons into the compound compounds even when they were bringing casualties. There were some occasions when they were assisting civilians into the compounds where things were chaotic and they did not take the time to unsling and remove their rifles strapped to their back."

3.43 Drones

Witnesses say surveillance drones flew overhead every morning and sometimes at night. On the morning of the attack witnesses and survivors of the attack say a drone flew overhead⁷³.



Ponnampalam Hospital⁷⁴

3.44 Bombed

The Government of Sri Lanka twice bombed the hospital on 5 or 6 February 2009⁷⁵; the second bomb targeted rescue workers trying to dig out casualties from the first explosion. The Government of Sri Lanka corroborated that an attack took place because it released drone video of the hospital, which shows the clearly marked red crosses on the roofs and then the destruction of a building where witnesses say patients were being treated. The drone footage shows the exact GPS coordinates of the area. The graphics accompanying the footage claim the site was the Sea Tiger Commander's secret hideout – an assertion that survivors refute

⁷³ Witness Testimony: "I was kept near to Ponnambalam Hospital but in an LTTE field hospital. I witnessed the attack on Ponnambalam Hospital. I saw it and more than 60 people inside died. I noticed a drone hovering in the sky all through the morning. There were two Kfir bombs." "One day in early February 2009 while at the Ponnampalam Hospital, I heard a drone circling overhead."

⁷⁴ W151

⁷⁵ The UN Panel of Experts says the attack was on 6 Feb 2009 but one testimony suggests it was 5 Feb 2009.

and the Government has produced no evidence to substantiate⁷⁶.

The UN Panel of Experts report (2011) included satellite imagery of the site after the attack.

The first bomb hit in the morning and about half an hour to an hour later another bomb delivered by a Kfir supersonic jet hit the same area as they were evacuating the injured. A young mother described how she and her baby narrowly survived the attack on Ponnampalam Hospital:

“The ground shook badly. Soon dust filled the bunker. Though the bomb had been close; we were not hurt. We stayed in the bunker as we feared another bomb. In fact, another one struck again very close with the same effect.”

After the first bomb, the central building collapsed. Staff were initially using an LTTE bulldozer to try and get any injured survivors out of the wreckage but the second bomb totally destroyed even the bulldozer. One of the Government-released videos of drone footage shows a bulldozer. Survivors describe substantial damage⁷⁷:

“It was a shocking site. The building was totally destroyed by the bombing. There were dead and wounded everywhere in the rubble along with destroyed or damaged hospital beds and other hospital equipment.”

Survivors say estimating the casualties is difficult because some bodies were blown to bits and some of those who came from outside to help after the first bomb were killed or injured in the second attack⁷⁸. Two witnesses estimated 60 people were killed; another later heard the death toll reached 85 people⁷⁹.

⁷⁶ Reiterated by the MOD Situation Report of 6 Feb 2009 “SLAF jets raid high profile LTTE hideout in Mullaittivu. Sri Lanka Air Force Kfir and F-7 fighter jets launched precision air strikes at a high.” And MOD Situation Report of 5 Feb 2009: “SLAF raids senior LTTE leader’s hideout - Puthukkudidiruppu. Sri Lanka Air Force Mig-27 jets raided LTTE command center and senior LTTE leaders’ hideout in general area Puthukkudidiruppu this morning, 5 February.”

⁷⁷ An LTTE cameraman filmed some of the injured and dead from the attack who were brought to Putumattalan Hospital, and also visited the site the day after it was attacked: “I went there the next day. When got there I saw that the main hospital was damaged. There were three buildings that were severely damaged by the bombing, including the main building. The annex was virtually demolished. I saw destroyed bed frames and other hospital equipment in the rubble. All casualties were removed by that time.”

⁷⁸ Witness Testimony: “The casualty figure is difficult to be precise about because some bodies were scattered into pieces making counting difficult, some survivors were evacuated by other people who turned up to volunteer and also we couldn’t count the corpses trapped under the wreckage once the bulldozer was destroyed, but I think at least 60 died. The buildings that did not take the direct hit were unusable from shrapnel damage; the theatre roof had gone and there was glass everywhere. We only managed to salvage some hospital beds and some of the drugs but nothing major in terms of medical equipment.”

⁷⁹ Witness Testimony: “I could hear the bombing from my location in Irinapalai, perhaps only 2km away. There were a number of bombs dropped by the Kfirs. We waited and prepared for an influx of casualties. None came. Sometime after someone came to the hospital and informed us that it was the Ponnampalam Private Hospital that had been bombed, and that the whole 3-storey building had collapsed. It appeared that there were no survivors. I later heard that 85 patients were killed.”

4. THE ANANDAPURAM BATTLE

This was a battle between combatants that did not involve civilians. It was fought over several days at the very end of March and into early April 2009 between the LTTE and a number of Sri Lankan Army divisions, including the 58 Division⁸⁰. As the Army itself said this “battle also wiped out the LTTE’s much touted ‘conventional fighting capability’”⁸¹. A large number of high-profile LTTE commanders, male and female, are thought to have died in Anandapuram.

A military analyst described the battle of Anandapuram as “the worst battlefield defeat against the LTTE of the entire insurgency⁸²”. The Situation Reports say the Soldiers “gave a heavy beating to the terrorists⁸³”.

4.1 THE ROLE OF THE 58 DIVISION

The Army’s own contemporaneous Situation Reports describe the 58 Division being involved at the Anandapuram Battle, along with many media sources; see **Annexure 2**.

4.2 DRONES

Journalists reported that the 58 Division had access to drones in this battle and the 58 Division “covered most of the ground⁸⁴”. A report after the War, but based on an interview with Silva, said as a frontline divisional Commander he had his own UAV access:

“However, the 58th Division had its own UAV not just the data sent by the UAVs marshalled by the SLAF in Katunayake. *{attached footnote: Thus, General Silva’s chat highlighted the importance of this single innovation: placing UAV operations in the hands of frontline commanders and not purely in the hands of distant backroom HQ}*⁸⁵.

⁸⁰ *How The War was Won - Army Media Played a Critical Role*, MOD, <https://www.army.lk/news/how-war-was-won-army-media-played-critical-role>

⁸¹ Ibid

⁸² *Strategic Analysis of Sri Lankan Military’s Counter-Insurgency Operations*, Sergei DeSilva-Ranasinghe, <http://futuredirections.org.au/wp-content/uploads/2011/05/1266992558-FDIStrategicAnalysisPaper-12February2010.pdf>

⁸³ MOD Situation Reports, 3 Apr 2009.

⁸⁴ “The ground commanders were lucky to obtain real time intelligence due to deployment of Israeli manufactured Unmanned Aerial Vehicles over Anandapuram. Although the army couldn’t estimate the number of men and women trapped at Anandapuram, the presence of hundreds of battle-hardened cadres was known. In support of the ground forces, the artillery was placed on standby. The 58 Division covered most of the ground, whereas the 53 Division, too, played an important role in the operation. The 58 Division couldn’t have carried out the operation on its own.” *P’karan suffers irrevocable loss at Anandapuram*, 11 Dec 2012, The Island, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084

⁸⁵ *The LTTE Debacle at Anandapuram, April 2009*, Michael Roberts, 5 Nov 2017, https://thuppahi.wordpress.com/2017/11/05/the-ltte-debacle-at-aanandapuram-april-2009/#_ednref9

4.3 HIGH LTTE CASUALTIES

The War continued till 18 May 2009 but from early April the LTTE was a spent force in terms of mounting offensives. The Anandapuram battle was the last major military confrontation. The disparity between the casualty rates was surprising. The 58 Division reportedly lost 30 officers and 1,353 soldiers during the entire campaign (1 Sep 2007 – 18 May 2009)⁸⁶ but the LTTE lost half that in this one battle. The LTTE lost a large number of its battle-hardened leaders at Anandapuram and what was left of its heavy weaponry; pro-military journalists reported very high LTTE casualty rates of up to 650: “The 58 Division recovered over 500 bodies, whereas the 53 Division found over 150⁸⁷.”

Survivors of this battle interviewed by the ITJP say not more than a hundred fighters managed to escape, most of them walking wounded:

“Our team consisting of 75 injured people broke out and we had a team from outside and a team from inside to support us. Commander Banu was not injured but the 75 people with him were injured but could still walk. The plan was to evacuate the injured. We had another 200 severely injured LTTE members who couldn’t walk. We put them all in Anandapuram Church (which was near the sub post office and near to the school) under the care of an LTTE doctor whose name was XXX. He refused to leave the injured and come with us. We don’t know what happened to them – they couldn’t be evacuated. No less than 400 LTTE cadres would have died in that battle in my opinion. They were hardcore cadres.” W112

The 58 and 53 Divisions and Task Force 8⁸⁸ led by Shavendra Silva, Kamal Gunaratna and Col. G V Ravipriya respectively, led the Army in this last major battle in early April 2009⁸⁹ that resulted in very heavy casualties for the LTTE. Pro-Government journalists say:

“...perhaps the 58 Division’s biggest achievement was the unprecedented operation at Anandapuram, where it killed over 600 LTTE cadres, including the most experienced LTTE commanders⁹⁰.”

Local media reports say more than 625 LTTE corpses were recovered⁹¹ and more than 30,000 shells were fired on just one day, 4 April. Reports say up to 1,000 Tiger

⁸⁶ <https://lrrp.wordpress.com/tag/58-Division/>

⁸⁷ *P’karan suffers irrevocable loss at Anandapuram*, 11 Dec 2012, The Island, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084

⁸⁸ https://www.revolvy.com/topic/Battle%20of%20Anandapuram&item_type=topic

⁸⁹ Including reportedly the 4th, 6th, 8th, 12th, 14th and 20th Gajabahu Battalions, 5th Vijayabahu, 9th Gemunu Watch, 11th and 20th SL Light Infantry along with 1 Special Forces and 2 Commando, says <http://dbsjeyaraj.com/dbsj/archives/5404>

⁹⁰ The Island, <http://slwaronterror.blogspot.co.uk/2012/12/famed-58-div-to-fore.html>

⁹¹ <http://dbsjeyaraj.com/dbsj/archives/5404>

fighters were encircled by the Army and very few managed to escape. This is corroborated by survivors from the LTTE:

“The advancing Army was threatening to encircle Ananthapuram and kill or capture all within it. The leaders and cadres were encircled from 27 March to 5 April. On 31 March, Prabakharan and some leaders and some cadres broke out and relocated on the inner lagoon at Rettaivaikkal. Five hundred Imran Paandiyan Regiment cadres and other regiment cadres including men and women stayed behind to hold off the Army until our leader could withdraw and set up a new base of operations. The Imran Pandiyan Regiment continued to block the advancing Army and fought continuously but with ever increasing casualties - dead and wounded and with no food.” W129

Many commentators argue that this battle is significant in destroying the military capability of the LTTE as a fighting force. It raises whether the Sri Lankan Army in its subsequent attacks to capture the remaining villages of Putumattalan, Valayanmadam and Mullivaikkal were disproportionate in intensity considering the LTTE was already routed as a fighting force.

5. AMPALAVANPOKKANAI

5.1 BACKGROUND

For references to the 58 Division attacking Ampalavanpokkanai (known for short as Pokkanai) see **Annexure 2**.

Ampalavanpokkanai was inside the Second No Fire Zone (NFZ-2). The International Crimes Evidence Project report said (para 6. 159) that attacks on Ampalavanpokkanai were launched from Army positions in all directions - the west, the north around Chalai and the south near Wadduvakal and Mullaittivu Town and, according to one witness, from Sri Lankan Navy ships off the east coast.



Photo shows Ampalavanpokkanai.⁹²

Two UN reports⁹³, Human Rights Watch, and ITJP eyewitnesses say the Sri Lankan Army shelled large groups of people queuing for food in Pokkanai, including mothers and children hoping to get milk powder. These groups of civilians would

⁹² W170

⁹³ UNPOE and OISL, and HRW and LLRC.

have been clearly identifiable in UAV footage; survivors report drones flying overhead before the attacks.

Human Rights Watch also cited a doctor who reported that his hospital:

“...received 296 wounded and 46 bodies on April 8, and 300 wounded and 62 bodies on April 9... Hundreds of civilians were waiting in line near a food distribution centre when four or five artillery shells hit the area, killing at least 13 civilians immediately and wounding over 50 others.⁹⁴”



Photo shows Ampalavanpokkanai⁹⁵

5.2 UN PANEL OF EXPERTS REPORT

The UN Panel of Experts found that on 19 April 2009 “the area between Putumattalan and Ampalavanpokkanai was shelled intensively” and the 58th Division entered the coastal strip for the first time during the conflict, effectively dividing NFZ-2 into two parts “inflicting heavy civilian casualties at the same time” (109).

⁹⁴ Sri Lanka: Stop Shelling ‘No-Fire Zone’, HRW, April 9 2009, <https://www.hrw.org/news/2009/04/09/sri-lanka-stop-shelling-no-fire-zone>

⁹⁵ W170

5.3 UN OISL REPORT

The UN report in 2015 focused on two separate attacks on milk queues in Pokkanai, which was in the No Fire Zone (NFZ). This is what it said:

5.31 March Food Queue Attack

“On or around 25 March 2009, at around 11 am, a centre distributing boiled rice to hundreds of people in nearby Ampalavanpokkanai, came under attack, reportedly from SLA positions in Kappalavu. One witness stated that the shelling lasted for approximately 15 minutes and that, during this time, some 50 shells fell, killing a number of people. Aerial surveillance aircraft were witnessed above the area during the distribution of food.⁹⁶”

5.32 April Milk Queue Attack

In another widely reported incident in the NFZ2, on the morning of 8 April 2009, shells landed on a Primary Health clinic where milk powder was being distributed in Pokkanai. A rare commodity, the milk powder had been delivered by ship a day or two before and its arrival had been announced over a loudspeaker to the local population who were encouraged to go to the clinic the following morning. The time and location of the distribution had also been communicated by humanitarian agencies to the Government. Additionally, surveillance aircraft were flying in the area, which would have been able to see the queues of civilians, mostly women and children. Furthermore, the SLA was located approximately 800m away.

Witnesses told OISL that at least 50 people, including babies and young children, were killed in the attack. They described seeing badly damaged bodies at the site of the explosions, and body parts scattered around. There was a scene of “devastation” at a nearby hospital where the injured were being treated: “...there were so many women and children dead and injured there [...] Some had injuries to the head and to the stomach; others, including children, had arms and legs blown off. The doctors were working frantically, trying to save the lives of the injured. In none of the three incidents above did OISL receive any information of armed LTTE activity in proximity to the food distributions. Given that the SLAF were systematically informed of the location and time of food distributions, OISL has reasonable grounds to believe that they were deliberately targeted.⁹⁷”

5.4 ITJP WITNESS TESTIMONY

5.41 Civilian Casualties in Pokkanai

⁹⁶ para 861 and on, OISL.

⁹⁷ Ibid OISL

A nurse described her mother and father being killed in Pokkanai in February 2009, though she only found out a month later what had happened from a relative who had buried the bodies. Another witness described her son being badly injured in Pokkanai while W77 adopted the 7 years old child of a couple related to him who were both killed in April 2009 in Pokkanai by cluster munitions. In addition, the following individuals testified to seeing heavy civilian casualties in Pokkanai:

“My family moved only in January or February to Pokkanai where we knew some people. We were able to erect a tent in their yard. We stayed there until the surrender. My family members at this location consisted of myself, my parents, wife and our son, and also my younger brother. By this time the tents were very near each other. This made civilians vulnerable to aerial and shell attacks as well as cluster bombs. My wife was injured in a shell attack. Her elbow and her right leg were affected and she can't lift heavy things even now. I was not injured but I had several narrow escapes.” W296

“On 25 January 2009, I was driving a tractor with a trailer transporting female LTTE cadres and some ordinance. As we were approaching the junction not far from Ampalavanpokkanai, we were hit by a shell attack from the Sri Lankan Army. A Kfir jet was flying overhead also at that time. Eight of us, seven cadres and myself were injured. My injury was on my left foot. I was treated by Dr. Varadarajah at a medical facility that had been set up at a school facility about 200m away. I stayed at the hospital for two weeks and then given clearance by doctor and LTTE to go home for further recuperation.” W232

“We finally made it to Putumattalan. There were tens of thousands of civilians crowded there so we found an open spot on the seaside between Putumattalan and Pokkanai. My auntie's son, about 6 years old, was killed while we were there. We had a big hole dug in the ground and an artillery shell from the Security Forces came and landed in it while he was there. I was nearby, cooking. I heard the shelling coming and laid on the ground and was not hit. Later when we looked there were only a few pieces left of him, including half of his face. Other civilians in the area were also killed and wounded.” W103

“From the night of 19 April, the shelling intensified in the No Fire Zone particularly between Putumattalan and Ampalavanpokkanai area, and it caused massive casualties in the civilian areas. We came to know later that it was caused when the SLA shelled the area so that they could cross the lagoon and enter into the CSZ. This was the common tactic of the SLA, throughout the War: they would heavily shell an area regardless if it contained civilians or not and then they would advance into it; this caused thousands of casualties during the War. It was usually the LTTE who had good bunkers, whilst the civilians were the ones who were exposed and suffered greatly from this strategy.” W166

“I also saw white phosphorous used in Pokkanai at the end of April 2009. By that stage, my family and I had moved from Valayanmadam and were living in Karaiyamullivaikkal. I remember that the white phosphorous incident occurred

just after the Security Forces had taken over the Putumattalan area and rounded up all the civilians between 19 and 22 April 2009. There were no LTTE installations in the Pokkanai area at this time. The area was packed with civilians and there was not an inch of space to move around. I would estimate there were 100,000-150,000 civilians in this area at the time. I was in Pokkanai at the time the white phosphorous bombs were dropped. They were dropped in the vicinity of where I was and I believe there were several of them. I think the attack would have started around 5am. It was continuous and lasted for several hours. At the moment when everything started burning some of us ran to the beach and sat in the water to protect ourselves. The water was about 50m from where we were at the time. Although it was an open area next to the beach and there were not many trees, the whole area started burning. When a chemical bomb is dropped it burns for a very long time. For this reason, we just sat in the water and waited for the attack to stop as we felt that we could not save anyone at that time. In relation to those who were injured in the attack, we put them on the TRO [Tamil Rehabilitation Organisation] tractors, piled on top of one another, and took them to Karaiyamullivaikkal Hospital. There were around 5,000 people badly injured. I remember that this many people had been injured because we had to register them at the hospital when we arrived. We could not help the people who only had minor injuries, so they had to get to the hospital themselves. The TRO only had about 12 tractors left at this time so we had to put many people onto each tractor.” W155

“This last period of the War, and especially at Pokkanai, I witnessed the Sri Lankan security forces using cluster bombs - explosive devices that had multiple explosions either before hitting the ground or after impact on the ground. I also witnessed the use of incendiary bombs whilst in Pokannai. I also witnessed what I and others thought were the use of chemical weapons. There were many fumes, and very hazy for two to three hours, that impacted our vision and made it hard to breath. During this period, I witnessed helicopter gunships also being used by the Sri Lankan military. At one stage, the Sri Lankan Army announced on loud speakers there would be no shelling for two days. This provided some relief and people were able to come out of their shelters; in one place close by there were a number of people who had come out of their bunker and were eating together. Out of nowhere, a shell fell on them, killing all of them. I witnessed the aftermath of this. We were living in conditions of total insecurity; incessant bombings and shooting. There were injured and dead all around. I don't think any of us expected to survive.” W247

5.42 Witnesses to the March Attack on the Food Queue

“The attack on the food distribution line occurred towards the end of March 2009. The TRO was providing kanji (rice soup) to the civilians from food distribution station it had set up consisting of a hut and a table. The station was technically in Pokkanai but was actually located about half way between Pokkanai and Putumattalan Junction. We usually would have three to five fixed times per day when we would distribute kanji. At any given time, there would be 300-400 people lined up to collect food. People would bring their cooking utensils to collect the kanji and usually one person from each family would come

and collect kanji for the rest of the family. We would measure out the portions of kanji according to the number of family members. There were civilian tents and bunkers constructed all around the food distribution line. I directly saw the artillery shells fall on the food distribution line. When the shells hit, I was about 300-400m away from the food station. I remember that one shell fell adjacent to the food distribution line and when it exploded the shrapnel immediately hit many civilians who were standing in the line. When I arrived at the scene, I remember seeing many dead bodies and cooking utensils scattered around the place. Many elderly people and children died. As usual, the TRO tended to the injured and buried the dead. On that day, I remember registering 35 people who died as a result of this shell attack. There were also many injured. The artillery shells came from the west side of the coastal strip from the area where the Security Forces were located. Judging from the distance of the shells, I believe that they came from the Security Forces' nearest military base, which is in Ampakamam. At the time of the attack, the LTTE cadres were about 500-600m away from the food distribution hut. In my opinion, the Security Forces did not aim the shell artillery attack at the area where the LTTE cadres were located. They aimed at the highly populated civilian area. At this time, the LTTE did not have much heavy weaponry left." W155

5.43 Witnesses to the April Attack on the Milk Queue

The following people witnessed this attack on the milk queue, and video was taken of casualties that witnesses present say is authentic⁹⁸:

"There was an attack on food distribution organized by the LTTE at Pokkanai shortly before we surrendered in April. People were in the line, especially children who were receiving milk powder. There was an attack from the air and by artillery. A lot of people were killed and injured. I have seen bodies lying on the street. No one was able to bury the bodies because of the shelling and bombing." W295

"On 9 April 2009, there was a distribution of milk powder in Ampalavanpokkanai. I believe it was the last milk powder that was available at that time. This distribution was taking place only about 500m from my location, I believe it was the TRO, though I cannot be sure. The TRO were doing a lot of food distribution to help the people. I could see, and hear, that a UAV was overhead. Then multiple shelling took place. I knew from the direction of the shells that it must be the food queue. I did not go to the location as I knew that soon the wounded would come to the hospital. I was told that over 250 women and babies and children were in the queue. I believe that more than 50 women and children were killed outright. The wounded were shared between my hospital and the main Matalan Hospital. In all there were over 100 wounded. There was an even mix between women and children. The children were always more severely wounded as the size of the shrapnel hitting their bodies usually affected more organs than a larger

⁹⁸ <https://www.youtube.com/watch?v=vZNcrCDeANI>

adult. I cannot recall how many died at the hospital on that occasion. I later went to the location and was shown where the shelling took place. There was much blood and other remains all over the location.” W55

“On 8 April, we were distributing milk powder boxes for the appropriate age group of children and pregnant and lactating mothers... At some point in the morning (I cannot recall the exact time), I was informed that the distribution point had been shelled, killing and injuring many women and children. I went to the Putumattalan Hospital to assess the situation. On the way I passed the clinic which had been shelled; it was a mother and childcare centre located in Ampalavanpokkanai. I went past slowly and I could see that the building had obvious shell damage. I didn't stop as I knew the casualties would already be in the hospital. When I arrived at the hospital, I saw a scene of devastation: there were so many women and children dead and injured there. The injured and their relatives were screaming and crying, I saw that some of the dead and wounded mothers still held their AMMA Card which records the child's progress from birth, including weight, height etc. The doctors were working frantically trying to save the lives of the women and children; there were also some fathers seriously injured. The injuries that they sustained were terrible; some had injuries to heads and stomachs - others, including children, had arms and legs blown off. There were many hundred injured and I am not sure how many died that day. I saw many bodies at the hospital, and normally those that died at the scene are not taken to the hospital as there is no point doing so.” W166

“The incident affecting the milk powder line occurred a few weeks later in early April 2009. The milk powder line was specifically for pregnant mothers and for mothers with children under the age of five years. The milk powder distribution station was set up in Pokkanai village under a big tree and was administered by the AGA... At the time, I was at Valayanmadam about 2km away. After I heard of the shell attack on the milk powder distribution line, I immediately went there to help. When I got there, I could also see that two artillery shells had fallen within 10ft of the line. There were dead bodies everywhere. I remember seeing a pregnant woman lying on the ground with a foetus coming out of her. We registered approximately 78 people as dead on this occasion, including 38 children. I believe that more than 150 people were injured. Most of the dead and injured were women. I believe that, like the shelling of the TRO's food distribution line, the artillery shells on this occasion had been launched from the Security Forces' nearest military base in Ampakamam. At this time, the LTTE's defence line was nowhere near the milk powder distribution. The LTTE had almost entirely left the Pokkanai area at this time. I understood that they were fighting in Ananthapuram about 3-4km away.” W155

“Cluster bombs were also used in Mattalan and Pokkanai areas against civilians. I saw cluster bomb attacks on civilians near the Mattalan Hospital in March 2009. Another cluster bomb incident took place in April 2009 near the Krishnan Kovil on Mullivaikkal Road - there were a lot of displaced people around that area. This was the place where the TRO was providing kanji, so a lot of people were injured. There were two occasions a few days apart in the beginning of April 2009 I witnessed where cluster bombs were used in

Valayanmadam/Pokkanai/Mullivaikkal road - one was on was a queue for getting milk powder - the other was a residential area close to Valayanmadam Junction. Many people were killed and injured in these incidents but I don't know exactly how many." W112

5. PUTUMATTALAN



Putumattalan, Feb 2009⁹⁹

“We were at the edge of the lagoon, on the other side of the lagoon was Puthumatthalan.”

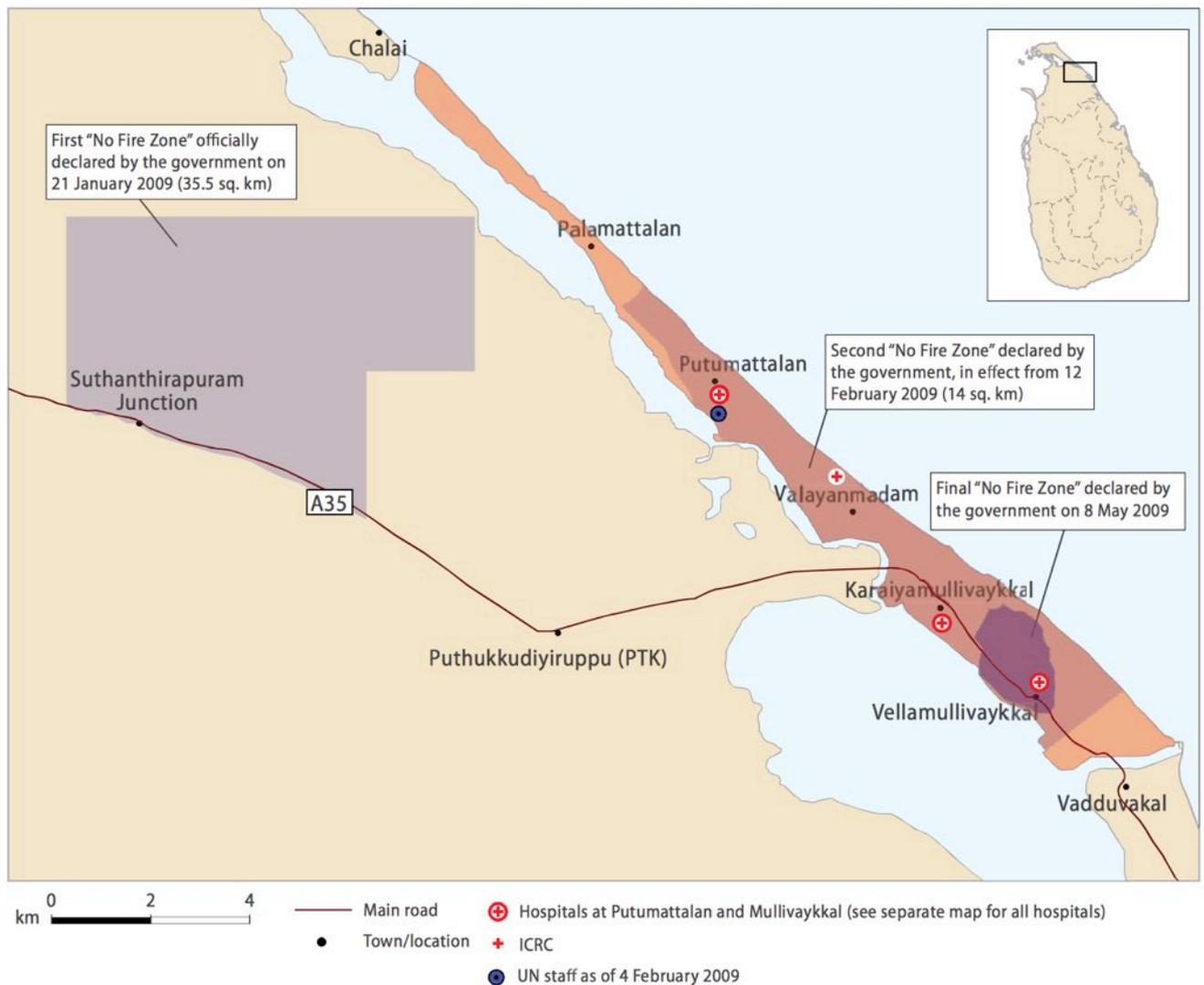
Shavendra Silva¹⁰⁰

⁹⁹ W151

¹⁰⁰ Shavendra Silva, quoted in LLRC Report, [4.69].

6.1 SPIT OF LAND

Putumattalan lay within the Second No Fire Zone which was unilaterally declared by the Government of Sri Lanka from 12 February 2009. At least 300,000 Tamil civilians fled to the 14km² narrow spit of sandy land, thinking they would be safe there. They were driven into the area by the shelling of Government forces advancing from all sides. Conditions were appalling in the scorching heat, with food and medicine scarce. The area was very densely packed with families sheltering in flimsy tents, digging bunkers where possible in the sandy terrain or constructing them with improvised sand bags stitched out of old saris.



MAP: FROM ICG REPORT 2010

Putumattalan was finally captured in a very bloody battle from 19-21 April, resulting in very heavy casualties and an exodus of one hundred thousand civilians.

6.2 THE ROLE OF THE 58 DIVISION

Major General Silva has confirmed¹⁰¹ he was the officer who led the assault to recapture Putumattalan in April 2009. In addition, an insider witness said:

“I saw from across the lagoon where the UN compound was. There were big white trucks with big blue UN markings on the side and blue UN flags. From the lagoon, the hospital was right behind the UN compound. It too was visible to the eye. Plus, we knew they were there because, like ICRC, they sent us their grid coordinates. I do not recall the date but it was well before we cut to the sea at Putumattalan when we shelled the UN Compound or the hospital. I know it was hit as I heard the launches from our side and then the explosions.” (witness number redacted)

For more references regarding the 58 Division’s presence in Putumattalan while it was under attack see **Annexure 3**.



6.3 UN ON THE SECOND NO FIRE ZONE ATTACKS

The UN Panel of Experts report found credible allegations that from 6 February 2009 the Army continuously shelled within the area that became the Second No

¹⁰¹ OISL, para 846.

Fire Zone, from all directions including land, air and sea. The Panel estimated there were 300,000 - 330,000 civilians in that very small area. The Army used “aerial bombardment, long-range artillery, howitzers and MBRLs as well as small mortars, RPGs [rocket-propelled grenades] and small arms fire, some of it fired from a close range.”¹⁰²



4. IDP settlement near Putumattalan Hospital in second No Fire Zone, March 2009

Source: submission to the Panel by the photographer

PHOTO: UN Panel of Experts report, 2011.

6.4 PUTUMATTALAN HOSPITAL

The hospital was on raised ground¹⁰³. Many witnesses, including this one, describe how clearly identified the site was:

“Putumattalan Hospital was a makeshift hospital that was set up inside Putumattalan School. On top of the hospital roof there was a banner with a huge red cross on it to show that it was a hospital. At the entrance of the hospital, which faced out to the lagoon in the direction of the Security Forces, there was

¹⁰² UNPOE, para 100.

¹⁰³ ICEP, 6.112.

another banner with a red cross and the word 'hospital' written on it. The hospital consisted of five long rectangular-shaped buildings. The UN compound was opposite the hospital about 50m away. The hospital was about 100m from the Putumattalan Junction. The UN national staff who were at the compound were in uniform and had their vehicles parked there with the UN flag raised... At Putumattalan Hospital, there were no uniformed LTTE or anyone who could be easily identified as LTTE cadres. I believe that the LTTE were almost all in Pokkanai at this time. The LTTE had their own hospital there for injured LTTE cadres. At Putumattalan Hospital there were Sri Lankan Government doctors working." W155



PHOTO: Putumattalan Hospital, 16 Apr 2009¹⁰⁴

The presence of a red cross on the roof of the Putumattalan hospital is corroborated by the Google Earth satellite imagery now freely available online from March and May 2009.

6.41 Hospital Visible with Naked Eye from 58 Division Positions

The makeshift hospital in Putumattalan, whose GPS coordinates were sent to the military, was visible with the naked eye from the 58 Division positions across the lagoon¹⁰⁵.

¹⁰⁴ W173

¹⁰⁵ OISL para 840; and also SMS on file with ITJP from UN staff which reports seeing SLA across the lagoon from 24 March 2009.

Below is a map from the 2009 Google Earth satellite imagery available online which shows the Army was less than a kilometre away from the hospital and that the ground was flat:



Photo: The red marking is visible on the brown terracotta roof.

6.42 Report of the UN Panel of Experts

The UN Panel of Experts report found credible allegations that at least 16 people were killed on 9 February 2009 when shells fell on Putumattalan Hospital which was clearly visible across the lagoon to the Army positions. The experts say the hospital was shelled on several occasions after that in February and March, and that RPGs were fired at it on approximately 27 March, killing several civilians. The makeshift hospital building sustained physical damage from the attacks. The experts said some wounded LTTE cadre were treated in a separate ward in Putumattalan Hospital - which is corroborated by survivors.

6.43 OHCHR Investigation into Sri Lanka

The UN investigation (OISL, 2015) found reasonable grounds to believe the 58 Division was among units that shelled Putumattalan Hospital and the nearby UN hub in the Second No Fire Zone. The 58 Division was commanded by Shavendra Silva

at the time. He says he was the officer who captured Putumattalan on 20 April 2009¹⁰⁶.



Meta data on photo: 6 March 2009, 11:56 hrs – scene following aerial attack

6.44 The International Crisis Group *War Crimes in Sri Lanka* Report, 2010

This report cites several attacks on Putumattalan, its hospital and the adjacent UN hub. It describes devastating casualties during the capture of Putumattalan, for which Shavendra Silva has claimed responsibility:

“The hospital was shelled and badly damaged the morning of 20 April, and the security forces and LTTE were fighting in front of it. Many dead and dying civilians were abandoned in or near the hospital as the security forces pushed the LTTE back and essentially split the NFZ in two. Although some 100,000 civilians crossed over to Government-controlled areas in the following days, it came at a huge cost. Heavy civilian casualties were incurred in and around the

¹⁰⁶ LLRC Testimony, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

hospital, and medical supplies and equipment were lost or left behind as medical staff again had to evacuate.¹⁰⁷”

6.45 “Island of Impunity”, 2014.

In addition, the *Island of Impunity* report by the International Crimes Evidence Project in Australia collated UN and iNGO reporting available in 2014 on the Putumattalan attacks. It found reasonable grounds to suspect that these attacks were on civilians, had occurred in the context of the military’s widespread and consistent practice of bombardment of the No Fire Zones, and likely constituted war crimes.

6.5 GOVERNMENT STATEMENTS

6.51 Disputes Existence of Hospitals in NFZ-2

On 5 February 2009, the Government of Sri Lanka issued a bizarre statement saying that there were no hospitals remaining operational in the War Zone (which is the area known as the Vanni):

“According to Ministry of Healthcare and Nutrition there are now no hospitals functioning in uncleared areas in Vanni.¹⁰⁸”

There were no purpose-built hospital buildings in the Second No Fire Zone, but doctors, many of whom survived the War (only to be detained to force them to lie about what happened¹⁰⁹), continued to perform hundreds of life-saving surgeries in a series of makeshift hospitals in Putumattalan, Valayanmadam and Mullivaikkal. Their patients are eternally grateful to them for withstanding threats from the central Government, working without pay and for risking their lives by remaining.

There is overwhelming evidence to show a hospital was operating in Putumattalan. This includes inter alia: messages to the ICRC with the coordinates of the hospital, records of contemporaneous SMS sent by iNGO workers at the time regarding attacks on the hospital, photographic and video evidence of the hospital and injured patients, evidence from thousands of eyewitnesses who survived and from Government and LTTE doctors who served there and gave interviews on the phone to the media at the time, Google Earth imagery of the

¹⁰⁷ ICG, p19.

¹⁰⁸ *All patients transferred to safe locations*, 5 Feb 2009, PRIU, http://www.priu.gov.lk/news_update/Current_Affairs/ca200902/20090205all_patients_transferred_safer_locations.htm

¹⁰⁹ *Tamil Doctors and the Sri Lankan War*, Jul 2015, Frances Harrison, http://www.bbc.co.uk/programmes/p02w11dv?fb_ref=Default

building with a red cross on the roof, and evidence from the evacuated casualties sent out by ship post-surgery with notes attached by the doctors in the Putumattalan Hospital regarding the patients' medical requirements.



Photo: Putumattalan¹¹⁰

6.52 Claims All Patients Evacuated

The Government falsely claimed all patients and staff from the Puthukkudiyirippu Government Hospital had been removed to safety. This is not the case. There was no full evacuation of the PTK Hospital; doctors and survivors describe the injured being transferred to Putumattalan by medical staff in ambulances, and on the back of trucks and motorcycles. Not to mention that the intensity of the conflict meant more patients were being created daily.

In the same statement¹¹¹, the Government ordered the ICRC not to keep patients at Putumattalan but to transfer them out of the Vanni, suggesting the Government did know patients were in Putumattalan. This is disingenuous because the same military also hindered evacuation by shelling patients waiting on the beach for

¹¹⁰ W173.

¹¹¹ *All patients transferred to safe locations*, 5 Feb 2009, PRIU, http://www.priu.gov.lk/news_update/Current_Affairs/ca200902/20090205all_patients_transferred_safer_locations.htm

the ICRC ship, and then actually intensified its use of heavy artillery fire against what it knew was a densely packed area (UN Panel of Experts, para 101)¹¹².

6.53 Slow Pace to Protect Civilians

The Defence Secretary, Gotabaya Rajapaksa, claimed the military was taking casualties as a result of their efforts to prevent Tamil civilians getting hurt¹¹³. The UN Panel of Experts report cites two occasions when the Government claimed it was not using heavy weapons but was frequently using them¹¹⁴.

In addition, the 58 Division reportedly lost 30 officers and 1,353 soldiers during the campaign (Sep 1 2007 - May 18 2009). However, the Division estimated the number of LTTE cadres killed in combat with its troops at 7,014 and thousands wounded.¹¹⁵ The disparity of the casualty ratios is striking and raises questions in respect of proportionality and distinction.

For all the assertions about protecting civilians, some of the media reporting of the casualties gives the distinct impression that the 58 Division aimed to kill as many of the enemy as possible:

“As the Army progressed well capturing key grounds of the Tigers, the initial target, which was 10 minimum kills a day went up to 15 minimum kills a day. Though the soldiers of the 58 Division still had a slow move they reached the target of destroying more LTTEers¹¹⁶”.

This stated aim of killing as many of the enemy as possible is problematic in an environment where both the LTTE and the military blurred the distinction between combatants and civilians¹¹⁷.

6.6 SHAVENDRA SILVA'S DENIAL

6.61 Silva Captured Putumattalan

Silva asserted that the hospital was only used to treat LTTE fighters and there were no civilians there. Even if this were the case, which it is not, it would still be a crime under international humanitarian law to target injured fighters

¹¹² UN Panel of Experts, para 107.

¹¹³ UNPOE, para 101, quoting PRIU.

¹¹⁴ para 101 regarding 25 Feb and 27 Apr 2009.

¹¹⁵ <https://lrrp.wordpress.com/tag/58-division/>

¹¹⁶ *Soldiers followed all humanitarian norms - Maj. Gen. Shavendra Silva*, Shanika Srihananda, 27 Dec 2009, Sunday Observer Lanka, <http://archives.sundayobserver.lk/2001/pix/PrintPage.asp?REF=/2009/12/27/sec02.asp>

¹¹⁷ UNPOE says the practice of using civilians to dig bunkers blurred the distinction (p51), and also says (para 195) there are credible allegations that the Government failed to recognize the principle of distinction.

who are *hors de combat*¹¹⁸. Silva should know this because his official Army biography says: “He is also an instructor to the International Humanitarian Law Course¹¹⁹” for the Sri Lankan Army.

Silva has denied inflicting any civilian casualties in attacking Putumattalan:

“Nothing of that nature happened there... also what we saw when we entered the hospital there were no civilians treated there it was only the LTTE that were treated there.¹²⁰”

As this media report stated:

“Responding to allegations that the Army had killed captives, Major General Silva explained that during all stages of the battle, the Army did everything possible to save even the wounded LTTE cadres.¹²¹”

However, the US State Department reported that surgical teams in Vavuniya Hospital performed 963 surgeries from 20 April – 8 May and over 90% were for conflict injuries. A large number of those sent to the hospital in Vavuniya for surgery came via Manik Farm Internment Camp, which meant they had been first screened by the authorities to check if they were civilians. The MSF surgeons in Vavuniya issued a number of statements in 2009 describing the horror they saw; this is an extract:

“We’re seeing a lot of men with severe injuries, but we’re also seeing a lot of women, a lot of children. We’re doing amputations on children; we’re doing abdominal explorations for internal damage as well, in children. And sometimes we’re operating on both the mother and father and a child from the same family that had been wounded in the same explosion or mine. We’re seeing whole families that are wounded sometimes.¹²²”

6.62 Not using heavy weapons

Speaking in Kilinochchi in April 2009, Silva went as far as to say:

“My soldiers are suffering casualties because they cannot fire [heavy weapons]¹²³”.

¹¹⁸ OISL, para 852.

¹¹⁹ <https://www.army.lk/news/major-general-shavendra-silva-new-chief-staff-army>

¹²⁰ Transcript of Shavendra Silva’s testimony before the LLRC.

¹²¹ <http://www.globaltamilnews.net/GTMNEditorial/tabid/71/articleType/ArticleView/articleId/53201/categoryId/2/language/en-US/Zero-civilian-casualty-policy-delayed-military-victory-over-LTTE-Maj-Gen-Silva.aspx>

¹²² MSF, 22 Apr 2009, <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/sri-lanka-severely-injured-patients-stream-vavuniya-hospital>

¹²³ *Sri Lanka Army says Tamil Tiger leader trapped*, AFP, 24 Apr 2009, <http://www.livemint.com/Politics/xX8cASQnQZtaj0Yz2KVJGN/Sri-Lanka-army-says-Tamil-Tiger-leader-trapped.html>

This was echoed by the President Mahinda Rajapaksa in early May 2009 when quizzed by the US Embassy:

“Rajapaksa stated that casualty rates among Government forces have gone up because they are not responding with heavy weapons to outgoing heavy weapons fire from the LTTE.¹²⁴”

The US State Department report to Congress references an Al Jazeera interview with Foreign Secretary Palitha Kohona in which he admitted there had been shelling of the No Fire Zone in contradiction of earlier denials¹²⁵.

Wikileaks reports show that the US showed the Sri Lankan Government satellite images that proved the military was still using heavy weapons and shelling the No Fire Zone:

“On May 4, Charge met with Foreign Minister Bogollagama to discuss reports that Government forces were shelling into the Government-designated ‘Safe Zone’ even after the President’s April 27 declaration of the end of combat operations. Charge presented two declassified satellite images taken on April 26 and 28 of the civilian ‘no-fire zone’ showing probable artillery impact craters¹²⁶.”

According to the cables, Kohona tried to claim the area had been bombed in the past, before civilians had moved to it¹²⁷. This is in contradiction of the testimony of hundreds of survivors.

6.63 Drone Footage

Shavendra Silva says he was aided by drone footage. This report posted on his Facebook site, which quotes him extensively, says:

“The UAVs had played a very vital role in capturing ground. Starting from the 58 Division, all the other offensive divisions were given UAV facilities and it helped to get a good study about the ground and the behaviour of the LTTE before fighting commenced. The Air Force also played a major role and they took very accurate LTTE targets. They helped immensely in casualty evacuation,” he added.

¹²⁴ <https://www.colombotelegraph.com/index.php/wikileaks-indians-and-americans-watched-the-last-phase-of-war-via-satellites/>

¹²⁵ The full entry reads: “May 1 – [on this date] Al Jazeera aired an interview with Sri Lankan Foreign Secretary Palitha Kohona in which he admitted that the Government had shelled the NFZ despite earlier Government denials. The admission came after Al Jazeera showed satellite imagery with analysis that documented shelling and air bombing damage within the designated NFZ between February 15 and April 19. While admitting that the Government had shelled the NFZ, Kohona maintained that this occurred before any civilians had actually entered the safe areas. Al Jazeera [then] showed footage from an earlier interview with Kohona and with military spokesman Udaya Nanayakkara, which aired on April 19, the same day that the satellite images were taken, in which Kohona insisted that the Government was not shelling [these areas] due to civilian presence in them – a position inconsistent with the claim that the shelling occurred before civilians entered these areas.”

¹²⁶ Wikileaks: *Indians and Americans watched the last phase of war via satellites*, Colombo Telegraph, 20 Jan 2012, <https://www.colombotelegraph.com/index.php/wikileaks-indians-and-americans-watched-the-last-phase-of-war-via-satellites/>

¹²⁷ Kohona noted (without specifying a precise time frame) that Government forces had indeed bombed this area before unilaterally declaring it a Safe Zone because there were LTTE Sea Tiger bases along that strip of coast.

“The Air Force on the instructions of the Secretary of Defence kept a separate fighter pilot to assist and control the air support which helped accelerate the momentum towards the eradication of Tiger resistance.¹²⁸”

The access to drone and surveillance footage means Silva would have been able to see the large numbers of civilians present¹²⁹, whose white tents are also visible in this Google Earth imagery from March 2009:



Satellite Google Photo: 16 March 2009

6.64 Silva’s LLRC testimony

Silva himself says he was in charge of managing the capture or surrender of fighters and civilians:

“When the civilians were coming in, actually, we had adopted [measures], especially at Puthumathan the Army established many points to receive them¹³⁰.”

This is significant given that witnesses describe experiencing or witnessing violations, such as torture and enforced disappearance, occurring after crossing into Army custody¹³¹.

Silva also concedes in his testimony that he had access to UAV footage while commanding the attack:

¹²⁸ *Soldiers followed all humanitarian norms - Maj. Gen. Shavendra*, Shanika Sriyananda, 27 Dec 2009, The Sunday Observer, <http://archives.sundayobserver.lk/2001/pix/PrintPage.asp?REF=/2009/12/27/sec02.asp>. Also cited on Silva’s Facebook page: <https://www.facebook.com/Major.General.shavendra.silva/posts/815949115103954>

¹²⁹ OISL, para 851.

¹³⁰ Shavendra Silva, LLRC Testimony, 2010, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

¹³¹ Inter alia W18, W182, W99, W185, W282, W234, W292, W263, W119. Also OISL paras 285-325.

“I was tasked by the Commander to do the biggest civilian rescue mission which is known as the biggest rescue mission in the world which was shown by the UAV pictures at Puthumathalan... we managed to breach a gap of about a kilometer in Puthumathalan identifying the LTTE locations, identifying the LTTE ditches over a period of 3 weeks and my troops, actually my Division was tasked for this entire operation along with commandos and Special Forces went in and came behind their lines.”

“...my Division was provided with an UAV facility even the Commander of the Air Force present CBS gave my division even the controlling panel at Kilinochchi where I would have controlled. The Officers of the Air Force who are here, one officer, the UAV officer in charge, was actually located in my headquarters, so I had the pictures most of the time, everything, every incident was seen and planned through the UAV at that time because at the last stages of the operation we just did not go blind, everything was planned through UAV pictures and where we exactly knew where the civilians and the LTTE were and where we found that least a little bit of confusion whether the civilians are too close to the LTTE cadres we had to resort to other means and buy time to separate the two parties.¹³²”

6.7 UN SMS

The ITJP has listed contemporaneous SMS sent by UN staff from the War Zone regarding attacks; these come from the Annexure to the Charles Petrie *Internal Review* of 2012 that looked at the UN's own conduct in the 2009 War in Sri Lanka. In addition, the ITJP is in possession of further SMS sent back and forth between UN staff inside and outside the Vanni, which also make it clear that the Putumattalan hospital was repeatedly hit and that this information was passed on to the Army:

¹³² Ibid

SMS FROM UN INTERNAL REVIEW REPORT

10 March 2009 11.47pm

Very very heavy shelling going on close to our hub in west. Many shells landed from 200m, lots of human casualties, and no injuries in hub so far. Pls ask SLA to stop.

11.25pm

There is no shelling now but the point a shell hit was the place of my previous location where I had a tarpaulin before floods. If I didn't shift ??.

12 March 2009 09.06pm

Very urgent, 3 artillery shells came from west hit 400 mts from hub in south of Mathalam, lots of casualties. Pls ask SLA to stop.

09.21pm

Shelling continues, 7 hit here so far please do something quickly.

13 March 2009 01.07am

22 civilians admitted with heavy injuries by shell hit 30 mins back in Mathalam. There were deaths but no dead bodies were taken to hospital.

02.19am

shelling started again, 3 artillery hit in the same direction as earlier but closer south, we're under the trucks."

07.33pm

2 artillery shells hit Mathalam just 20 mins back, one hit 200 mts from hub in west, one child killed and in 2nd incident, 500 mts from port in west, 7 civilians killed.

09.05pm

Our area under shelling very heavy and very close, many shells hit in the surroundings.

06.45pm

On 14th of March, 52 injured (17 children, 19 women), admitted in Mathalam hospital and 25 (7 children, 9 women), also admitted died.

16 March 2009 06.59pm

Heavy shelling continues close to PTK hospital within 1 km. We dug bunkers in the new hub, horrible scenes in PTK hospital with injured.

16 March 2009 06.59pm

On 15th of March, 61 injured (18 children, 23 women) by shells in NFZ admitted in Mathalam hospital, 5 admitted with severe injuries died.

07.08pm

On 16th of March, 55 injured (22 children, 25 women) admitted in Mathalam hospital hit by shell, gunfire in NFZ, 4 died.

OTHER UN SMS

24 March 2009 7:02:59am

A RPG SHEL HIT ONE OF THE ENTRANCES OF THE HOSP. 20 MINS BACK. MANY CASUALTIES. WIL TEL U LATER MORE.

3:54:35pm

A RPG SHEL HIT 50METER FROM HUB IN EAST (IN FRONT OF HOSP. 10 M) 10 MINS BACK. ONE CHILD GOT KILED IN THE SPOT.PLS ASK THEM DONT LAUNCH RPGS AMONG IDPS SETTLEMENT

5:18:49pm

Shocking news. I have contacted SF HQ on this.take all measures for your safety.

5:20:44pm

Have u informed SFHQ?

5:28:13pm

Yes.

12:34:59am

7 FIVE INCH SHELS HIT CLOSE OUR TO HUB. DONT KNOW ABOUT HUMAN CASUALTIES SINCE HUNDREDS OF PEOPLE CAMPED IN OUR AREA 2 SEE THE POSSIBILITY 4 ESCAPING. V R SCARED

6.8 WITNESS TESTIMONY

War survivors, including patients, medical staff and INGO, UN and ICRC workers, speak of Putumattalan Hospital overflowing with injured civilians, many of whom were treated under a tree. They describe coming under repeated attack for months. This is the testimony of an employee of the ICRC:

“My duties often took me to the Putumattalan Hospital. I would go at least every two days. One of my duties was to take wounded people from my area to the hospital. There were more than 200,000 civilians on the narrow strip of land that now comprised the Second and Third No Fire Zones. The small area of land was densely populated. From February until April I saw many security force attacks directed at the civilian population. I saw Kfir¹³³ jets attack civilian targets on many occasions. On one day I saw about ten such attacks where they dropped bombs. Usually there were at least three attacks per day. I know that many of these Kfir attacks were on civilian targets because I would often either go to the site of the attack and help load wounded to take to the hospital, or I would be at the hospital and see them brought in. The wounds they suffered were not gunshot wound but were bad blast wounds from shrapnel. Often these wounds were deep, jagged, and often amputations or wounds that led to amputations... One day in March I was traveling in an ICRC vehicle from Valayanmadam to collect food supplies from the beach on Putumattalan. Near my vehicle an artillery shell hit a tent shelter in a very densely civilian populated area. These tents were displaying white flags from their peaks. People put those flags there at the Government’s instructions so that they could be identified as civilians and not shelled. The shell hit one of them and eight civilians were killed. The bodies were badly blown apart. They were men, women and children.” W59

The same Tamil ICRC official described coming under fire attack as he and his ICRC colleagues were standing on a clearly marked ICRC ship in March or April 2009 that had come in with the clearance of the security forces. Another witness described another attack on Putumattalan Hospital:

“I recall an MBRL [Multi-Barrel Rocket Launcher] and artillery shell attack which occurred in early April 2009. This attack affected the back part of the hospital closest to the sea and killed around 20 people. I believe at least 50 people were injured in the attack. There were other occasions on which shells hit in the area around Putumattalan Hospital, but I understand that only a few people died in those attacks. On the occasion of the main MBRL and artillery shelling attack I witnessed, there was continuous shelling for over two hours. I remember observing that the shells had come from quite a long distance away. I could also tell by the noise. The shells had come from the Security Forces’ side. At the time of the attack I was working inside Putumattalan Hospital and, as soon as the shells fell on the back of the hospital, I went to assist the injured. There were no LTTE cadres located at the back of the Putumattalan Hospital or anywhere near the hospital at that time. At the back of Putumattalan

¹³³ Israeli-built supersonic jets.

Hospital there were only civilians and coconut trees. Many civilians had erected tents behind the hospital. I recall that one of the hospital buildings was badly damaged as a result of the attack.” W155

On 28 February 2009, there was shelling of the roads and a nurse was going from Mullivaikkal to Putumattalan on the A35 which was being shelled. She picked up an injured person and went to Putumattalan Hospital and dropped them off and then went around looking for other injured to collect. At 12:30pm there was an attack on Putumattalan Hospital with Multi Barrelled Rocket Launchers and she was injured in the left shoulder with shrapnel and sustained other shrapnel injuries elsewhere on her body. She showed ITJP investigators the scars¹³⁴.

A witness (W102), abducted and tortured in 2015, described being in Putumattalan in early February 2009 and seeing a kanji queue attacked by shelling.

A mother of a young baby in the War Zone described visiting the Putumattalan Hospital in the spring of 2009:

“It was always full of wounded civilian men, women, children and the elderly. I never saw the actual bombing and/or shelling of the hospital but would go there soon afterward. One time I went because some of my relations were wounded. I went very soon after the shelling and saw many dead and wounded civilians. The dead were under tents and many wounded civilians were outside on the ground because the hospital was overflowing with wounded. Trucks and trailers were bringing in many more civilians that had been wounded or killed in the civilian areas along the coast. There were no military positions at the hospital. I had been there many times... On one other occasion in Putumattalan I saw some small shops shelled and I saw 10 bodies blown apart by shelling. Parts of bodies were on the ground and up in the trees. They were civilians.” W42

6.9 US CONGRESS REPORT

This report lists incidents at Putumattalan (also referred to as Mattalan) and includes 6 attacks on the Putumattalan Hospital. For a summary of the incidents see **Annexure 3**

¹³⁴ No witness number assigned but on file by name which is redacted here.

7. VALAYANMADAM



Valayanmadam, 2009¹³⁵

7.1 LOCATION

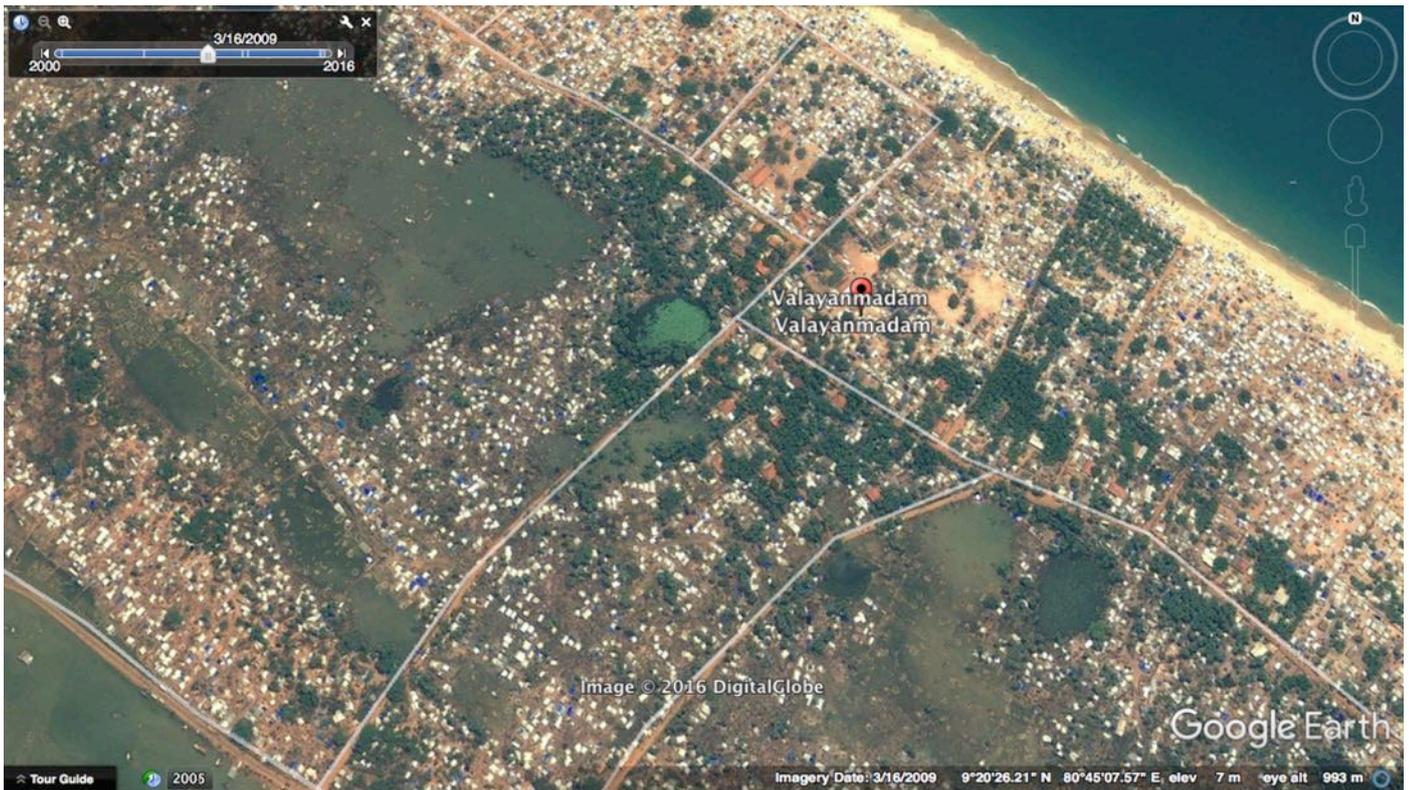
As can be seen from the picture above, the village of Valayanmadam was crowded with displaced civilians escaping the frontlines. There was a small makeshift hospital in Valayanmadam and a church around which many people sheltered thinking it would be safe. Once Putumattalan fell to the Army, even more civilians moved to Valayanmadam and then south to Mullivaikkal. Valayanmadam was densely packed with tens of thousands of civilians whose tents were visible, as the contemporaneous Google Earth imagery shows.

Survivors, now abroad, describe experiencing the Army's attacks:

"I witnessed people being attacked when they were waiting for food in Valayanmadam. Sometimes I went to Valayanmadam in order to escape forced recruitment and on one occasion I witnessed the attack." W133

¹³⁵ W170

“I worked in Putumattalan transporting injured between Putumattalan and Valayanmadam where the hospital was located. On 14 April 2009 I was injured by shelling in my left leg and I lost the leg from the knee down.” W131



7.2 22 APRIL 2009 ATTACK ON VALAYANMADAM CHURCH

The ITJP has interviewed several witnesses to the attacks on Valayanmadam Church:

“I witnessed the shelling of Valayanmadam Church in April in which many people died and it was a terrible scene. On 22 April 2009 I was badly injured in the left shoulder in a shell attack near the frontline. I have shown the interviewer my scar.” W102

A witness (W53) says Catholic priests sheltering in Valayanmadam Church near Putumattalan had the personal phone number of Shavendra Silva and communicated with him so he was aware they were sheltering there.

On 22 April 2009 a mortar attack hit the church, injuring Father James and killing civilians. On 23 April 2009 there was an artillery attack on civilians. Another priest, Father Vasanthaseelan, was badly injured and his leg amputated. The witness (W53) says he heard the sound of the launch of the artillery from the Government area. This communication with the priests was confirmed by Shavendra Silva:

"I had communication with these Fathers for weeks but as the LTTE was shooting people, they could not reach us. When they came to us we transported them safely and gave all facilities"¹³⁶.

Another witness alleged the Sri Lankan Army (SLA) used tanks here:

"On 22 April 2009 I surrendered across the water at Valayanmadam because the SLA was advancing with tanks and they were shelling us badly including the church. I was stripped naked and kept by a pond by the lagoon for a day." W96

7.3 22 APRIL 2009 – CLUSTER MUNITIONS ALLEGEDLY USED

The presence of a red cross on the roof of the Valayanmadam makeshift hospital is corroborated by the Google Earth satellite imagery available online from March and May 2009.

Another witness describes surviving an attack by cluster munitions on the hospital¹³⁷:

"On 22 April we had arranged to meet at my hospital in Valayanmadam. At 9.30 in the morning I was in the operating theatre, when I heard the launch of artillery. Then I heard the shell open overhead. We all took cover and hit the floor. It was a cluster shell that had exploded overhead. One of the cluster shells had lodged in the roof of the operating theatre but had not exploded. I went outside to see Dr Sivamanoharan was lying on the ground at the door to the operating theatre. He was dead. He had suffered some small injuries from the cluster bomb. In my experience the cluster bomb shells create very small shrapnel when they explode. One shell usually creates about 30 wounded persons who usually have small shrapnel wounds, of a similar size to a hand grenade. Dr Sivamanoharan was just unlucky where he was hit. There were many people wounded in this attack." W55

¹³⁶ *Soldiers followed all humanitarian norms - Maj. Gen. Shavendra Silva*, 27 Dec 2009, The Sunday Observer Lanka, <http://archives.sundayobserver.lk/2001/pix/PrintPage.asp?REF=/2009/12/27/sec02.asp>

¹³⁷ HRW reports on 21 [not 22nd as witnesses say] April 2009 an aerial attack on the hospital there killed 4 or 5 people and injured more than 30 including one of the doctors.



PHOTO: Meta data says taken on 22 April 2009.

7.4 REPORT TO CONGRESS ON INCIDENTS DURING THE RECENT CONFLICT IN SRI LANKA¹³⁸

This report includes several incidents of shelling of Valayanmadam. See Annexure 4 for these.

¹³⁸ <https://www.state.gov/documents/organization/131025.pdf>

8. MULLIVAikkAL

“The Army announced the last NFZ and after everyone had moved there, the Army bombed it.”

W289



“Finally, we confined the enemy to an area 500 into 300 m[etres] and finished them off.¹³⁹”

Shavendra Silva

¹³⁹ Some of those escaping LTTE came without clothes on: Maj. Gen. Shavendra Silva, White Flag Trial-at-Bar, 16 Nov 2010.

8.1 OISL ON THE 58 DIVISION LOCATION

The UN report (para 93¹⁴⁰) places the 58 Division advancing southwards in the spit of land towards Mullivaikkal from 13 May 2009 and says on 16 May the 58th and 59th Divisions of the Sri Lankan Army linked on the coastline leaving just 3km² not in Army hands (para 94).

For more on the 58 Division presence in Mullivaikkal see **Annexure 2**. As this retrospective Sri Lankan newspaper article says:

“The battle for the last patch of LTTE held territory was led by Brig. Shavendra Silva, one of the Gajaba Regiment veterans handpicked by Lt. Gen. Fonseka for the Vanni offensive¹⁴¹.”

The UN report says by 8 May 2009 in excess of 50,000 soldiers with heavy weapons and air supremacy were confronting what was left of the LTTE - on 16 May an estimated 250 hardcore fighters, according to the UN (para 94).

LTTE cadres who survived have told the ITJP that at this point they had 1,000 cadres left but could only fire small arms not heavy weapons¹⁴². One cadre said the area was too crowded for them to fight without endangering their families around them¹⁴³. However, they say there were still pockets of resistance - according to this witness because there was no direction as to how to surrender and very little leadership or communication:

“The LTTE was no longer fighting back in a concerted way from 10 May onwards. We could no longer fight with heavy weapons and artillery. A lot of LTTE fighters were injured or dead. There were no statements from anyone in the international community or the ICRC to guide us as to how we should surrender. At that moment the Army was scared and the LTTE didn’t lay down weapons. There were still pockets of fighters continuing”. W258

¹⁴⁰ “On 13 May, the 58th Division was pushing its way forward towards the coastline with the aim of advancing south from there, with the 53rd Division moving east along the A35 road towards the lagoon. Troops from the 55th Division pushed further south from Putumattalan.”

¹⁴¹ *Famed 58 Div to the fore, War on terror revisited*, 28 Dec 2012, The Island, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=69198

¹⁴² “More than a thousand cadres were around Vattuvakkal, we could not go forwards and we could not go backwards. At this time some of the fighters started surrendering with the civilians.” W257

“After 10 May, LTTE could only fire small arms from one location near the Nanthikadal lagoon but the Army kept shelling with heavy artillery”. W289

“The LTTE were still fighting - although not that much - which was the reason the SLA were firing. They were firing from the Vadduvakal side of the bridge. We were surrounded by the Army. There was also shooting from the other side of the Nanthi Kadal Lagoon. The shooting wasn’t loads. One or two shots, then ten shots”. W298

¹⁴³ “The LTTE were not fighting because if they did the Army would just shoot at everyone. The last two weeks the LTTE were not fighting”. W288

8.2 CIVILIAN NO FIRE ZONE

On 8 May 2009 the Sri Lankan Army announced the Third No Fire Zone, which was less than 2km² (OISL 873). As the UN report points out, Shavendra Silva later stated, "...we exactly knew where the civilians and the LTTE were and where we found that at least a little bit of confusion whether the civilians are too close to the LTTE cadres we had to resort to other means and buy time to separate the two parties." However, as the UN report also adds, there were reports of "continuous shelling and devastation as the shells hit the ground". The UN report (para 878) describes the Third No Fire Zone coming under "intense daily bombardment by SLA artillery, the air force and the navy" between 8-12 May.

8.3 UN SATELLITE IMAGERY

OISL examined satellite imagery of artillery damage to the Mullivaikkal makeshift hospitals. "At least eight separate impact craters were identified on the roofs of four hospital buildings in the compound of Mullivaikkal Hospital. At least two mortar impact craters were identified in the adjacent compound of the primary healthcare facility". These were part of a larger pattern of bombardment (para 871).

8.4 TESTIMONY

Those who survived Mullivaikkal give horrifying accounts of panic and mass casualties:

"On 8 May I was near the Farah II ship in Mullaitivu. There was a lot of shelling, people were screaming, shouting, running. There was a huge fire due to the canvas tents and bushes burning. We told the people not to stand up or run but they didn't listen - the risk of being hit was much greater if they were standing and running. The Sri Lankan Navy was attacking from the sea as well, so there was nowhere to run. Bodies were everywhere. It was even difficult to find vacant space to bury a body". W280

To this day, survivors remain haunted by the images of the dying in Mullivaikkal:

"After 12 May 2009 in Vellamullivaikkal close to the Vattuvakkal bridge I saw a group of girls struck by a bomb and they burned alive. They were put on an open tractor and the sun was burning on their burn wounds all over their bodies. I saw them there and heard them screaming but nobody could do anything, I could only bear witness to their terrible suffering while they were calling out for help. I could tell you many more incidents, some even worse than this. I saw a small girl around 8 years old carrying a baby, she didn't recognize her little sister was already dead. Her mother was lying wounded. We saw her and managed to call her over to sit in our bunker. The ICRC was not there and no organization came to help with the wounded. The shells were falling everywhere all the time. There was no space and opportunity to even bury the dead... Seeing many LTTE cadres die is not what has affected me mostly, what I can never erase from mind are the

scenes of the children, the elderly and civilians dying. In one family everyone died except one child of about 18 months and his father. Both were wounded in the head and the boy was so hungry. The blood was running from his head. He had no idea what was going on around him and I think he was just sucking his thumb because he was so hungry, disregarding the blood and the pain of his headwound". W289

The remaining area not under Army control was so crowded some people were literally forced to sleep on top of corpses:

"My father and I started to dig a bunker on the edge of the lagoon at Vallamullivaikkal. It was watery and muddy. While digging, we discovered an LTTE body and worms started to come out of it. We put a canvas on top of that area because there was no other area to stay and we stayed there for about three days. There were further attacks by the Army and our relatives were injured. My father's aunt died at this stage. There was no medication for my aunt who had been injured on her hand and thigh by shrapnel. Another family member, my father's brother's son, was also killed". W288

8.41 Mullivaikkal Hospital

Survivors also describe mayhem in the Mullivaikkal Hospital from late April onwards. This man was injured in Putumattalan and spent three weeks on the floor:

"I was taken to an LTTE makeshift hospital in Mullivaikkal. It was total mayhem. There were injured fighters and civilians everywhere on the floor and outside of the makeshift hospital. There were no trained doctors and I only received basic treatment from an LTTE senior first aider. The RPG balls were not removed and are still there until this day. I used to be able to feel two of them but I can only feel one ball now. Since then, I have had headaches. I stayed at the hospital for about 3 weeks, laying on the floor. I was feeling very scared as we were surrounded by the SLA and the hospital was also under shelling. There were constantly noises of explosions and people screaming. I did not move because there was nowhere safe to go to and the entire area was overcrowded. On one occasion, I witnessed direct shelling on the makeshift hospital and many people got injured and died as a result." W292

Survivors witnessed horror in these places:

"The attacks on Vellamullivaikkal and Mullivaikkal were the worst; inside the hospital was full of wounded people struggling for their lives already. Many of them died in the attacks and the attacks wounded more people. There was no way to help the wounded people, who had to crawl to find a safe space, they didn't know where to move to be safe. If they moved to one place, the bombs would fall there. It was complete chaos, it cannot be described in words. Crying and screaming parents carried their wounded children here and there in panic. The children were severely wounded, some with their half-severed limbs hanging from their bodies. Until 10 May we had the hope that the UN or another part of the

international community would try to stop the War. On that day the Army was closing in on us and we were trapped in a small space.” W289

8.5 WHITE PHOSPHOROUS

In the final week of the War several witnesses described seeing white phosphorous being used against the tiny area still under LTTE control in which tens of thousands of civilians were crammed:

“I saw a young man who was digging a bunker while my father and I quickly popped out of our bunker to cook food. We went back inside and felt the vibrations of an explosion and then we heard screams. I looked outside and saw the man in flames in front of me, after what looked like a phosphorus bomb shelling. I recognized the black smoke typical of phosphorus bombs as well as the distinctive burning reaction on the man’s body.” W292

“During that period, I also witnessed two or three times chemical bombs being used. The whole place became covered in gas and there was a distinctive smell. People became disoriented and then just collapsed on the floor. I was told that it was phosphorus bombs used by the SLA.” W283

“In the jungle when they attacked with what I think was phosphorous or some other sort of chemical, the trees would burn, and people got serious burn injuries. We knew the Army was fighting like this from 2007 but at that time the civilians were outside the range and it only impacted LTTE cadres.” W280

8.6 CLUSTER MUNITIONS

Survivors also say they witnessed the use of cluster munitions against the Third No Fire Zone, This was part of a pattern in 2009 – for more see the ITJP’s Dossier on Cluster Munitions, prepared when Sri Lanka became President of the Cluster Munitions Convention in 2018¹⁴⁴.

“I daily saw cluster munitions. Normal artillery fire will explode when it hits the ground or its target - it explodes so that a 60 degrees angle from the point of impact is a 'Safe Zone', so that is why we told people to lie down. The cluster bombs exploded about 30ft above the ground. When it explodes 12, 16 or 32 smaller bomblets hit the ground and then explode. RPG direct fire when it hits the ground it doesn't explode, some sort of tube landed and only exploded when someone handled it.” W280

“While in Karaiyamullivaikkal we had to go to queue for food. One day I was in line. A cluster bomb came in and exploded amongst the civilians. I saw at least 50 dead, smashed and destroyed bodies – mainly elderly, pregnant ladies and children. On another occasion, I saw a queue of children line up for kanji and

¹⁴⁴ <http://www.itjpsl.com/assets/press/28-sept-2018-cluster-munition-press-release-ITJP-final.pdf>

a cluster bomb exploded. I saw at least 10 children killed outright and many others were wounded. These incidents were at the end of April or early May.” W60

“When we got to Mullivaikkal, I saw all the shelling from the sea, bombing from the air, and shooting from the ground soldiers. From the air I saw cluster bombs and chemicals. There was so much smoke everywhere. The people who were dead, their bodies were burnt. I remember seeing green and blue smoke after the bombing.” W63

“In the final stage of the War, the Army announced that they believed all us Tamil people in the area were LTTE and therefore they are going to kill us. They attacked and killed civilians using many types of weapons including artillery, Kfirs, helicopters, snipers, cluster bombs and poisonous gases which are internationally banned. These were not LTTE cadres who were being attacked, they were innocent civilians.” W287

“We stayed in Vellamullivaykkal for about four or five days and due to the advancing army and shelling we moved to the Wadduvakal bridge on 16 May 2009. On the way to the bridge I saw more than a thousand dead men, women and children dead on the road and beside it. Bodies and limbs and wounded were everywhere. There was a terrible stench. I could tell that they had been killed by shelling and cluster bombs.” W158

8.7 SUMMARY EXECUTIONS OF SURRENDEES

15 May 2009

This man describes how he and his wife and children surrendered on 15 May 2009 from a bunker in Vellamullivaikkal. He witnessed the summary executions of four injured female cadres by the Sri Lankan Army:

“I saw four female LTTE cadres in uniform in an open bunker next to ours. They were badly wounded and couldn't move anywhere. They were left there by Black Tiger cadres who told me that they didn't need any treatment because they had already been treated and they had been given cyanide capsules to decide their own fate. They knew the Army was coming but they couldn't take them. They were shot dead in front of my eyes. The female cadres were screaming not to fire but the Army soldiers sprayed them with bullets from their AK47s. The soldiers told us not to look back and just walk forwards to the road. We passed more than 40 critically injured and dying people just on the 25m stretch between the bunker and the road. We had to walk about 200m towards PTK; on the road we passed many dead bodies, dying people, burning trucks and houses, smoke, and everything destroyed. We also passed a temporary LTTE hospital where we had left some injured cadres that we couldn't bring with us so we had just left them along the road with intravenous saline solution. When I passed I saw this whole place burning. It was complete carnage. I was wearing a sarong walking barefoot and it was difficult walking on the hot road with debris everywhere. After walking

about 200m we were told by the Army that we should leave our things behind and go on the buses. From another direction, I saw another group of people running towards us through the sounds of heavy explosions and firing; some were holding their little children and only when they came on the bus they realized their children were dead. Everything was complete chaos and people were in total shock and extreme fear.” W282

Another survivor saw his LTTE comrades shot in the head while sheltering in a bunker and describes how difficult it was to surrender:

“...there were bodies all around of LTTE cadres who were shot dead, some in the head, by the Army. The fighting was over and the surrender process was ongoing so there was no military advantage to be gained from killing more of us at that point. There was a lull in shelling and gunfire in the morning on the 15th and we decided to make a run to the civilian bunker. The first three guys who got up and walked out of the bunker were hit by a shell and killed instantly. Within the next few minutes the rest of us walked out and managed to reach the civilian bunker unharmed. Some of the civilians gave us civilian clothing to wear to increase our chances of survival. The Army kept firing all day and night on 15 May and 16 May, I heard the sounds of firing.” W234



Photo: Shavendra Silva

16 May 2009

This man witnessed civilians being killed while trying to cross over to Army lines:

"The last phase of the War was horrible. On 16 May 2009, my family and I first tried to cross to the SLA controlled area in the morning. That day alone, I witnessed at least a hundred civilians being directly shot at by the SLA and dying in front of my eyes while trying to cross to the SLA controlled area. We felt terrified and hopeless." W292

This is the account of a female cadre waiting to surrender:

"As I was laying there waiting, the Army soldiers were on both sides of the road. I saw them shooting civilians who were running unarmed towards the road, even children. They were being shot with automatic rifles and a 50 calibre heavy machine gun. One soldier in a camouflage uniform had a black scarf around his neck and a black cloth tight on his head hair and tied at the back, and he was shooting at people. He carried a T56-2 rifle and was only 25m away. The man shooting the sole 50 calibre machine gun with the same black scarf was shooting the gun from a heavy mounting tripod placed on the ground. I was very close to him. People were crying and yelling and screaming, asking not to shoot them. People approaching the road after the announcement were taking off their shirts and waving them in the air, shouting that they were surrendering. Some of them were shot down anyway. I was laying there for about half an hour as this shooting was going on and people were coming and laying on the road. There were hundreds or thousands of us in the immediate area. I saw armed camouflaged soldiers walking and riding on the tanks that were slowly moving from the direction of the bridge north towards Mullivaikkal. I saw written on the tanks "55 Regiment" or "55 Division". There were about 50-60 tanks. I had never seen so many tanks as on this day. I am not sure of the make or model of the tanks but they were big and green-camouflaged. I saw them drive over people that I thought were recently dead. They were wearing civilian clothes. Once I saw what the tank treads were doing to the bodies. I could no longer look but I do know that there were many bodies on each side of the road, so many would have been run over. It had already rained and I had trouble of telling whether they were children or adults as some of them had bloated. The smell was terrible. There were blood and body parts all over the road ahead of us and on both sides of it. I had to step over many bodies, including elderly people and children and babies. There were many hundreds if not thousands of dead and wounded along this small stretch of the A35." W129 at 3pm on 16 May 2009.

17 May 2009

"By the evening of the 17th the Army was closing in on all sides towards the A35 road. I witnessed an incident on the lagoon side of the A35 where the Army shot about 8 or 9 male LTTE cadres not in uniform who were on a tractor trailer. They

were half naked and had their hands tied behind their backs. The soldiers wore green camouflage uniform. It happened 150m from the road.” W99

18 May 2009

W182 surrendered to the Sri Lanka Army on 18 May and continued to hear fire and sporadic explosions even when he says there was no longer any resistance from the LTTE. He witnessed ten people being executed, including one young woman he knew, and saw soldiers throwing grenades in bunkers, many of which contained the injured.

“I think they were conducting a mopping-up exercise. I think this because when I walked along the A35 [road] I witnessed soldiers shooting with AK47s and executing injured LTTE people left along the side of the road. There were mostly LTTE women cadres at that place. There were a lot of abandoned tents and bunkers and narrow open trenches, and the Army were searching and shooting at the people in them. I witnessed 10 people being killed like this including one girl who studied with me at PTK Maha Vithaya school and who was an LTTE member. Her LTTE name is Nila from Medical Unit; I don't recall her birth name or native village but I think she was displaced from Jaffna in 1995. I have been looking for her family to tell them what happened to her but I couldn't find them in PTK so I think they come from somewhere else or they were all killed. They also threw grenades in the bunkers.” W182

These accounts are corroborated by insider witnesses who said:

“I saw this shooting of surrenderees take place a number of times. A number of groups, some 50, some 75, some more than 25 would come forward and they would all be killed. That included children, small children, women and old people... This was widespread killing. If journalists were around then the civilians were allowed to surrender, but when the journalists were not around the orders were to kill everyone.” (number redacted).

9. TORTURE, RAPE, SUMMARY EXECUTION & DISAPPEARANCES OF SURRENDEREES



Shavendra Silva is pointing at the corpses of dead LTTE figures, standing next to Jagath Jayasuriya¹⁴⁵; on his other side is Jagath Dias, who was Ambassador to Germany and also alleged to be involved in war crimes¹⁴⁶.

9.1 LTTE POLITICAL WING “WHITE FLAG” SURRENDERS AND EXECUTIONS

9.11 United Nations

The OISL report (287) says that the surrenders at the Wadduvakkal Bridge were to the 58 Division¹⁴⁷. The UN report (304) then concluded “that there are

¹⁴⁵ http://www.itjpsl.com/assets/press/ITJP_joseph_camp_press_releases_ENG.pdf

¹⁴⁶ https://www.ecchr.eu/en/our_work/international-crimes-and-accountability/sri-lanka.html

¹⁴⁷ “OISL received information from witnesses about so-called white flag ‘surrenders’ taking place in two locations in the final days of the armed conflict, one to the north of Vellamullivaikkal where people ‘surrendered’ to 53rd and 59 Div.¹⁴⁷ and one to the south near the Wadduvakkal bridge where they surrendered to 58th Division.”

reasonable grounds to believe that LTTE senior political wing leaders Balasingham Nadesan and Seevaratnam Puleedevan as well as Nadesan's wife Vineetha Nadesan may have been executed by the security forces sometime after 06:00 on 18 May".

9.12 Witnesses

An eyewitness interviewed by the ITJP says Shavendra Silva, who has said he was in overall command of the area, personally shook hands with LTTE political leaders who surrendered to him; their corpses were seen on the roadside some time later on the other side of the Wadduvakkal Bridge¹⁴⁸. The account of Shavendra Silva being present at the surrender is corroborated by an insider witness. In a private meeting in a UN mission in New York in 2014, Shavendra Silva confirmed that he was present in the general area on the morning of 18 May 2009 but refused to say specifically if he was at the bridge at the time of the surrender.

9.13 Paranagama Commission

The Government's own inquiry found the white flag surrenders on 18 May were one of the incidents where there were credible allegations levelled against the Army:

"(47) ...There are credible allegations, which if proved to the required standard, may show that some members of the armed forces committed acts during the final phase of the War that amounted to war crimes giving rise to individual criminal responsibility. These include such incidents as:

- The allegations of 'white flag killings' which led to the deaths of Balasingham Nadesan, the Head of the political wing of the LTTE, and Seevaratnam Pulidevan, the LTTE's Head of the Peace Secretariat and others who surrendered, having allegedly been given assurances at a high level. The Commission is of the view that despite some conflicting evidence, the underlying matrix is such that these alleged illegal killings, together with other such killings of those who surrendered, must be the subject of an independent judge-led investigation. To that list for investigation, must be added the cases of all those who were *hors de combat* and allegedly perished while in the custody of the SLA.
- The alleged executions of individuals named in the various Channel 4 documentaries.
- The disappearance of bus-loads of persons who surrendered in the last days of the conflict. One such bus-load was accompanied by a Catholic Priest, Father Francis."

9.2 FATHER FRANCIS SURRENDERS AND ENFORCED DISAPPEARANCES

¹⁴⁸ ITJP site: www.white-flags.org

According to the UN, the 58 Division under Major General Shavendra Silva's command was present in the area where LTTE military and political leaders and their families surrendered on 18 May 2009, hundreds of whom were subsequently either summarily executed or subjected to enforced disappearance¹⁴⁹. The ITJP compiled a list of hundreds of surrenderees seen by eyewitnesses in Army custody who have disappeared; the list includes many women and 29 young children¹⁵⁰. A recent statistical estimate put the total number of enforced disappeared on or around 18 May 2009 after surrender to the Sri Lankan Army at 503 people¹⁵¹.

Several ITJP witnesses, now safely abroad, testified that they saw an elderly Tamil priest collect the names of LTTE cadres surrendering and then loaded on to buses. The priest, Father Francis, subsequently disappeared. One such witness says he saw Jagath Jayasuriya and Shavendra Silva at the site during the loading of the buses with surrenderees:

"Father Francis went to the Army and got a paper and pen and wrote down all the names and handed it over to an Army Major. I don't know his name but I recognized his rank. The Major contacted his superior over the telephone and after that some landrovers came and many senior Army officers came to that area including Jegath Jayasuriya who was the Commander for the Vanni at the time and also Shavendra Silva. At that time I did not know who they were. I only knew they were senior commanders. After I came to the UK I came to know their names. They called some buses that had tinted glass windows. They were red CTB buses and Army buses that were green and beige. To one side of the barbed wire field was a road with an SLA medical point and next to it a gate leading out to the road. Shavendra Silva and Jegath Jayasuriya came in different landrovers with other senior people in other vehicles and they parked on the far side of the road and on the other side of the line of buses. After the Father handed over the list the Army Major called their names and some of the LTTE leaders surrendered with their families. There was a big queue of people waiting to get on the buses. The Father was standing at the gate with the Major and another Army person was calling the names out using a megaphone. There were many other Army personnel watching it all." W112

A court in Mullaitivu was requested to summon Shavendra Silva to testify regarding this incident but the state objected and the magistrate rejected the request¹⁵².

¹⁴⁹ OISL, para 287.

¹⁵⁰ <http://tamildiplomat.com/itjp-releases-list-of-those-who-have-disappeared-and-seen-surrendering-to-the-sla-on-18-may-2009-2/>

¹⁵¹ <http://www.itjpsl.com/assets/press/12-December-2018-Press-release-with-HRDAG-copy.pdf>

¹⁵² Sri Lanka Mirror, 31 Mar 2017, <http://www.srilankamirror.com/news/2519-state-objects-to-shavendra-silva-s-summoning-to-court>

Request to summon Major Gen Shavendra Silva rejected by court, 31 Mar 2017, <http://www.sbs.com.au/yourlanguage/sinhalese/en/article/2017/03/31/request-summon-maj-gen-31-March-2017-shavendra-silva-rejected-court>.

Request to summon Maj. Gen. Shavendra Silva rejected by court, 31 Mar 2017, <http://www.dailymirror.lk/article/Request-to-summon-Maj-Gen-Shavendra-Silva-rejected-by-court-126541.html>

9.3 SEXUAL VIOLENCE

In a May 2009 interview, Shavendra Silva said most of the captured LTTE fighters after 23 April 2009 were children – many very young teenage girls with short hair because the rebels had cut it when recruiting them¹⁵³. Photographs from this time also show such girls being guarded by male soldiers taking trophy photographs of them on their phones.

Members of the 58 Division under the command of Shavendra Silva are alleged by the UN report to have been involved in torture and rape¹⁵⁴. This is corroborated by a witness who said he was in a new Army camp in the Vanni with a sign outside saying 58 Division when a soldier in camouflage uniform of ordinary rank showed him a video on his mobile phone. This was in the last week of May 2009:

“It showed 25-30 female cadres walking completely naked. They were all crying. I could hear laughing and joking words in Sinhala from whoever was videoing or close to the mobile. I could tell that the females were LTTE cadres because of their short hair style and the surrounding area and damaged bunkers and damaged houses and trees. We were asked to identify them. Later in the same video it showed that four Army regular soldiers in camouflaged uniforms started to rape the female cadres. I could tell from the background that these were the same female cadres. The soldiers who were raping the cadres had a symbol on their shoulders of two crossed swords sewn in yellow thread. This was the same symbol as on the shoulder of the man showing us the video at the Iranaipalai Army Camp.”
(W18)

An insider witness who observed the 58 Division said:

“I saw the Army officers drunk and dancing as they were very happy about the victory. They were kicking and stepping on the dead bodies of the LTTE fighters. Some of them stripped the bodies and sexually misbehaved with them. They inserted sticks into their private parts and some of them cut the breasts with knives.”
(number redacted)

Mullaitivu Magistrate Turns Down Request To Issue Notice On Shavendra Silva, 31 Mar 2017, <http://www.asianmirror.lk/news/item/23236-mullaitivu-magistrate-turns-down-request-to-issue-notice-on-shavendra-silva>

¹⁵³ “...Brigadier Shavendra Silva, the commander of the Army's 58th division fighting on the front line, said 'most of' the Tiger cadres captured since April 23 were aged between 11 and 18. 'There were many young girls aged 13 and 14. All of them had short hair,' the brigadier said.” *Kill or be killed: 11-year-olds forced to fight for Tamil Tigers*, 5 May 2009, Sydney Morning Herald, <https://www.smh.com.au/world/kill-or-be-killed-11yearolds-forced-to-fight-for-tamil-tigers-20090504-asm4.html>

¹⁵⁴ OISL, para 544: “In one scene a female cadre was being held by two of the soldiers and a third was raping her from the front while she was standing. His pants were down to his ankles. There was a lot of crying and screaming and I heard other female screaming and crying coming from somewhere close to the audio of the mobile phone. The only conclusion for us at the time was that other female cadres were likewise being raped. The video was only about 6 minutes long and ended with the Army soldier still in the act of intercourse. The Army man showing us the video was laughing saying that they had already executed these girls”.

This is further corroborated by a witness called Fernando who said he was with the 58 Division and who was interviewed by Channel 4 television¹⁵⁵.

9.4 TORTURE

An ITJP witness was tortured in May 2009 to turn him into an informer and then brought before Shavendra Silva at the frontline who allegedly approved the use of torture in this case:

“Due to the torture I had blood on my thighs and lower legs and bruises in my face and my left side of the face was swollen when I arrived in the camp. I couldn’t walk properly. The TID brought me with them in front of Brig. Shavendra Silva in a big house in a former LTTE camp. Brigadier Shavendra Silva enquired what happened to me as he thought I had been injured in the fighting. The TID men told him that I had not revealed earlier what I knew and that they had beaten me and that I deserved it. Brig. Shavendra Silva agreed with them saying, “That’s correct, we have to do it like that.” W18

In addition ,the witness said whenever he was taken to the frontline to identify hidden weapons caches they needed permission from Shavendra Silva to search in the PTK area.

¹⁵⁵ *The Sri Lankan soldiers 'whose hearts turned to stone'*, 27 Jul 2011, C4, <https://www.channel4.com/news/the-sri-lankan-soldiers-whose-hearts-turned-to-stone>

10. LEGAL ANALYSIS

10.1 APPLICABLE LAW TO SRI LANKA

Under international law, Sri Lanka is obliged to protect, respect, promote and fulfil the rights of all persons within its territory or under its control, without discrimination.¹⁵⁶ This includes the duty to investigate and prosecute gross violations of human rights law and serious violations of international humanitarian law, as well as the right of victims to truth about the violations and the right to an effective remedy, including the right to adequate, prompt and effective reparations.¹⁵⁷ States are further obliged to prevent the recurrence of violations.¹⁵⁸ Both international human rights law and international humanitarian law applied¹⁵⁹ to the non-international armed conflict in Sri Lanka.¹⁶⁰

At the time of the armed conflict, Sri Lanka was a State Party to a number of international human rights treaties including: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) (accessed in 1994); the Convention on the Prevention and Punishment of the Crime of Genocide (accessed in 1950), the International Covenant on Civil and Political Rights (ICCPR) (accessed in 1980); the International Covenant on Economic, Social and Cultural Rights (ICESCR) (accessed in 1980); the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) (accessed in 1982); the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (ICRMW) (accessed in 1996); the Convention on the Rights of the Child (ratified in 1991); the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (ratified in 2000) or the Optional Protocol to the Convention on the Rights of the Child on the Sale of Child Prostitution and Child Pornography (ratified in 2006).

¹⁵⁶ Article 2(1), International Covenant on Civil and Political Rights. See also United Nations Human Rights Committee (UN-HRC), General Comment No. 31 [80] adopted on 29 March, CCPR/C/21/Rev.1/Add.13, 26 May 2004, § 10.

¹⁵⁷ Eg: 'Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations.' See Principle 2, The Updated Principles to Combat Impunity. Also, the right to justice is part of the right to an effective remedy and entails a victim's right to a fair trial by an independent and impartial court. See Principles VII-IX, UNGA, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147, 16 December 2005.

¹⁵⁸ General Comment No. 31 [80], § 7, 17 as explained in Mayer-Rieckh, 'Guarantees of Non-Recurrence: An Approximation', 39 *Human Rights Quarterly (HRQ)* (2017) 416.

¹⁵⁹ ICJ Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons from 1996 para 24.

¹⁶⁰ The duration and intensity of the violent incidents described, and the apparent level of organisation of the LTTE, allows concluding that the conflict in Sri Lanka was of an internal character. It was not simply domestic disturbances or tensions or criminal acts. Consequently, the majority of violent attacks and other incidents described in this report are the result of armed conflict.

Moreover, Sri Lanka ratified the 1949 Four Geneva Conventions in 1959¹⁶¹ and is also bound by Common Article 3 to the Four Geneva Conventions which have been recognized as customary international law applicable to non-international armed conflicts. All parties to the conflict in Sri Lanka were also bound by other rules of customary international law that apply to non-international armed conflicts, in particular the principles of distinction, precaution and proportionality. Sri Lanka is not a State Party to three Additional Protocols to the 1949 Geneva Conventions.¹⁶²

Sri Lanka ratified the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED) only in 2017.

Sri Lanka is not a State Party to the Rome Statute of the International Criminal Court (“ICC”) but the ICC still may exercise jurisdiction over the crimes committed in Sri Lanka during the conflict either through a declaration accepting jurisdiction by Sri Lanka,¹⁶³ a UN Security Council referral¹⁶⁴ or in case of a crime committed by a national of a signatory State to the ICC Rome Statute or on the territory of a Member State.¹⁶⁵ Accordingly, Sri Lankans who are dual nationals and whose second nationality is that of the State Party to the ICC Rome Statute can still be tried before the ICC if the concerned State refers the case to the ICC or the ICC Prosecutor acts *propriu motu*.¹⁶⁶ Moreover, the individual criminal responsibility of an alleged perpetrator can be engaged by those States that included provisions on universal jurisdiction in their national law¹⁶⁷ or before a special or hybrid-court that could be potentially established to try those responsible for international crimes committed in Sri Lanka during the War. The Government of Sri Lanka committed itself to the establishment of a special judicial mechanism to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, in terms of Resolution A/HRC/30/1 by the UN Human Rights Council in 2015.¹⁶⁸

The principle of universal jurisdiction is a “a legal principle allowing or requiring a state to bring criminal proceedings in respect of certain crimes irrespective of the location of the crime and the nationality of the perpetrator or the victim”¹⁶⁹

¹⁶¹ Geneva Convention (I) on Wounded and Sick in Armed Forces in the Field, 1949; Geneva Convention (II) on Wounded, Sick and Shipwrecked of Armed Forces at Sea, 1949; Geneva Convention (III) on Prisoners of War, 1949; Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949;

¹⁶² In particular, it has not ratified Protocol Additional to the Geneva Conventions of 12 Aug 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977; the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

¹⁶³ Article 12(2) and (3) ICC Statute

¹⁶⁴ Article 13(b) ICC Statute

¹⁶⁵ In this case, a State Party concerned can refer a case to the ICC or the Prosecutor can act *propriu motu*, see Article 12(2), 13(a) and (c) of the ICC Statute.

¹⁶⁶ 12(2), 13(a) and (c) of the ICC Statute.

¹⁶⁷ Belgium, Denmark, Germany, The Netherlands, the UK or Switzerland.

¹⁶⁸ Human Rights Council, *Promoting reconciliation, accountability and human rights in Sri Lanka*, UN Doc. A/HRC/RES/30/1, 14 October 2015, para 6.

¹⁶⁹ See eg Kenneth C. Randall, ‘Universal jurisdiction under international law’, *Texas Law Review*, No. 66 (1988), pp. 785–8 as cited in Philippe, ‘The principles of universal jurisdiction and complementarity: how do the two principles intermesh?’ 88 *International Review of the Red Cross* (2006) 375, at 377.

and constitutes a derogation from the fundamental principle of criminal law, the principle of territoriality. Universal jurisdiction is based on the premise that certain crimes are so harmful to the international community and order that must be prosecuted regardless of the location of the crime or the nationality of the perpetrator or the victim.¹⁷⁰

Moreover, State Parties to the Convention against Torture (currently 164 States ratified) are required to prosecute the alleged perpetrators of torture in any territory within their jurisdiction, if such persons are not extradited to another State.¹⁷¹ In 2012, Amnesty International found that it appears that at least 95 UN member states have included torture as a separate crime under national law (not as a war crime or crime against humanity) and at least 85 UN Member States have provided for universal jurisdiction over this crime.¹⁷²

Similarly, the International Convention for the Protection of all Persons from Enforced Disappearance provides that State Parties shall take such measures as may be necessary to prosecute the alleged perpetrators of enforced disappearance in any territory within their jurisdiction, if such persons are not surrendered or extradited to another State or international tribunal.¹⁷³ There are 98 Signatories to the Convention and 59 State Parties.¹⁷⁴

10.2 LEGAL ANALYSIS OF THE ACTS COMMITTED DURING THE FINAL STAGES OF CONFLICT

10.21 Introduction

On 16 September 2015, OISL concluded their inquiry and reported to the Human Rights Council on their findings. In the period since then, the ITJP has gathered a considerable archive of evidence including videos, photographs, SMS, and testimony of eye-witnesses to the atrocities perpetrated by the Sri Lankan Army. The events covered in this report include the campaign in the north that lasted from early 2008 to the end of the War in May 2009. This report sheds light on the attacks and methods used during this campaign by the Sri Lanka Army, in particular the 58 Division under the command at the time of Major General Shavendra Silva. Many of the incidents covered in this report implicate the Sri Lanka Army in the gross violations of international human rights and serious violations of international humanitarian law. As analysed and concluded by ITJP, in some instances there are reasonable grounds to believe that the violations in question constitute international crimes. The 58 Division played a critical role in the frontline of combat. The conclusions in this report are based on evidence available in respect of the conduct of hostilities,

¹⁷⁰ Ibid

¹⁷¹ Article 7(1) CAT.

¹⁷² Universal Jurisdiction: A Preliminary Survey of Legislation Around the World - 2012 Update (2012), at 13.

¹⁷³ Article 9 of International Convention for the Protection of all Persons from Enforced Disappearance

¹⁷⁴ https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-16&chapter=4&lang=en

means and methods of warfare, including in particular the attacks by the Sri Lankan military directed against the civilian population and other protected persons as well as civilian and other protected objects.

10.22 General Findings

Based on the evidence collected and reviewed, there are reasonable grounds to believe that the Sri Lankan Army, including the 58 Division, conducted intentional and indiscriminate attacks against the civilian population in Kilinochchi, Puthukkudiyiruppu (PTK), Ampalavanpokkanai (Pokkanai), Putumattalan, Valayanmadam and Mullivaikkal that resulted in extensive civilian casualties and extensive damage to civilian objects. As demonstrated in the report and corroborated by other evidence referenced herein, the 58 Division under the command of Major General Shavendra Silva was one of the main divisions fighting in the final phase of the Vanni offensive.

The attacks were directed against easily identifiable civilian objects such as permanent and makeshift hospitals that were visibly marked with red cross emblems, food distribution points, densely populated areas in the No Fire Zones (NFZs), religious sites as well as UN bases, where civilians were present. As reported by the witnesses and as corroborated in a number of international reports, the number of civilian casualties and injuries among the civilian population was catastrophic, with extensive and profound damage to essential civilian objects such as hospitals. Among the civilians were women, children and the elderly, with many of the attacks also directed against specially protected persons such as medical or religious personnel and persons *hors de combat*.

On the basis of the evidence set out in this report, there are reasonable grounds to believe that the attacks against the civilian population were intentional and deliberate. In almost every instance, the Sri Lanka Army had access to intelligence and also knew the coordinates of makeshift and regular hospitals as it was communicated to the military by the International Committee of the Red Cross (ICRC) and doctors working in the said medical clinics. As reported by eye-witnesses and independent sources, the Sri Lanka Army was in possession of UAVs and drones, which enabled the military clearly to identify the objects of the attack and to observe the large numbers of civilians, including women, children and elderly. The 58 Division Commander, Major General Shavendra Silva, admitted that his Division was in a possession of the UAV footage, which he confirmed was used extensively by the military during the Vanni offensive.¹⁷⁵

Consequently, there are reasonable grounds to believe that the Sri Lanka Army knew that the objects of the attack were the civilian population and civilian objects and nevertheless it employed means and methods of warfare that qualify as indiscriminate either by their nature or mode of use.

¹⁷⁵ Shavendra Silva, LLRC Testimony, 2010, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

The evidence set out in this report provides reasonable grounds to believe that Major General Shavendra Silva committed war crimes either by ordering attacks targeting the civilian population and civilian objects knowing that these were protected persons and buildings and/or launching indiscriminate and disproportionate attacks in the knowledge that they will cause excessive incidental civilian damage, injury or death; or by failing to prevent, repress or punish troops under his effective control from committing or attempting to commit these crimes.

Moreover, based on the evidence in this report there are reasonable grounds to believe that Major General Silva is responsible for crimes of torture, rape and enforced disappearance by failing to prevent the troops under his effective command from having committed these crimes. There are reasonable grounds to believe that he knew, had reason to know about the war crimes by his troops, or consciously disregarded information which clearly indicated that his troops were committing the crime of enforced disappearance, and even then failed to act accordingly. Major General Silva can and should be prosecuted for these crimes in a number of countries worldwide in which the principle of universal jurisdiction applicable to international crimes is accepted.

10.23 APPLICABLE LAW

A. Civilians and Civilian Population

Civilian populations and civilians who do not participate directly in hostilities enjoy protection from attacks at all times during non-international armed conflict. This includes members of armed forces who have laid down their arms and those *hors de combat* by sickness, wounds, detention or any other cause. Medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances, unless they become engaged in acts harmful to the enemy.¹⁷⁶ Immunity of civilians from an attack is closely related to the fundamental principle of international humanitarian law, namely the principle of distinction. The principle of distinction reflects the rule of customary international law and obliges parties to the armed conflict to distinguish at all times between lawful and protected targets.¹⁷⁷ In non-international armed conflicts persons who are not members of state armed forces or organized groups of a party to the conflict are civilians and therefore enjoy the protection against the direct attack unless they take direct part in hostilities.¹⁷⁸ Article 50(3) of the Additional Protocol I provides: “The presence within the civilian population of individuals who do not come within the definition of civilians, including combatants does not deprive the population of its civilian character.”¹⁷⁹

¹⁷⁶ First, Second and Fourth Geneva Conventions, 1949; Art 15 of the Additional Protocol 1. This Rule is implicit in common Article 3 of the Geneva Conventions and has been included in Additional Protocol II, Article 9(1). Recognized as norm of customary international law applicable during the non-international armed conflict. See ICRC Rule 25, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule25#Fn_E202BFDC_00011

¹⁷⁷ ICRC Customary IHL Database, Rule 1.

¹⁷⁸ 1977 Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts, Art. 51(3); 1977 Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts, Art. 13(3).

¹⁷⁹ Similar provision was included in the draft of Additional Protocol II that was by consensus but ultimately removed from the final draft for the sake of simplicity. <https://ihl-databases.icrc.org/customary->

B. Civilian Object and Military Objectives

Civilian objects are all objects that are not military objectives.¹⁸⁰ Military objectives “are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”¹⁸¹ Civilian objects lose their protection from attack the moment they become military objectives.¹⁸² International humanitarian law requires that the conflicting parties “take all feasible precautions” to avoid or minimize the incidental loss of civilian life and damage to civilian objects,¹⁸³ including doing everything feasible to verify that the objects of attack are indeed military objectives.¹⁸⁴ The parties to the conflict must also give “effective advance warning” of attacks when circumstances permit.¹⁸⁵ “Any bombardment by any method or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects are prohibited” under international humanitarian law and has been recognized as a rule of customary international law in the non-international armed conflict.¹⁸⁶

C. Intentional, indiscriminate and disproportionate attacks against civilians and the civilian population

Indiscriminate attacks are those: “(a) ... directed at a specific military objective; (b) which employ a method or means of combat which cannot be directed at a specific military objective; or (c) which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.”¹⁸⁷ This principle prohibiting indiscriminate attacks has been recognized under customary international law as applicable to non-international armed conflicts. The principle of proportionality

ihl/eng/docs/v2_rul_rule6_sectionb. Prosecutor v Pavle Strugar, Case No. IT-01-42-T, Judgement (TC), 31 January 2005, para 282. See also Tadic, Judgment, 7 May 1997, para 638. In its judgment in the Tadić case in 1997, the ICTY Trial Chamber stated: “It is clear that the targeted population [of a crime against humanity] must be of predominantly civilian nature. The presence of certain non-civilians in their midst does not change the character of the population.”

¹⁸⁰ See ICRC Rule 9

¹⁸¹ See ICRC Rule 8

¹⁸² ICRC Rule 10, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule10

¹⁸³ Additional Protocol I, Article 57.

¹⁸⁴ AP I, Art. 52(3); Art. 57(2).

¹⁸⁵ Ibid

¹⁸⁶ ICRC Rule 13 https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule13

¹⁸⁷ ICRC Rule 12 https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule12

also constitutes a fundamental principle of international humanitarian law that has been identified as a norm of customary international law applicable to non-international armed conflict. This principle prohibits all parties to the conflict from “launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”¹⁸⁸

“Making the civilian population or individual civilians, not taking a direct part in hostilities, the object of attack”¹⁸⁹ during a non-international armed conflict has been recognized as a serious violation of international humanitarian law.¹⁹⁰ Similarly, “launching an indiscriminate attack resulting in death or injury to civilians, or an attack in the knowledge that it will cause excessive incidental civilian loss, injury or damage” and “making non-defended localities the object of attack” have been cited as serious violations of international humanitarian law during the non-international armed conflict.¹⁹¹ During a non-international armed conflict any of the following acts constitutes a serious violation of international humanitarian law if committed against the civilians: “Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture”; committing outrages upon personal dignity; taking hostages or passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.¹⁹² When committed with criminal intent these violations can constitute war crimes.¹⁹³

Violations of the laws of war by one side to a conflict do not justify violations by the opposing side.¹⁹⁴

D. Torture, Rape and other Forms of Sexual Violence, Enforced Disappearance

¹⁸⁸ ICRC Rule 14, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule14/

¹⁸⁹ In order to determine whether the attack against civilian was deliberate the ICTY Trial Chamber ruled that inter alia the following criteria should be considered: “the means and method used in the course of the attack, the status of the victims, their number, the discriminatory nature of the attack, the nature of the crimes committed in its course, the resistance to the assailants at the time and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirement of the laws of war.” ICTY, Prosecutor v. Kunarac, Kovac and Vukovic, “Appeals Judgement”, IT-96-23-T and IT-96-23/1-A, 12 June 2001, para 91.

¹⁹⁰ See ICRC Rule 15, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter44_rule156#refFn_5496F07B_00026. Moreover, under the Statute of the International Criminal Court, “intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities” constitutes a war crime in international armed conflicts. ICC Statute, Article 8(2)(b)(i), eg Article 8(2)(e)(ii) of the ICC Statute provides that, “directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law” during the non-international armed conflict, when committed with criminal intent, constitutes a war crime; see also Additional Protocol II, Articles 9 and 11.

¹⁹¹ Ibid

¹⁹² Common Article 3 to the Four Geneva Conventions has crystallized into customary international law.

¹⁹³ ICTR Statute, Article 4; Statute of the Special Court for Sierra Leone, Article 3; ICC Statute, Article 8(2)(c). For other serious violations of international humanitarian law applicable during non-international armed conflict see ICRC Rule 156 https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter44_rule156#refFn_5496F07B_00026

¹⁹⁴ ICRC Rule 140, citing Common Articles 1 and 3 to the Geneva Conventions.

There is an absolute and clear prohibition of torture under international law, which has been recognized as a norm of customary international law.¹⁹⁵ The crime of torture has been recognized as a separate crime¹⁹⁶ and is also a material element for crimes against humanity, war crimes, and genocide.¹⁹⁷ Several international tribunals and bodies have also recognized rape and sexual violence as a form of torture.¹⁹⁸ The Elements of Crimes for the ICC provides that the war crime of torture consists of the infliction of “severe physical or mental pain or suffering” for purposes such as “obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.”¹⁹⁹

The prohibition of rape and other forms of sexual violence has been recognized as a norm of customary international law applicable to non-international armed conflict.²⁰⁰ The prohibition of “outrages upon personal dignity” is recognized in Additional Protocols I and II as a fundamental guarantee for civilians and persons *hors de combat*.²⁰¹ In the Akayesu case in 1998, the ICTR defined rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive”.²⁰² “Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence” also amounting to a serious violation of Article 3 common to the four Geneva Conventions constitutes a war crime under the ICC Statute.²⁰³

The ICRC study on customary international law considers that the prohibition of enforced disappearance has been recognized as a norm of customary international law applicable to non-international armed conflict.²⁰⁴ The International Convention for the Protection of All Persons from Enforced Disappearance defines the crime of enforced disappearance as: “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or

¹⁹⁵ eg ICRC Rule 90

¹⁹⁶ eg section 7 No. 2000/15 on the Establishment of Panels with Exclusive Jurisdiction over Serious Criminal Offences, June 6, 2000, UN. Doc. UNTAET/REG/2000/15; Article 3 of Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, January 15, 2001, as amended by NS/ RKM/1004/006, October 27, 2004 (hereinafter “ECCCSt”).

¹⁹⁷ See eg article 6 ICC Statute, article 7(1)(f) ICC Statute, article 8(2)(a)(ii) ICC Statute.

¹⁹⁸ Rape and sexual violence have been recognized as forms of torture by several international human rights mechanisms including the international criminal tribunals, Committee Against Torture and by independent special rapporteurs. See for example: Prosecutor v. Akayesu, ICTR-96-4-T, Trial Judgment, 2 September 1998; ICTY Prosecutor v. Kunarac, No. IT-96-23, Trial Judgement, 22 February 2001; Committee Against Torture, General Comment No. 2, Implementation of Article 2 by State Parties (CAT/C/GC/2), 24 January 2008.

¹⁹⁹ Elements of Crimes for the ICC, Definition of torture as a war crime (ICC Statute, Article 8(2)(a)(ii) and (c)(i)).

²⁰⁰ For detailed explanation see ICRC Rule 93, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule93

²⁰¹ Additional Protocol I, Article 75(2); Additional Protocol II, Article 4(2).

²⁰² ICTR, Judgment, *The Prosecutor v Jean-Paul Akayesu*, ICTR-96-4-T, 2 September 1998, par. 598.

²⁰³ Article 8(e)(vi)

²⁰⁴ ICRC Rule 98, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule98

whereabouts of the disappeared person, which place such a person outside the protection of the law.”²⁰⁵

The prohibition of mutilation of dead bodies has been recognized as a rule of customary international law applicable to non-international armed conflict.²⁰⁶ Under the ICC Statute, the prohibition of mutilating dead bodies in non-international armed conflicts is covered by the war crime of “committing outrages upon personal dignity”.²⁰⁷ The Elements of Crimes for the ICC further clarifies that “The perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons”, while the footnote explains that “persons include dead persons”.²⁰⁸

E. No Fire Zones

The First and Fourth Geneva Conventions provide for the possibility of setting up hospital and safety zones²⁰⁹ and the Fourth Geneva Convention provides for the possibility of setting up neutralized zones.²¹⁰ These zones are intended to shelter the wounded, the sick and civilians during the conflict. However, hospital and safety zones should be located outside the military operations, while neutralized zones are typically established in the areas where military operations are taking place.²¹¹ As found by ICRC in the study on the Customary IHL, directing an attack against a zone established to shelter the wounded, the sick and civilians from the effects of hostilities is prohibited under international humanitarian law and constitutes a norm of customary international law applicable to non-international armed conflict.²¹²

The ICRC has found that the following rule has been recognized as a norm of customary international law applicable to non-international armed conflict: “The parties to the conflict must take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks.”²¹³ Parties to the conflict must avoid locating military objectives near densely populated areas²¹⁴ and endeavour to remove a civilian population from the vicinity of military

²⁰⁵ Article 2, The International Convention for the Protection of All Persons from Enforced Disappearance

²⁰⁶ ICR Rule 113, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule113

²⁰⁷ Article 8(2)(c)(ii), ICC Statute read together with the elements for this crime in ICC Elements of Crimes, on p27 footnote 49.

²⁰⁸ ICC Elements of Crimes for Article 8(2)(c)(ii), on 27 footnote 49.

²⁰⁹ First Geneva Convention, Article 23; Fourth Geneva Convention, Article 14.

²¹⁰ Fourth Geneva Convention, Article 15 § 3.

²¹¹ See ICRC Rule 35, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule35

²¹² Ibid

²¹³ ICRC Rule 22, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter6_rule22

²¹⁴ Additional Protocol I, Art. 58(b).

objectives.²¹⁵ This obligation is considered especially relevant "where military objectives cannot feasibly be separated from densely populated areas."²¹⁶

F. The use of prohibited and indiscriminate weapons

In its Nuclear Weapons Advisory Opinion, the International Court of Justice ruled that States must never use weapons that are incapable of distinguishing between civilian and military targets.²¹⁷ The ICJ based its reasoning on the rule that civilians should never be an object of the attack. While the use of weapons which are by nature indiscriminate is prohibited in all circumstances,²¹⁸ the prohibition of indiscriminate attacks also includes weapons which, "in the circumstances ruling at the time of their use, including the manner in which they are used", cannot be directed at a specific military objective or whose effects cannot be limited as required by IHL.²¹⁹ "The use of means and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering is prohibited" has been recognized as a rule of customary international law applicable to non-international armed conflict.²²⁰ Moreover, if "incendiary weapons are used, particular care must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects" as recognized by a rule of customary international law applicable to non-international armed conflict.²²¹ The use of prohibited weapons during the non-international armed conflict has not been included as a separate war crime under the ICC Statute but has been explicitly criminalized under several national legislations.²²²

10.24 VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

A. Indiscriminate and Intentional Attacks conducted against Civilian Population

The attack on 8 April 2018 in Pokkanai is emblematic of attacks targeting civilians and civilian objects, as it was directed against a Primary Health Clinic where milk powder was distributed to women and children.²²³ As reported by eye-witnesses, those killed were predominantly women and children.²²⁴ Following the Sri Lanka Army attacks, the doctor cited by Human Rights Watch reported having received around 60 bodies

²¹⁵ Additional Protocol I, Art. 58(a)

²¹⁶ ICRC Rule 23, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule23

²¹⁷ Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, para 78.

²¹⁸ ICRC Rule 71.

²¹⁹ See also ICTY, Prosecutor v Milan Martić, Case No. IT-95-11-A, Appeals Chamber Judgement, 8 Oct 2008, para 247 (Martić Appeal Judgment) that recalled the Trial Chamber's finding that the M-87 Orkan "was used as an indiscriminate weapon" and that "by virtue of its characteristics and the firing range in the specific instant" it was "incapable of hitting specific targets" (emphasis added) as cited in International Institute of Humanitarian Law, Fernando Greppi (ed), *Conduct of Hostilities: The Practice, the Law and the Future* (2015)

²²⁰ ICRC Rule 70, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule70

²²¹ ICRC Rule 84, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule84

²²² ICRC Rule 156

²²³ W55, W296, W166, W155

²²⁴ para 861 on, OISL.

and 300 wounded during 8-9 April 2009 alone.²²⁵ Another eye-witness recalls having registered approximately 78 people as dead, including 38 children and 150 injured.²²⁶ The attacks at Pokkanai were launched from Army positions in all directions²²⁷ and, as evidenced, involved an aerial bombardment and artillery shelling.²²⁸ The 58 Division was directly involved in attacks as corroborated by MOD Situation Reports.²²⁹

The food distribution point at the clinic was clearly a civilian object, where more than 200 civilians, predominantly women and children, gathered to collect milk powder.²³⁰ The OISL did not receive any information on the LTTE armed activity in the proximity to the food distribution point²³¹ and therefore there is no indication that the location lost its protected status. The humanitarian organizations shared the time and location of the food distribution point with the Government, and the Sri Lanka Army was located approximately 800m away, so the military personnel there must have heard the loudspeaker announcing the milk powder distribution.²³² Moreover, surveillance aircraft were flying overhead, which would easily identify the civilians queuing.²³³ On 4 April 2009, when the offensive on Pokkanai began, the media reported: "58 Division was closely monitoring the situation inside the No Fire Zone through the UAV."²³⁴

Accordingly, the Sri Lanka Army knew that they were attacking a civilian population composed of predominantly women and children. For these reasons, there are reasonable grounds to conclude that the attacks by the military, including 58 Division, were intentional and deliberately targeted the civilian population. The attack further resulted in the extensive death toll and injuries among the civilian population, which were foreseeable given the weapons used (artillery shelling) and the density of the civilian population in the area. In light of the means and methods used that included aerial bombardment and artillery shelling that made it impossible to distinguish between a civilian and military target in a densely populated NFZ area, there are reasonable grounds to believe that the attack on civilians and on the food distribution point was also indiscriminate.²³⁵ These acts are strictly prohibited under international humanitarian law and amount to serious violations thereof.

²²⁵ *Sri Lanka: Stop Shelling 'No Fire Zone'*, HRW, April 9, 2009

²²⁶ W155

²²⁷ International Crimes Evidence Project report, para 6.159.

²²⁸ W295, *Sri Lanka: Stop Shelling 'No Fire Zone'*, HRW, April 9, 2009

²²⁹ See Annexure 2.

²³⁰ W55

²³¹ para 861, OISL.

²³² para 861, OISL

²³³ para 861, OISL

²³⁴ *Sri Lanka Army rewrites glorious chapter*, 24 Apr 2009, Daily News. **Annexure 2.**

²³⁵ ICRC Rule 12, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule12; the UN Fact-Finding Mission on the Gaza conflict recalled that "there is no justification in international law for the launching of rockets and mortars that cannot be directed at specific military targets into areas where civilian populations are located". Human Rights Council, *Human Rights in Palestine and other Occupied Arab Territories*, Report of the United Nations Fact-Finding Mission on the Gaza Conflict, 25 Sep 2009, A/HRC/12/48, para 1687.

Targeting civilians, civilian and medical objects and launching an indiscriminate attack resulting in death or injury to civilians, when committed with criminal intent, can amount to a war crime.²³⁶

B. Attack at the hospitals and medical personnel in PTK

On the basis of the evidence set out in this report, the Sri Lanka Army repeatedly attacked with heavy artillery, shelling a number of easily recognizable and well-marked hospitals²³⁷ as well as other civilian objects such as a church in Valayanmadam and other places, where civilians typically gather eg food distribution points in Pokkanai, or UN bases in Kilinochchi and Putumattalan. The recurrence of such shelling, despite the fact that the security forces were aware of the exact location of hospitals, suggests that these attacks were not random occurrences but deliberate and intentional. The attack against the PTK hospital stands out as an emblematic case given that the OISL report found that it was one of the most heavily hit medical facilities.²³⁸ A private hospital in PTK was also attacked twice in February 2009.²³⁹

In the course of the battle for PTK, the PTK hospital came under attack and experienced heavy bombardment by the Sri Lankan military 10 January - 6 February 2009.²⁴⁰ As corroborated by the MOD Situation Reports, the 58 Division was directly involved in the military operation in PTK, which was "spearheaded by Gajba Regiment veteran Brig. Shavendra Silva."²⁴¹ As further evidenced by media reports "The Division 58 captured Puthukkudiyirippu hospital and special medical facility run by the LTTE in the same area to treat senior LTTE cadres wounded in battle."²⁴² A number of eye-witness testimonies has been gathered confirming the description of events below. In addition to the eye-witness testimony, a sizable amount of video footage and photographs were collected.²⁴³

The targeted attack and bombardment of the PTK hospital by the Sri Lankan military led to medical staff and patients being forced to evacuate the hospital and move to Putumattalan on the coast. The lives of patients were severely endangered by having to move precipitously to a makeshift hospital without any proper medical equipment or facilities. Evidence before the UN inquiry confirmed that the PTK hospital suffered a number of attacks with its medical facilities severely hit and damaged.

²³⁶ Art. 8(2)(e)(i) of the ICC Statute, ICTY, Tadić case, Case No. IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, Appeals Chamber, 2 Oct 1995, §§ 100-118; ICRC Rule 156, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter44_rule156#Fn_5496F07B_00113

²³⁷ See evidence describing attacks against two hospitals in Kilinochchi, p8 of this report; evidence describing two attacks against hospitals in PTK, p9-13 of this report; evidence describing the attack against Putumattalan hospital, p26-28 of this report; attack against the church and hospital in Valayanmadam, p37-40; attack against hospital in Mullivaikkal, p43 of this report.

²³⁸ OISL, para 822

²³⁹ OISL, 2015, op cit, para 801.

²⁴⁰ See Annexure 2. See also testimonies of W59, W155, W102, W42 on p34-35 of this report.

²⁴¹ *P'karan suffers irrevocable loss at Anandapuram*, The Island, 11 Dec 2012, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084

²⁴² Ibid

²⁴³ See this report at p11

Relying on the satellite imagery, the OISL report described that at least 10 primary buildings and 20 auxiliary buildings of PTK hospital were either severely damaged or destroyed.²⁴⁴ The targeted attacks against the PTK hospital by the Sri Lankan military resulted in the destruction of hospital buildings, hospital equipment, and the death and injury of civilians.

The Sri Lanka Army knew that this was a civilian hospital as it was visible from the air and because they were in possession of the GPS coordinates as well as UAV footage which enable them to identify the PTK hospital as a civilian object. The latter was well marked with the Red Cross emblem on the roof.²⁴⁵ The UN also indicated that they had informed the Sri Lankan Army on multiple occasions that the hospital was under attack.²⁴⁶ Moreover, there was no indication that the hospital lost its protected status as a civilian object as there was no reports of armed LTTE elements in its surroundings. The UN employee testified that he never saw LTTE defensive positions near PTK hospital.²⁴⁷ Despite the intelligence, the hospital was intentionally and indiscriminately attacked. In particular, the use of unguided weapons like Multi-Barrel Rocket Launchers (MBRLs) indicates that the attacks were indiscriminate as they have not been designed for hitting accurate targets. Such attacks are prohibited under international humanitarian law and must not be used in such densely populated areas. The subsequent loss of civilian life as well as injuries was thus entirely foreseeable.²⁴⁸

Under customary international law applicable to non-international armed conflict, intentional and indiscriminate attacks against the civilian objects such as hospitals and special protected persons such as medical personnel that are also disproportionate given the concrete and direct military advantage anticipated, are prohibited. In light of above, and based on the evidence gathered, there are reasonable grounds to believe that the Sri Lanka Army, including the 58 Division, were responsible for serious violations of international humanitarian law by intentionally directing attacks against civilian objects and incurring serious damage to these objects as well as by making medical personnel and medical objects subject of an attack. Moreover, there are reasonable grounds to believe that the Sri Lanka Army, including the 58 Division, were responsible for killing and injuring civilians, including the wounded. Launching an indiscriminate attack resulting in death or injury to civilians, or an attack in the knowledge that it will cause

²⁴⁴ para 822, OISL 2015

²⁴⁵ para 782, OISL 2015

²⁴⁶ Witnesses described multiple rounds falling sequentially on the hospital within a very short period of time, indicating the possible use of MBRLs by SLA, OISL, 2015, op cit, para 825.

²⁴⁷ OISL.

²⁴⁸ Similar patterns could be observed during the two bomb attacks at the private Ponnampalam Memorial Hospital in PTK that occurred on 5 and 6 February 2019. Similarly, as with the PTK hospital, its coordinates were well known to the Government, the hospital was well marked with Red Cross emblems and white flags, and witnesses say that the LTTE did not mount attacks from inside or near the hospital. The Government corroborated this attack by releasing its drone video of the hospital and the destruction of the building. The Government claimed that the hospital was the Sea Tiger Commander's secret hideout - an assertion that was refuted by survivors and not substantiated by the Government. While the death toll was difficult to establish with certainty, two witnesses estimated that 60 were killed during the attack, while another one later heard that the death toll reached 85 people. See p13 of this report

excessive incidental civilian loss, injury or damage, when committed with criminal intent, can amount to a war crime.²⁴⁹

C. Attacks in No Fire Zones

On January 21, the Sri Lankan Armed Forces unilaterally declared a 35-square-kilometer NFZ-2 for civilians north of the A35 road between the Udayarkattu junction and the Manjal Palam (Yellow Bridge) in Mullaittivu district.²⁵⁰ The leaflets distributed by the Government were encouraging civilians to move to the NFZ-2. On the 8 May 2009 the Sri Lankan Army unilaterally announced the Third No Fire Zone (NFZ-3), the size of which was less than 2km².²⁵¹ Tens of thousands of civilians were squeezed into this tiny area.²⁵²

According to the report by the UN Panel, there are credible allegations that from 6 February 2009 the Army continuously shelled the area known as the NFZ-2, where according to the estimations of the Panel, 300,000 – 330,000 civilians were living on 14km² of land. As corroborated by the evidence described in this report, the Sri Lanka Army conducted military operations against a number of sites located in the NFZ-2 (Pokkanai, Putumattalan, Valayanmadam) and in the NFZ-3 (Mullivaikkal) which deliberately targeted the civilian population and civilian objects such as hospitals and a church.²⁵³ As reported by the UN, the NFZ-3 came under “intense daily bombardment by SLA artillery, the air force and the navy” 8-12 May 2009.²⁵⁴ The NFZs were densely populated areas, where it was “difficult to bury the bodies”²⁵⁵ and sometimes the place was so crowded that people were forced to sleep on top of the corpses.²⁵⁶ It is against this background, that the Sri Lanka Army conducted a series of attacks, including continued artillery shelling and bombardment in Pokkanai, Putumattalan, Valayanmadam and, towards the end of conflict, in Mullivaikkal.²⁵⁷ The Foreign Secretary Palitha Kohona in an Al Jazeera interview admitted there had been shelling of NFZs.²⁵⁸

²⁴⁹ eg Article 8(2)(e)(ii) of the ICC Statute provides that, “directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law” during the non-international armed conflict, when committed with criminal intent, constitutes a war crime; See also Additional Protocol II, Articles 9 and 11.

²⁵⁰ Sri Lanka Army, “Army Declares New Safe Zone for Wannai Civilians,” 21 Jan 2009, <http://www.army.lk/morenews.php?id=19769> (accessed 15 Feb 2009) as cited in the HRW, War on the Displaced Sri Lankan Army and LTTE Abuses against Civilians in the Vanni (2009) available at <https://www.hrw.org/report/2009/02/19/war-displaced/sri-lankan-army-and-ltte-abuses-against-civilians-vanni#page>

²⁵¹ para 873, OISL.

²⁵² para 874, OISL.

²⁵³ See evidence describing two attacks against the food distribution points in Pokkanai, p18 of this report; evidence describing the attack against Putumattalan hospital, p26-28 of this report; attack against the church and hospital in Valayanmadam, p37-39; attack against hospital in Mullivaikkal, p43 of this report.

²⁵⁴ para 878, OISL.

²⁵⁵ W280

²⁵⁶ W288

²⁵⁷ See p18-19, 24, 42 of this report.

²⁵⁸ See p32 of this report.

The attacks on Putumattalan Hospital are considered to be emblematic of the violations by the Sri Lankan military against hospitals and other civilian objects located in NFZs, as it was repeatedly attacked between 8 February 2009 and late April 2009,²⁵⁹ with the 58 Division ostensibly involved in the operation in Putumattalan from early April 2009.²⁶⁰ Moreover, heavy fightings between the Sri Lanka Army and the LTTE were reported in or near the hospital that resulted in heavy civilian casualties and the loss of medical supplies and equipment.²⁶¹

The evidence set out in this report indicates that Mullivaikkal and NFZ-3 more generally were subjected to heavy bombardment by artillery and the use of cluster munitions, white phosphorus and mortars, resulting in extensive civilian casualties and suffering. The makeshift hospital was also attacked. This has been confirmed by the UN satellite imagery²⁶² and corroborated by the witnesses' testimony given to the ITJP.²⁶³ According to the OISL report and ITJP evidence, the 58 Division was advancing southwards in the spit of land towards Mullivaikkal (NFZ-3) from 13 May 2009. The involvement of 58 Division in Mullivaikkal and surroundings has been further corroborated by MOD Situation Reports. As reported by defence sources, on 13 May the 9 Gemunu Watch (9 GW) serving under 58 Division was conducting a search and clearing operation in the general area of Karyalaimullivaikkal.²⁶⁴

The Sri Lanka Government unilaterally declared the NFZs and also encouraged civilians to congregate in this area, resulting in as many as 330,000 people, predominantly civilians, in the NFZ-2 on about 14km², an area the size of Hyde Park square. When the NFZ-3 was established, reportedly, the room for displaced civilians was so limited that some of them were forced to sleep on top of the corpses.²⁶⁵ From the early February 2009 until the end of War in May 2009, the Sri Lanka Army conducted a continued bombardment and artillery shelling of NFZ-2, and then NFZ-3.

The Government refuted the allegations of violations in NFZs saying the attacks were lawful given the LTTE military presence in the area and the need to 'rescue civilians.' Indeed, the LTTE allegedly committed serious violations of international humanitarian law by establishing military objectives within the highly populated areas and by using civilians as 'shields',²⁶⁶ nevertheless, it did not justify the Government's indiscriminate attacks against the civilian population in the NFZs. Violations of the laws of war by one side to a conflict do not justify violations by the opposing side.²⁶⁷ Moreover, based on the evidence collected, there are

²⁵⁹ See **Annexure 3**; W5.

²⁶⁰ See **Annexure 2**.

²⁶¹ ICG, p19.

²⁶² at p42 of this report

²⁶³ eg W280, W288, W292, W289, W60 on p42-44 of this report.

²⁶⁴ **Annexure 2**.

²⁶⁵ W288

²⁶⁶ Ibid

²⁶⁷ ICRC Rule 140, citing Common Articles 1 and 3 to the Geneva Conventions.

reasonable grounds to believe that the Government not only encouraged displaced people to gather in NFZs but it also failed to give them required warning before the attacks. In some instances, the Sri Lanka Army deliberately misled civilians on the actual conduct of hostilities. One witness testified that at some point in the final stage of War on Pokkanai, the Sri Lanka Army announced on loudspeakers that there would be no shelling for two days, resulting in people leaving their shelters. Despite the announcement, the same person witnessed a shell falling on a number of people, killing all of them.²⁶⁸ While planning to attack the NFZs the Sri Lanka Army should at a minimum have warned the displaced civilians about the fact that they intended to bomb the so-called 'Safe Zones'. There is no indication that such warnings were ever issued.

Using cluster munition and white phosphorus not only constitutes a serious violation of international humanitarian law in itself (see section D below), but the use of this type of weaponry in an area with a high density of civilian population proves that the principles of distinction were violated by the Sri Lanka Army. The evidence in this report confirms that the Sri Lanka Army knew about the locations of civilians and intentionally and indiscriminately targeted civilians as well as civilian objects such as hospitals and a church. The Sri Lankan Government established 'No Fire Zones' as safe places where civilians were encouraged to congregate and where they were subsequently shelled. The fact that in some hospitals the LTTE rebels might have been treated did not deprive them of their protected status, as those who are wounded *hors de combat* belong to the category of protected persons in armed conflict.²⁶⁹

D. The use of prohibited and indiscriminate weapons

There are reasonable grounds to believe that prohibited and indiscriminate weapons that also cause superfluous injury or unnecessary suffering were used during the Sri Lanka Army offensive in the Vanni. According to the OISL report, during the attack at the PTK hospital unguided weapons and ammunition such as Multi Barrelled Rocket Launchers (MBRLs) were used.²⁷⁰ Moreover, according to witness testimony, the MBRLs were also employed by the Sri Lanka Army during the attacks at Putumattalan Hospital²⁷¹ and during attacks in Kilinochchi.²⁷² As evidenced in this report, incendiary weapons that included white phosphorus as a fill were allegedly used in the late April 2009 by the Sri Lanka Army in Pokkanai, where according to the witness testimony a large number of civilians (approximately 100,000) congregated. The same witness reported that he registered approximately 5000 injured civilians at the hospital as a result of the white phosphorus attack.²⁷³ Similarly, in the final week of the War several witnesses described seeing white phosphorous or another substance

²⁶⁸ W247 - see p19-20 of this report.

²⁶⁹ eg ICTY, *Lukić and Lukić*, Trial Judgment, 20 Jul 2009, para 870.

²⁷⁰ OISL, 2015, op cit, para 750; also para 825, OISL

²⁷¹ W155 on p35 of this report.

²⁷² ITJP testimony on p8 of this report.

²⁷³ W155 on p18 of this report,

with effects and characteristics similar to white phosphorus being used against the tiny area still under LTTE control in and around Mullaitivu, into which, according to the witness, tens of thousands of civilians were crammed.²⁷⁴ Survivors also say they witnessed the use of cluster munitions against the densely populated NFZ-3.²⁷⁵ As described in more details in the ITJP's Dossier on Cluster Munition, the use of this weapon was part of a pattern in 2009.²⁷⁶

According to the Convention on Cluster Munitions, "cluster munition" means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20kg and includes those explosive submunitions. Cluster munitions have a large surface area where bomblets are dispersed, and most versions are difficult to accurately target.²⁷⁷ Moreover, cluster bombs can become the *de facto* landmines in the case submunitions do not explode. White phosphorus is a toxic and incendiary substance used as a filling in the military weaponry. "As [white phosphorus] continues to burn when exposed to oxygen until the chemical substance is depleted (or the oxygen supply is cut off), remnants of [white phosphorus] munitions pose a continuing threat of injury for several days, even weeks, after the use of the munition."²⁷⁸

The use of incendiary weapons and cluster bombs has been cited in practice as indiscriminate by nature.²⁷⁹ The evidence indicates that the Sri Lanka Army, including the 58 Division, used weapons that were indiscriminate. In particular, using the MBRLs and cluster bombs in the densely populated areas made it difficult for the Sri Lanka Army to accurately distinguish between the civilians and LTTE fighters. Similarly, employing not accurate MBRLs in the areas with a high concentration of a civilian population (eg PTK hospital) amounts to the use of an indiscriminate weapon. Given the large number of sub-munitions that each cluster bomb releases, their use in such a densely populated area as eastern NFZ-3 amounts to the use of an inherently indiscriminate weapon. Moreover, the use of white phosphorus in NFZ-3, which was a tiny piece of land, caused injury and suffering to civilians beyond that necessary to decapitate the LTTE, given especially the disastrous effects it had on people and surroundings.²⁸⁰ Given the effects of white phosphorus, MBRLs and cluster munitions on densely populated areas in NFZs and other locations, the Sri Lanka Army failed to take reasonable precautions in the choice of means and methods of attack in order to avoid and minimize incidental harm to civilians. Lastly, taking account the extremely densely populated area in which civilians congregated, the Sri Lankan Army must have known that the use of these type of weapons and bombardments would cause excessive incidental civilian injury, death and damage. For these reasons

²⁷⁴ W292, W283, W280 on p45 of this report.

²⁷⁵ See W280, W60, W63, W287, W158 on p46 of this report.

²⁷⁶ <http://www.itjpsl.com/assets/press/28-sept-2018-cluster-munition-press-release-ITJP-final.pdf>

²⁷⁷ Wiebe, "Footprints of Death: Cluster Bombs as Indiscriminate Weapons Under International Humanitarian Law", 22 Michigan Journal of International (2000) 87, at 88.

²⁷⁸ Weapons Law Encyclopaedia, <http://www.weaponslaw.org/weapons/white-phosphorus-munitions>

²⁷⁹ ICRC Rule 71, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule71#Fn_F4806E7_00040

²⁸⁰ W155, on p19-20; see also p45 of this report

these attacks were disproportionate to the concrete and direct military advantage anticipated.

In light of the above, there are reasonable grounds to believe that by using indiscriminate weapons that have caused unnecessary suffering and superfluous injuries to civilians, the Sri Lanka Army violated international humanitarian law. The targeting of civilians and the launching of indiscriminate attacks on civilian populated areas may amount to war crimes if criminal intent is established. The Sri Lankan Army also violated the fundamental principles of international humanitarian law, namely the principles of distinction, proportionality and precaution.

10.3 INDIVIDUAL COMMAND RESPONSIBILITY OF SHA VENDRA SILVA

10.31 Applicable Law on Modes of Liability

Under international law a commander can be held directly responsible for ordering his subordinates to carry out unlawful acts (a direct personal responsibility)²⁸¹ or can engage his individual criminal responsibility by failing to act when the unlawful acts have been attempted or committed by his subordinates (ancillary responsibility).²⁸² In the latter case, the crimes committed by the subordinates are not based on the commander's orders.

A. Direct Criminal Responsibility of a Commander

The statutes of international tribunals also contain a rule of a direct criminal responsibility of a commander, which provide for its applicability to non-international armed conflict.²⁸³ By way of example, Article 25(3)(B) of the ICC Statute stipulates "In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: [...] Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted."

Since international criminal law in the past has not sought to outline the general principles of law but has focused on substantive issues, the criteria of the mental element of international crimes was dealt with on a case by case basis by international tribunals. The ICC was the first one to include the relevant provision, which stipulates that "unless otherwise provided" the crime must be committed with "intent and knowledge".²⁸⁴ The ICC Statute provides further explanation on what "intent and knowledge" means:

²⁸¹ Commanders are responsible for war crimes committed pursuant to their orders as stipulated in the Geneva Conventions and the Hague Convention for the Protection of Cultural Property and its Second Protocol, which require States to prosecute persons who order their commission of grave breaches and breaches. See ICRC, Rule 152, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule152;

²⁸² Bassiouni, *Introduction to International Criminal Law*, 2013.

²⁸³ The Statutes of the International Criminal Court (Art.25(3)), the International Criminal Tribunals for the former Yugoslavia (Art.7(1)) and for Rwanda (ICTR Statute Article 6(1)) and of the Special Court for Sierra Leone (Art.6) and UNTAET Regulation No. 2000/15 for East Timor (Section 14(3)).

²⁸⁴ See ICC Statute, Article 30.

“2. For the purposes of this article, a person has intent where:
(a) In relation to conduct, that person means to engage in the conduct;
(b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.

3. For the purposes of this article, ‘knowledge’ means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. ‘Know’ and ‘knowingly’ shall be construed accordingly.”²⁸⁵

B. Responsibility of Commanders for Failing to Act

Article 86(2) of the Additional Protocol 1 that applies to international armed conflict explicitly provides for command responsibility in the case where subordinates have attempted or committed war crimes. The Statutes of the ICC, the International Criminal Tribunals for the former Yugoslavia and for Rwanda and of the Special Court for Sierra Leone and UNTAET Regulation No. 2000/15 for East Timor have explicitly included this rule in the context of non-international armed conflict.²⁸⁶ This has been further confirmed by ICTY in the *Hadžihasanović and Others* case, in which the court found that the doctrine of command responsibility, as a principle of customary international law, also applies with regard to non-international armed conflicts.²⁸⁷ Based on a States and international practice, the ICRC found that this rule has been recognized as a customary international law applicable to non-international armed conflict.²⁸⁸

This norm of customary international law reads as follows: “Commanders and other superiors are criminally responsible for war crimes committed by their subordinates if they knew, or had reason to know, that the subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent their commission, or if such crimes had been committed, to punish the persons responsible”.²⁸⁹

Similarly, the International Convention for the Protection of All Persons from Enforced Disappearance stipulates the following:

“1. Each State Party shall take the necessary measures to hold criminally responsible at least:

²⁸⁵ ICC Statute, Article 30.

²⁸⁶ ICC Statute, Article 28; ICTY Statute, Article 7(3); ICTR Statute, Article 6(3); Statute of the Special Court for Sierra Leone, Article 6(3); UNTAET Regulation No. 2000/15, Section 16.

²⁸⁷ ICTY, *Hadžihasanović and Others case*, Decision on Joint Challenge to Jurisdiction (ibid. § 716). In this respect, the interlocutory appeal filed by the accused was unanimously dismissed by the Appeals Chamber, see ICTY, *Hadžihasanović and Others case*, Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 Jul 2003, Case No IT-01-47-AR72, § 57 (Disposition on the first ground of appeal).

²⁸⁸ ICRC, Rule 153, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule153

²⁸⁹ Ibid

(a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(b) A superior who:

(i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;

(ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and

(iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution; [...]”²⁹⁰

10.32 Command and Control over the troops - Shavendra Silva as a Commander

During the final phase of the Sri Lanka’s War, Major General Shavendra Silva reported to General Jagath Jayasuriya, the Vanni Security Force Headquarters Commander. Reports indicate that in early 2009 he had 22 battalions under his command of 58 Division, as opposed to the usual 9 in one division.²⁹¹ Media reports also indicate that Col. Suraj Bansajayah, Col. Wanigasinghe and Col. Deshapriya Gunawardena functioned as Brigade Commanders under Shavendra Silva; 2 Commando’s Lt. Col. Ramesh Fernando was also attached to the 58 Division.²⁹²

The evidence in this report confirms that Major General Shavendra Silva was the military Commander of the 58 Division, and that a chain of command existed between him and his troops. His Division is alleged to include 22 battalions instead of 9 which meant that he had command and control of a large number of troops. He spearheaded the operation in the Vanni region and many reports confirm that on a number of occasions he was leading the offensive. He also had independent access to intelligence and equipment which enabled him to conduct reconnaissance and to command troops in real time as well as to send troops to locations where hostilities were taking place.²⁹³ Major General Silva testified that “[...] the UAV officer in charge was actually located in my headquarters, so I had the pictures most of the time; everything, every incident was seen and planned through the UAV.”²⁹⁴ The ITJP found no evidence that the regular military command and control structures had broken down or broken down to such an extent that Major General Shavendra Silva or his

²⁹⁰ Article 6.

²⁹¹ “In early 2009, Brig. Shavendra Silva had about 22 battalions under his command, though an infantry Division comprised three Brigades each consisting of three battalions”. *P’karan suffers irrevocable loss at Anandapuram*, 11 Dec 2012, The Island, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084

²⁹² See **Annexure 1**.

²⁹³ ICC Trial Chamber, Judgment, *The Case of The Prosecutor V. Jean-Pierre Bemba Gombo*, ICC-01/05-01/08, 21 Mar 2016, paras 422, 424, 428, 429.

²⁹⁴ See Shavendra Silva, LLRC Testimony, 2010, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

subordinate commanders would not have been exercising effective control over their forces.

10.33 Modes of Liability

As is demonstrated by this report and the evidence contained herein, Major General Shavendra Silva was directing frontline combat in the north from 2008 to the end of the War. In particular, in his testimony before the LLRC he admitted that the 58 Division cleared the western coast, including capturing Pooneryn, advancing towards Kilinochchi, then along the Elephant Pass until they breached the gap of about a kilometre in Putumattalan. He further admitted that "his Division was tasked for this entire operation" along with other forces.²⁹⁵ There are reasonable grounds to believe that Major General Shavendra Silva committed war crimes either directly by ordering them or by failing to prevent his troops from committing them. In particular:

A. Kilinochchi

Major General Shavendra Silva testified to the LLRC that he captured Kilinochchi, for which he was further credited by the Defence Minister and media.²⁹⁶ Kilinochchi was regarded by the Government as a Safe Zone for the delivery of humanitarian aid and was accepted and understood as such, both by the Government and the international community. An insider witness reported that Silva was the officer who ordered attacks on Kilinochchi while there was still an international presence in the town.²⁹⁷ Based on the evidence set out in this report, the Sri Lanka Army was responsible for shelling the Kilinochchi Hospital and the UN base in town knowing that civilians were inside, which resulted in civilian casualties and damage to the UN buildings and the hospital.

The evidence in this report attests to Major General Silva being in command during the repeated attacks at Kilinochchi and that his troops captured the city, an admission he made during the LLRC hearings. Having been the Commanding Officer Second in Command in Vanni, there are reasonable grounds to believe that Major General Shavendra Silva ordered the attacks at Kilinochchi which resulted in civilian casualties and extensive damage to the hospital and the UN compound. The fact that Major General Shavendra Silva ordered the attacks at Kilinochchi was further confirmed by an ITJP insider witness. Moreover, Major General Shavendra Silva must have known about the location of the UN compound and the hospital as the Government accepted and recognized Kilinochchi as a Safe Zone for the distribution of humanitarian aid. These were clearly civilians and civilian objects, and there was

²⁹⁵ <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

²⁹⁶ *defence.lk*, Defence Ministry Video, <https://www.youtube.com/watch?v=4fB4Zbv0FGs>

ITN Video which says "Commander of the 57th Division Major General Jagath Dias and Commander of the 58th Division Brig. Shavendra Silva briefed the President on the tiring long march made for the liberation of Kilinochchi by the respective Divisions from the commencement of the Wannu operations. " 16 Apr 2009, <https://www.youtube.com/watch?v=dD9S5dtDYKO>

²⁹⁷ See p17 of this report.

no evidence to the contrary. For this reason, there are reasonable grounds to believe that Major General Shavendra Silva ordered attacks with the deliberate intention to hit the civilian objects. Furthermore, there are reasonable grounds to believe that, as an experienced commander, Major General Silva was aware that in a normal course of events repeated aerial bombardment and shelling, also with MRLBs (in most versions unguided weapons lacking accuracy), do not allow for the accurate targeting of military objectives and therefore were likely to cause an extensive death and injury among civilians.

B. PTK

The MOD Situation Reports provide further corroboration that the 58 Division was directly involved in the military operation in PTK - a small town in the Vanni, "spearheaded by Gajaba Regiment veteran Brig. Shavendra Silva."²⁹⁸ As further evidenced by media reports "...the 58 Division captured Puthukkudiyiruppu hospital and special medical facility run by the LTTE in the same area to treat senior LTTE cadres wounded in battle."²⁹⁹ The OISL report found that the area in and around PTK experienced significant bombardment by the Army from 10 January - 6 February 2009. The attack at the hospitals in PTK resulted in extensive civilian casualties and damage. Moreover, patients that had to be evacuated were exposed to the high risk of injury or death. One witness interviewed by ITJP said that whenever he was taken to the frontline to identify hidden weapons caches, soldiers needed permission from Shavendra Silva to search in the PTK area, illustrating further him being in command and control.³⁰⁰

The evidence confirms further that Major General Shavendra Silva was leading the military operation against PTK and that his troops were involved in the attacks. Since Major General Shavendra Silva was Second in Command in Vanni and was in charge of spearheading the operations in PTK, and given the fact that his 58 Division captured two PTK hospitals, he must have known about the methods and means of warfare used during attacks against the town. Furthermore, evidence in the possession of the ITJP indicates that he knew about the hospitals' coordinates as they were communicated to the Government, and he had access to drones and UAVs that surveyed the area. The hospitals had not lost their protected status. There are reasonable grounds to believe that Major General Silva was fully aware that PTK hospital was being bombarded and shelled, as UN officials informed the Sri Lanka Army on multiple occasions that the hospital was coming under attack. Major General Silva knew or must have known that subordinates under his effective control were committing serious violations of international humanitarian law in the predominantly civilian area and did not stop the attacks even though he was in command and it was in his power. Major General Silva failed to take the necessary and reasonable measures in his power to prevent the violations by troops under his command.

²⁹⁸ *P'karan suffers irrevocable loss at Anandapuram*, The Island, 11 Dec 2012, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084

²⁹⁹ See **Annexure 2**.

³⁰⁰ W18, on p78 of this report.

C. Ampalavanpokkanai

The attacks at Pokkanai (NFZ-2) were launched from Army positions in all directions³⁰¹ and, as evidenced, involved an aerial bombardment and artillery shelling.³⁰² The 58 Division was directly involved in attacks as corroborated by MOD Situation Reports,³⁰³ which explicitly indicate that the 58 Division “entered into the Ampalavanpokkanai town perimeter after capturing Puthukkudiyirippu west by Thursday, 19 Feb, Army Headquarters said...” and that on 20 February the 58 Division brought the entire Ampalavanpokkanai under its control.³⁰⁴ The MOD Situation Report further reported on 8 April 2009, when the attack occurred at the milk distribution point, that the Army 58 Division “continued to rescue civilians from LTTE clutches – Ampalavanpokkanai.”³⁰⁵ Pokkanai was intensively shelled from early 2009 until late April 2009 with shelling intensifying around 19 April 2009.³⁰⁶ The UN Expert Panel found that the 58 Division on 19 April 2009 entered the coastal strip for the first time during the conflict, effectively dividing NFZ-2 into two parts and “inflicting heavy civilian casualties at the same time.”³⁰⁷ White phosphorus was also allegedly used in Pokkanai towards the end of April 2009.

The evidence in this report confirms that troops under the effective command of Major General Silva were involved in the military operations in Pokkanai, when indiscriminate and intentional attacks were directed against the civilians, including at the milk powder distribution point, which resulted in heavy civilian casualties, including killing and injuring women and children.

There are reasonable grounds to believe that Major General Silva knew that or had reasons to know that subordinates under his effective control were intentionally directing attacks at the civilian population and civilian objects in a densely populated area [NFZ-2] as well as launching indiscriminate attacks that have caused death and injury among the civilians, as the attacks were repeated over a prolonged period of time and the information of the previous attacks must have reached him. Despite this, there is no indication that he punished or that he tried to take all necessary and reasonable measures to prevent the attacks. The reports suggest that that 58 Division under the command of Major General Silva was responsible for employing white phosphorus during the attacks, especially as since late February 2009 it had control over the Pokkanai. This, if proven, should be considered as inherently indiscriminate in a densely populated area, where the distinction between combatants and civilians got blurred.

³⁰¹ International Crimes Evidence Project report, para 6.159.

³⁰² W295, *Sri Lanka: Stop Shelling ‘No Fire Zone’*, HRW, April 9, 2009

³⁰³ See Annexure 2.

³⁰⁴ See Annexure 2.

³⁰⁵ Ibid

³⁰⁶ W166, W155: see p35 of this report.

³⁰⁷ para 109

D. Putumattalan

The OISL found reasonable grounds to believe the 58 Division was among units that repeatedly shelled Putumattalan Hospital³⁰⁸ and the nearby UN base located in NFZ-2.³⁰⁹ As confirmed by Major General Silva, he was the officer who led the assault to recapture Putumattalan.³¹⁰ The State-run newspaper reported that the 58 Division captured Putumattalan Hospital on 22 April 2009.³¹¹ Silva also conceded that he had access to UAV footage while commanding the attack at Putumattalan.³¹² He admitted that he “(...) had the pictures most of the time, everything, every incident was seen and planned through the UAV at that time (...)”³¹³ In relation to the attack against the Putumattalan, Major General Silva asserted that the hospital was only used to treat LTTE fighters and there were no civilians there. Major General Silva has denied inflicting any civilian casualties while attacking Putumattalan: “Nothing of that nature happened there... also what we saw when we entered the hospital there were no civilians treated there it was only the LTTE that were treated there”.³¹⁴

The evidence in this report confirms that Major General Shavendra Silva led the military operation against the hospital in Putumattalan and that troops under his command captured the hospital. Since his troops were directly involved and he himself conceded that he had access to UAV footage during the attack, there are reasonable grounds to believe that Major General Silva planned and ordered attacks at Putumattalan, including at the hospital, which resulted in the extensive civilian casualties in and around the hospital. As already established earlier in the report, he must have known at the time that it was a civilian hospital, especially that it was visible to the naked eye from his Army position across the lagoon. The fact that the LTTE were treated there did not deprive the hospital of its protected status. Accordingly, there are reasonable grounds to believe that Major General Shavendra Silva ordered attacks with the intention to hit the civilian objects, as the hospital was attacked on a number of occasions. Furthermore, there are reasonable grounds to believe that the attacks against Putumattalan were disproportionate. As an experienced commander Major General Silva was aware that in a normal course of events the repeated aerial bombardment and shelling, including RPGs, was likely to cause extensive death and injury among civilians, which exceeded the direct and concrete military advantage anticipated.

³⁰⁸ In spite of the Governments statements to the contrary, the hospital was operating in Putumattalan as corroborated by the evidence gathered by ITJP. The Putumattalan Hospital was a makeshift hospital with the Red Cross on its roof as corroborated by the satellite imagery; was located opposite the UN compound about 50m away and was visible to the naked eye from the 58 Division positions across the lagoon. Its GPS coordinates were sent to the military. Moreover, the Government ordered the ICRC to keep patients at Putumattalan but to transfer them out of the Vanni, suggesting the Government did know patients were in Putumattalan. See this report

³⁰⁹ LLRC Testimony, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

³¹⁰ para 846, OISL; LLRC Testimony, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

³¹¹ *Huge civilian influx*, 19 Apr 2009, Daily News; *Freedom at last*, 22 Apr 2009, Daily News.

³¹² Shavendra Silva, LLRC Testimony, 2010, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

³¹³ Shavendra Silva, LLRC Testimony, 2010, <http://www.llrcarchive.org/2010/09/major-general-shavendra-silva/>

³¹⁴ Transcript of Shavendra Silva's testimony before the LLRC.

E. Valayanmadam

Similarly, as corroborated by the Sri Lanka Army MOD Situation Reports, in late April 2009 the 58 Division was involved in the military operation in Valayanmadam.³¹⁵ The evidence gathered indicates that shelling, tanks and cluster munitions coming from the Sri Lanka Army side were used in the attack against Valayanmadam, including at the church. Civilians were killed and two priests injured as a result of these attacks. Witness W53 testified that priests sheltering in the church had access to the private number of Major General Shavendra Silva and informed him of the presence of civilians sheltering in the church.³¹⁶ Major General Silva confirmed having been in touch with the priests for weeks and therefore must have been aware of the civilian presence.³¹⁷

There are reasonable grounds to believe that Shavendra Silva's troops were involved in attacks against the hospital and the church in Valayanmadam which resulted in the civilian casualties and damage to the church and the hospital. The evidence in this report confirms that the Sri Lanka Army, including the 58 Division, employed shelling, tanks and cluster munitions, which points to an indiscriminate means and method of warfare. There are reasonable grounds to believe Major General Silva had reasons to know that subordinates under his effective control were intentionally directing attacks at civilian population and civilian objects in Valayanmadam as well as launching indiscriminate attacks likely to cause extensive death and injury among the civilians. Major General Silva was in touch with the priest whose church was under attack. Despite the fact that attacks were repeated and the information on the means and methods of warfare used must have been known to Major General Silva, there is no indication that he punished soldiers responsible for the violations or that he tried to take all necessary and reasonable measures to prevent the attacks.

F. Mullivaikkal

According to the OISL, the 58 Division was advancing southwards along the spit of land towards Mullivaikkal (NFZ-3) from 13 May 2009. As confirmed by LLRC reference in OISL report "Communications announcing the NFZ3, including maps (...) were sent to SLA Commanders, including those of the 53, 55, 58 and 59 Divisions of the SLA which surrounded the area."³¹⁸ The presence of the 58 Division in Mullivaikkal and surroundings, where daily intense bombardment by Sri Lanka Army artillery, the air force and navy was reported, has been further corroborated by MOD Situation Reports. As reported by the defence sources, "...on 13 May the 9 Gemunu Watch (9 GW) serving under 58 Division [was] conducting a search and clearing operation in general area of Karyalaimullivaikkal."³¹⁹ A State-run newspaper reported on 10 May 2009 that "58

³¹⁵ Annexure 2.

³¹⁶ p37 of this report.

³¹⁷ *Soldiers followed all humanitarian norms - Maj. Gen. Shavendra Silva*, 27 Dec 2009, Sunday Observer Lanka, <http://archives.sundayobserver.lk/2001/pix/PrintPage.asp?REF=/2009/12/27/sec02.asp>

³¹⁸ para 873, OISL.

³¹⁹ Annexure 2.

Division GOC Brigadier Shavendra Silva personally directed ground troops.”³²⁰ The evidence in this report confirms that the 58 Division was involved in bombardment and shelling of civilians in Mullivaikkal, where white phosphorus, RPGs and cluster munitions were used. This has been extensively corroborated by several witnesses.³²¹ The military operation against the Mullivaikkal resulted in massive civilian casualties (one witness recalls seeing “more than a thousand dead men, women and children”)³²² and damage to civilian objects such as the hospital.

There are reasonable grounds to believe that Major General Silva knew or had a reason to know that the subordinates under his effective control were intentionally directing attacks at the civilian population and civilian objects in Mullivaikkal as well as launching indiscriminate attacks likely to cause extensive death and injury among the civilians. The attacks were repeated and lasted for several days, and must have been known to Major General Silva, including the nature of the attacks and the weaponry used by his troops. Moreover, the evidence indicates that he was present in the area as he “personally directed ground troops” and therefore must have witnessed displaced civilians being affected by the attacks, given that NFZ-3 was only 2km² in size. Such weapons, if used in densely populated areas, are considered to be indiscriminate and disproportionate. There is no indication that General Silva punished those responsible under his command, or that he tried to take all necessary and reasonable measures to prevent the attacks.

G. Surrenders

The OISL report states that the surrenders at the Wadduvakkal Bridge were to the 58 Division³²³. An eyewitness interviewed by the ITJP confirms that Major General Shavendra Silva, who has said he was in overall command of the area, personally shook hands with LTTE political leaders who surrendered to him; their corpses were seen on the roadside some time later on the other side of the Wadduvakkal Bridge.³²⁴ The account of Shavendra Silva being present at the surrender is corroborated by an insider witness. While Silva confirmed that he was present in the general area around the surrender, he refused to admit whether he was at the bridge at time of surrender. The UN report³²⁵ concluded “that there are reasonable grounds to believe that LTTE senior political wing leaders Balasingham Nadesan and Seevaratnam Puleedevan as well as Nadesan’s wife Vineetha Nadesan may have been executed by the security forces sometime after 06:00 on 18 May.” The Paranagama Commission further corroborated this. Moreover, the ITJP compiled a list of hundreds of surrenderees seen by eyewitnesses in Army custody who have disappeared; the list includes many

³²⁰ *Troops advance into last Tiger terrain*, Daily News, 10 May 2009, (Sunday Observer). **Annexure 2.**

³²¹ p468-69 of this report.

³²² W158, on p44 of this report.

³²³ “OISL received information from witnesses about so-called white flag ‘surrenders’ taking place in two locations in the final days of the armed conflict, one to the north of Vellamullivaikkal where people ‘surrendered’ to 53rd and 59 Div.³²³ and one to the south near the Vadduvakal bridge where they surrendered to 58th Division...” para 287.

³²⁴ ITJP site, www.white-flags.org.

³²⁵ para 304, OISL.

women and 29 young children.³²⁶ A recent statistical estimate put the total number of enforced disappeared on or around 18 May 2009 after surrender to the Sri Lankan Army at 503 people.³²⁷

The evidence in this report indicates that the surrenders on 18 May 2009 took place to the 58 Division under Major General Silva's effective command and control. The evidence in this report also demonstrates that he was in proximity to the area where the surrenders were taking place, which he confirmed, and that he had overall command over the area. Given his presence in and command over the area, there are reasonable grounds to believe that Major General Silva knew of or consciously disregarded information which clearly indicated that the troops under his responsibility were committing a crime of enforced disappearance and were summarily executing the surrenderees. Despite this, there is no indication that he tried to take all necessary and reasonable measures to prevent the violations or to punish those responsible.

H. Rape and other forms of Sexual Violence, and Torture

Members of the 58 Division under the command of Major General Shavendra Silva are also alleged by the UN to have been involved in torture and rape.³²⁸ This is based on a statement by the witness who said he was in a new Army camp in the Vanni with a sign outside saying 58 Division when a soldier in camouflage uniform of ordinary rank showed him a video on his mobile phone featuring Sri Lanka soldiers raping LTTE cadres. This is further corroborated by a witness called Fernando who said he was with the 58 Division and who was interviewed by Channel 4 television.

An ITJP witness was tortured in May 2009 to turn him into an informer and then brought before Shavendra Silva at the frontline who allegedly approved the torture by saying "that's correct, we have to do like that."³²⁹

The evidence in this report indicates that troops under the effective command and control of Major General Shavendra Silva committed war crimes including rape as well as outrages upon personal dignity by violating the dead bodies of the LTTE fighters. These have been corroborated by extensive video footage and by the testimony of witnesses. Rape and mutilation of dead bodies are strictly prohibited under international law, and if criminal intent is established, can amount to war crimes. In light of the OISL report and evidence set out in this report, there are reasonable grounds to believe that Shavendra Silva knew or had reason to know about the

³²⁶ <http://tamildiplomat.com/itjp-releases-list-of-those-who-have-disappeared-and-seen-surrendering-to-the-sla-on-18-may-2009-2/>

³²⁷ <http://www.itjpsl.com/assets/press/12-December-2018-Press-release-with-HRDAG-copy.pdf>

³²⁸ OISL, para 544, "In one scene a female cadre was being held by two of the soldiers and a third was raping her from the front while she was standing. His pants were down to his ankles. There was a lot of crying and screaming and I heard other female screaming and crying coming from somewhere close to the audio of the mobile phone. The only conclusion for us at the time was that other female cadres were likewise being raped. The video was only about 6 minutes long and ended with the Army soldier still in the act of intercourse. The Army man showing us the video was laughing saying that they had already executed these girls".

³²⁹ W18, on p78.

violations committed by the troops under his effective control and even then he failed to prevent the violations and punish those responsible.

Moreover, according to the OISL report and as further corroborated by the witness, the 58 Division was alleged to have been involved in torture. A witness, who was himself tortured, testified that Major General Shavendra Silva indicated that he approved of the use of torture. In light of the OISL report and evidence set out in this report, there are reasonable grounds to believe that Shavendra Silva knew about or had reason to know about the torture committed by the troops under his effective control and that he failed to prevent the violations and punish those responsible.

10.34 Alleged Crimes

In light of the above, there are reasonable grounds to believe that the 58 Division under the effective military command of Major General Shavendra Silva violated international humanitarian law by failing to distinguish between civilians and LTTE fighters as well as between civilian objects and military objectives. The evidence set out in this report suggests that the troops under Major General Silva's effective control failed to issue warnings in the NFZs, which at the time of events were under their control and that they employed indiscriminate and disproportionate means and methods of warfare such as extensive bombardment and shelling in areas with a high concentration of civilians as well as indiscriminate weapons such as white phosphorus, cluster bombs and munitions, and also MBRLs. It was foreseeable that in the normal course of events the employment of these means and methods of warfare would cause extensive damage, loss and injuries to civilians and civilian objects. Especially towards the end of the War where the NFZ was limited to 2km² and the LTTE cadres were almost completely broken and did not constitute a real danger to the 50,000-strong Army, these attacks were disproportionate to the direct and concrete military advantage anticipated. Moreover, the evidence indicates that the 58 Division were intentionally attacking civilians as well as medical objects, which in a number of instances resulted in extensive civilian casualties and caused damage to the essential civilian objects ie hospitals. Accordingly, if criminal intent is established, Major General Shavendra Silva can and should be held criminally responsible for ordering war crimes of making civilians, and civilian and medical objects the object of attack; of launching indiscriminate attacks that resulted in death or injury to civilians or launching the attack knowing it would cause an extensive civilian casualties and extensive damage to civilian, medical or religious buildings such as hospitals and the UN bases. Given the bombardment and shelling, the likelihood of extensive civilian casualties and damage to civilian objects was foreseeable and indeed materialized.

Major General Shavendra Silva can and should be held criminally responsible for failing to prevent his troops from indiscriminately, disproportionately and intentionally attacking civilians and civilian, medical and other protected objects, including civilians at food distribution points, hospitals and in the densely populated areas of the NFZs. Major General Shavendra Silva can and should be held criminally responsible for failing to prevent his troops from using indiscriminate

weapons. There are reasonable grounds to believe that Major General Silva knew of or had reason to know of the actions of his subordinates toward civilians, especially that the attacks were not incidental but rather were part of the pattern of repeated attacks against the civilian population as well as the civilian, medical and other protected objects. Moreover, a number of international organizations were calling on the Sri Lanka Government to cease operations³³⁰ in the densely populated areas where the distinction between civilians and combatants got increasingly blurred – reports about which Major General Silva must have heard of and known about, given his position as a Commander in the Sri Lanka Army. The ITJP has received no information about steps taken by Major General Shavendra Silva to prevent or put a stop to the attacks on civilians or to punish those who perpetrated the crimes but has rather heard of continued denial that any violations of international humanitarian law were taking place.

Furthermore, the evidence demonstrates that troops under the effective control of Shavendra were present at the Wadduvakkal Bridge, where according to the available evidence, hundreds of surrendering LTTE military and political leaders and their families were subjected to summary execution and arbitrary detention, as well as enforced disappearance. While the evidence gathered by ITJP confirms that Major General Shavendra Silva was in proximity to the general area where the surrenders took place, two witnesses place Major General Silva at the exact surrender location. Major General Shavendra Silva can and should be held criminally responsible for a war crime of failing to prevent the summary executions and arbitrary detentions of civilians and persons *hors de combat*, and separately for the crime of enforced disappearance that was committed by troops under his effective control or responsibility. Accordingly, there are reasonable grounds to believe that Major General Silva knew of or had reason to know of the actions of his subordinates towards persons *hors de combat* and civilians, or consciously disregarded information which clearly indicated that his troops were committing a crime of enforced disappearance. The ITJP has received no information about steps taken by Major General Shavendra Silva to prevent or put a stop to the actions of his troops or to punish those who perpetrated the crimes.

Similarly, given the evidence set out in this report and the findings by the OISL, Major General Shavendra Silva can and should face charges of war crimes of rape, torture and outrages upon personal dignity, as well as torture as a separate crime, committed by troops under his effective command and control. There are reasonable grounds to believe that he knew or had reasons to know about these crimes and even then failed to prevent the crimes from occurring and punish those responsible.

Major General Shavendra Silva belongs to the Gajaba Regiment of the Sri Lankan Army and served with the former defence secretary Gotabaya Rajapaksa in 1989, when this regiment was involved in a crackdown on the insurgency by the JVP, in which 60,000

³³⁰ See eg ICRC, *Sri Lanka: ICRC calls for exceptional precautionary measures to minimize further bloodshed in "no-fire zone"*, 21 Apr 2009, <https://www.icrc.org/en/doc/resources/documents/news-release/2009-and-earlier/sri-lanka-news-210409.htm>; Amnesty International, *Stop the War on Civilians in Sri Lanka: a briefing on the humanitarian crisis and lack of human rights protection*, 2009, <https://www.amnesty.org/download/Documents/48000/asa370042009en.pdf>; HRW, *Sri Lanka: Stop Shelling 'No-Fire Zone'*, 9 Apr 2009, <https://www.hrw.org/news/2009/04/09/sri-lanka-stop-shelling-no-fire-zone>.

Sinhala youth are reported to have been killed.³³¹ Gotabaya Rajapaksa admitted that Major General Shavendra Silva was amongst his company commanders in Matale, where a mass grave with at least 154 bodies has been found and where the Gajaba Regiment was based.³³² Tracking the record of the Gajaba regiment from the JVP period to the more recent evidence of war crimes that have been perpetrated by the 58 Division commanded by the Major General Shavendra Silva during the final phases of War 2009 demonstrates a clear line of continued and prevalent impunity within the Sri Lanka Army.

³³¹ p10 of this report.

³³² Ibid

11. RECOMMENDATIONS

1. **Sri Lanka** should immediately suspend Shavendra Silva from service pending investigation of the multiple grave allegations made against him by the United Nations, human rights organisations and his victims.
2. **The Attorney General of Sri Lanka** should immediately institute an investigation of the allegations of grave crimes made against Shavendra Silva with a view to prosecuting him.
3. **UN Member States** should either impose a travel/visa ban on Shavendra Silva or move to arrest him under universal jurisdiction if he enters their territory. Under no circumstances should he be granted immunity.
4. **The United Nations** should cease all peacekeeping deployment from Sri Lanka so long as its Army is overseen by one of the world's worst alleged war criminals.

ANNEXURES

1. 58 DIVISION: SHAVENDRA'S DEPUTIES 2008-9:
 - a. Col. T. Sanjaya Bansajayah
 - b. Col. Sanjaya Wanigasinghe
 - c. Col. Anura Deshapriya Gunawardena
 - d. Lt. Col. Ramesh Fernando
2. SUMMARY OF 58 DIVISION LOCATIONS
3. PUTUMATTALAN: REPORT TO CONGRESS ON INCIDENTS DURING THE RECENT CONFLICT IN SRI LANKA
4. VALAYANMADAM: REPORT TO CONGRESS ON INCIDENTS DURING THE RECENT CONFLICT IN SRI LANKA

Annexure 1

58 DIVISION: SHAVENDRA'S DEPUTIES IN 2008-9

Media reports say Col. Suraj Bansajayah³³³, Col. Wanigasinghe and Col. Deshapriya Gunawardena functioned as Brigade Commanders under Shavendra Silva, and that the 2 Commando's Lt. Col. Ramesh Fernando was also attached to the 58 Division³³⁴.



PHOTO: 58 Division Commander, Brig. Shavendra Silva discussing operational matters with his Brigade Commanders Col. Suraj Bانشajaya, Lt. Col. Sanjay Wanigasinghe and Lt. Col. Deshapriya Gunawardena at Nachchikuda³³⁵.

³³³ "Promoted August 2009: Forty six Colonels have also been promoted to the rank of Brigadier considering their seniority and the contribution to the Wannu battle. Colonels C.V. Ravipriya Nishantha Wanniaarachchi, Mahinda Weerasoriya, Ralph Nugera, Athula Koddippili, Sudath Perera, Shantha Dias, Suraj Bansajaya and Laksiri Waduge, who were directly involved in the Wannu Operation, are among those promoted to the rank of Brigadier. "
<http://archives.sundayobserver.lk/2009/08/02/fea02.asp>

³³⁴ <https://lrrp.wordpress.com/tag/58-division/> also says: "Interestingly, all three Brigade Commanders of the now famous 58 Division are Gemunu Watch veterans. Although all five infantry regiments contributed to Brig. Shavendra Silva's success, the majority of the infantry comprised Gemunu Watch, Gajaba Regiment and the Sri Lanka Light Infantry."

³³⁵ *Troops focus on opening land route to Jaffna soon*, 7 Nov 2008, Daily News,
<http://archives.dailynews.lk/2008/11/07/fea02.asp>

ANNEXURE 1

COL. T. SANJAYA BANSAJAYAH (583¹ BRIGADE)



It is worth noting 583 was reportedly in charge of dealing with surrendees and civilians who fled the war zone in April 2009². This is where allegations of enforced disappearance and torture surface.

CAREER

1985:

1st Battalion - Gemunu Watch.

31 MAY 1986:

Second Lieutenant.

16 JUNE 2000-21 JAN 2001:

Commanding Officer, Gemunu Watch 1st Battalion (GW1)³.

2001

Becomes a Brigadier⁴.

24 JAN 2002-18 JUNE 2003:

9GW Commander⁵.

1 OCT 2007:

First Brigade Commander of 583 Brigade under 58 Division.

POST-WAR

NO DATE:

573 commander in Kilinochchi⁶.

TRAINER:

Commandant, Centre for Army Vocational Training at Kalaoya, Commanding Officer, Army Training School, Maduruoya, Troop Commander, Kotelawala Defence University,

2011, JUNE-DEC:

Director Psychological Operations at Army Headquarters⁷.

2012:

Director Recruiting at Army Headquarters⁸. Defence Advisor to the Embassy of Sri Lanka, China⁹ for 6 months.

2016-18¹⁰:

Minneriya Infantry Training Centre (ITC) Commandant.

Army Muslims' Association Chairman¹¹ and now a Major General. His father was in the police¹².

LOCATIONS

JULY 2008:

"583 Brigade under Lt. Col. Suraj Bansaayah, 6 Gemunu under Lt. Col. Kamal Pinnawala¹³, and 8 Gemunu under Suminda Jayasundara¹⁴ [2005-6 UN peacekeeper in Haiti¹⁵] advanced with 581 Brigade¹⁶."

AUG 2008:

"As the Security Forces further advanced into Kilinochchi district along the A-32 passing the Mannar Kilinochchi district border the LTTE has been affected with troops closing in on the Kilinochchi district. Apparently the LTTE is withdrawing from the A-32 Pooneryn amid the stiff resistance from 58 Division troops advancing towards Pooneryn direction. The 583 Brigade under the command of Lt. Colonel Suraj Bansaayah came across number of tactically important areas along the A-32 road¹⁷."

AUG 2008:

"The 11 SLII troops advanced into Mulangavil from the West of A-32 road while the 6 GW troops advanced from the East of A-32 road. Prior to capturing this territory the 583 Brigade under the command of Lt. Colonel Suraj Bansaayah captured Kalekuda jetty, which was used by the LTTE to launch their small craft into the sea. Capture of Mulangavil was a great shock to the LTTE as they lost one of the large cemeteries where their heroes were buried. What is most important was that the real situation faced by the LTTE was divulged with the capture of this cemetery as there were more than 500 graves dug only within last two months^{18 19}."

OCT 2008:

"The Task Force 1 or the 58 Division under the command of Brigadier Shavendra Silva made a major breakthrough on the Nachchikuda front in the west of Kilinochchi district. The efforts the LTTE had taken for the past few months creating huge earth bunds to delay the troops have become futile with the capture of the earth bund from Pandiveddikulam to Vannerikulam.

Following the break of the earth bund from the Karambakulam area a few weeks back the troops attached to the 583 Brigade under the command of Colonel Suraj Bansaayah have now advanced nearly four and half kilometres northwards from the massive earth bund in Karambakulam.²⁰"

2008:

"On Friday troops attached to 583 Brigade under the command of Lt. Colonel Suraj Bansaayah hit the A-32 road from the north of Nachchikuda depriving the LTTE of a vital section of the A-32 road which could feed the Tiger cadres operating in Nachchikuda from their links with the interior parts of Kilinochchi. This move by the troops brought the battle in the Western part of Kilinochchi front into one of its decisive phases soon after the capture of the huge earth bund constructed from Nachchikuda to Akkarayankulam to stall the advance of the troops further Northwards towards Pooneryn²¹."

30 JAN 2009:

1st Deputy General Officer Commanding of 58 Division, of the Army camp in Kilinochchi²².

MAR 2009:

Photo with Shavendra Silva²³.



.....

COL SANJAYA WANIGASINGHE
(582) (L A N S WANIGASINGHE
RWP RSP USP²⁴)



CAREER

2009:

582 Brigade commander²⁵.

POST WAR

2010:

Running an army guest house²⁶.

1 JUL 2013 – 25 NOV 2013:

Commando Brigade Commander²⁷.

DEC 2014:

Commanding Officer, Army Training School, Maduruoya²⁸.

5 APR 2016:

Travelled to Pakistan as observer of a military competition²⁹.

6 APR 2017 – 2018:

General Officer Commanding 62 Division³⁰.

LOCATION

2008:

"582 Brigade under Col. Sanjaya Wanigasinghe, 9 Gemunu under Lt. Col. Lal Chandrasiri³¹, and 12 Gemunu under Lt. Col. Nandana Dunuvila (also spelt Dunuwila) [becomes UN peacekeeper in Haiti in 2014]³² advanced from the east of Vidattaltivu. The 2nd Commando Regiment under Lt. Col. Jayantha Balasuriya³³ that advanced from the same direction was in the forefront³⁴."

.....

COL. [NOW BRIGADIER] ANURA DESHAPRIYA
GUNAWARDENA (581)³⁵



Belonged to 2 Commando, and was attached to 58 Division.

LOCATION

2008:

"The 10th Gajaba, under Lt. Col. Sarada Samarakoon³⁶ [also a UN peacekeeper in Haiti, 2006-7]³⁷, and the 12th Gajaba under Maj. Saliya Amunugama³⁸ (also in Haiti a UN peacekeeper 2006-7³⁹) of 581 Brigade under Lt. Col. Deshapriya Gunawardena was advancing from the 12th-milepost on Pooneryn (A32) highway. The 5th Armoured Corp under Lt. Col. Nihal Samarakoon joined them⁴⁰."

2009:

Gunawardena reportedly commanded the assault on Iranapalai⁴¹.

WELIWERIYA INCIDENT

Deshapriya Gunawardena was posted as Defence Attaché to Turkey in 2013-14⁴² and was reportedly the Brigadier who ordered troops to shoot on protestors demanding clean water in the well known incident in Weliweriya in 2013⁴³. Jagath Dias (Shavendra Silva's fellow Division Commander in 2009) was then put in charge of the inquiry into the Weliweriya incident. Please also see our dossier on Jagath Dias.

ARREST:

In May 2017 Gunawardena was arrested in connection with the shooting and then bailed in August⁴⁴.

.....

LT. COL. RAMESH FERNANDO (2 COMMANDOS)
THEN 583⁴⁵.
SINHA REGIMENT⁴⁶



CAREER

2010:

Sri Lanka Tennis association⁴⁸.

2008:

Under 58 Division⁴⁷ in Mannar District.

ENDNOTES

- 1 Note: some sources refer to him as 581 brigade.
- 2 "The 58.3 Brigade tasked with controlling IDP transit camps" says http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=68084.
- 3 <http://222.165.180.163/highlanders/1gw>
- 4 *Cols C.V. Ravipriya Nishantha Wanniarachchi, Mahinda Weerasooriya, Ralph Nugera, Athula Kodippili, Sudath Perera, Shantha Dias, Suraj Banshajaya and Laksiri Waduge, who were directly involved in the Wannu Operation, are among those promoted to the rank of Brigadier*, <http://archives.sundayobserver.lk/2001/pix/PrintPage.asp?REF=/2009/08/02/fea02.asp>
- 5 <http://222.165.180.163/highlanders/9gw>
- 6 <http://www.army.lk/news/new-civil-affairs-office-573-brigade-area-begins-function>
<http://www.army.lk/news/kilinochchi-madya-mahavidyalaya-students-get-sports-accessories>
- 7 <http://www.parliament.lk/uploads/documents/paperspresented/performance-report-srilanka-army-2011.pdf>
- 8 *Newly-Promoted Senior Officer Welcomed at His Mother Regiment*, 13 August 2018, Army website, <http://www.army.lk/news/newly-promoted-senior-officer-welcomed-his-mother-regiment>
- 9 <http://srilankabrief.blogspot.com/2014/05/srilanka-brigadier-who-ordered.html>
- 10 <http://www.army.lk/news/moi-course-no-14-cts-ampara-ends>; also in 2018 <http://www.army.lk/news/minneriya-itc-commences-two-more-support-weapon-courses>
<http://www.army.lk/news/new-buildings-itc-vested-troops>
- 11 Army Commander joins Ifthar, The Daily News, 14 June 2018, <http://www.dailynews.lk/2018/06/14/local/153922/army-commander-joins-ifthar>
- 12 *Suraj is the son of a retired Inspector of Police*, says Facebook <https://www.facebook.com/SaveSLMelayu/posts/suraj-bansajayah-promoted-as-major-general-අවසන්-වලාම-සුද්දසේන-අවබෝධ-සිල්වා/1781445165209065/>
- 13 In 2017 he was Colonel Kamal Pinnawala, Brigade Commander, 522 Brigade, 8 Oct 2017, Army site, <http://www.army.lk/news/26-slng-troops-contribute-world-children's-day>
Also 2017 on Asia Pacific Center for Security Studies (APCSS) Participants: attending the Comprehensive Security Responses to Terrorism Course, <http://srilankaconsulatehawaii.com/news>. The Daniel K. Inouye Asia-Pacific Center for Security Studies (DKI APCSS) is a U.S. Department of Defense institute that officially opened Sept. 4, 1995, in Honolulu, Hawaii.
- 14 <http://222.165.180.163/highlanders/8gw>
- 15 <https://www.linkedin.com/search/results/all/?keywords=Sri%20Lanka%20Army%20Command%20and%20Staff%20College>
- 16 *Forces overrun Vidattaltivu*, 20 July 2008, The Nation, read at <https://lrrp2.wordpress.com/page/125/>
- 17 *LTTE downfall imminent as more strongholds fall*, 15 Aug 2008, Daily News, <http://archives.dailynews.lk/2008/08/15/fea03.asp>
- 18 *LTTE forcibly keeps civilians as human shield*, 17 Aug 2008, Sunday Observer, <http://archives.sundayobserver.lk/2008/08/17/sec03.asp>
- 19 "Like most Thuyilum Illams in the Northeast, the Mulankavil cemetery was destroyed by Sri Lankan Armed Forces after the end of the war.", *Kilinochchi residents clear up destroyed*
Mulankavil LTTE cemetery, 25 Oct 2017, Tamil Guardian, <https://www.tamilguardian.com/content/kilinochchi-residents-clear-destroyed-mulankavil-ltte-cemetery>
- 20 *Forces march to final victory with strong political backing*, 17 Oct 2008, Daily News, <http://archives.dailynews.lk/2008/10/17/fea03.asp>
- 21 *Buoyed forces in final thrust*, *Sunday Observer Lanka*, <http://infolanka.asia/opinion/defence/buoyed-forces-in-final-thrust/page-2>, no date.
- 22 FACEBOOK Save SL Melayu - Posts.
- 23 *Troops successfully shatter LTTE master plan*, <http://archives.dailynews.lk/2009/03/13/fea04.asp>, 13 March 2009, Daily News.
- 24 <http://222.165.180.163/sfhqwanni/content/commander-security-force-wanni-chief-guest-passing-out-parade-commando-regiment-special>
- 25 <http://archives.sundayobserver.lk/2009/03/08/sec03.asp>, 8 Mar 2009, *Troops marching on to LTTE's last terrain*. "The Sri Lanka Army's 58 Division commanded by Brigadier Shavendra Silva, his deputy General Officer Command Col. Siraj Bangsajayah, along with the two Brigades, 582 under Col. Sanjaya Wanigasinghe and 581 under Col. Deshapriya Gunwardene, are adopting ever changing battle tactics under the instruction of the Army Commander.", *Army at doorstep of last Tiger stronghold*, 13 May 2009, http://www.lankanewspapers.com/news/2009/5/43545_space.html
- 26 *Kukuleganga, an ideal place to relax*, Sunday Observer, 20 June 2010, <http://archives.sundayobserver.lk/2010/06/20/spe10.asp>
- 27 <http://222.165.180.163/commando/commando-bridge>
- 28 <https://www.pressreader.com/sri-lanka/daily-mirror-sri-lanka/20141206/282179354411802>
- 29 *Sri Lanka Army Team Co-winners of Silver Medal in PATS*, <http://www.army.lk/news/sri-lanka-army-team-co-winners-silver-medal-pats>
- 30 *622 Brigade joins civilians in WelI Oya to celebrate poson festival*, 1 July 2018, <http://222.165.180.163/sfhqwanni/content/622-brigade-joins-civilians-weli-oya-celebrate-poson-festival> also <http://222.165.180.163/sfhqwanni/content/commander-security-force-wanni-chief-guest-passing-out-parade-commando-regiment-special> and <http://www.army.lk/news/new-officer-mess-621-brigade-opened-all-facilities>; New 62 Division GOC Begins Duties, <http://www.army.lk/news/new-62-div-goc-begins-duties>
- 31 *2017: Brigadier Lal Chandrasiri, Army Small Arms Association*, 19 Nov 2017, *Army sweeps Metallic Silhouette Shooting National Championship 2017*, *Sunday Observer*, <http://www.sundayobserver.lk/2017/11/19/sports/army-sweeps-metallic-silhouette-shooting-national-championship-2017>
- 32 *Brigadier Nandana Dunuwila, Brigade Commander, 112 Brigade*, 5 Nov 2017, <http://www.army.lk/news/central-troops-coordinate-3-day-long-medical-clinic-badulla>
2018: 142 Brigade Commander, <http://www.army.lk/news/security-coordination-matters-discussed>
2014: 18 Sri Batt in Haiti, Contingent Commander <http://www.airforce.lk/news.php?news=1889>
- 33 <https://www.facebook.com/jayantha.balasooriya.16>
- 34 *Forces overrun Vidattaltivu*, 20 July 2008, The Nation, read at <https://lrrp2.wordpress.com/page/125/>
- 35 Photo from <https://www.facebook.com/deshapriya.buddhi>
- 36 Now promoted to Brigadier - "9 GW under the close supervision of Brigadier Sarada Samarakoon", *Troops Support Power Restoration & Relief Work*, 2 Dec 2017, <http://www.army.lk/news/troops-support-power-restoration-relief-work>
2018: Commander 582 Brigade, <http://222.165.180.163/sfhqwest/content/58-division-launches-different-community-projects-world-elders-children's-day>
- 37 In 2012 second in command of 14 SriBatt in Haiti, <https://www.youtube.com/watch?v=M46CEAx73Es>
- 38 Now 622 Brigade Commander, <http://www.army.lk/news/622-brigade-celebrates-sinhala-tamil-new-year-civilians> under 62 Divisional commander Brigadier Sanjaya Wanigasinghe.
- 39 <https://www.linkedin.com/in/saliya-amunugama-3067a577/?originalSubdomain=lk>
- 40 *Forces overrun Vidattaltivu*, 20 July 2008, The Nation, read at <https://lrrp2.wordpress.com/page/125/>
- 41 Infantrymen of the 20 Gajaba Regiment (20 GR), 7 Sri Lanka Sinha Regiment (7 SLSR) and 11 Sri Lanka Light Infantry (11 SLLI) serving in 581 Brigade under the command of Lt. Colonel Deshapriya Gunawardena reached Iranapalai junction following bitter clashes that raged for days. *People battle LTTE as troops close in*, 22 March 2009, The Sunday Times Lanka.
- 42 Posted as Defence Attaché to Turkey in 2014, <http://www.ankarascene.com/haber/brig-deshapriya-amp-buddhi-gunawardena-6290.html>
- 43 <https://www.youtube.com/watch?v=wYHq9eEMWV0>; <http://www.asianmirror.lk/news/item/23113-delayed-justice-to-victims-cid-finally-arrests-two-soldiers-over-rathupaswala-shooting> and US STATE DEPT. Also in May the media reported that the military's investigation into the incident continued and that the Government had posted the army commander on the scene of the killings, Brigadier Deshapriya Gunawardena, as the country's Defense Attaché in Turkey. The Government never publicly released the HRCSL report, and authorities had not released the results of any Government investigations as of year's end, <https://www.state.gov/j/drl/rls/hrrpt/2014/sca/236650.htm>
- 44 Brigadier arrested over Rathupaswala shooting granted bail, 31 Aug 2017, Colombo Gazette, <http://colombogazette.com/2017/08/31/brigadier-arrested-over-rathupaswala-shooting-granted-bail/>
- 45 Photo online says Brig. Shavendra Silva. Col. Ramesh Fernando of the Sinha Regiment stands next to Brig. Silva. Pic was taken by Capt. Wasantha Jayaweera during operations at Puthukudirippu in early 2009, <https://lrrp.wordpress.com/page/32/>
- 46 <http://www.army.lk/news/sinha-regiment-team-carries-championship-tennis-tournament>
- 47 Troops for this operation were drawn from 8 Sri Lanka Sinha Regiment (SLSR) commanded by Lt. Col. Ramesh Fernando, 2 Commando Regiment commanded by Maj. D.M.J. Balasuriya and 3 Commando Regiment under Lt. Col. Uditha Bandara. The operation was commanded by Task Force 1 under Brig. Shavindra Silva, http://www.lankanewspapers.com/news/2007/12/22445_18.html
- 48 *Maxwell back in SLTA fore*, The Island, 4 Apr 2010, <http://www.island.lk/2010/04/04/sportstar1.html>

Bansajaya on Board of Inquiry Investigating War

In order to deflect pressure after the War the then Army Commander, Jagath Jayasuriya, constituted a Board of Inquiry to look into the allegations and recommendations in Sri Lanka's domestic Lessons Learned and Reconciliation Commission (LLRC) and the Channel 4 TV videos of executions³³⁶.

At the same time, a separate Court of Inquiry was established to look into "alleged human rights violations" at the end of the War³³⁷. The Court of Inquiry report was never made public but exonerated the Army³³⁸. It was a 5-member body headed by Major General Krishanta de Silva who was the Forward Maintenance Area (just behind the frontline) Commander in 2009, and who went on to run the Kilinochchi Security Force Headquarters, rising to Army Commander and Chief of Defence Staff, before being posted as High Commissioner to Dhaka³³⁹.

The Board of Inquiry also included other officers who had been involved in the final War but who were now inquiring into their own conduct. It studied the implementation of the recommendations made by the Government's Lessons Learnt and Reconciliation Commission (2011) and produced a report.

The Board included³⁴⁰ Brigadier Suraj Bansajaya, Sumedha Perera and Major General Kamal Gunaratne, all of whom were involved in the final phase of the War in 2008-9, the latter two from the Gajaba regiment³⁴¹. In addition the Board included Brigadier Aruna Wanniarachchi, who was Director of Military Intelligence from Nov 2009 – Oct 2012³⁴² and who had been Director of Operations for the Army from 11 April – 25 June 2009³⁴³.

Perhaps unsurprisingly this Board concluded that "the Army had taken all precautions to avoid civilian casualties" [though it says only 1128 soldiers were killed in the

³³⁶ Its full title was the *Army Board on Implementation of the Recommendations of the Lessons Learnt & Reconciliation Commission* (LLRC) and it is available here: http://www.army.lk/docimages/image/LLRC_2013.pdf

³³⁷ *Army Probe Continues*, 29 Mar 2012, Daily Mirror Lanka, <https://www.pressreader.com/sri-lanka/daily-mirror-sri-lanka/20120329/286667593872724>. This article says the Board of Inquiry comprised 5 military officers headed by a Major General.

³³⁸ "From the testimony presented, the court of inquiry concluded that the instances of shelling... were not caused by the Sri Lankan Army and civilian casualties might have occurred due to unlawful acts by the LTTE," military spokesman Ruwan Wanigasooriya said in a statement.'

Sri Lankan military inquiry says Army did not shell civilians, 15 Feb 2014, Reuters, <https://www.reuters.com/article/us-srilanka-warcrime/sri-lankan-military-inquiry-says-army-did-not-shell-civilians-idUSBRE91E10J20130215>

³³⁹ *Army Commander – Appointed Court of Inquiry Probing into LLRC Report Observations in Progress*, <http://www.army.lk/news/army-commander-appointed-court-inquiry-probing-llrc-report-observations-progress>

³⁴⁰ 'THE BOARD COMPRISED MAJOR GENERAL KAMAL GUNARATNE, BRIGADIER SENAKA WICKRAMARATHNE, BRIGADIER ARUNA WANNIARACHCHI, BRIGADIER G.V. RAVIPRIYA, BRIGADIER SURAJ BANSAJAYA AND LIEUTENANT COLONEL PIYAL WIJESIRIWARDHANE. THEIR VOLUMINOUS REPORT WAS NOT MADE PUBLIC BUT A THREE-PAGE NOTE DISTRIBUTED TO THE MEDIA ON THAT OCCASION GAVE SOME SELECTED HIGHLIGHTS.' 27 JAN 2013, *International battle ahead; possible questions from Commonwealth*, The Sunday Times Lanka, <http://www.sundaytimes.lk/130127/columns/international-battle-ahead-possible-questions-from-commonwealth-30452.html>

³⁴¹ Also Brigadier Senaka Wickramarathne, Brigadier Aruna Wanniarachchi, Brigadier G.V. Ravipriya, and Lieutenant Colonel Piyal Wijesiriwardhane.

³⁴² <http://www.parliament.lk/uploads/documents/paperspresented/performance-report-srilanka-army-2011.pdf>

³⁴³ Army reports to parliament.

3 months]³⁴⁴. Its conclusion, however, refers to a decision by the Rajapaksa brothers “to wipe out the LTTE from the face of the Earth” while also talking about a “Humanitarian Operation” “launched on a ‘Zero Civilian Casualty’ footing”. Some of the report’s comments are extraordinary – it reproduces large chunks of the LLRC report on disappearances in Sri Lanka only to comment in a section entitled “Action Plan Proposed by the Army Board” that the disappearance issue is part of a relentless campaign by the LTTE and Tamil Diaspora to discredit the country and that the best antidote is to increase tourism to the northeast, using the Army to develop the tourism sector.

In response to the Channel 4 videos the Board simply recommends appointing another Board.

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Caption says: “The winning team of the 58 Division under the command of Brigadier Shavendra Silva who marched all the way from Vavuniya – Mannar road to achieve the peak of their success to capture Pooneryn. Commander of the 58 Division and the Commando Brigade Commander, Brigadier Shavendra Silva, Brigade Commander of the 58 Division Lt. Colonel Sanjay Wanigasinghe. Lt. Col Deshapriya Gunawardena, commanding officers of the respective battalions and other officers are in this picture...”

³⁴⁴ “The board comprised Major General Kamal Gunaratne, Brigadier Senaka Wickramaratne, Brigadier Aruna Wanniarachchi, Brigadier G.V. Ravipriya, Brigadier Suraj Bansajaya and Lieutenant Colonel Piyal Wijesiriwardhane. Their voluminous report was not made public but a three-page note distributed to the media on that occasion gave some selected highlights. It said the task of the board was to “study the LLRC report and identify areas that are relevant to the Army and to formulate a viable Action Plan to address the specific areas so identified. The board’s recommendations, made public, projects differing viewpoints to that of the LLRC report.” *International battle ahead; possible questions from Commonwealth*, 27 Jan 2013, Sunday Times Lanka, <http://www.sundaytimes.lk/130127/columns/international-battle-ahead-possible-questions-from-commonwealth-30452.html>

³⁴⁵ 16 Nov 2008, Sunday Observer Lanka, http://archives.sundayobserver.lk/2008/11/16/main_News.asp



“Photo (1 May 2009): “58 Division GOC Brigadier Shavendra Silva along with 58 Division Brigade Commanders Colonel Sanjay Wanigasinghe, Lt. Colonel Deshapriya Gunawardena and Lt. Colonel Ramesh Fernando along with Special Forces Brigade Commander Colonel Athula Kodippili and Commando Brigade Commander Colonel Ralph Nugera discussing the military plan in Puthumathalam³⁴⁶”.

³⁴⁶ From <http://www.eelamview.com/wp-content/uploads/2016/05/Journalist-name-command-officers-involved-in-killing-surrendering-combatants-in-Sri-Lanka.pdf>

Annexure 2

SUMMARY of 58 DIVISION LOCATIONS

2008: 58 Division fought in Mannar³⁴⁷.

Kilinochchi Assault

18 September 2008: MOD Situation Report

"Troops secure 1.5Km area in Karambakulam area. Today (18) evening 58 division troops secured 1.5km area in Karambakulam."

11 October 2008: MOD Situation Report

"18 LTTE terrorists killed in ambush - Kilinochchi. Troops of the 58 Division operating at the Western Kilinochchi front ambushed an LTTE terrorist movement in general area Manniyankulama, Saturday (Oct 11) morning at around 9.30am, killing 18 terrorists, according to Wannu security sources."

13 October 2008: MOD Situation Report

"Troops of the 58 Division operating in general area Vannerikkulama at the western Kilinochchi battlefield confirmed destroying 4 LTTE bunkers, killing 12 terrorists and injuring 6 others yesterday (Oct 12). 11 terrorists killed, 11 injured in fierce fighting - Kilinochchi."

16 October 2008: MOD Situation Report

"Troops capture another LTTE stronghold - Kilinochchi. Troops of the 58 Division operating in the Western Kilinochchi battlefield, Thursday (Oct 16) seized total control over Manniyankulama area considered a LTTE stronghold, 13.5 Northeast of Nachchikuda."

26 October 2008: MOD Situation Report

"Troops of 582 Brigade, heading northwards from Manniyakulam, launched limited operations to capture the north of Kunchikkulam area in Agampamoddai. Troops have observed that LTTE cadres are dragging the bodies of killed cadres and casualties scattered in the area following hours long fighting. Meanwhile, troops of 584 Brigade destroyed terror strong point in general area Kalmadu following a fierce gun battle lasted for hours from 8.00am yesterday. Troops confirmed that LTTE suffered heavy damages."

27 October 2008: MOD Situation Report

"The Army Task Force 1, operating on the western half of the Kilinochchi battle frontage, continued their offensive march towards Nachchikuda and to the north of Manniyakulam areas yesterday (Oct 26). Troops of 581 brigade attacked LTTE bunkers

³⁴⁷ <https://www.facebook.com/SriLankaArmySpecialForcesUnitSniper/posts/58-divisionthe-army-58th-division-earlier-known-as-the-task-force-1-commanded-by/274926832650678/>

located in the Nachchikuda area around 10.30 am and claimed heavy damages to the terrorists. Separately, troops attacked terror bunkers in the same area around 6.30 pm with the support of artillery fire. LTTE casualties were not known in this incident. In the general area Kalmadu, troops attacked an LTTE bunker around 6.30am. Damages caused to the terrorists are not known. Meanwhile, 582 brigade troops launched an offensive since last morning in the Nochchimoddai area. Troops successfully beat off the terrorists in the north of Kunchikkulam by the evening and claimed heavy damages to the terrorists. Snipers deployed in the forward area of 583 brigade claimed acquiring two targets in Paninkanmadu in the morning hours."

November 2008: captured Pooneryn³⁴⁸.

21 November 2008: MOD Situation Report

"Battle begins in Kilinochchi outskirts; TF1 captures 3 LTTE bunkers. Task Force 1 (TF 1) troops today (Nov 21) reached the northern boundaries of the Kilinochchi built up and started pounding the LTTE strongholds in the Adampan area."

22 November 2008: MOD Situation Report

"TF 1 displays LTTE weapons captured in Nachchikuda and Pooneryn. Task Force 1 (TF1) has displayed the weapons, ammunition and other warlike items yesterday (Nov 21) which were captured from the LTTE during the offensive thrust against Terrorists capturing major terror bastions in western coastal border Molonkavil, Nachchikuda, Devil's Point and Pooneryn."

7 December 2008: MOD Situation Report

"According to battlefield reports, TF1 and 57 Div troops are now positioned in kissing distances to the outer defence lines of the LTTE's administrative heartland and main garrison township at Kilinochchi."

18 December 2008: MOD Situation Report

"TF1 troops extend their defences; 2 LTTE bodies found - Kilinochchi. Troops of Task Force 1 had several confrontations with LTTE terrorists while extending their defences in Nivil and Adampan areas yesterday, 18 December. Army troops of 582 Brigade launched an attack targeting LTTE defence line in general area Nivil and captured it inflicting maximum damages to the enemy. In a subsequent search operation troops have found two bodies of LTTE terrorist killed during the gun battle."

22 December 2008: MOD Situation Report

"Troops march towards Kilinochchi; LTTE suffered heavy damages in confrontations - Kilinochchi Troops of Task Force 1 on mission to capture LTTE's heartland,

³⁴⁸ *Troops focus on opening land route to Jaffna soon:* p2, <http://infolanka.asia/opinion/sri-lanka/troops-focus-on-opening-land-route-to-jaffna-soon/page-2>

"Troops of the 58 Division took full control of Pooneryn, the last bastion of the LTTE on the Western coast in the wee hours of yesterday... The 58 Division under the command of Brigadier Shavendra Silva were operating in the Western edge of the Kilinochchi front to take control of the Pooneryn-Paranthan B69 road at the ninth Mile Post and reached Pooneryn capturing more than an eleven kilometre stretch amidst stiff resistance from the LTTE, military sources told the Sunday Observer... By last evening troops took full control of enter Pooneryn including Kalamunai Point, Dutch Port, Sanguppiddy Jetty, Nagathivanthurai, Pooneryn and Coma Point where Sri Lanka Army had their camps prior to 1994, Brigadier Silva added."

Troops capture Pooneryn, 16 Nov 2008, Sunday Observer Lanka, <http://archives.sundayobserver.lk/2008/11/16/sec01.asp>

Kilinochchi, had several confrontations with detected groups of LTTE terrorists in general area Nivil yesterday, 21 December. Army Soldiers attached to 582 Brigade have extended their defences destroying LTTE strong points observed in general area Nivil yesterday. Electronic Warfare sources confirmed that terrorists received heavy damages in intense fighting reported in the area. Troops also sustained minor damages. Meanwhile, troops of same formation attacked at LTTE bunker line last morning inflicting maximum damages to the enemy. Separately, Army snipers deployed in 582 Brigade have taken three targets ahead of the own defence line in general area Nivil, the military report received from the battlefield said."

2 January 2009: captured Kilinochchi³⁴⁹ then Paranthan Junction³⁵⁰.

2 January 2009: MOD Situation Report

"Kilinochchi liberated - countdown to extinction begins for LTTE. The 57 Division and the Task Force 1 of Sri Lanka Army today (Jan 2) scored the greatest victory in their noble battle against terrorism by liberating the Kilinochchi town."

7 January 2009: MOD Situation Report

"58 Division troops enter Murasumoddai Township. Following days-long fighting, troops of 58 Division (earlier Task Force 1) have entered into the Murasumoddai Town perimeter by this afternoon, 7 January, the latest military report received from the battlefield said."

8 January 2009: MOD Situation Report

"Soldiers of Sri Lanka Army 58 Division have liberated Murasumoddai, a key township located on the A-36 road (Paranthan - Mullaittivu), this afternoon (Jan 8)".

10 January 2009: MOD Situation Report

"58 Division troops uncover 11 LTTE bodies, weaponry during search operations. Kilinochchi Troops of the 58 Division, while consolidating positions north of Murasumoddai, have uncovered 11 LTTE bodies and a cache of military hardware, yesterday (Jan 9), security sources said."

12 January 2009: MOD Situation Report

"Army 58 Division makes further headway on A-35. Sri Lanka Army 58 Division advancing on the west-east axis along the A-35 (Paranthan - Mullaittivu) yesterday (Jan 11) made a significant progress. Troops engaged remaining LTTE hideouts in the north of Murasumoddai and Vaddakachchi areas during the day... LTTE resistance crumbles East

³⁴⁹ "It was a combined effort by the 57 Division under the command of Major General Jagath Dias and the 58 Division under the command of Brigadier Shavendra Silva that ousted the LTTE from its most prestigious stronghold and their de facto capital Kilinochchi on 2 January. Symbolising their team spirit, the two Division Commanders along with their Brigade Commanders and Battalion Commanders posed for a group photo in the centre of Kilinochchi to mark the historic victory. Among those in the picture are Colonel Aruna Wanniarachchi, Deputy GOC of the 57 Division, 58 Division Brigade Commanders, Colonel Suraj Bانشajaya (583 Brigade), Lt. Colonel. Sanjay Wanigasinghe (582 Brigade), Lt. Colonel Deshapriya Gunawardena (581 Brigade), 57 Division Brigade Commanders Lt. Colonel Senaka Wijesuriya (574 Brigade), Lt. Colonel Dhammika Jayasundera (572 Brigade) and Lt. Colonel Harendra Ranasinghe (571 Brigade) and Battalion Commanders of the 57 Division and 58 Division. Picture by Rukmal Gamage." Daily News, 5 Jan 2009, http://archives.dailynews.lk/2009/01/05/main_News.asp

³⁵⁰ "The rebels never knew about the battlefield plans. We surprised them in many areas. For example, they didn't expect me to capture the strategically important town of Paranthan, near Kilinochchi, by outflanking them," Brig Shavendra Silva, Commander of the Sri Lankan Army's 58th Division, told the BBC in a recent interview from the front line. *How Sri Lanka's military won*, 22 May 2009, BBC, <http://news.bbc.co.uk/1/hi/8063409.stm>

of Kilinochchi: Troops make further inroads. Forward domination elements of Army's 57 and 58 Divisions operating immediate east of the A-9 trunk road are making further inroads into LTTE's remaining garrisons at Vaddakkachchi, Theravikulam and Puthukudyirippu forcing terrorists to flee with soaring casualties, battlefield reports indicate... According to military reports received, at least 19 terrorists were killed and over a dozen injured during intermittent clashes reported between troops of the 58 Division and LTTE in separate locations, north of Vaddakkachchi, Velikkandal and Iranamadu yesterday."

14 January 2009: MOD Situation Report

"Army 58 Division reach outskirts of Dharmapuram. Sri Lanka Army 58 Division sweeping down the A-35 road (Paranthan - Mullaittivu) on the west-east axis has reached the outskirts of Dharmapuram approximately 13Km from Paranthan, reveal battlefield sources... Troops of 58 Division advancing further eastwards from A-9 Highway extending their defences amidst stiff resistance given by the terrorists, defence.lk correspondent in 58 Division said."

15 January 2009:

Captured Dharmapuram (also written Tharmapuram).

16 January 2009: MOD Situation Report

"Troops crush LTTE resistances, liberate Dharmapuram - Kilinochchi. Troops of the 58 Division led by Brigadier Shavendra Silva rattled remaining LTTE resistances and gained total control over Dharmapuram, in Kilinochchi District, a key LTTE stronghold located along the A-35 Paranthan - Mullaittivu main road, today (Jan 15) at around 2pm... Troops of 58 Division extended their defences while advancing further eastwards into LTTE hiding areas in Kilinochchi front, defence sources said."

19 January 2009: MOD Situation Report

"Troops of 58 Division while conducting further consolidating operations in Dharmapuram area, Mullaittivu, have found 300 fuel barrels which had been buried by the LTTE terrorists this morning, 19 January."

20 January 2009: MOD Situation Report

"Counter terror ops continued amid heavy resistance - Mullaittivu. Sri Lanka Army 58 Division encountered heavy resistance from the terrorists today (Jan 20) as troops extended their boundaries further eastwards down the A-35 road (Mullaittivu - Paranthan)... Multi-pronged offensives undertaken by Army 57, 58 and 59 Divisions and Task Forces 2, 3 and 4 at LTTE's last remaining strongholds in Mullaittivu caused heavy damages to the terrorists yesterday (Jan 19)... Troops of Army 58 Division operating north of the A-35 also had several confrontations during the day and found two LTTE bodies and three T-56 weapons. A[nd] snipers deployed in the forward areas, northeast of Dharmapuram, confirmed shooting down of 5 terrorists."

22 January 2009: MOD Situation Report

"Troops of 58 Division operating in the Puliyanpokkani area have extended their defences amidst stiff resistance of the LTTE terrorists from this morning, 22 January."

28 January 2009: captured Vishwamadu³⁵¹.

31 January 2009: MOD Situation Report

“Sri Lankan Army troops of the 58 Division have overrun an LTTE terror base located in a jungle patch northeast of Piramanthalkulama, also reportedly seizing a large haul of military hardware today evening (Jan 31). LTTE Sea Tiger 'group leader' killed in confrontation - Mullaittivu.”

“Sri Lankan Army, 58 Division infantrymen forced into an LTTE hideout in general area Piramanthalkulama, Mullaittivu, reportedly killing an LTTE Sea Tiger 'group leader' identified as Arivu, today (Jan 31) at around 12.50 p.m. Underground-built two-storied, luxury LTTE hideout found – Mullaittivu. 11 SLLI (11th Sri Lanka Light Infantry) troops of the 58 Division now operating in general area Piramanthalkulama at the Mullaittivu battlefield have reportedly found a two-storied underground LTTE hideout today (Jan 31).”

1 February 2009: MOD Situation Report

“Army 58 Division scores string of battlefield victories against LTTE – Visuamadu. Sri Lanka Army 58 Division soldiers yesterday (Jan 31) scored a string of victories against the LTTE terrorists in the Visuamadu area with a loaded collection of battlefield trophies. Army 59 Division breaches LTTE strongholds south of Puthukkudiyiruppu.”

2 February 2009: MOD Situation Report

“Troops capture Prabakaran's main hideout: Terrorist to face inevitable defeat – Mullaittivu. Sri Lankan Army troops of the 11th Light Infantry (SLLI) under the 58 Division led by Brigadier Shavendra Silva have captured a main LTTE hideout, what is believed to be a major residential site of the terror leader Prabakaran.”

3 February 2009: MOD Situation Report

“A group of 73 Tamil civilians who fled from LTTE terrorists in general area Piramanthalkulama, sought protection with troops of the 58 Division this morning (Feb 3), revealing what could be described the most treacherous acts against norms of modern civilization perpetrated by the internationally banned terrorist outfit.”

8 February 2009: MOD Situation Report

“Troops of the 58 Division pushed through the LTTE barricade at Sugandirapuram, north of Irruttumadu and entered the township yesterday (Feb 8), despite intermittent LTTE resistance attacks.”

10 February 2009: MOD Situation Report

“784 more Tamil civilians reach troops of 58 Division. Seven hundred and eighty-four Tamil civilians who were kept as hostages by the LTTE terrorists have crossed over to liberated areas from the north of Puthukudiyirippu in Mullaittivu yesterday,

³⁵¹ *58 Division reaches Vishwamadu junction*, 28 Jan 2009, <http://www.srilankaguardian.org/2009/01/58-division-reaches-vishwamadu-junction.html>

58 Division reaches Vishwamadu junction, *Defence net now on blog*, <http://defencenet.blogspot.com/2009/01/58-division-reaches-vishwamadu-junction.html>

10 February, amidst heavy beating and shooting by the LTTE terrorists, defence sources said.”

11 February 2009: MOD Situation Report

“58 Division locates huge LTTE printing press – Mullaittivu. Troops of 58 Division commanded by Brigadier Shavendra Silva have located a huge LTTE printing press while conducting consolidating and search operations in general area Sugandhirapuram, Mullaittivu, this morning, 11 February, military sources said.”

12 February 2009: MOD Situation Report

“Army 58 Division makes significant gains on battleground - north of A-35. Sri Lanka Army 58 Division maneuvering north of the A-35 road (Paranthan - Mullaittivu) has been fighting pitched battles with the terrorists in the Kuppilankulam and Tamarankulam areas since last week.”

13 February 2009: MOD Situation Report

“58 Division troops inflict damages to enemy; 2 LTTE bodies uncovered - North of A-35. Troops of 58 Division presently operating in north of A-35 road (Paranthan - Mullaittivu) had several confrontations with LTTE terrorists in general area Kuppilankulam yesterday, 12 February, while on offensive to gain more LTTE hiding areas. According to the defence sources, intense fighting reported in general area Kuppilankulam last afternoon inflicting heavy damages to the enemy. Two bodies of LTTE terrorists killed during the confrontation later uncovered in a search operation conducted in the area. 2 x T-56 weapons, 1 x communication set, and a motor cycle were also among the items uncovered, military report received from the battlefield said. Meanwhile, Army snipers deployed 581 Brigade have gunned down two LTTE terrorists ahead of the defence line in Kuppilankulam in two separate occasions.”

16 February 2009: MOD Situation Report

“Troops of 58 Division have confronted with LTTE terrorists detected in general areas Ampalavanpokkanai, south of Sugandhirapuram, while consolidating in recently liberated areas, the military report received from the battlefield said.”

17 February 2009: MOD Situation Report

“Army 58 Division dominating west of Puthukkudduyiruppu. Troops of Sri Lanka Army 58 Division are now in the process of dominating the entire Puthukkudiyiruppu western area, the latest battlefield reports reveal. The soldiers have manoeuvred from north of A-35 road (Paranthan - Mullaittivu), crossing several waterways and eliminated terrorist strongholds on their way before they reach their current positions.”

18 February 2009: MOD Situation Report

“Infantrymen of 58 Division engaged in mopping [up] operations in Puthukkudiyiruppu area confronted with a group of LTTE terrorist last morning, 18 February.”

19 February 2009: MOD Situation Report

“Infantrymen of 58 Division further advanced into LTTE area entering Ampalavanpokkanai town perimeter have found underwater scooter, diving kits, oxygen cylinders and many other diving equipments from west of Puthukkudiyiruppu area today, 19 February... Troops enter Ampalavanpokkanai town. Troops of 58 Division entered into

the Ampalavanpokkanai town perimeter after capturing Puthukudiyirippu west by Thursday, 19 Feb, Army Headquarters said.”

20 February 2009: MOD Situation Report

“Entire Amplavanpokkani area comes under Army control. Sri Lanka Army 58 Division troops have brought the entire Ampalavanpokkani area under their control this afternoon (Feb 20). Troops of the 58 Division operating in general areas. North and West of Puthukudiyirippu have engaged decisive blows to remaining LTTE resistances in the area, repo.”

23 February 2009: Media

Reuters interviewed Shavendra Silva and reported his soldiers were 6km from the lagoon’s western shore³⁵².

23 February 2009: MOD Situation Report

“58 Division troops thrash terrorist resistances; capture sections of LTTE built earth bund at Kombavil - Mullaittivu. Troops of the 58 Division have forced into general area Northwest of Puthukkudiyirippu and gained control over sections of the LTTE built earthbund at Kombavil, also recovering 3 LTTE bodies and 2 T-56 weapons yesterday (Feb 22). According to battlefield sources, LTTE terrorists have put on stiff resistances which were successfully neutralized by the advancing 58 Division infantrymen. The terrorists have built an earth bund running north to South fortifying the Iranapali area, which is considered a key LTTE foothold in Northeast Puthukkudiyirippu, the sources said. Security forces have now encircled Puthukkudiyirippu town and positioned in some 400m striking distance, military sources said. The 58 Division and Task Force 8 troops are now leading the two main offensive fronts into the last LTTE stronghold.. Troops of 58 Division on final phase of the Wannu liberating offensive uncovered the largest LTTE boat ever found during the Wannu offensive from northwest of Puthukudiyirippu yesterday, 23 February. 58 Division further advances into Puthukkudiyirippu. Intense fighting ensued with troops of 58 Division and LTTE terrorists yesterday, 23 February, as troops further advanced into LTTE's remaining stronghold, Puthukkudiyirippu, causing heavy damages to the terrorists, military report received from the battlefield said, 23 February.”

24 February 2009: MOD Situation Report

“Troops of 58 Division on final phase of the Wannu liberating offensive uncovered the largest LTTE boat ever found during the Wannu offensive from northwest of Puthukudiyirippu yesterday, 23 February. A boat-manufacturing yard and LTTE torture camp were also uncovered in further search and clear operations military sources said. 58 Division further advances into Puthukkudiyirippu.

Intense fighting ensued with troops of 58 Division and LTTE terrorists yesterday, 23 February, as troops further advanced into LTTE's remaining stronghold, Puthukkudiyirippu, causing heavy damages to the terrorists, military report received from the battlefield said, 23 February.”

³⁵² *Sri Lankan army measures end of 25-year war in days*, Reuters, <https://www.reuters.com/article/us-srilanka-war-frontline/sri-lankan-army-measures-end-of-25-year-war-in-days-idUSCBH2300120090223>

25 February 2009: MOD Situation Report

"Fierce confrontations reported in north of Kombavil as troops of 58 Division advanced further into the LTTE's last stronghold, Puthukudiyiruppu yesterday, 24 February, latest military report received from the battlefield."

26 February 2009: MOD Situation Report

"The soldiers of Sri Lanka Army 58 Division have rescued 19 more Tamil civilians from LTTE clutches in Puthukkudiyiruppu today (Feb 26), defence sources reveal. LTTE suicide bomb factory, Soosai's bunker captured - west of Puthukkudiyiruppu. Infantrymen of 58 Division following fierce confrontations were able to capture the LTTE Sea Tiger leader Susai's camp and suicide bomb manufacturing camp located in west of Puthukkudiyiruppu yesterday, 25 February... A swimming pool which is believed to be used by the high profile LTTE leaders has been located by the troops of 58 Division advancing towards LTTE's only remaining stronghold, Puthukkudiyiruppu built-up, yesterday, 25 February. Fall of Puthukkudiyiruppu imminent: troops thrash last LTTE resistances - Mullaattivu. Troops of the 58 Division and Task Force 4 continued forcing into the last LTTE garrison township yesterday (Feb 25), in three offensive fronts from Northwest, west and south at Puthukkudiyiruppu as ground troops positioned for a final thrust towards the remaining LTTE foothold, security sources said."

27 February 2009: MOD Situation Report

"Intense fighting reported in general area Ampalavanpokkanai and Puthukkudiyiruppu, yesterday, 26 February, as troops of 58 Division further gained control over more LTTE hiding areas pushing LTTE terrorists further into Puthukkudiyiruppu built-up, military sources said. Infantrymen of 10 Sri Lanka Light Infantry (10 SLLI) serving under 581 Brigade have confronted with LTTE terrorists in general area Ampalavanpokkanai in morning hours inflicting heavy damages to the enemy. Intercepting LTTE communication channels, it is further confirmed that terrorists suffered heavy losses."

28 February 2009: Media

58 Division captured Thevipuram³⁵³.

1 March 2009: State-run newspaper

8 Division, Task Force 4, Task Force 8 and 53 Division were involved in the Puthukkudiyiruppu (PTK) offensive, according to contemporaneous Sri Lankan media reports:

"It was amidst the huge pressure exerted on them by the 58 Division under the command of Brigadier Shavendra Silva pushing the LTTE cadres in a north to South direction and West to East direction that fierce battles erupted in the outskirts of Puthukudiyiruppu town which covers an area more than 16 square kilometres. The huge

³⁵³ Silva led his troops to Adampan on May 9, 2008. But once the Army brought Adampan under its full control, it made rapid progress. TFI liberated Mullikandal, Minnaniranchan and Marattikannaddi (June 24), the Mannar rice bowl (June 29), linked up with 57 Division at Periyamadu (June 30), Vidattaltivu (July 16), Illuppaikkadavai (August 2), Vellankulam (August 12), Mulankavil and Pallavarayankaddu (August 12), Nachchikuda (August 21), Maniyankulam (October 16), Vannerikulam (October 20), Nochchimoddai (October 28), Jeyapuram (October 29), Nachchikudah (October 29), Kiranchi (November 10), Devil's Point and Vallaipadu (November 13), Pooneryn (November 15), Sinna-Paranthan (December 23), Nalanawakulam (December 26), Paranthan (January 1, 2009), Murasumoddai (January 8), Dharmapuram (January 15), Vishvamadu (January 28), Thevipuram (February 20) and Iranapalai junction (March 17). *How the war was won*, The Island, <http://www.island.lk/2009/04/05/defence1.html>

*pressure exerted by the 58 Division on them has brought positive results within past week enabling the troops to enter Puthukudiyiruppu town as of Tuesday (February 24) and continue this pressure for the past few days amidst strong resistance from the LTTE.*³⁵⁴

2 March 2009: MOD Situation Report

“Military continued its multi-frontal assaults at the remaining LTTE stronghold at Puthukkudiyirippu with fighting now reported in the outskirts of the garrison town. 58 Division troops kept pushing the LTTE defences at Ampalampokkanai, also killing at least 6 terrorists and injuring 4 others during yesterday's (March 2) confrontations.”

4 March 2009: MOD Situation Report

“Troops aim at eastern coast; terrorists desperately fighting on their last stand. Troops of 58 Division and Task Force 8 after liberating Puthukkudiyiruppu have commenced an eastward thrust towards the coast, defence sources reveal. The LTTE terrorists lost the last town under their clutches as Puthukkudiyiruppu fell to the Sri Lankan soldiers yesterday (Mar 3).”

5 March 2009: MOD Situation Report

“Troops avert LTTE infiltration bid; 33 LTTE bodies found - South of Chalai. Troops of 55 and 58 Divisions have successfully averted LTTE infiltration attempt causing heavy losses for the LTTE terrorists in early hours this morning, 5 March. Troops aim at eastern coast; terrorists desperately fighting on their last stand. Troops of 58 Division and Task Force 8 after liberating Puthukkudiyiruppu have commenced an eastward thrust towards the coast, defence sources reveal”.

6 March 2009: State-run newspaper

South of Chalai [Sea Tiger base on coast]: *“11 Artillery Regiment attach to the 58 Division and 8 Vijayaba Infantry Regiment attached to the 55 Division. 1 Gajaba Regiment and 4 Vijayaba Infantry Regiment attached to the Task Force 8 also joined hands with the 58 Division troops in securing the entire Puthukudiyiruppu junction. Task Force 8 and the 53 Division are heading towards the centre of Puthukudiyiruppu from South to north direction*³⁵⁵.”

8 March 2009: State-run newspaper

582 Brigade captured PTK junction³⁵⁶.

10 March 2009: MOD Situation Report

“At least 200 terrorists were killed, as many wounded and over 150 LTTE bodies recovered by Sri Lankan security forces, following heavy fighting that broke out between troops and LTTE since last Thursday (March 5), at the Mullaittivu battlefield South of Chalai Palamathalan. The 55 Division, 58 Division including Special Force

³⁵⁴ 1 Mar 2009, Daily News (Sunday Observer) SIT REP: *LTTE Confined to underground bunkers*

³⁵⁵ *Troops marching on to LTTE's last terrain (military names)*, 6 Mar 2009, Daily News (Sunday Observer),

³⁵⁶ *Troops marching on to LTTE's last terrain (military names)*, 6 Mar 2009, Daily News (Sunday Observer),

(SF) and Commando troops comprehensively neutralized the LTTE offensive waves also seizing a large haul of weapons, security sources said.”

14 March 2009: MOD Situation Report

“Army 58 Division inflicts heavy damages to the terrorists - Puthukkudiyirippu Sri Lankan soldiers of Army 58 Division now engaged in the final phase of the counter terrorist offensive in the Island's Northern province continues to give heavy beating to the terrorists, reveal defence sources in the Puthukkudiyirippu... Fifty-Eight Tamil civilians under LTTE hostage were able to reach the security forces seeking safety for their lives for the 58 Division in Mullaittivu yesterday, 13 March.”

15 March 2009: MOD Situation Report

“58 Division troops capture LTTE strongpoint at Puthukkudiyirippu. Advancing 58 division troops captured an LTTE terrorist strongpoint after hours of heavy confrontation ensued with LTTE since this morning (March 15) at Puthukkudiyirippu... 10th Gajaba Regiment (10 GR) and 12th Gajaba Regiment (12 GR) troops of the 58 Division led by Brigadier Shavendra Silva seized total control of another LTTE strong point and a rudimentary LTTE run 'court centre' located in the Puthukkudiyirippu town today (March 15)... Fierce confrontations in Puthukkudiyirippu; 2 LTTE bodies and military items found. Infantrymen of 58 Division further advanced into LTTE hiding areas in general area Puthukkudiyirippu inflicting heavy damages to terrorists yesterday, 14 March, military report received from the battlefield said.”

16 March 2009: MOD Situation Report

“Sri Lankan soldiers continue fighting terrorists, rescue more civilians - Puthukkudiyirippu. Reports received from the battlefield so far indicate that the soldiers of Sri Lanka Army 53 Division, 55 Division and 58 Division are continuing on their noble mission to rescue civilians forcibly held by the LTTE in the remaining terrorist hiding areas in Puthukkudiyirippu. Despite all the restriction that the soldiers have to face due to terrorist use of human shield, Sri Lankan soldiers were able to rescue more than 400 civilians by this afternoon (Mar 16), indicate the reports... A total of 1011 civilians including 458 children have fled from LTTE hostage and sought protection with the 58 Division troops operating in general area Ampalavanpokkanai South yesterday (March 15).”

17 March 2009: MOD Situation Report

58 Division troops reach Iranapalai Junction - Puthukkudiyirippu: troops engaged in the final phase of military offensive to free entire country from LTTE terrorists have marked a decisive milestone reaching to the Iranapalai junction, a strategically vital junction in Puthukkudiyirippu built-up in Mullaittivu district, this morning (16 March) latest report received from the battlefield said.”

19 March 2009: MOD Situation Report

“At least 23 terrorists were killed and as many reported injured on Wednesday (March 18) as 58 Division infantrymen ran into identified LTTE resistance positions located in general area Northeast of Puthukkudiyirippu... A total of 384 civilians have sought

protection with troops of the 58 Division yesterday (March 18) in general area Puthukkudiyirippu.”

20 March 2009: MOD Situation Report

“Troops of 58 Division, spearheading the battle yesterday (Mar 19) withstood intense resistance from the terrorists but continued piercing terror defences inflicting heavy damages to the enemy.”

23 March 2009: MOD Situation Report

“58 Division further advance causing heavy damages to enemy; 8 LTTE bodies found. LTTE terrorists suffered heavy losses in confrontations took place yesterday, 22 March, as troops engaged in phase of battle against terrorists in general area Puthukuduirruppu... 58 Division heavily confronted with terrorists; 7 LTTE bodies found infantrymen of 58 Division heavily confronted with LTTE terrorists in general area south of Iranapalai causing damages to the enemy yesterday, 23 March, defence sources said.”

24 March 2009: MOD Situation Report

“Pottu Amman's safe house captured - Mullaittivu Troops of the 20th Gajaba Regiment (GR) under the 58 Division have captured a safe house of Pottu Amman, while engaged in counter terrorist operations in general area South of Iranapalai at the Mullaittivu battlefield today (March 24).”

25 March 2009: MOD Situation Report

“LTTE terrorists face heavy setback: troops thwart LTTE offensive attempt - Mullaittivu. Scores of terrorists were reported killed and many injured when troops of the 58 Division pushed back LTTE offensive elements moving towards the military forward defences north of Iranapalai, at the Mullaittivu battlefield today (March 25)... A total of 1,386 civilians have sought protection with troops of the 58 Division now operating north of Iranapalai and Andampuram in Mullaittivu, throughout yesterday (March 24)...LTTE offensive repulsed: terrorists take heavy beating - Mullaittivu.

Sri Lankan Army troops of the 58 Division repulsed an LTTE offensive thrust towards the advancing military formations north of Iranapalai, reportedly killing many and leaving scores injured on Tuesday (March 24).”

27 March 2009: MOD Situation Report

Troops recover 3 LTTE bodies, weapons - Mullaittivu. Sri Lankan Army infantrymen of the 20th Gajaba Regiment (20 GR) under the 58 Division have pushed into fortified LTTE defences north of yesterday (March 27), also recovering 3 LTTE bodies and military hardware.”

22 March 2009: State-Run newspaper
58 Division reported fighting in Iranapalai³⁵⁷.

³⁵⁷ *End in sight (many divisions)*, 22 Mar 2009, Daily News (Sunday Observer),

29 March 2009: State-Run Newspaper.

Sri Lankan media reports the 58 Division is beating back the LTTE from March 4 - 8 in Ampalavanpokkanai area with the support of the Commando troops and Special Forces troops³⁵⁸.

29 March 2009: MOD Situation Report

"LTTE built earth bund cum ditch north of Palamathalan seized. 55 Division troops under the command of Brigadier Prasanna Silva have breached LTTE defences and gained control over an LTTE built earth bund cum ditch constructed north of Palamathalan, Saturday (March 28). 58 Division troops inflict heavy damages to terrorist; more LTTE military items found. Troops of 58 Division engaged in fierce battle with LTTE terrorist right throughout the day (March 28)."

30 March 2009: MOD Situation Report

"Army captures truck mounted with anti air gun; counter terror operation continues - Puthukkudiyiruppu. Sri Lankan soldiers of Army 58 Division today (Mar 30) captured an LTTE truck mounted with 12.7mm anti aircraft machine gun during counter terrorist operations carried out in the Irnapali area, Puthukkudiyiruppu East. Intense fighting in north of Palamathalan; a senior Sea Tiger leader killed; 13 LTTE bodies found."

31 March 2009: MOD Situation Report

"Troops soften LTTE defences: at least 20 terrorists killed, 11 injured - Mullaittivu At least 20 terrorists were killed and 11 injured during heavy fighting ensued between 58 Division troops and LTTE in general area Iranapalai, East of Puthukkudiyiruppu today (March 31)."

1 April 2009: MOD Situation Report

58 Division reported to be in Pachchapulmuddai area in Puthukkudiyiruppu east.³⁵⁹
"Troops gain control over Pachchapulmuddai area - Puthukkudiyiruppu east. Troops of 58 Division engaged in fierce fighting with LTTE terrorists in east of Puthukkudiyiruppu have gained control over the Pachchapulmuddai area by this afternoon, 1 April, latest military report said."

1 April 2009: MOD Situation Report

53 and 58 - 11 SLLI [Sri Lanka Light Infantry] and 5 VIR [Vijayabahu Regiment], TF8 [Task Force 8], 55³⁶⁰ Division reported present in the fighting.

2-3 April 2009: State-Run Newspaper

"58 and 53 Division along with the Task Force 8 under the command of Colonel G.V. Ravipriya are... west of the No Fire Zone.³⁶¹"

³⁵⁸ *Forces outsmart LTTE (many Divisions)*, 29 Mar 2009, Daily News (Sunday Observer),

³⁵⁹ 1 Apr 2009, MOD Situation Report

³⁶⁰ *Troops encircle 200 Tigers*, 2 Apr 2009, Daily News.

³⁶¹ *Troops encircle 200 Tigers (Divisions 53-58)*, 2 Apr 2009, Daily News; *Troops encircle no fire zone* (Map of military movement), AA: Daily News, 3 Apr 2009.

2 April 2009: MOD Situation Report

“According to the latest information received from the battlefield, fierce fighting ranged in northeast of Puthukudiyiruppu as troops of 53 (Task Force 8 also attached to 53 Division) and 58 Divisions surrounded the LTTE's remaining area in the offensive continued after capturing Pachchapulmudai junction by last evening, 1 April”.

3 April 2009: MOD Situation Report

“The soldiers of 58 Division marched into the pocket held by the terrorists at Anandapuram, early this morning and wiped out the terrorists in a close quarter fighting that lasted till the evening.”

3 April 2009: MOD Situation Report

58 Division reported present at Anandapuram battle³⁶² along with 53 division and Task Force 8.

4 April 2009: MOD Situation Report

“Army storms in to LTTE defence; seize 130mm Artillery gun - Anandapuram. Infantrymen of 14 Gajaba Regiment operating under 58 division captured a 130 mm Arty gun from the LTTE terrorists this morning (Apr 04)”.

4 April 2009: State-run Media and MOD Situation Report

Media said regarding the attack on Ampalavanpokkanai: *“58 Division was closely monitoring the situation inside the No Fire Zone through the UAV⁶⁶³ visuals (581 and 582 involved)³⁶⁴. Also, Sri Lankan Army said 14GR under 58 Division present in Anandapuram³⁶⁵.*

6 April 2009: MOD Situation Report

“The last stronghold of the LTTE (PTK) fell to the hands of the Security Forces following the 58 Division under the command of Brigadier Shavendra Silva, 53 Division under the command of Major General Kamal Gunaratne and Task Force VIII under the command of Colonel G.V. Ravipriya ended the long siege on the last square km held by the LTTE by yesterday morning³⁶⁶.”

6 April 2009: MOD Situation Report

“Troops of 58 Division engaged in further mop-up operations today, 6 April, following pitched battles that ensued in general area Anandapuram, east of Puthukkudiyirippu killing over 500 LTTE terrorists including senior LTTE rankers, have found more bodies of LTTE terrorists killed during the battle.”

³⁶² 3 Apr 2009, MOD Situation Report

³⁶³ *Huge civilian influx*. 19 Apr 2009, Daily News; *Freedom at last*, 22 Apr 2009, AA: Daily News.

³⁶⁴ *Sri Lanka army rewrites glorious chapter*, 24 Apr 2009, Daily News.

³⁶⁵ 4 Apr 2009, MOD Situation Report

³⁶⁶ *LTTE last bastion falls*, <http://archives.dailynews.lk/2009/04/06/sec01.asp>, 6 Apr 2009, Daily News

8 April 2009: MOD Situation Report

"Army 58 Division continues to rescue civilians from LTTE clutches - Ampalavanpokkanai. Sri Lanka Army 58 Division soldiers yesterday (Apr 7) rescued 42 civilians from the clutches of LTTE terrorists in the No Fire Zone [NFZ]."

10 April 2009: MOD Situation Report

Army said to be west of Ampalavanpokkanai and south of Puthumathalam:

"58 Division soldiers are spearheading the rescue operations - also clearing Anandapuram and East of PTK... Troops of 58 Division engaged in clearing operations in the recently captured Anandapuram LTTE stronghold in the Puthukkuduyiruppu East yesterday (Apr 9) found a large stock of weapons of the LTTE terrorists³⁶⁷."

13 April 2009: MOD Situation Report

"53 Division defending the PTK line; civilians surrender to 58 Division at Ampalavenpokkani - also there Army snipers attached to 581 Brigade have gunned down 18 LTTE terrorists³⁶⁸."

19 April 2009: State-Run Newspaper

58 Division received the people flooding out of Putumattalan on 19 April and captured the Putumattalan hospital on 22 April³⁶⁹.

21 April 2009: MOD Situation Report

Army says regarding Putumattalan and Pokkanai: 58 Division enter (31,000 civilians came out day before). Now saying total is 49,000 people coming out³⁷⁰.

22 April 2009: MOD Situation Report

Army says: *"Sri Lanka Army 53 and 58 Divisions continuing on their humanitarian mission to free civilians held hostage by LTTE terrorists, yesterday (Apr 21) encountered stiff resistance³⁷¹."*

24 April 2009: State-Run Newspaper

Media says: *"The 58 Division troops captured the entire Northern part of the No Fire Zone in Puthumattalan. Also on Wednesday morning the 58 Division deployed the 11 Sri Lanka Light Infantry battalion to advance further southwards to rescue the remaining civilians trapped inside the No Fire Zone³⁷²."*

³⁶⁷ 10 Apr 2009, MOD Situation Report

³⁶⁸ 13 Apr 2009, MOD Situation Report

³⁶⁹ *Huge civilian influx*; Daily News, 2009-04-22 *Freedom at last*, 19 Apr 2009, Daily News.

³⁷⁰ 21 Apr 2009, MOD Situation Report

³⁷¹ 22 Apr 2009, MOD Situation Report

³⁷² *Sri Lanka army rewrites glorious chapter*, 24 Apr 2009, Daily News.

26 April 2009: MOD Situation Report

Army says regarding Valayanmadam: *“Liberated by 58 Division - Army Commandos and Special Forces soldiers backed by infantrymen of 10 Sri Lanka Light Infantry, and 12 Gemunu Watch entered into the area last evening³⁷³.”*

27 April 2009: MOD Situation Report

Army says that the 58 Division is ‘rescuing civilians’ in Valayanmadam³⁷⁴.

28 April 2009 MOD Situation Report

South of Valayanmadam the Army says the “LTTE loses defensive bund to 53 and 58 Divisions.³⁷⁵”

29 April 2009: MOD Situation Report

Army says they captured Rettavaikkal to the south of Valayanmadam³⁷⁶ and advance to Kariyamullivaikkal and Vellamullivaikkal. Rektavaikkal junction is captured by the 58 Division³⁷⁷.

30 April 2009: MOD Situation Report

South of Rektavaikkal, Army says the 58 Division is “reduced LTTE to 7 kms sq.³⁷⁸”

1 May 2009: State-Run Newspaper

Valayanmadam north: “11 SLLI advance with SFs and Commandos - 10 SLLI and 12 GW captured Valayanmadam on Sunday (late April) and 58 Division.³⁷⁹”

3 May 2009: State-Run Newspaper

Media says the 58 and 53 Divisions are at the frontline and advancing further southwards in the “No Fire Zone”³⁸⁰.

4 May 2009: State-Run Newspaper

“The 58 and the 53 Divisions cleared their paths towards the remaining five km stretch of the No Fire Zone after 53 Division stormed another heavily fortified earthbund built across the Paranthan-Mullaitivu A-35 road - on Saturday the 58 and the 53 Division troops captured the key junction that links the Puthumatalan-Mullaitivu and Paranthan-Mullaitivu roads north of Vellamullivaikkal..

With the 53 Division moving into the Puthumatalan - Mullaitivu junction the 58 Division under the command of Brigadier Shavendra Silva is now operating in the beach front of the No Fire Zone East of the A-35 road whilst 53 Division under the

³⁷³ 26 Apr 2009, MOD Situation Report

³⁷⁴ 27 Apr 2009, MOD Situation Report

³⁷⁵ 28 Apr 2009, MOD Situation Report

³⁷⁶ capture Rettavaikkal to the south of Valayanmadam.

³⁷⁷ 28 Apr 2009, MOD Situation Report

³⁷⁸ 30 Apr 2009, MOD Situation Report

³⁷⁹ *LTTE Divide*, Daily News, 1 May 2009

³⁸⁰ *Earth Bund Captured*, Daily News, 2 May 2009

command of Major General Kamal Gunaratne is advancing towards the south between the Nanthikadal lagoon and the A-35 road³⁸¹.”

10 May 2009: State-Run Newspaper

Media report that 58 & 53 Divisions - 7 SR, 6 GW, 9 VIR and “58 Division GOC Brigadier Shavendra Silva personally directed ground troops” - also 59 Division.³⁸²”

13 May 2009: MOD Situation Report

“LTTE's multi barrel rocket launcher found - Karyalaimullivaikkal. A Multi Barrel Rocket Launcher (MBRL) used by the LTTE terrorists was found by the troops of 9 Gemunu Watch (9 GW) serving under 58 Division conducting a search and clearing operation in general area Karyalaimullivaikkal this morning, 13 May, defence sources said.”

14 May 2009: State-Run Newspaper

Media reports that 58, 53, 59 Divisions present at frontline (59 moving north from Vadduvakkal)³⁸³.

14 May 2009: MOD Situation Report

“Army maneuvers further southwards along the coast. Sri Lanka Army 53 and 58 Division are now sweeping around the new civilians’ safety zone, reveal latest reports from the battlefield. 18 LTTE bodies uncovered during search operations - Vellamullivaikkal. Troops of 58 Division further advance into the ‘Civilian Safety Zone’ to rescue the civilian hostage held by the LTTE terrorists in general area Vellamullivaikkal yesterday, 13 May. Heavy fighting between LTTE terrorists and troops took place in the area causing heavy damages to the enemy, military said.”

15 May 2009: State-Run Newspaper

58 Division captures Fara Ship (on beach of No Fire Zone)³⁸⁴.

15 May 2009: MOD Situation Report

“LTTE terrorists on the brink of total defeat have resorted to crude terror tactics targeting the 58 Division infantrymen advancing along the coast, South of Vellamullivaikkal today (May 15)... Three LTTE child recruits have escaped from LTTE tyranny and sought protection with troops of the 58 Division at Vellamullivaikkal, today (May 15) at around 2pm.”

16 May 2009 Video

“The 11th Sri Lanka Infantry Force of the 58th Division is continuing operations southwards from the No Fire Zone while the 11th Gemunu Watch of the 59th Division is carrying out operations north of the No Fire Zone under the direct supervision of Brig. Prasanna De Silva. Commanders of the 581st, 582nd and 583rd Brigades Lt. Col. Deshapriya Gunawardena, Col. Sanjay Wanigasinghe and Lt. Col. Ramesh Fernando,

³⁸¹ *Troops Advance Further*, Daily News, 4 May 2009

³⁸² *Troops advance into last Tiger terrain*, 10 May 2009, Daily News (Sunday Observer).

³⁸³ *Tigers Destroy own Assets*, Daily News, 10 May 2009

³⁸⁴ *Ground Troops Brave LTTE Terrorists*, TDaily News, 15 May 2009

Lt. Col. Sujeeva Senarath Yapa of the 593rd Brigade, Lt. Col. Tishantha Fernando and Col. Kithisiri Ekenayake of the 11th Gemunu Watch and the 11th Sri Lanka Infantry Force gathered to mark this significant occasion.³⁸⁵”

16 May 2009: MOD Situation Report

“Sri Lanka's coast free of terror; Army 58 Division links up with the 59 Division. Sri Lankan soldiers of Army 58 Division have linked up with the 59 Division soldiers freeing the last remaining coastal stretch under LTTE clutches. 58 Division seize 152 artillery gun: LTTE to face humiliating defeat - Vellaimullivaikkal. 58 Division troops while consolidating defences after linking-up with the 59 Division at the coast of Vellaimullivaikkal have seized a 152mm LTTE artillery gun along with a few other military hardware today (May 16).”

17 May 2009: MOD Situation Report

“According to battlefield sources, Army 53, 58 and 59 Division soldiers have entered into the area where LTTE leaders have been cowering among the civilians during last couple of weeks. Soldiers are now looking for sick and disabled people that may be left in the area as almost all the others held at hostage by the terrorists have been rescued.”

18 May 2009: MOD Situation Report

“53 and 58 Divs uncover over 350 LTTE bodies - 18th May 2009. Troops of 53 and 58 Divisions have uncovered over 350 bodies of LTTE terrorists killed while conducting the search and clearing operations in general area Vellamullivaikkal this evening, 18 May...Army foils LTTE's last attempt to evacuate its leaders; bodies being identified - 18th May 2009. Sri Lankan Army elites and infantrymen of 53, 58 and 59 Divisions have foiled the LTTE's last attempt to evacuate its top leaders this morning (May 18). According to the latest battlefield reports, soldiers have located over 150 bodies of LTTE cadres so far. The process of identifying the terrorist bodies is in progress...According to latest battlefield reports received, the 53 and 58 Division troops including Special Forces and Commandos have uncovered the bodies, suspected to be of Ilango (LTTE 'Police' wing chief), Sudarman (Charles Anthony's close aid) and Kapil Amman (LTTE intelligence wing). The bodies were found abandoned in the area, the sources further said.

Three top LTTE leaders killed: Bodies found abandoned - 18th May 2009. Sri Lankan Special Forces soldiers have found bodies of three key LTTE leaders identified as Nadeshan, Pulidevan and Ramesh during the mop-up operations in the last LTTE foothold this morning (May 18). According to the latest information, the remaining LTTE cadres are now boxed into a 100m x 100m area, north of Vellamullivaikkal.”

³⁸⁵ Video: https://www.youtube.com/watch?v=z03G7__fv8k

Annexure 3

PUTUMATTALAN: Report to Congress on Incidents During the Recent Conflict in Sri Lanka³⁸⁶

Incidents listed here refer to Putumattalan (also referred to as Mattalan) which included 6 attacks on Putumattalan Hospital:

February 8 - A local source in Mattalan reported to HRW [Human Rights Watch] that a shell landed approximately 10m from a hospital, and fragments hit the hospital.

February 9 - HRW: "In Mattalan shelling killed 16 people and injured 49."

February 9 - A source reported that the makeshift hospital in Putumattalan was hit by shelling, killing 16 patients.

February 12 - One person was killed in Mattalan by shelling along the coastal area at noon.

February 21 - An organization's local sources reported severe, continuous SLA shelling in the Mullivaikkal, Pokkanai and Mattalan areas (declared Safe Zones by the Government), killing 19 civilians. Other sources reported that 50 civilians were killed and 130 fatally injured due to heavy artillery shelling of the Safe Zones comprising the Mattalan, Ampalavanpokkanai, Mullivaikkal and Valayanmadam areas.

March 4 - According to an organization, an aid worker was killed by shrapnel while he was returning from assisting wounded patients moving from the Mattalan hospital to a ship in Mullaittivu District around 5:00pm local time.

March 5 - A source in Mattalan reported to HRW that 57 civilians were killed and 154 injured by cluster bombs in Valayanmadam and Mattalan. An organization's source in Valayanmadam reported that a shell hit a tarpaulin shed, completely burning it. Inside, eight people, including two children, were killed and 23 people were injured.

March 7 - A source in Mattalan reported to HRW that a cluster shell exploded in Valayanmadam, located in the No Fire Zone, and that two cluster shells exploded in another No Fire Zone area, Putumattalan. Fifty-two people were killed and 95 injured. Another organization's source seemed to corroborate this account in its report that 51 civilians were killed by shelling in the same area.

March 11 - Embassy Colombo reported that 72 people were killed and 91 injured by continued shelling in the No Fire Zone. The US Embassy was told that an MBRL (Multi-Barrel Rocket Launcher) sent 40 shells into the No Fire Zone in one barrage, and that 21 of the 72 deaths were of individuals who were in line to receive their food ration. Upon learning of the shelling, an organization spoke with the Government of

³⁸⁶ <https://www.state.gov/documents/organization/131025.pdf>

Sri Lanka military in Vavuniya and requested that the shelling cease. An organization provided messages from a source in Mullaittivu with similar details about an MBRL attack in Mullivaikkal, wounding 93 people. A source near Mattalan reported to HRW very heavy shelling to the west. Many shells landed within 200m of the source.

March 12 - A source near Mattalan reported to HRW that a shell came from the direction of Thevipuram and hit Pokkanai, 400m from the Mattalan port, killing five civilians and injuring many more. Later in the day, the source reported, three artillery shells came in from the west and landed 400m from the bunker, south of Mattalan.

March 13 - An organization's source in Mullaittivu reported that 52 people were killed and 43 injured. Two other sources sent messages reporting the same number of people killed, noting shelling in Pokkanai, Mattalan and Mullivaikkal.

March 13 - Two artillery shells, which witnesses believed were from the SLA, hit Mattalan. The shelling reportedly killed a child and seven other civilians. Shelling was heavier later in the day.

March 15 - An organization's source said that shelling had started that morning in Mattalan. A source near Mattalan reported to HRW that 61 people injured by shells in the No Fire Zone were admitted to the hospital. Five people with severe injuries died after they were admitted.

March 16 - A source near Mattalan reported to HRW that a shell, perhaps a rocket-propelled grenade (RPG), hit the Mattalan hospital and killed 2 people.

March 16 - HRW reported that around 11am an RPG struck inside the Putumattalan Hospital compound, killing 2 people.

March 20 - An HRW source near Mattalan reported shelling about 100m west of the port in Putumattalan, a heavily populated area. HRW later reported the incident in more detail, noting that a source at the makeshift hospital in Putumattalan said a shell hit a shelter about 200m from a church in Valayanmadam, killing five people and injuring nine. A local source also reported that seven people were admitted to the Mattalan hospital. One source was critically injured.

March 22 - A foreign government reported shelling in the No Fire Zone at Putumattalan; the witness reported that two young children were killed.

March 23 - HRW reported a phone conversation with a source at the makeshift hospital in Putumattalan, inside the Government-declared No Fire Zone, which was interrupted by shelling, audible over the phone. Later in the day, the source said that the hospital had received 14 corpses and 98 wounded persons that day. He told HRW that the shelling appeared to come from the direction of Government positions 3km to the west. An artillery shell had struck approximately 250m from the hospital, killing two civilians and wounding seven others. Another shell struck about a kilometer from the hospital, also killing and wounding civilians. Another HRW source near Mattalan reported shelling in Putumattalan, Mullivaikkal, and Valayanmadam. One hundred and forty-two people were injured: 16 died in the hospital, and many people were killed

on the spot. An organization's source in Valayanmadam reported that 102 people were killed in shell attacks.

March 24 - An HRW source near Mattalan reported that an RPG shell hit one of the entrances to the Mattalan hospital. Another shell landed 10m in front of the hospital, killing a child.

March 25 - An HRW source near Mattalan reported shelling near where hundreds of people were encamped. An RPG shell landed inside the encampment and injured one of the people hiding there.

March 27 - A foreign government reported shelling in the No Fire Zone at Putumattalan; the report indicated that one child had been killed and another injured.

March - A foreign government reported the eyewitness account of a woman whose two-year-old son was killed during an aerial attack by the SLA in March. The infant was asleep in his cradle at the Mattalan IDP site when he was killed.

April 19 - An organization reported that sources at Putumattalan Hospital confirmed that many shells hit the civilian area and the hospital compound. The hospital roof was also hit by small arms fire.

April 19-20 - Embassy Colombo reported that in a fairly large-scale operation Government forces penetrated into the No Fire Zone overnight. Sources reported a heavy offensive in which the Government took Mattalan junction and at least briefly reached the hospital in Putumattalan. The Government of Sri Lanka rejected calls by the United Nations, US Government and others for a continuation of the previous week's humanitarian ceasefire.

April 20 - A foreign government with representation in Colombo reported an eyewitness account of shelling at the Mattalan Hospital. Another witness reported that her husband, her nine-year-old daughter and six others were killed during the attack.

Annexure 4

REPORT TO CONGRESS ON INCIDENTS DURING THE RECENT CONFLICT IN SRI LANKA³⁸⁷

Incidents relating to Valayanmadam

February 15 – an organization's source in Valayanmadam reported shelling in the Safe Zone, killing 62 civilians and injuring 128.

February 19 – an organization's source in Valayanmadam reported that SLAF aerial attacks killed more than 100 LTTE forcibly recruited children.

February 19 – an organization's local sources in Valayanmadam reported that SLA shelling in the conflict zone caused the deaths of 46 civilians and fatally injured 126 people. Shells started falling in Puthukkudiyiruppu at 1:00am, killing 24 civilians. At 2:00am shelling was directed at Iranaipalai, Ananthapuram, and Valayanmadam, killing 10 civilians and injuring 70. Shelling on Pokkanai, which began at 7:00am, caused the deaths of 12 civilians and injured 56.

February 20 – an organization's local sources reported that 2 people were injured by SLA shelling in Valayanmadam. Later that night, 12 civilians were killed and 72 were fatally injured by shelling in Valayanmadam, an area declared to be part of the No Fire Zone by the GSL. One source in Valayanmadam reported that the SLA shell attacks were targeting the roads.

February 21 – an organization's local sources reported severe, continuous SLA shelling in the Mullivaikkal, Pokkanai and Mattalan areas (declared Safe Zones by the Government), killing 19 civilians. Other sources reported that 50 civilians were killed and 130 fatally injured due to heavy artillery shelling of the Safe Zones comprising the Mattalan, Ampalavanpokkanai, Mullivaikkal and Valayanmadam areas.

March 5 – a source in Mattalan reported to HRW that 57 civilians were killed and 154 injured by cluster bombs in Valayanmadam and Mattalan. An organization's source in Valayanmadam reported that a shell hit a tarpaulin shed, completely burning it. Inside, eight people, including two children, were killed and 23 people were injured.

March 7 – a source in Mattalan reported to HRW that a cluster shell exploded in Valayanmadam, located in the No Fire Zone, and that two cluster shells exploded in another No Fire Zone area, Putumattalan. Fifty-two people were killed and 95 injured. Another organization's source seemed to corroborate this account in its report that 51 civilians were killed by shelling in the same area.

March 17 – an eyewitness who had lived in Valayanmadam reported to HRW an air attack by a Government of Sri Lanka combat aircraft at around 6:10am, 500m from where people gathered to eat breakfast. About 20 people died in the attack. At around

³⁸⁷ <https://www.state.gov/documents/organization/131025.pdf>

6:45am another combat aircraft appeared. The source and his family hid in a bunker. While they were in it a bomb dropped directly on top of them. The witness's two-year-old son received burns and an eye injury and his four years old son received injuries to the head and arm. The witness's brother was killed along with the brother's wife and four children, aged nine, seven, four years old and 1.5 months. Altogether six people were killed and more than 60 injured. That area was attacked about eight times that day. There were no vehicles, cadres, or positions in the area. Around midnight the previous day the LTTE had moved some heavy weapons on the road, but they were 2km away.

March 19 - a local source in Valayanmadam reported that there were 36 deaths by LTTE rifle fire, and added "I saw some bodies. but can't take photos. This will affect me. This [casualty rate] is increasing."

March 20 - an HRW source near Mattalan reported shelling about 100m west of the port in Putumattalan, a heavily populated area. HRW later reported the incident in more detail, noting that a source at the makeshift hospital in Putumattalan said a shell hit a shelter about 200m from a church in Valayanmadam, killing five people and injuring nine. A local source also reported that seven people were admitted to the Mattalan hospital. One source was critically injured.

March 23 - HRW reported a phone conversation with a source at the makeshift hospital in Putumattalan, inside the Government-declared No Fire Zone, which was interrupted by shelling, audible over the phone. Later in the day, the source said that the hospital had received 14 corpses and 98 wounded persons that day. He told HRW that the shelling appeared to come from the direction of Government positions 3km to the west. An artillery shell had struck approximately 250m from the hospital, killing two civilians and wounding seven others. Another shell struck about a kilometer from the hospital, also killing and wounding civilians. Another HRW source near Mattalan reported shelling in Putumattalan and Mullivaikkal, and in Valayanmadam one hundred and forty-two people were injured, 16 died in the hospital, and many people were killed on the spot. An organization's source in Valayanmadam reported that 102 people were killed in shell attacks.

March 26 - an organization's source in Valayanmadam reported 38 deaths as of noon.

March 27 - an organization's source in Valayanmadam reported 61 deaths and 121 people injured in the No Fire Zone.

March 28 - an organization's source in Valayanmadam reported heavy shelling very close to this area of the No Fire Zone. Fifty-one people died, including an entire family of five.

April 4 - a foreign government received a witness report of an air strike on Valayanmadam, which injured the witness and her uncle and killed her aunt.

April 7 - an organization's source in Valayanmadam reported that SLA forces were all around them, and that shelling had increased.

April 12 - an organization's source in Valayanmadam reported shelling and RPG attacks as the Sri Lankan Army advanced, coming within 200m of the people.

April 13 - an organization's source in Valayanmadam reported shells and gunfire around his bunker. During the night there were also air attacks.

April 21 - an eyewitness who escaped the No Fire Zone reported to HRW that right after 12:30 pm he saw a Government drone doing reconnaissance over the Valayanmadam makeshift hospital. The people in the hospital suspected that an attack was imminent and lay down on the ground. Shortly thereafter they heard a loud explosion in the air followed by several smaller explosions on the ground. Some shells hit 1.5-2m away from the hospital. A doctor was killed by a shrapnel piece that hit him in the head. Four or five people were killed and more than 30 were wounded in the attack. According to the eyewitness, the LTTE had already moved its forces south to Mullivaikkal so there were no cadres or positions in the vicinity of the hospital. An Embassy Colombo source reported the deaths of medical staff and civilians when the facility was hit by artillery.

April 22 - an embassy Colombo source reported that at approximately 5:40am, a shell hit the roof of a small church packed with people on approximately 2 acres of property. Shrapnel exploding in every direction killing three people and injuring eight to nine. The witness sustained shrapnel wounds in his back. He believed the attack was committed by the LTTE.

April 22 - an Embassy Colombo source with sources in the No Fire Zone reported that artillery hit a research compound in the morning, injuring some of the residents. There was continuous heavy weapons fire in civilian areas in and surrounding his location in Valayanmadam. A foreign government with representation in Colombo received similar reports.

April 23 - an eyewitness reported to HRW an attack in Valayanmadam in which many shells were fired, with one hitting a church serving as living quarters for civilians. Ten people died and 30 were injured.

April 28 - an organization's local source reported SLA or SLN artillery fire as a civilian supply ship landed at 7:00am in the No Fire Zone. after 11:00am, there was an SLAF aerial attack between Mullivaikkal and Iraddayvaikkal near the seaside. The source reported that 29 corpses and 204 injured civilians were admitted to the Kilinochchi hospital. Sources in the No Fire Zone reported that one shell hit the primary health centre at Mullivaikkal Hospital, killing six patients. On the same day, the Ministry of Defence website reported that the 53 and 58th Divisions of the SLA were in the area of Mullivaikkal.

April 28-29 - Embassy Colombo reported that despite the Government's promise of 27 April to end its use of heavy weapons in the conflict, the Embassy continued to receive reports from multiple reliable sources with access to firsthand information of such firing continuing and causing civilian deaths and injuries in the Safe Zone.

April 30 - an organization cited reports from the Combat Zone which suggested continuous fighting and utilization of heavy weapons.