



# **APPALLING JOURNALISM**

## **Jon Snow and Channel 4 News on Sri Lanka**

Sri Lanka Media Watch, a project of Engage Sri Lanka

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## Appalling Journalism: Jon Snow and Channel 4 on Sri Lanka

In June 2011, Britain's Channel 4 News broadcast a programme entitled "Sri Lanka's Killing Fields", which made a number of allegations about the last few months of the war in Sri Lanka.<sup>1</sup> Jon Snow, the Channel's senior news presenter, claimed the programme was "a forensic investigation into the final weeks of the quarter-century-long civil war between the government of Sri Lanka and the secessionist rebels, the Tamil Tigers."<sup>2</sup> Channel 4 claimed that the government was responsible for the targeted shelling of civilians, extra-judicial executions of prisoners and the apparent rape, sexual assault and murder of female Tamil fighters, allegations said to be supported by "devastating new video evidence of war crimes – some of the most horrific footage Channel 4 has ever broadcast".<sup>3</sup> Channel 4 also claimed that the government was responsible all told for the deaths of as many as 40,000 civilians towards the end of the war.

Jon Snow went so far as to claim of the programme that "[o]nce or twice in a reporting lifetime, a journalist is allowed by events to participate in a project that can affect history. The film...is a painful and complex team achievement...which...pieced together an account of what happened in the closing weeks of Sri Lanka's civil war." He claimed that the government had been responsible for a number of war crimes and the programme presented "evidence required to convict". There is a name for those courts in which one person is the accuser, judge and jury: a kangaroo court. Channel 4's programme was the journalist equivalent of such a court.

The lapse in journalistic standards apparent in Channel 4's "Killing Fields" programme appalled fellow British journalists. The well-known British journalist A A Gill was particularly critical:

The channel has accumulated a large collection of samizdat amateur footage from mobile phones and video cameras – mostly unattributed and uncorroborated. It mixes this footage with comment from unnamed sources with distorted voices and shadowed faces. And human rights lawyers. It was brutal, it was shocking, but it wasn't journalism. Not a second of this has been shot by Channel 4; none of the eyewitness accounts comes from journalists.

Snow's commentary was intemperate and partisan, and it was all held together by assumptions. Channel 4 News has drifted from providing news broadcasts into being an outlet for nodding spokespeople and assorted NGOs and environmental pressure groups, or anyone who can provide interesting or sensational film. It follows the old American news adage, "If it bleeds, it leads".

Gill makes the very valid point that the people let down most by this programme are "the victims of this brutal war, who deserve a more measured professionalism and due diligence". He concluded:

It really was the most astonishing and misjudged editorial decision from a news broadcaster that has grown into the habit of poor judgment on almost everything...This documentary was a low point in a continuing slump.<sup>4</sup>

Snow's claims about "forensic" evidence ring very hollow. As this study will show, the reality is that "Sri Lanka's Killing Fields" was one of the worst examples of knee-jerk tabloid journalism to be screened on British television. It was an appalling lapse in journalistic standards and while Jon Snow may wish to believe it provides "evidence required to convict", Snow and Channel 4 should stick to tabloid journalism because they clearly make very poor lawyers. It might suffice for a back-slapping journalistic kangaroo court, but, in any court of law, the case presented by Channel 4, deeply questionable where not simply untrue, would be thrown out within a matter of minutes. Snow's main witness, presented as independent, was revealed to have been a LTTE member during the period in question. The basis of any "evidence" is simple facts: Channel 4's programme presents very few of them. Key figures presented by Channel 4 regarding the numbers of casualties, for example, have margins of error of several hundred percent. It is a matter of record that the LTTE had a particularly active propaganda machine, established within the Tamil diaspora. A western intelligence service has noted that "[t]he LTTE international propaganda war is conducted at an extremely sophisticated level".<sup>5</sup> It appears that Channel 4 accepted questionable material at

<sup>1</sup> "Sri Lanka's Killing Fields", Channel 4, 14 June 2011, available at <<http://www.channel4.com/programmes/sri-lankas-killing-fields/4od>>.

<sup>2</sup> *Ibid.*

<sup>3</sup> Jon Snow, "Sri Lanka's Killing Fields – a project that can affect history", Channel 4, 14 June 2011, available at <<http://blogs.channel4.com/snowblog/sri-lankas-killing-fields-project-affect-history/15457>>.

<sup>4</sup> A.A. Gill, "Judged", *The Sunday Times*, 20 June 2011.

<sup>5</sup> *Liberation Tigers of Tamil Eelam's (LTTE) International Organization and Operations - A Preliminary Analysis*, Commentary No 77, Canadian Security Intelligence Service, Ottawa, 1999, available at

face value without even the most basic of fact checking – elementary checks that a cub reporter would have done. It used unnamed and unidentifiable “witnesses” presented to them by this propaganda machine; it similarly accepted video and mobile phone film footage and LTTE narratives.

This critique of Channel 4’s appalling journalism will draw on the observations of Gordon Weiss, a former UN spokesman in Sri Lanka, and author of *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers*, a partisan view of the last few months of the war.<sup>6</sup> Weiss is a noted critic of the government. Snow’s assertions are based in large part on *The Cage*, and indeed Weiss is interviewed extensively in the programme, making eight separate appearances.

### **The background to conflict**

The Sri Lankan Civil War was a 26-year-long conflict fought between the government of Sri Lanka and the “Liberation Tigers of Tamil Eelam” (LTTE, also known as the “Tamil Tigers”), from 1983 until the defeat of the LTTE in May 2009.<sup>7</sup> The LTTE was a militant organisation, led by Velupillai Prabhakaran, which sought to establish an independent Tamil state, “Tamil Eelam”, in the north and the east of the island, separate from Sri Lanka’s Sinhalese majority. After several failed rounds of peace talks and the unsuccessful and bloody deployment of an Indian peace keeping force from 1987 to 1990, an internationally-mediated ceasefire agreement was signed in 2002. Hostilities flared up somewhat in late 2005. The then Prime Minister Mahinda Rajapaksa was elected as President of Sri Lanka in November 2005. Shortly afterwards, the LTTE withdrew from the Geneva and Oslo peace talks indefinitely. In April 2006, the LTTE tried to assassinate the commander of the Sri Lankan army. The LTTE then seized the Mavil Oya reservoir in the east of the country. Weiss notes that this was perhaps the final straw: “In July 2006, the Tigers seized the sluice gate of a reservoir in eastern Sri Lanka, cutting water to 15,000 villagers and thousands of hectares of rice paddy...the ‘Final War’...had begun.”<sup>8</sup> The army reasserted control and it was clear that the new Sri Lankan government decided that it would bring the LTTE’s hold on parts of Sri Lanka to an end and to do that the government had to reoccupy the territory controlled by the organisation.

Government action drove the LTTE out of the entire eastern province of Sri Lanka with remarkably few civilian casualties, and in 2007 the government launched an offensive in the north of the country. The government formally announced its withdrawal from the ceasefire agreement in early January 2008, claiming the LTTE had violated the agreement over 10,000 times.<sup>9</sup> Government forces gradually re-established control of the rest of LTTE-controlled areas, including their *de-facto* capital Kilinochchi and the main LTTE military base at Mullaitivu, in the Vanni region.<sup>10</sup> From late 2008 onwards, as their area of control shrank, the LTTE forced 300,000 Tamil civilians to accompany their fighters as human shields. By 25 April 2009, the area held by the LTTE, a shrinking pocket of land on the north-east coastline, was reduced to 10 square kilometres in size. The government declared several “No-fire Zones” to protect civilians. These zones were nevertheless caught up in the relentless fighting between government forces and the LTTE. A large number of civilians were killed or injured in crossfire between the combatants. The LTTE leader and virtually all of the organisation’s remaining leadership died in the last few days of the fighting, something perhaps unsurprising given the culture of suicide within the LTTE.<sup>11</sup> The LTTE admitted defeat on 17 May and when the conflict ended, the Sri Lankan government cited it as the only modern instance of an unambiguous defeat of terrorism. Following the military defeat of the LTTE, the previously pro-LTTE Tamil National Alliance dropped its demand for an independent Tamil state in favour of a federal solution.

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<<http://www.fas.org/irp/world/para/docs/com77e.htm>>.

<sup>6</sup> Gordon Weiss, *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers*, The Bodley Head, London, 2011.

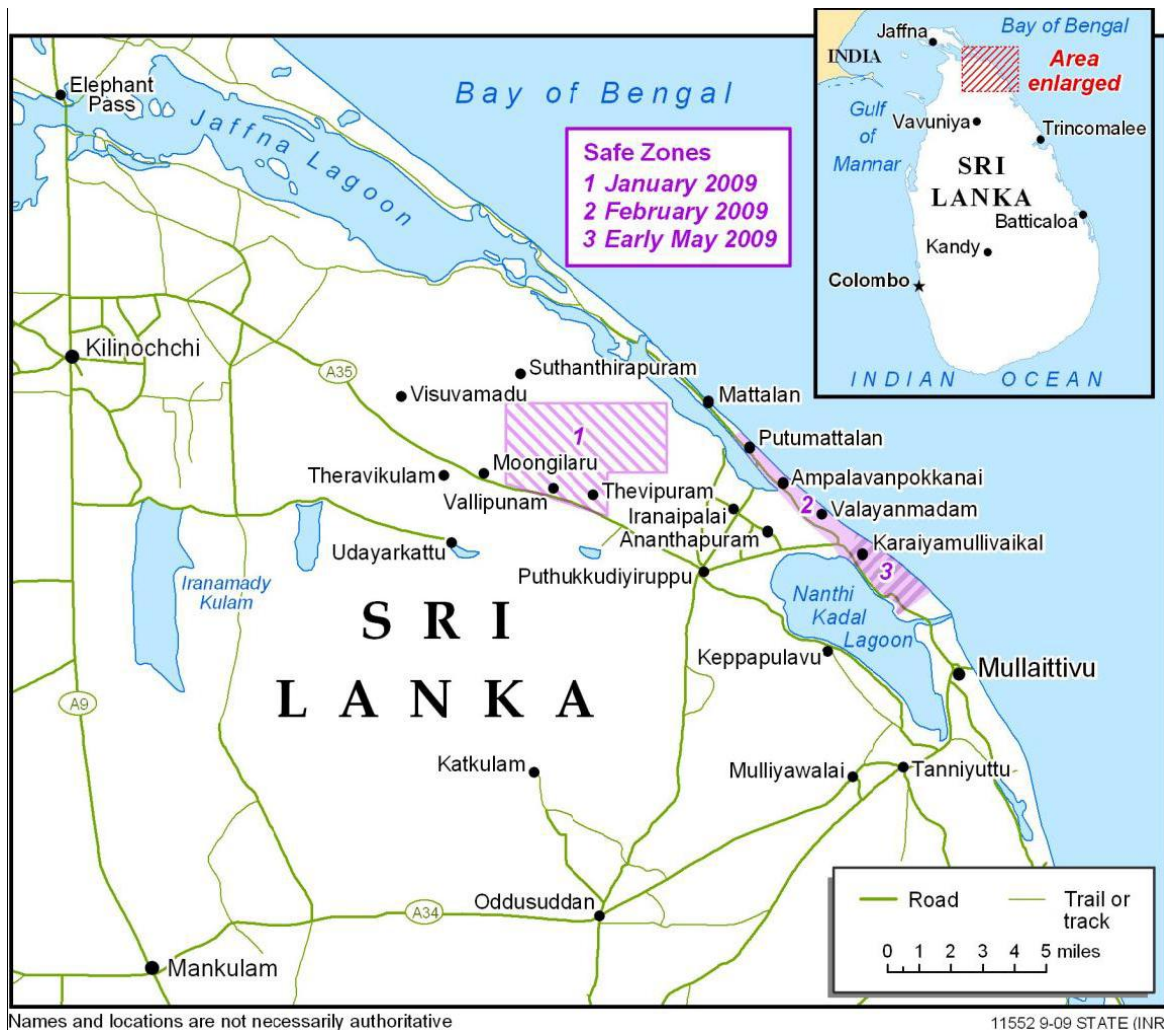
<sup>7</sup> For the government’s history of the final phase of the war, see *Humanitarian Operation Factual Analysis July 2006-May 2009*, Ministry of Defence, Democratic Socialist Republic of Sri Lanka, Colombo, July 2011, available at <[http://www.defence.lk/news/20110801\\_Conf.pdf](http://www.defence.lk/news/20110801_Conf.pdf)>.

<sup>8</sup> *Ibid.*, p.94.

<sup>9</sup> “Government takes policy decision to abrogate failed CFA”, Ministry of Defence, Democratic Socialist Republic of Sri Lanka, Colombo, 2 January 2008, available at <[http://www.defence.lk/new.asp?fname=20080102\\_12](http://www.defence.lk/new.asp?fname=20080102_12)>.

<sup>10</sup> The Vanni, also spelled Wannai, is in the northern part of Sri Lanka, and comprises parts of the districts of Kilinochchi (to the north), Mullaitivu (east), Mannar (west), and Vavuniya (south).

<sup>11</sup> LTTE recruits on graduation were issued with a cyanide tablet to take if the fighter might be captured. Suicide bombers were another feature of the LTTE’s culture of death. See, for example, “Female Tamil Tiger bomber kills 28 after hiding among civilians fleeing war”, *The Times*, 10 February 2009: “All their fighters in the field wear cyanide capsules around their necks to be taken in case of capture”, available at <<http://www.timesonline.co.uk/tol/news/world/asia/article5692956.ece>>.



Relevant locations within the Vanni

### Who were the LTTE?

Gordon Weiss presents observers with a stark picture of the LTTE and its “record of appalling violence”.<sup>12</sup> He records that the LTTE chief gave orders “to bomb buses full of women and children...murder monks and kill prisoners”<sup>13</sup>, and that “[t]hey hacked, bludgeoned, shot, burned and hanged civilians in a long series of massacres...Children were slaughtered alongside the elderly in dozens of small-scale incidents.”<sup>14</sup> The LTTE “planted bombs on trains, aircraft and buses...In 1987, a car bomb exploded in Colombo’s Pettah, killing 113 civilians. In 1996, four briefcase bombs exploded simultaneously on a train, killing sixty-four passengers and wounding more than 400 others. In 2006, a roadside blast killed sixty civilians on a bus in Kebithigollewa.”<sup>15</sup> Weiss also points out that between 1983 and May 2009: “there were around 200 individual Tiger attacks on civilian targets, in which between 3,700 and 4,100 civilians were killed.”<sup>16</sup> Weiss also notes that “This figure does not include the number of Tamils allegedly killed by the Tigers in the areas they controlled, nor the many hundreds of prisoners thought to have been killed in Tamil Tiger gulags. The University Teachers for Human Rights estimates that the latter figure is as high as 7,000.”<sup>17</sup> Weiss also confirms that the LTTE “systematised the use of suicide bombers...and child soldiers.”<sup>18</sup> In addition to killing and injuring Sri Lankan politicians from all ethnic communities, the LTTE also murdered the former Indian prime minister Rajiv Gandhi in 1991. The LTTE also engaged in a murderous and systematic policy of ethnic cleansing, seeking to depopulate Sinhalese and Muslim areas in the north and east of the country.

<sup>12</sup> Weiss, *op. cit.*, xxiv.

<sup>13</sup> *Ibid.*, p.2.

<sup>14</sup> *Ibid.*, p.80.

<sup>15</sup> *Ibid.*, pp.80-81.

<sup>16</sup> *Ibid.*, p.81.

<sup>17</sup> *Ibid.*, p.299.

<sup>18</sup> *Ibid.*, xxii.

This just skims the surface of the LTTE's involvement in terrorism. The *Economist* noted that "The Tigers were as vicious and totalitarian a bunch of thugs as ever adopted terrorism as a national-liberation strategy."<sup>19</sup> Weiss observed that: "Undoubtedly, the world is a better place without the Tamil Tigers."<sup>20</sup>

Given the LTTE's unambiguous use of terrorism, thirty-two countries listed it as a terrorist organisation. The United States designated the LTTE as a Foreign Terrorist Organization in October 1997: it was named as a "Specially Designated Global Terrorist movement" on 2 November 2001. The European Union listed the LTTE as a terrorist organisation on 17 May 2006. In 2006, the United Kingdom listed the LTTE as a proscribed terrorist group under the Terrorism Act 2000. Canada has since 2006 listed the movement as a terrorist group, and does not grant residency to LTTE members on the grounds that they have participated in crimes against humanity. India listed the LTTE as a terrorist organisation in 1992.

Interestingly, not once did Snow refer to the LTTE as a terrorist organisation or that it was listed as one. He preferred the term "army". It is also worth pointing out that despite a statutory obligation to be balanced and fair, in Channel 4's 50 minute-long programme LTTE human rights abuses, of which were was ample evidence during the events supposedly being reported upon, received 49 seconds of air time.

It should also be mentioned that "Sri Lanka's Killing Fields", Channel 4's choice of title for the programme, was in and of itself questionable.<sup>21</sup> The "killing fields" conjures up imagery of the Cambodia genocide and all that that implies. It is a particularly skewed comparison for several reasons. Given that the programme's focus is almost exclusively on the Sri Lankan government, the implication quite simply is that the government is party to genocidal mass murder. Either Channel 4's researchers have a poor grip on history or sought to be deliberately gratuitous in their choice of title. Any student of the political history of that part of Asia will know that the title far more aptly applies to the LTTE.<sup>22</sup> The Khmer Rouge was an ultra left-wing insurgency in Cambodia in the 1970s: the LTTE has been seen as embracing a far-left ideology, with links to North Korea.<sup>23</sup> Both groups were documented as having killed thousands of civilians in acts of terrorism. Both the LTTE and Khmer Rouge have driven civilian populations out of urban areas under their control for strategic or ideological reasons: both murdered any civilians trying to escape from their areas. The LTTE shares the Khmer Rouge's reputation for ruthlessness and brutality. Both groups ruthlessly murdered any moderate political rivals. Both groups used child soldiers extensively. Both were led by dictatorial personalities. The 'New York Times' was considerably more objective than Channel 4 when in an article headlined "A Sri Lankan Evokes Pol Pot; Asia's Latest Master of Terror", the newspaper noted that the LTTE leader Prabhakaran had "shown a bloodthirstiness in dealing with opponents that has been compared with some of the cruelest figures in recent Asian history, including Pol Pot of Cambodia".<sup>24</sup>

### Facts and the last weeks of the Sri Lankan civil war

The virtual impossibility of establishing what happened during the last few weeks of the war was made clear by Ravi Nessman, the Associated Press Colombo bureau chief from 2007-2009. He reported from Sri Lanka during the final few months of the war. In February 2009 he gave a very clear picture of the insurmountable difficulties of reporting what was happening during this period: "This is a very difficult story to cover as a journalist. The war zone is a black hole...We can't get up there, and the information is so scattered that we're getting...We have absolutely no idea."<sup>25</sup> Gordon Weiss confirms this reality: "According to international journalists, Sri Lanka was notorious as one of the toughest wars on which to report."<sup>26</sup> He cited a veteran

<sup>19</sup> "Truth and consequences. Nationalistic fury is good for the government, terrible for Sri Lanka", *The Economist*, 28 April 2011, available at <[http://www.economist.com/node/18620572?fsrc=nl%7Cwwp%7C04-28-11%7Cpolitics\\_this\\_week](http://www.economist.com/node/18620572?fsrc=nl%7Cwwp%7C04-28-11%7Cpolitics_this_week)>.

<sup>20</sup> Gordon Weiss, "Tiger Blood", *Foreign Policy*, 26 April 2011, available at <[http://www.foreignpolicy.com/articles/2011/04/26/tiger\\_blood](http://www.foreignpolicy.com/articles/2011/04/26/tiger_blood)>.

<sup>21</sup> The image that comes most to mind from Channel 4's title, is the Oscar-winning 1984 film, "The Killing Fields". Ironically, this film is about a civilian who escapes from a murderous revolutionary movement, the Khmer Rouge, in Cambodia, that dictated every aspect of life for those civilians under its control and ruthlessly killed anyone trying to escape from it. The comparison with the LTTE and its brutal control of civilians – up to and including killing those who sought to escape the Vanni pocket – is clear.

<sup>22</sup> See, for example, "Cambodia's brutal Khmer Rouge regime", BBC News, 19 September 2007, available at <<http://news.bbc.co.uk/1/hi/world/asia-pacific/7002629.stm>>. For more on the Khmer Rouge, see, Elizabeth Becker, *When the War Was over: Cambodia and the Khmer Rouge Revolution*, Public Affairs, New York, 1998; Nayan Chanda, *Brother Enemy: The War After the War*, Collier, New York, 1986; David P. Chandler, *A History of Cambodia*, Westview Press, 2000; David P. Chandler, *Brother Number One: A Political Biography*, Westview Press, 1999; David P. Chandler, *Facing the Cambodian past: Selected essays, 1971–1994*, Silkworm Books, 1996; David P. Chandler, Ben Kiernan *et al*, *Revolution and Its Aftermath in Kampuchea: Eight Essays*, Yale University Press, 1983; Ben Kiernan, *The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975–79*; Ben Kiernan, *How Pol Pot Came to Power: Colonialism, Nationalism, and Communism in Cambodia, 1930–1975*, Yale University Press, Second Edition 2004.

<sup>23</sup> "North Korea may have aided Hezbollah, LTTE – U.S. report", Reuters, 13 December 2007.

<sup>24</sup> "A Sri Lankan Evokes Pol Pot; Asia's Latest Master of Terror", *The New York Times*, 28 May 1995.

<sup>25</sup> Interview with Ravi Nessman, the Associated Press Colombo bureau chief from 2007-2009. Aired on PBS stations on 18 February 2009, available at <[http://transcurrents.com/tc/2009/02/kohona\\_says\\_its\\_best\\_for\\_mia\\_t.html](http://transcurrents.com/tc/2009/02/kohona_says_its_best_for_mia_t.html)>.

<sup>26</sup> Weiss, *op. cit.*, p.98.

foreign reporter as stating that verifiable information was “as rare as hen’s teeth”.<sup>27</sup> Weiss also noted “the absence of the independent media” in the area concerned.<sup>28</sup>

In addition to the virtually insurmountable difficulties in ascertaining simple facts, it is also clear that the claims of what happened in the last few weeks were permeated then as now with ruthless propaganda, disinformation and deception. Weiss has placed on record that the LTTE ran “[a]n efficient propaganda and political operation...in dozens of countries amongst the million-strong Tamil diaspora”.<sup>29</sup> This external LTTE and pro-LTTE propaganda machine has continued to exist after the total defeat of the organisation inside Sri Lanka in May 2009.

It is against this backdrop that two years after the end of the war that Channel 4 produced “Sri Lanka’s Killing Fields”, claiming to have established the absolute truth of what had happened.

#### **Channel 4’s central witness: Vany Kumar**

Simply put, the biggest difficulty in trying to ascertain what really happened in the last few months of the conflict was the absence of independent witnesses. Where Channel 4 made their biggest professional transgression was in their choice of their “independent witness” – Vany Kumar. Interestingly, their witness goes by at least four other names, Dr Tamilvani, Damilvany Kumar and Damilvany Gananakumar. Vany Kumar had previously appeared in a September 2009 Channel 4 News interview, on that occasion she was introduced by Channel 4 as Damilvany Gnanakumar.



**The Channel 4 witness known as Damilvany Kumar, Damilvany Gananakumar, Vany Kumar, Damilvany Gnanakumar and Dr Tamilvani**

At the end of the September 2009 interview Channel 4 stated that “We are unable to vouch for the independence of her testimony.”<sup>30</sup> Nevertheless, they then gave Vany Kumar a central role in their programme without any such disclaimer. At the same time the questions about Ms Kumar have not lessened – they have increased. She appears in the programme on ten separate occasions. Introduced now as “Vany Kumar”, she was described by Jon Snow as a “young English Tamil woman who had left London to spend 6 months with relatives in Sri Lanka.” She was said to have been “a biomedical technician” in England who “found herself caught up with tens of thousands of displaced Tamil civilians on the exodus eastwards”.

<sup>27</sup> *Ibid.*, p.98.

<sup>28</sup> *Ibid.*, p.104.

<sup>29</sup> *Ibid.*, p.9.

<sup>30</sup> “Channel4: Interview with an UK Tamil medic (Damilvani Gnanakumar) who escaped war in Sri Lanka”, available at <[http://www.youtube.com/watch?v=WYIHuMoWAM4&feature=player\\_embedded](http://www.youtube.com/watch?v=WYIHuMoWAM4&feature=player_embedded)>.

Kumar was born in Sri Lanka in 1984 and her family moved to Britain in 1994. The *Guardian* states that she returned to Sri Lanka for the first time since then on 28 February 2009. The *Guardian* noted that on arrival “she headed for Vanni, the Tamil heartland”. Channel 4 claimed she went to visit her family; the *Guardian* contradicts this. It stated that she claimed he went to “stay with a relative she calls her brother”.<sup>31</sup> The *Guardian* points out that this was not actually her brother, who together with her sisters was back in England. Despite Channel 4’s claim that she had gone to be with family she had not disclosed her whereabouts to even her close relatives. Her family admitted that, until they saw her on a Tamil television programme working in a hospital in May 2009, “We had not heard anything from her until then, we didn’t know whether she was still alive, whether something had happened to her.” If she had gone to Sri Lanka to visit family, as claimed by Jon Snow, then surely she or the relatives she was allegedly visiting would have been in touch with her family in England. As we will subsequently see, when she did make telephone calls to Britain, it was not to her family but to the British media calling for international intervention.

Kumar’s secretive behaviour was soon explained. It subsequently emerged that Kumar had been an active member of the London Branch of the Tamil Youth Organization, an organisation closely associated with the LTTE. When she reached Vanni, she made contact with the LTTE. She received military training under the leadership of Durga, the female leader of LTTE’s Soydyia Regiment. After training she spent time as a translator and coordinating LTTE foreign media and propaganda work from the Vanni. She was then placed as an assistant with Dr Weerakathipillai Shanmugarajah, a medical doctor at the Jaffna Teaching hospital and Mullaitivu district hospital, during the last stages of fighting in Vanni, where she continued to be tasked with propaganda work. The *Guardian* reveals that Kumar provided “a running commentary to the outside world from behind the lines”.<sup>32</sup>

Kumar’s independence is central to her credibility as a witness. Her loyalty to the LTTE is very clear. For example, she categorically denied seeing any LTTE abuse of the civilians under their control. Gordon Weiss describes LTTE behaviour in the same, shrinking area in which Kumar was also present:

Disturbingly, it became increasingly clear from reports emerging from the combat area that the Tamil Tigers were...exercising a brand of ruthless terror on their own people that defies imagination. As the combat area shrank and their desperation increased, their brutality increased exponentially. They would shoot, execute and beat to death many hundreds of people, ensure the deaths of thousands of teenagers by press-ganging them into the front lines, and kill those children and their parents who resisted.<sup>33</sup>

Weiss notes that the LTTE shelled their own civilians and hospitals.<sup>34</sup> He also notes that the LTTE “shot many hundreds who tried to cross to the safety of government lines”.<sup>35</sup> In one instance alone, University Teachers for Human Rights reported that on 14 May, the LTTE killed 500 civilians near a palmyra palm nursery near Nanthikadal Lagoon as they tried to cross to the other side or to Vattuvakkal to the south.<sup>36</sup> There were dozens of other examples. The evidence of these LTTE atrocities, in the shape of corpses, would have been staring Vany Kumar in the face. Loyal to the end to the LTTE, Kumar states she saw none of this: “[The LTTE] don’t want to kill their own people, they were fighting for them, they worked so hard to save their people”. Unsurprisingly, she also denied any LTTE shelling of civilians. She has categorically and repeatedly denied that the LTTE had used civilians as human shields.<sup>37</sup> She has stated: “I don’t believe this is the case.” Against all evidence to the contrary by every reputable human rights organisation and several governments Kumar insisted that there were no human shields: “[p]eople chose to stay...Nobody wanted to run away. It wasn’t like the LTTE kept them. The people chose to stay.”<sup>38</sup> Kumar has also gone on record to claim that “the international community has intentionally let the Tamil civilians die and they continue to make them suffer.”<sup>39</sup> Unsurprisingly, Kumar also claims that in the last five days about 20,000 people died in the zone.<sup>40</sup>

This then was the impartial witness presented by Channel 4.

<sup>31</sup> “As the shells fell, we tried to save lives with no blood or medicine”, *The Guardian*, 15 September 2009, available at <<http://www.guardian.co.uk/world/2009/sep/15/sri-lanka-war-on-tamil-tigers>>.

<sup>32</sup> *Ibid.*

<sup>33</sup> Weiss, *op. cit.*, pp. 141-42.

<sup>34</sup> *Ibid.*, p.109 and p.220.

<sup>35</sup> *Ibid.*, p.96.

<sup>36</sup> “Let Them Speak: Truth about Sri Lanka’s Victims of War”, University Teachers for Human Rights (Jaffna), Sri Lanka, Special Report No. 34, 13 December 2009.

<sup>37</sup> “Channel4: Interview with an UK Tamil medic (Damilvani Gnanakumar) who escaped war in Sri Lanka”, available at <[http://www.youtube.com/watch?v=WYIHuMoWAM4&feature=player\\_embedded](http://www.youtube.com/watch?v=WYIHuMoWAM4&feature=player_embedded)>.

<sup>38</sup> “Interview with Dr. Tamilvani: Eye witness to Bloodbath on Mullivaikal Beach 1 of 3”, Uploaded by lovetamileelam, 29 August 2011, available at <<http://www.youtube.com/watch?v=pf84CILEFRc>>.

<sup>39</sup> “Interview with Dr. Tamilvani: Eye witness to Bloodbath on Mullivaikal Beach 3 of 3”, Uploaded by lovetamileelam, 29 August 2011, available at <<http://www.youtube.com/watch?v=J4Q4d2ZBtDc&feature=related>>.

<sup>40</sup> *Ibid.*



Kumar's obvious allegiance to the LTTE aside, her testimony is itself simply unreliable. Her story about the final weeks changed in crucial respects. In the Channel 4 programme she dramatically claimed to have watched a six-year-old boy have his leg and arm amputated *without* anaesthetics. In an earlier *Guardian* article, however, she stated that when the anaesthetics ran short, they *diluted them* with distilled water.<sup>41</sup> (Emphasis added.) In any instance, Dr Shanmugarajah, the Tamil doctor she claimed had carried out the anaesthetics-free amputation, said that Kumar had lied: "We did not conduct any sort of surgery without giving anaesthetics. No such thing happened. Anaesthesia was used for over 95% of the surgeries that were conducted while the rest were minor surgeries. If amputation was necessary we indeed used anaesthetics...If we hadn't used anaesthetics for major surgeries, people could have died."<sup>42</sup> Her testimony changes in another key claim. In the Channel 4 programme, Kumar claims to have watched staff at the hospital having to filter blood coming out of the patients through a cloth before feeding it back into their veins. In the *Guardian* article referred to above, however, she claimed to have done this herself.<sup>43</sup>

Having apparently been ignorant of Vany Kumar's clear LTTE links and military training, Channel 4 was also seemingly unaware that another of their alleged "civilians", Issipriya, said to have been a Tamil TV presenter on a LTTE station, was a fully-trained LTTE cadre. For a "non-combatant" there are a surprising number of pictures of her in military uniform.<sup>44</sup> What was said to have been her dead body was then shown later in the programme with the obvious inference that government forces may have killed a civilian.



The "civilian" television presenter Issipriya in her military uniform

One difficulty for Channel 4, however, is that the female body said by Channel 4 News in "Sri Lanka's Killing Fields", in June 2011 at minute 38:30 of the programme, to be that of Issipriya is seemingly not the same body also claimed by Channel 4 to be that of Issipriya on its news item of 30 November 2010.<sup>45</sup>

<sup>41</sup> "As the shells fell, we tried to save lives with no blood or medicine", *op. cit.*

<sup>42</sup> "Lies Agreed Upon", Ministry of Defence, Democratic Socialist Republic of Sri Lanka, Colombo, available at "Lies Agreed Upon: Sri Lanka counters Channel 4 (Full Video)", Uploaded by gihangamos on 1 August 2011 available at <<http://www.youtube.com/watch?v=z5O1JAfRXew>>.

<sup>43</sup> "As the shells fell, we tried to save lives with no blood or medicine", *op. cit.*

<sup>44</sup> See, for example, News of AP, "LTTE journalist, Isaipriya, brutally murdered by Sri Lankan army", <<http://www.newsofap.com/newsofap-29718-37-ltte-journalist-isaipriya-brutally-murdered-by-sri-lankan-army.html>>. See, also, "Issipriya not just an innocent civilian as portrayed by the Channel 4", *Asian Tribune*, 20 June 2011, available at <<http://gtkisar.blogspot.com/2011/06/issipriya-not-just-innocent-civilian-as.html>>.

<sup>45</sup> "Sri Lanka 'war crimes' video: woman's body identified", Channel 4 News, 8 December 2010, available at <<http://www.channel4.com/news/sri-lanka-war-crimes-video-womans-body-identified>>."

Leaving the evidentiary quandary regarding identification aside, and despite the inference in the 2011 programme that she was executed by government forces, Channel 4 had a different spin on events in its 2010 news item, noting that “it is unclear how she died”. Keen to preserve the sensationalist value of Issipriya being a non-combatant, in its 2010 news item Channel 4 once again reported at face value claims by an unidentified LTTE “colleague” of Issipriya that because of a “heart” condition “[s]he never carried a gun and her physical condition did not permit her to go to the battlefield.” Channel 4 overlooked the obvious. Even if that questionable and self-serving assertion was true, the battlefield quite simply came to her and there is no doubt that she would have been expected to fight. The LTTE were desperately throwing every possible fighter into the battles against government forces in the final days in May 2009. They were forcibly conscripting children and sending them into combat with just a few hours’ military training. A *Guardian* article made it very clear that all trained LTTE cadres were thrown into the fighting. It quoted a female LTTE member: “Many cadres had been killed or injured...so the administration staff were sent to the front line.”<sup>46</sup> The vast majority of committed LTTE cadres – of which Issipriya was a senior member – either died fighting or killed themselves with their cyanide tablets, bullets or grenades.<sup>47</sup>

### The UN office demonstration

The programme got off to a bad start. In September 2008, as its offensive progressed, the government issued a statement noting that they were “unable to guarantee the safety” of UN staff inside LTTE-controlled territory.<sup>48</sup> The UN decided to evacuate its staff from Kilinochchi. Channel 4 reported that “crowds of frightened Tamil civilians besieged the UN base” on 15 September 2008. The reality is that this demonstration was orchestrated by the LTTE. Even Weiss admits that it was “spurred on by the Tiger authorities”.<sup>49</sup> Thangarasa, the head of the Kilinochchi Laundrymen Association, stated that they were told to attend the demonstration: “All the associations were run by the LTTE and we had to do whatever we were instructed by the LTTE. If we do not obey we will have to stop doing our business.” Sinnathurai, the head of the Barbers’ Association, stated that when LTTE officials said come to a protest “we have to do so, whether we like it or not”.<sup>50</sup>

Had they reported on a Gaddafi government-orchestrated demonstration in Libya, Channel 4 News – and most if not all other western media channels – would have added a “health warning” that the demonstration had been government organised. In this case Channel 4 reported the demonstration as spontaneous. It was either unaware of the fact that it was stage-managed or it chose not to mention it. It was a micro example of Channel 4’s systemic indifference to detail that was to irretrievably flaw the rest of the programme.

### The displacement of Tamil civilians

It is clear that stage-managed demonstrations were not the only thing Channel 4 failed to notice. The Channel 4 programme is set against the story of the 300,000 Tamil civilians who found themselves in the crossfire between government and LTTE forces, all within a gradually decreasing area of north-east Sri Lanka, ultimately no bigger than New York’s central park. How did they get there in the first place? Human Rights Watch provides an unambiguous answer:

*Retreating from Sri Lankan Army (SLA) advances, the LTTE has forcibly taken along all civilians under its control. As the territory held by the LTTE has shrunk—now a short, narrow strip on the northeast coast of the island—the civilian population has been dangerously forced into a smaller and smaller space. In violation of the laws of war, the LTTE has refused to allow civilians to flee the fighting, repeatedly fired on those trying to reach government held territory, and deployed forces near densely populated areas. The civilians who remain under LTTE control, including children, are subject to forced recruitment into LTTE forces and hazardous forced labor on the battlefield.*<sup>51</sup> (Emphasis added.)

Channel 4 presents a different and somewhat more self-serving explanation. Jon Snow claims, for example, that hundreds of thousands of Tamil civilians were instead “driven from their homes by government forces who appeared to see all Tamil civilians as virtually indistinguishable from the fighters of the Tamil Tigers”. Both assertions are untrue. Firstly, Human Rights Watch makes clear that it was the LTTE that deliberately forced the displacement. Secondly, Channel 4’s own witness, Gordon Weiss, contradicts the Channel 4

<sup>46</sup> ““Two of us fled. 75 other women killed themselves with grenades”, *The Observer*, 12 April 2009, available at <<http://www.guardian.co.uk/world/2009/apr/12/sri-lanka-female-tamil-tigers>>.

<sup>47</sup> See, for example, “300 LTTE cadres may have committed mass suicide”, *Daily News & Analysis*, 17 May 2009, available at <[http://www.dnaindia.com/world/report\\_300-ltte-cadres-may-have-committed-mass-suicide\\_1256631](http://www.dnaindia.com/world/report_300-ltte-cadres-may-have-committed-mass-suicide_1256631)>.

<sup>48</sup> Weiss, *op. cit.*, p. 103.

<sup>49</sup> *Ibid.*

<sup>50</sup> “Lies Agreed Upon”, *op. cit.*

<sup>51</sup> *War on the Displaced. Sri Lankan Army and LTTE Abuses against Civilians in the Vanni*, Human Rights Watch, New York, February 2009.

narrative regarding the army's deliberate lumping together of fighters and civilians, noting that even when Sri Lankan soldiers were engaged in close-combat fighting they were "trying to distinguish Tiger fighters from civilians...Thousands of people streamed across the lagoon to the safety of army lines as soldiers urged them on. Tiger cadres fired at both soldiers and civilians."<sup>52</sup> Snow then further claims that following the fall of Kilinochchi "tens of thousands of displaced Tamil civilians" began an "exodus eastwards. They had nowhere to go, they just knew they had to leave." Both Vany Kumar and Snow seem to be in denial regarding the actions and behaviour of the LTTE. Regarding the massive forced displacement of civilians that is at the heart of the tragedies that would subsequently unfold, Snow is either amazingly naive or simply disingenuous, in any instance deeply unprofessional.

Even if Jon Snow or Channel 4 News somehow managed to miss or chose to ignore the enforced displacement of Tamil civilians, better journalists and human rights groups did not. They reported that 300,000 civilians within the LTTE-controlled area had been forced to accompany the LTTE in its retreat to the coast. On 28 January 2009, for example, Human Rights Watch reported that "[t]he LTTE has long prevented civilians under its control from fleeing to government-held areas. As the LTTE...retreated into its stronghold in the northern Vanni area since the start of a Sri Lankan army offensive in October 2008, the rebel group...forced civilians deeper into territory they control...Altogether, an estimated 250,000 civilians are now trapped in the small part of Mullaitivu district that remains under LTTE control."<sup>53</sup> Amnesty International also confirmed that "As the Tigers have lost territory, they have forced thousands of Tamil civilians to move with them."<sup>54</sup> (Emphasis added.) In February 2009, the BBC noted that UN "says there are credible reports to suggest that the Tamil Tigers are preventing civilians from leaving and a number of those trying to get away are being shot at and in some cases killed."<sup>55</sup> In April, the British and French governments noted that "[i]t is clear that the LTTE...have been forcefully preventing civilians from leaving the conflict area and we deplore their determination to use civilians as a human shield."<sup>56</sup> Later that month, the *Economist* reported that "at least 60,000 more [civilians] (and perhaps twice that number) remain as hostages of the Tigers."<sup>57</sup> In early May, Amnesty International stated: "At this point, an estimated 50,000 civilians are still being held as human shields by the Tigers in a small coastal strip in northeastern Sri Lanka, surrounded by the Sri Lankan army on three sides."<sup>58</sup> Human Rights Watch made it clear at the time that "LTTE forces are increasingly deployed near civilians in violation of the laws of war...it is considered to be 'human shielding,' which is a war crime."<sup>59</sup>

A central claim by Channel 4 was shown to be untrue. The fact is that it was the LTTE – and not the army – that forced hundreds of thousands of Tamil civilians from their homes. Human Rights Watch, Amnesty International, *The Economist* and the BBC confirmed as much. Weiss provides the reason for this forced displacement, something which is central to the events in the last few weeks of the conflict:

[T]he presence of civilians served multiple purposes for the Tiger command. Primarily a civilian population was a buffer against an all-out assault by the army. Too many pictures of dead children transmitted around the world would attract outrage, and might limit the political resolve of the government's coalition and weaken its support from foreign governments.<sup>60</sup>

Had Channel 4 News done anything more than superficial research into the conflict, or were even interested, they would have realised that this was not the first time the LTTE had forced a civilian population to

<sup>52</sup> Weiss, *op. cit.*, p.211.

<sup>53</sup> "Sri Lanka: Urgent Action Needed to Prevent Civilian Deaths", Human Rights Watch, New York, 28 January 2009, available at <<http://www.unhcr.org/refworld/docid/498178afc.html>>.

<sup>54</sup> "Shocking video from Sri Lankan camp for displaced civilians", Amnesty International USA, 7 May 2009, available at <<http://blog.amnestyusa.org/iar/shocking-video-from-sri-lankan-camp-for-displaced-civilians/>>.

<sup>55</sup> "Tamil Tigers 'target civilians'", BBC News, 16 February 2009, available at <<http://news.bbc.co.uk/1/hi/7893201.stm>>.

<sup>56</sup> "Britain accuses Tamil Tigers of using civilians as human shields. David Miliband, the Foreign Secretary, and his French counterpart said that Tamil Tiger rebels in Sri Lanka were using civilians as human shields, which was preventing them from leaving the conflict zone", *The Daily Telegraph*, 16 April 2009, available at <<http://www.telegraph.co.uk/news/worldnews/asia/srilanka/5161118/Britain-accuses-Tamil-Tigers-of-using-civilians-as-human-shields.html>>.

<sup>57</sup> "Civilians escape the Tigers. Sri Lanka's army enters the last redoubt of the Tamil Tigers", *The Economist*, 20 April 2009, available at <<http://www.economist.com/node/13522269>>.

<sup>58</sup> "Shocking video from Sri Lankan camp for displaced civilians", Amnesty International USA, 7 May 2009, available at <<http://blog.amnestyusa.org/iar/shocking-video-from-sri-lankan-camp-for-displaced-civilians/>>.

<sup>59</sup> *War on the Displaced. Sri Lankan Army and LTTE Abuses against Civilians in the Vanni*, Human Rights Watch, New York, February 2009. For a detailed analysis by Human Rights Watch of the development of LTTE restrictions imposed on civilians in the Vanni, see *Sri Lanka – Trapped and Mistreated: LTTE Abuses against Civilians in the Vanni*, Human Rights Watch, New York, 15 December 2008, available at <<http://www.hrw.org/en/reports/2008/12/15/trapped-and-mistreated-0>>, and *Besieged, Displaced and Detained: The Plight of Civilians in Sri Lanka's Vanni Region*, Human Rights Watch, New York, December 2008, available at <<http://www.hrw.org/en/reports/2008/12/22/besieged-displaced-and-detained>>.

<sup>60</sup> Weiss, *op. cit.*, p.108.

accompany them as the organisation retreated in the face of an army offensive. Weiss records that: “In April 1996, a massive army offensive forced the Tamil Tigers to withdraw from Jaffna. They retreated into the jungle and villages of the Vanni to the south, along with between 300,000 and 400,000 civilians who in just a few hours were intimidated into leaving their houses, jobs and villages.”<sup>61</sup> Channel 4 appears to have ignored the clear fact that the LTTE were party to a pattern of intimidation and forced displacement. It would have contradicted their narrative.

Weiss also documented the LTTE’s attitude towards Tamil civilians: “The safety of civilians always came a distant second to their political and military objectives.”<sup>62</sup>

### The number of people displaced

Far from providing definitive, factual, forensic “evidence”, the Channel 4 programme is surprisingly erratic in providing figures for the number of displaced civilians – figures that are crucial given the subsequent claims made in the programme. Jon Snow first claims that between 300,000-400,000 civilians were involved. He then states that “By the end of January 2009, the remaining Tamil Tigers and as many as 400,000 civilians were now trapped by Sri Lankan government forces.” The 400,000 figure is cited a second time. Channel 4 was itself party therefore to a 25 percent margin of error in its own figures. In December 2008, Human Rights Watch put the number of civilians in the Vanni at “between 230,000 and 300,000 civilians”.<sup>63</sup> At the end of January 2009, the BBC reported that “[t]here are thought to be about 250,000 civilians in the area in which the rebels are still operating.”<sup>64</sup> *Time* reported in early February that there were as many as 250,000 civilians in the Vanni.<sup>65</sup> In February 2009, Human Rights Watch put the number of civilians at “more than 200,000”.<sup>66</sup> In February 2009 the UN World Food Program estimated the number to be 250,000.<sup>67</sup> In March, the US government put the number of civilians at 120,000-150,000.<sup>68</sup> The Consortium of Humanitarian Agencies put the number at between 75,000 and 150,000. The UN Resident Coordinator estimated the number to be between 120,000 and 180,000. Along with the BBC and others, the government initially thought there were fewer civilians in the area than was the case: it accepted that about 300,000 civilians were being held by the LTTE.<sup>69</sup>

Channel 4’s cavalier approach to facts and figures regarding the number of people displaced by the LTTE manifested itself at all levels. Having claimed that between 300,000-400,000 civilians were initially displaced, it then reduced this figure to a quarter of a million internally displaced people at the end of the war. This was again inaccurate. Amnesty International stated, for example, that there were 300,000 IDPs following the conflict.<sup>70</sup> The number of officially registered displaced civilians at the end of the crisis was 294,000.<sup>71</sup> In this instance, Channel 4 was only 50,000 people out in their estimate.

Weiss’s estimates also change significantly. In January 2009, Weiss claims that there were 330,000 civilians in the zone.<sup>72</sup> One month later it changes to a claim that “[a]bout 300,000 civilians, plus the Tamil Tiger forces, were trapped.”<sup>73</sup> He does admit however that “Despite satellite pictures...the true numbers of people trapped inside the Cage remained uncertain. For this reason alone, nobody would ever know how many were killed in the attempt to ‘rescue’ them.”<sup>74</sup> Given that Weiss subsequently claims in *The Cage* that 10,000 – 40,000 of the 300,000 civilians died, it is difficult to balance this figure with the fact that 294,000 of these civilians were subsequently registered as IDPs at the end of the crisis.

<sup>61</sup> *Ibid.*, p.84.

<sup>62</sup> *Ibid.*, p.114.

<sup>63</sup> *Trapped and Mistreated: LTTE Abuses against Civilians in the Vanni*, *op. cit.*

<sup>64</sup> “‘Civilians die’ in S Lanka battle”, BBC News, 26 January 2009, available at <[http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south\\_asia/7850603.stm](http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south_asia/7850603.stm)>.

<sup>65</sup> “How Sri Lanka Tamed Its Tigers”, *Time*, 3 February 2009.

<sup>66</sup> *War on the Displaced. Sri Lankan Army and LTTE Abuses against Civilians in the Vanni*, *op. cit.*

<sup>67</sup> “Sri Lanka: 250,000 People in War Zone Need Food”, World Food Program, 6 February 2009, available at <<http://www.wfp.org/stories/sri-lanka-vanni>>.

<sup>68</sup> “Subject: A suggestion for getting many of Sri Lanka’s civilians out of the conflict zone”, US Government cable, 19 March 2011, available at <<http://www.aftenposten.no/spesial/wikileaksdokumenter/article4109483.ece>>.

<sup>69</sup> “Lies Agreed Upon”, *op. cit.*

<sup>70</sup> “Sri Lanka: Unlock the Camps in Sri Lanka: Safety and dignity for the displaced now”, Amnesty International, New York, ASA 37/016/2009, 10 August 2009, available at <<http://www.amnesty.org/en/library/info/ASA37/016/2009/en>>.

<sup>71</sup> See, “Sri Lanka: Resettlement of IDPs and challenging road to peace and economic recovery”, *Asian Tribune*, 14 April 2011, available at <<http://www.asiantribune.com/news/2010/04/14/sri-lanka-resettlement-idps-and-challenging-road-peace-and-economic-recovery>>.

<sup>72</sup> Weiss, “Tiger Blood”, *op. cit.*

<sup>73</sup> “Sri Lanka massacred up to 40,000 Tamil civilians – former UN official”, TamilNet, 12 February 2010, available at <<http://tamilnet.com/art.html?catid=13&artid=31186>>.

<sup>74</sup> Weiss, *The Cage*, *op. cit.*, p.210.

Weiss confirms that the LTTE deliberately inflated its claims regarding how many civilians were inside the area it controlled: “In 2008, Tamil Tiger functionaries claimed that 450,000 people were inside the Vanni. A higher population figure strengthened the Tamil claim on the international political stage and amongst the Tamil diaspora to a Tamil homeland. It also meant that they could claim greater benefits from the Sri Lankan government, which had continued to exercise its writ over Tiger-controlled territory by supplying a full range of government health and education services.”<sup>75</sup> Perhaps needless to say, Channel 4’s figure more closely follows that of the LTTE’s.

Channel 4 rightly accuses the Sri Lankan government of initially underestimating the number of displaced civilians; they were not the only ones, most humanitarian agencies and several other governments also underestimated the figures. It is ironic, however, for Channel 4 then to seemingly deliberately inflate the initial number of displaced civilians, presumably to imply a larger and more convenient civilian death toll.

### Shelling within the No-Fire Zones

Despite the government’s declaration of “no-fire zones” for the protection of civilians, the fighting spilled over into these areas. Weiss, for example, notes that “the Tamil Tigers were placing mobile artillery pieces in areas now inundated with tens of thousands of people.”<sup>76</sup> In 2007 the LTTE was believed to have had a wide range of artillery and mortars, including nine 152mm long-range guns, nine 130mm artillery pieces, twenty-two 122mm artillery guns, eighty 120mm mortars and many 81mm and 60mm mortars. The LTTE also used multi-barrel rocket launchers noted for their inaccuracy.<sup>77</sup> In addition to this ordinance, the movement also had hundreds of rocket propelled grenade RPG-7 launchers. The BBC reported that “[v]ideo evidence published by *The Times* suggests that the Tamil Tigers established mortar positions and military encampments within camps for displaced people, which were then shelled by the military.”<sup>78</sup> Jacques de Maio, International Committee of the Red Cross (ICRC) Head of Operations for South Asia, said to US officials that the LTTE “had tried to keep civilians in the middle of a permanent state of violence. It saw the civilian population as a ‘protective asset’ and kept its fighters embedded amongst them. De Maio said that the LTTE commanders’ objective was to keep the distinction between civilian and military assets blurred.”<sup>79</sup>

The Channel 4 programme focused particularly on the shelling of hospitals and other medical points within no-fire zones. The only indisputable facts regarding these attacks is that some hospitals were shelled and that civilians were killed or injured as a result. Weiss claims that there were 65 recorded attacks on hospitals and clinics – ranging from large hospitals to small mobile makeshift shelters repeatedly established by the Tamil government doctors as lines moved.<sup>80</sup> Dr Shanmugarajah, the Tamil doctor cited in the Channel 4 programme and present throughout the crisis, states that Weiss’s claim of 65 attacks on hospitals was “an absurd lie”.<sup>81</sup>

Weiss also pointed out an obvious and pivotal fact, which was how difficult it was to tell where the shelling was coming from: “Many civilians have been killed or injured. Our staff members witnessed the death of civilians. But we cannot determine where the fire came from.”<sup>82</sup> In late January, referring to an attack which killed and injured dozens of civilians in side a no-fire zone, Gordon Weiss noted: “We don’t know where the firing came from.”<sup>83</sup> The University Teachers for Human Rights, described by Weiss as a “highly regarded” and “independent” organisation<sup>84</sup>, also placed on record that in the last few months “the shelling of civilians continued, but it became increasingly difficult to determine who was responsible.”<sup>85</sup> Additionally, while Channel 4 makes a lot of satellite image surveillance of the conflict area, claiming that as a result the UN and other powers “knew a great deal about what went on in the no-fire zone”, their researchers presumably would have seen the 2009 US government report on the crisis which noted that “[n]umerous commercial imagery-based reports issued by UN agencies and non-governmental organizations identified evidence of shelling in the NFZ. U.S. government sources *are unable to attribute the reported damage to either the*

<sup>75</sup> *Ibid.*, p.178.

<sup>76</sup> *Ibid.*, p.133.

<sup>77</sup> “Tigers enhance firepower. Acquires sophisticated, long range weaponry as the military prepares counter measures for a decisive showdown”, *The Nation*, 10 August 2007, available at <<http://www.nation.lk/2007/08/12/militarym.htm>>.

<sup>78</sup> “Sri Lanka rejects deaths report”, BBC News, 29 May 2009.

<sup>79</sup> “Subject: Sri Lanka: S/Wci Amb. Williamson’s Geneva Meetings”, US Government cable, 15 July 2009, available at <<http://www.aftenposten.no/spesial/wikileaksdokumenter/article4109603.ece>>.

<sup>80</sup> Weiss, *The Cage*, *op. cit.*, p.129.

<sup>81</sup> “Lies Agreed Upon”, *op. cit.*

<sup>82</sup> “‘Civilians die’ in S Lanka battle”, *op. cit.*

<sup>83</sup> “UN says dozens of civilians killed as Tigers flee”, Agence France-Presse, 27 January 2009.

<sup>84</sup> Weiss, *op. cit.*, p.69.

<sup>85</sup> “A Marred Victory and a Defeat Pregnant with Foreboding”, University Teachers for Human Rights (Jaffna), Sri Lanka, Special Report No. 32, 10 June 2009.

*Government of Sri Lanka or LTTE forces.”*<sup>86</sup> (Emphasis added.) That is to say that the United States government, with all the immense satellite and other technological surveillance facilities at its disposal, was unable to ascertain who was responsible for any shelling. In summary, therefore, the UN, the US government, UTHR and satellite surveillance was unable to ascertain whom was shelling whom in the “no-fire zones”. This fact is conveniently ignored by Channel 4 who apparently believe that they are in a better position to judge than the very people on the ground – and in the air – at the time.



**LTTE heavy mortar teams**

It is a matter of fact that the LTTE quite literally used the Tamil civilians as a human shield. They deliberately fired from civilian concentrations, especially within the “no-fire zones”. The University Teachers for Human Rights documents that witnesses noted that the LTTE was “shelling from among the civilians at advancing troops” and that this provoked a response from the army, resulting in civilian deaths.” They also noted that “[t]he LTTE did fire its mortars from isolated positions among...civilians.”<sup>87</sup> Witness testimony recorded by UTHR shows that the “no-fire zones” were abused by the LTTE. The group cited a civilian’s perspective on the zones: “Experience had taught him to be cautious. He had decided that the safe zones were the least safe as the LTTE went about in its gun mounted vehicles firing at the Army with no thought of the civilians.”<sup>88</sup> LTTE behaviour was documented by UTHR:

The LTTE regularly moved its gun-mounted vehicles through the NFZ, sometimes firing at the army line and quickly reversing them eastwards next to civilian dwellings. A woman told us that when that happened, there was nothing they could do except to sit it out keeping their fingers crossed...The LTTE had established some mortar positions in the NFZ in a circle-shaped space from which the civilians were kept away. When the LTTE fired and the Army fired back, the shells fell close, but according to those present, hardly ever harmed the LTTE who jumped into their bunkers in good time. It was almost wholly civilians that suffered.

UTHR noted that “[t]he popular belief is that many civilians got killed and others maimed as a result of LTTE men ducking into a place having a group of civilian tents after some incident or provocation, leaving the people huddled together in a state of extreme anxiety.”<sup>89</sup>

<sup>86</sup> *Report to Congress on Incidents During the Recent Conflict in Sri Lanka*, US Department of State, Washington-DC, 2009, available at <<http://www.state.gov/documents/organization/131025.pdf>>, p.10.

<sup>87</sup> “Let Them Speak: Truth about Sri Lanka’s Victims of War”, University Teachers for Human Rights (Jaffna), Sri Lanka, Special Report No. 34, 13 December 2009.

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*

Channel 4 News presented what was in effect an LTTE viewpoint that it was Sri Lankan forces that deliberately shelled civilians and medical points in and around the “no-fire zones” – albeit for no discernible reason. The Channel 4 programme spends quite some time describing the shelling of medical points, including the Puthukudiyirippu (PTK) hospital, asserting, for example, variously that “government shelling of the hospital continued” and “the hospital was targeted”. They produced several disguised and unidentified “witnesses” to that effect. Vany Kumar also made several claims, stating for example, that government shelling “completely destroyed” a hospital and that it was “deliberate” and “targeted”. She alleged repeated shelling of hospitals. The International Committee of the Red Cross would visit medical locations and pass on GPS coordinates to both sides in order to prevent accidental attacks on medical points. Kumar alleged that the government was using the ICRC coordinates for hospitals to target the buildings and claimed that the Tamil doctors asked the ICRC not to pass on the coordinates. One of the doctors, Dr Shanmugarajah, categorically denied Kumar’s GPS claims. He said that he was responsible for coordinating with the ICRC for the Vallipuram, Mullivaikkal West, Mullivaikkal East and Vellamullivaikkal hospitals and not a single doctor in charge in those hospitals made any such request.<sup>90</sup> Channel 4 News also alleged that the government would fire one shell and then wait ten minutes to fire another one in order to kill or injure anyone aiding those hit by the first shell. Snow claimed that “To terrified civilians it seemed government forces were determined to maximise casualties.” The British newspaper *The Independent* noted, however, that: “Nothing you saw in the first half of the programme could conclusively prove [the GPS] charge, or confirm the belief that the Sri Lankans would pause after one shell and then fire another to kill the rescuers.”<sup>91</sup>

Snow’s claim that government forces seemed “determined to maximise casualties” is repeatedly contradicted by Channel 4’s own witness. Gordon Weiss made the simple observation that “[f]or the SLA, it made no tactical sense to kill civilians.”<sup>92</sup> He noted that “for thirty-seven months [the army] had worked its way meticulously across the territory controlled by the Tigers, at great cost to young Sinhalese soldiers.”<sup>93</sup> That is to say they had been deliberately trying to avoid civilian casualties – something they had managed during the offensive in eastern Sri Lanka, which had preceded the final northern phase. Weiss describes the behaviour of the Sri Lankan army towards the end of the Vanni operation:

58th Division troops overran 20,000 civilians crouching in bunkers inside the No Fire Zone. Using loudspeakers as they inched forward through the jungles and across the rice paddy fields, troops summoned people towards their lines, despite the ferocious fighting and shelling all around...On the whole...the vast majority of people who escaped seem to have been received with relative restraint and care by the front-line SLA troops, who quickly passed them up the line for tea, rice and first aid.<sup>94</sup>

Weiss records that “the army probed the Tiger defences, and calculated how to separate civilians from cadres.” That is to say to differentiate who, as LTTE fighters, were legitimate targets, and who as civilians were not. And he notes further that in the last few days “[c]ommandos were fighting their way through a tent city, hurling grenades, trying to distinguish Tiger fighters from civilians...Thousands of people streamed across the lagoon to the safety of army lines as soldiers urged them on. Tiger cadres fired at both soldiers and civilians.”<sup>95</sup> Weiss observed:

It remains a credit to many of the front-line SLA soldiers that, despite odd cruel exceptions, they so often seem to have made the effort to draw civilians out from the morass of fighting ahead of them in an attempt to save lives. Soldiers yelled out to civilians, left gaps in their lines while they waved white flags to attract people forward and bodily plucked the wounded from foxholes and bunkers. Troops bravely waded into the lagoon under fire to rescue wounded people threading their way out of the battlefield or to help parents with their children, and gave their rations to civilians as they lay in fields, exhausted in their first moments of safety after years of living under the roar and threat of gunfire.<sup>96</sup>

Weiss also noted:

There were many acts of mercy that emerged from the inferno of civil war. The bedraggled columns of civilians were massed and counted, fed as well as possible and then transported by truck and bus to waiting internment camps in Vavuniya. Front-line soldiers gave their own rations to the terrified civilians.<sup>97</sup>

<sup>90</sup> “Lies Agreed Upon”, *op. cit.*

<sup>91</sup> “Last Night’s TV – Sri Lanka’s Killing Fields, Channel 4”, *The Independent*, 15 June 2011, available at <<http://www.independent.co.uk/arts-entertainment/tv/reviews/last-nights-tv--sri-lankas-killing-fields-channel-4-luther-bbc1-2297396.html>>.

<sup>92</sup> Weiss, *The Cage*, *op. cit.*, p.103.

<sup>93</sup> *Ibid.*, xxiv.

<sup>94</sup> *Ibid.*, p.181.

<sup>95</sup> *Ibid.*, p.211.

<sup>96</sup> *Ibid.*, p.217.

<sup>97</sup> *Ibid.*, p.212.

Weiss provides an additional description of the treatment of civilians as they encountered government forces: “The front-line soldiers who received the first civilians as they escaped to government lines, those who guarded them in the camps and the civilian and military doctors who provided vital treatment distinguished themselves most commonly through their mercy and care.”<sup>98</sup> This attitude appeared to be across the services. It is also worth mentioning that the International Committee of the Red Cross commended the Sri Lankan navy for its role in the medical evacuations by sea of sick and injured civilians during the Vanni operation. The ICRC noted that the navy personnel “displayed a strict discipline and respect of rules of engagement and at the same time a very respectful and kind attitude to help those in need. In that regard in addition to all others who contributed to this medical evacuation, we wish to express our special thanks to the Director General for Operations, at the Navy HQ, the Officiating Commander Eastern Naval Command, in Trincomalee, and to the Deputy Area Commander North, in Jaffna. They spent many sleepless hours coordinating the operation and played a crucial role to make it a success. These days demonstrated that soldiering is a noble profession”.<sup>99</sup>

The contrast with the claims made by Jon Snow and Channel 4 that government forces were seeking to maximise civilian casualties and the reality provided by Channel 4’s own commentator Weiss could not be more clear.

It should also be noted that avoiding civilian casualties was not a priority for the LTTE. Had Channel 4 News produced a fair and balanced programme it would have noted, as Weiss does, that while hospitals have a special measure of protection under international law “the unavoidable corollary is that this makes them an attractive place for refuge or cover.”<sup>100</sup> Unlike Channel 4, Weiss is also honest enough to point out that “if a hospital is used as an artillery position, or a command bunker, then its status is potentially converted into that of a military objective.”<sup>101</sup> This may well have explained any army strikes in the vicinity of hospitals during the crisis. The ICRC complained on several occasions to the LTTE “about stationing weapons at a hospital”. The ICRC noted that following complaints, the LTTE would move the assets away, but as they were constantly shifting these assets, “they might just show up in another unacceptable place shortly thereafter”.<sup>102</sup> This was simply not dealt with at all in the Channel 4 programme.

The LTTE not only stationed weapons and weapons systems within hospitals, Weiss also notes that the LTTE placed mobile artillery batteries in the vicinity of hospitals. He cites a UN official who “could see the barrel flashes from a Tiger heavy artillery piece just 300 metres from [a] hospital...As the Tiger artillery sent outgoing rounds against the army’s advance, and then quickly shifted position, he could count off the seconds until an incoming barrage responded in an effort to destroy the guns.”<sup>103</sup> The UN official noted that “[t]he Tamil Tigers were placing their guns dangerously close to our location [opposite the hospital], and were quite intentionally in my view drawing fire towards the hospital. Civilians were being killed.”<sup>104</sup> As Weiss noted, the official “had seen the Tiger gun positions that had violated the agreed no-war zone around the hospital.”<sup>105</sup> Weiss further noted that “the Tigers appeared to have ignored the brokered agreement meant to safeguard the wounded and medical staff...the sanctity of the hospital had in effect evaporated.”<sup>106</sup> These were not isolated incidents. The United Nations Panel of Experts report on Sri Lanka also reported that “The LTTE...fired mobile artillery from the vicinity of the [PTK] hospital.”<sup>107</sup> Dr Sivapalan, the medical officer at Chavakachcheri and former medical officer in the Vanni, one of the Tamil doctors who remained in the zone until the end, confirmed that LTTE had a command post within 100 metres of the PTK hospital – something which he says the ICRC confirmed to him – and that the LTTE had heavy weapons and a vehicle-mounted heavy weapon system very close to the hospital.<sup>108</sup> Dr Shanmugarajah also confirmed that LTTE military forces used the cover of hospitals, and noted that that his family had been wounded as a result: “The LTTE had their camps located in a 100 - 200 metres vicinity of the Mullaitivu hospital where I was working. My quarters was damaged and my wife and son received minor injuries due to an artillery shell in 2008. I

<sup>98</sup> *Ibid.*, p.186.

<sup>99</sup> “ICRC commended Sri Lanka Navy for evacuating Tamil civilians safely during the war”, *Colombo Page*, 21 June 2011, available at <[http://www.colombopage.com/archive\\_11A/Jun21\\_1308594615CH.php](http://www.colombopage.com/archive_11A/Jun21_1308594615CH.php)>.

<sup>100</sup> *Ibid.*, p.130.

<sup>101</sup> *Ibid.*

<sup>102</sup> “Subject: Sri Lanka: S/Wci Amb. Williamson’s Geneva Meetings”, US Government cable, 15 July 2009, available at <<http://www.aftenposten.no/spesial/wikileaksdokumenter/article4109603.ece>>.

<sup>103</sup> Weiss, *The Cage, op. cit.*, p.109.

<sup>104</sup> *Ibid.*, p.111.

<sup>105</sup> *Ibid.*, p.125.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka*, United Nations, New York, 31 March 2011, available at <[http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf)>, paragraph 94.

<sup>108</sup> “Lies Agreed Upon”, *op. cit.*



don't know from which side it was launched. It is very difficult to guess. Later the ICRC asked the LTTE to move their camps away from the hospital.”<sup>109</sup>

With regard to attacks on hospitals and particularly Puthukudiyirippu hospital, UTHR recorded that “[a] senior educator familiar with the hospital told us that the LTTE largely disregarded the ICRC’s request not to drive or park its vehicles in front of the Hospital, as these could be spotted by UAVs leading to shell attacks.”<sup>110</sup> UTHR noted when Puthukudiyirippu hospital was hit “on 2<sup>nd</sup> February at 6.40 PM or on a subsequent occasion, the hospital staff and the people around soon became quite sure that it was this time the LTTE that fired.” UTHR reported further that “[t]he ICRC had in fact asked the LTTE not bring their vehicles and weapons near PTK Hospital, but to no avail. Some of the hospital ambulances had also been taken over by the LTTE, whose leaders were using them to move around.” UTHR stated that senior LTTE cadres confirmed that the movement had deliberately attacked hospitals: “A senior officer who lost close relatives due to army shelling, and is just coming out of a prolonged depression, blamed the LTTE for much of the suffering and said emphatically that the LTTE fired shells on civilian institutions such as hospitals.”<sup>111</sup>

It is a matter of record that the Sri Lankan army used radar-controlled counter-artillery fire which would direct gunfire to the location of LTTE artillery positions. Independent sources have made it clear that the LTTE would deliberately fire from hospitals and other civilian locations in attempts to draw government fire into those areas. They may well have succeeded on occasion.

A fair, balanced and ethical programme would have included the fact that the LTTE were shelling into their own civilian population – which would have been for one reason and one reason only – to kill and injure Tamil civilians, and especially medical staff and patients in order to provoke international intervention. Any professional journalist looking at the allegations about the shelling of civilians in the past few months of the war would have asked the simple question, *cui bono*, who benefits? What possible benefit would the government have secured from deliberately shelling civilians and hospitals? There is no obvious benefit at all, only negative consequences including international condemnation and pressure for intervention.

How then would the LTTE have benefited from the shelling of civilians and hospitals? The answer is a simple one. As Weiss correctly pointed out, the LTTE leader Prabhakaran “chose...to play out the ‘CNN effect’ of a brutal and bloody siege of Tamil civilians on international public opinion.”<sup>112</sup> Weiss notes that by January 2009, the LTTE “were increasingly desperate to force an international intervention. Tiger cadres were ordered to turn on those at their mercy. They shot many hundreds who tried to cross to the safety of government lines.”<sup>113</sup> Given its record for coldblooded ruthlessness, it can safely be assumed that the LTTE would not hesitate to kill civilians under its control to further its cause. As the government offensive gradually reduced the area controlled by the LTTE, the movement became increasingly desperate and ruthless. It was fighting for its very existence. Its only way of avoiding total defeat was for international intervention to stop the offensive or secure a ceasefire: this was how the LTTE had avoided defeat during a similar offensive in 1987.<sup>114</sup> Skilled propagandists that they were, the LTTE would have realised that the only possible way of provoking that international intervention would be through allegations that government forces were deliberately killing civilians and especially patients in hospitals. Independent commentators noted that “[c]learly, the LTTE hopes that international pressure and the growing anxiety over the loss of civilian lives will force Colombo into some compromise.”<sup>115</sup> In May 2009, an independent Canadian geopolitical monitoring publication noted: “The Liberation Tigers of Tamil Eelam (LTTE) find themselves up against a wall with no hope of launching a conventional counter-attack against the Sri Lankan Army. As such, their survival now hinges on a worldwide propaganda war.”<sup>116</sup>

Dead civilians, and especially dead and mutilated patients in hospitals, provided the basis for this desperate propaganda war. And if the army was not shelling civilians or hospitals in the quantities needed to tip the propaganda balance it is very probable that the LTTE stepped in. There is only one reason why the LTTE would shell a hospital or medical point within its own territory. Unlike Sri Lankan forces who could not be expected to know the shifting locations of hospitals and often temporary medical points, the LTTE would

<sup>109</sup> “LTTE propaganda defeated, truth revealed”, *The Sunday Observer* (Colombo), 12 July 2009, available at <<http://www.sundayobserver.lk/2009/07/12/fea02.asp>>.

<sup>110</sup> “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

<sup>111</sup> *Ibid.*

<sup>112</sup> Weiss, *The Cage*, *op. cit.*, p.101.

<sup>113</sup> *Ibid.*, p.96.

<sup>114</sup> The Indian government intervened during a Sri Lankan army offensive in 1987, just as the LTTE was on the verge of defeat. Peace negotiations ensued. See, for example, “India airlifts aid to Tamil rebels”, *The New York Times*, 5 June 1987.

<sup>115</sup> “No ‘Humanitarian Pause’”, *South Asian Outlook*, Volume 8, Number 11, May 2009, available at <[http://www.southasianoutlook.com/issues/2009/may/sri\\_lanka\\_no\\_humanitarian\\_pause.html](http://www.southasianoutlook.com/issues/2009/may/sri_lanka_no_humanitarian_pause.html)>.

<sup>116</sup> “Tamil Tiger propaganda – May 13, 2009”, *Geopolitical Monitor*, 13 May 2009, available at <<http://www.geopoliticalmonitor.com/tamil-tigers-fighting-for-survival-may-13-2009-2134/>>.

know exactly where they were – for the treatment of their wounded fighters, as a covert military position or as possible place of sanctuary for its leaders. Unlike Sri Lankan forces, the LTTE could not say they had shelled or mortared any medical point by accident. *It could only have been on purpose.* And, as documented by the UN, Gordon Weiss, and the UTHR, the LTTE did shell into its own Tamil civilians and hospitals. Given the incredibly ruthless and violent track record of the LTTE, and given the very desperate circumstances in which this brutal organisation found itself in, there can be very little doubt why they did so.

An international intervention on the back of dead and injured Tamil civilians was precisely what the LTTE and its propaganda machine sought to force. Sri Lanka's then Foreign Secretary, Palitha Kohona, said the government had "intercepted LTTE messages to the Tamil diaspora asking it to keep up the propaganda blitz because liberal-minded Western countries will be forced to intervene."<sup>117</sup> On 10 May, for example, the LTTE stated that they were "dismayed" that the international community had not intervened in the crisis. It claimed that 2,000 civilians had been killed in the preceding 24 hours.<sup>118</sup> On 14 May 2009, the LTTE's internet propaganda arm, Tamilnet, announced that the LTTE had called "upon the international community to protect the civilians from this ongoing carnage by taking whatever measure required." It reported that the "LTTE Peace Secretariat" claimed that 1,700 civilians were killed and over 3,000 wounded "within the last 48 hours" and that "the catastrophic situation has been made worse by the acute shortage of food and medicine."<sup>119</sup>

Channel 4's own witness, Gordon Weiss, confirms that the LTTE shelled their own people, something which fatally undermines Channel 4's "one size fits all", "only the government would have done this", template in "Sri Lanka's Killing Fields". Weiss reveals that:

*there is good evidence that at least on some occasions the Tamil Tigers fired artillery into their own people. The terrible calculation was that with enough dead Tamils, a toll would eventually be reached that would lead to international outrage and intervention.*<sup>120</sup> (Emphasis added.)

Even more damning for Channel 4's claims, Weiss also states with regard to the hospital at Puthukudiyirippu – the hospital at the heart of the Channel 4 programme – that it was said to have been hit by artillery fire on several occasions, and that "a number of strikes appeared to be from Tamil Tiger positions".<sup>121</sup> (Emphasis added.) UTHR also reported LTTE artillery attacks on PTK hospital. Could one or more of the attacks on PTK hospital referred to in "The Killing Fields" have come from the LTTE? How would Channel 4 be able to differentiate between alleged attacks by the government or by the LTTE, leaving aside self-serving claims by propagandists such as Vany Kumar? Far from "evidence required to convict", Channel 4 is not able to prove who actually attacked the hospital upon which it chose to focus. The *Economist* noted that "The government says that the Tigers, who are proscribed as a terrorist group by many countries, have been shelling the no-fire zone in an effort to provoke international outrage and demands for a ceasefire. The rebels have certainly kept up their traditional abuses: forcibly recruiting civilians, including children, and murdering dissenters."<sup>122</sup> Weiss and UTHR have confirmed that the government's claims were true. As Channel 4's own witness, Gordon Weiss, notes "there is good evidence that at least on some occasions the Tamil Tigers fired artillery into their own people" and that they shelled hospitals.<sup>123</sup> Although supposedly focused on "evidence", Jon Snow is silent on Weiss's "good evidence" as it contradicts Channel 4's "evidence" and would have fatally undermined the centrality of Channel 4's claims.

It was not a particularly complicated or even original formula. The LTTE would shell or mortar or fire rocket-propelled grenades at hospitals or other medical points. They would have experienced video teams waiting to film and photograph any incident and its aftermath and then immediately broadcast attacks on the hospitals in calls for international intervention to halt the army's offensive. Indeed, Vany Kumar states that there was a LTTE video cameraman with her in the hospital that was shelled. This sequence of events had not escaped the attention of the international community. The US government also reported that "*The UN noted it could not be ruled out that the LTTE shelled civilian areas to assign blame to the SLA.*"<sup>124</sup> (Emphasis added.) Having arranged for the shelling of hospitals for use in its propaganda campaign, it then

<sup>117</sup> "Sri Lankan Govt. Rebukes Tamil 'Propaganda Machine'", Antiwar Forum, 16 May 2009, available at <<http://original.antiwar.com/deen/2009/05/15/sri-lankan-govt/>>.

<sup>118</sup> "LTTE urges IC to act in the international way", TamilNet, 10 May 2009, available at <<http://tamilnet.com/art.html?catid=13&artid=29313>>.

<sup>119</sup> "LTTE urges IC to save civilians in the name of humanity, SLA attacks kill 1700 in 48 hours", TamilNet, 14 May 2009, available at <<http://tamilnet.com/art.html?catid=13&artid=29360>>.

<sup>120</sup> Weiss, *op. cit.*, p.109.

<sup>121</sup> *Ibid.*, p.131.

<sup>122</sup> "Civilians escape the Tigers. Sri Lanka's army enters the last redoubt of the Tamil Tigers", *The Economist*, 20 April 2009, available at <<http://www.economist.com/node/13522269>>.

<sup>123</sup> Weiss, *op. cit.*, p.109.

<sup>124</sup> "Northern Sri Lanka SitRep 15: Heavy Fighting Continues; UN", US Embassy Colombo, 18 February 2009.

follows that the LTTE would then also direct or coerce the Tamil doctors to telephone the international media to report the attacks, and their inevitably bloody aftermath. Vany Kumar would also telephone the international media. She, of course, needed no coercion, she was willingly following orders.



A photo that appeared in Western media and Tamil Net (LTTE website) in May 2009 of the “shelling of innocent Tamil civilians in the NFZ by Sri Lankan army”



The actual photograph that was staged with a LTTE propaganda team photographing the scene. Note the camerawoman and her assistant smiling in the background.

Weiss noted the activities of the LTTE's internet propaganda machine in this respect: "Tamilnet issued a vast array of new photographs and video of civilians being subjected to bombing."<sup>125</sup> The photographs above illustrate the cynical nature of the LTTE and its propaganda teams. This was a staged LTTE propaganda exercise. The smiling LTTE female cadre with a camera to the right of the picture and her teammates behind her seem very at ease.<sup>126</sup>

### The Tamil doctors and the media

Weiss recorded that LTTE "sought to totally control those it ruled"<sup>127</sup>, and the organisation's "use of summary executions" to effect control of "all aspects of life".<sup>128</sup> Having logically focused on the medical, "humanitarian" button to push in its desperate effort to avert defeat, the LTTE focused on the Tamil government doctors who had remained active in the zone. While the organisation strictly controlled communications with the outside world they pressurised Tamil government doctors to contact western media on a regular basis throughout the conflict. These doctors, one of whom, Dr Shanmugarajah, is featured in the Channel 4 programme, made a number of allegations about the worsening situation in the zone. Whether these doctors were coerced by the LTTE – as they subsequently stated – was an inconvenient question ignored by Channel 4.<sup>129</sup> Tellingly, Kumar was also making international telephone calls.

That the Tamil doctors were very tightly controlled by the LTTE is clear. The University Teachers for Human Rights revealed that Dr Shanmugarajah had tried to escape from the Vanni, was apprehended by the LTTE, beaten and taken back to the no-fire zone: "The LTTE kept all the doctors under close watch. An armed guard was placed near them even when they did surgical operations."<sup>130</sup> The LTTE also placed Vany Kumar and others to monitor them.

Weiss records that the Sri Lankan government believed that UN Tamil staff could have been "forced to distort their reports".<sup>131</sup> He also conceded "the prospect that the Tamil Tigers might be forcing the Tamil doctors or the UN's own staff to give inflated figures of the dead and wounded."<sup>132</sup> That is to say he thought it was possible. Mahinda Samarasinghe, the Sri Lankan minister for disaster management and human rights, made the point that there was "no free flow of information from" the conflict zone "under control of the LTTE".<sup>133</sup> On 16 May, the LTTE finally let the Tamil government doctors leave the area and they crossed over into government territory. The importance of the Tamil doctors to the LTTE and its desperate attempts to force an international intervention is clear. The accusations of mass deaths from alleged government

<sup>125</sup> Weiss, *op. cit.*, p.143.

<sup>126</sup> See, for example, "Tamil Tiger Propaganda Photos Becomes Channel 4 Fact", Lanka Web, 16 July 2011, available at <<http://www.lankaweb.com/news/items/2011/07/16/tamil-tiger-propaganda-photos-becomes-channel-4-fact/>>.

<sup>127</sup> Weiss, *op. cit.*, p.68.

<sup>128</sup> *Ibid.*, p.69.

<sup>129</sup> For a group of doctors within such an active crisis zone, treating the numbers of patients they are said to have treated, the doctors in question spent an incredibly large amount of their time on the telephone to the international media. It can only be described as systematic and orchestrated. For just some examples of these telephone calls, apparently under duress, see "Sri Lanka accused of shelling 'safe zone' in north", Associated Press, 22 January 2009; "Sri Lankan official says army shelled hospital", Associated Press, 1 February 2009; "'We're still counting the bodies': UN and Red Cross fury as Sri Lankan hospital is hit by shelling for THIRD time in 24 hours", *The Daily Mail*, 2 February 2009, available at <<http://www.dailymail.co.uk/news/article-1134085/Were-counting-bodies-UN-Red-Cross-fury-Sri-Lankan-hospital-hit-shelling-THIRD-time-24-hours.html#ixzz1aVXxAXXl>>; "Nine dead in attack on hospital in Sri Lanka", *The Times*, 2 February 2009; "Trapped Sri Lankans 'dying in makeshift hospital'. Doctors treating refugees injured in intense fighting plead for evacuations and medical aid", *The Observer*, 15 February 2009; "Sri Lankan hospital shelled in Tamil no-fire zone. Doctor says 20 people killed and 300 injured", *The Guardian*, 9 April 2009; "Sri Lanka: 'Civilians are dying, and the hospital is paralysed'. A doctor in the no-fire zone in Sri Lanka describes how cluster bomb attacks on a hospital have killed and injured many civilians", *The Guardian*, 22 April 2009; "Hospital 'hit by Sri Lankan army'", BBC News, 2 May 2009, available at <[http://news.bbc.co.uk/1/hi/world/south\\_asia/8030605.stm](http://news.bbc.co.uk/1/hi/world/south_asia/8030605.stm)>; "Sri Lanka denies shelling hospital. Military accused of killing 67 civilians in northern conflict zone", *Al-Jazeera*, 3 May 2009, available at <<http://english.aljazeera.net/news/asia/2009/05/200952154223320669.html>>; "'Hundreds dead' on bloodiest day of Sri Lankan battle to destroy Tamil Tigers. Doctor says at least 378 people killed in latest assault by Sri Lankan military", *The Observer*, 10 May 2009; "Sri Lanka health official: 257 civilians killed", Associated Press, 10 May 2009; "'More than 1,000 civilians killed' in attacks on Sri Lanka safe zone", *The Guardian*, 11 May 2009; "Hospital reports hundreds dead in Sri Lanka shelling", Associated Press, 11 May 2009; "Sri Lanka accused of 'war crime' over shelled hospital", *The Daily Telegraph*, 12 May 2009; "Doctor says 49 killed in Sri Lanka hospital attack", Associated Press, 12 May 2009; "Sri Lankans Caught in Hospital Cross Fire", *Time*, 12 May 2009, available at <<http://www.time.com/time/world/article/0,8599,1897594,00.html>>; "Tamil war zone hospital hit again", BBC News, 13 May 2009, available at <[http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south\\_asia/8048087.stm](http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/south_asia/8048087.stm)>; "Sri Lanka war hospital 'hit again'", *Al-Jazeera*, 13 May 2009, available at <<http://english.aljazeera.net/news/asia/2009/05/20095139268272268.html>>; "Makeshift Sri Lanka hospital is shelled, taking 47 lives", *The Guardian*, 13 May 2009; "More Sri Lanka civilians die in second raid on hospital in Tamil war zone", *The Times*, 13 May 2009; "Fifty Die As Sri Lanka Hospital Shelled Again", Sky News, 13 May 2009; "Slaughter in Sri Lanka as makeshift hospital is shelled for second day", *The Times*, 14 May 2009; "Shelling kills at least 50 at Sri Lanka hospital, staff says", Associated Press, 14 May 2009.

<sup>130</sup> "A Marred Victory and a Defeat Pregnant with Foreboding", *op. cit.*

<sup>131</sup> Weiss, *op. cit.*, p.143.

<sup>132</sup> *Ibid.*, p.135.

<sup>133</sup> "Sri Lanka war hospital 'hit again'", *Al-Jazeera*, 13 May 2009, available at <<http://english.aljazeera.net/news/asia/2009/05/20095139268272268.html>>.

shelling were said by Ravi Nessman, the Associated Press bureau chief, to be “based on scattered reports that we’re getting – the very few reports we’re able to get.” Nessman cited as sources the doctors, who were some of “the very few people with telephones that still work.”<sup>134</sup>



**Dr Weerakathipillai Shanmugarajah during the crisis**

On 8 July, in the wake of the LTTE’s defeat, the five Tamil doctors present throughout the crisis, Drs Sinnathurai Sivapalan, Weerakathipillai Shanmugarajah, Thurairajah Vartharaja, Thangamurthy Sathyamoorthy and Kathiravelu Ilancheliyan, held a press conference in Colombo. Dr Sivapalan, the Medical Officer in Charge of the LTTE-run Ponnambalam Memorial Hospital in Puthukkudiyirippu, provided a picture of the circumstances in which the civilian population were being held: “The conditions the people had to live were horrible. LTTE wouldn’t let them go to the cleared areas and held them with force in this area where there was no drinking water and proper sanitary facilities. There was no place to find hygienic drinking water and there were no wells.”<sup>135</sup> The doctors admitted that they had lied through the conflict and had been forced by the LTTE to exaggerate civilian casualty figures.<sup>136</sup> Dr Shanmugarajah confirmed the Tamil doctors misled the international media and foreign governments: “Yes we regret giving a false impression to the outside world.”<sup>137</sup> The doctors stated that the LTTE had taken food and medical shipments sent by the government and then forced the doctors to tell the media that there were shortages. Dr Shanmugarajah stated: “The LTTE grabbed a major part of the food stocks for the use of their cadres which was sent by the Government through the ICRC ship.”<sup>138</sup> Dr Varatharajah said that on eight occasions the Government sent medicines and related supplies after the no-fire zone was declared and the LTTE diverted these from the doctors to treat their own injured cadres and then forced the doctors to state that there was a shortage of medical supplies.<sup>139</sup> Dr Shanmugarajah said the doctors knew times would be difficult and had stocked up on medical supplies and that they “had enough medical supplies” until the end of conflict. He also said they were able to run generators and refrigerators in the medical centres until the last moment.<sup>140</sup>

<sup>134</sup> Interview with Ravi Nessman, the Associated Press Colombo bureau chief from 2007-2009, Aired on PBS stations on 18 February 2009, available at <[http://transcurrents.com/tc/2009/02/kohona\\_says\\_its\\_best\\_for\\_mia\\_t.html](http://transcurrents.com/tc/2009/02/kohona_says_its_best_for_mia_t.html)>.

<sup>135</sup> “LTTE propaganda defeated, truth revealed”, *The Sunday Observer* (Colombo), 12 July 2009, available at <<http://www.sundayobserver.lk/2009/07/12/fea02.asp>>.

<sup>136</sup> Weiss, *op. cit.*, p.231. See, also, “S Lanka medics recant on deaths”, BBC News, 8 July 2009, available at <[http://news.bbc.co.uk/1/hi/world/south\\_asia/8141007.stm](http://news.bbc.co.uk/1/hi/world/south_asia/8141007.stm)>.

<sup>137</sup> “LTTE propaganda defeated, truth revealed”, *op. cit.*

<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> “Lies Agreed Upon”, *op. cit.*

Dr Shanmugarajah, featured in the Channel 4 programme, admitted that “The information that I have given is false...The figures were exaggerated due to pressure from the LTTE.”<sup>141</sup> He stated: “When they (LTTE) asked me to put the figure at 1000, I said that it is totally unacceptable...There were times when ‘Voice of Tigers’ (LTTE official radio) reports exaggerated figures of casualties quoting me as the source of information without actually interviewing me.”<sup>142</sup>



**The Tamil doctors meeting the press in Colombo in July 2009, Dr Shanmugarajah is standing**

Dr Sathyamoorthy also confirmed that “[t]he LTTE...quoted us in their web sites without our consent or knowledge giving exaggerated figures of civilian deaths and casualties.”<sup>143</sup> Tamilnet provides a clear example of putting what can only but be described as jarringly propagandistic words into the mouth of a doctor. It reported that a doctor at the Udaiyaarkaddu hospital said: “The world is silently witnessing one of the worst massacres of helpless civilians in contemporary times. These civilians know no crime other than not knowing where to go. While the genocidal military of the Colombo government is on the killing spree, India and the international community sadistically expect the civilians to come running out into the hands of their killers. Either way they expect them to perish.” The doctor is also said to have dismissed allegations of the LTTE use of civilians as a human shield as “a farce”.<sup>144</sup> Most dispassionate observers would conclude that these are indeed more the words of a propagandist than a medical doctor.

It should also be noted that the western media have officially been sceptical at the claims made by Tamil doctors once they had left LTTE control. While arguably there may well be an innate western media prejudice against the Sri Lankan government, there is a more obvious reason. Given there were no “independent” sources in the Vanni, many western media reports quoted the Tamil doctors (as they were encouraged to do by the LTTE) and used the claims and “figures” provided by the Tamil doctors without reservation in “coverage” of what was happening. If even half of what the Tamil doctors revealed in July 2009 regarding LTTE intimidation and having to make false claims is true, it would invalidate dozens of

<sup>141</sup> “We exaggerated war deaths, say arrested doctors”, Breaking News Ireland, 9 July 2009, available at <<http://www.breakingnews.ie/world/we-exaggerated-war-deaths-say-arrested-doctors-417975.html>>. See, also, for example, “Tamil War Toll was exaggerated”, *The Daily Express*, 9 July 2009, available at <<http://www.express.co.uk/posts/view/112738/Tamil-war-toll-was-exaggerated>>.

<sup>142</sup> “Lies Agreed Upon”, *op. cit.*

<sup>143</sup> “LTTE propaganda defeated, truth revealed”, *op. cit.*

<sup>144</sup> “Does IC know no human dignity of civilians, asks a doctor in Vanni”, TamilNet, 26 January 2009, available at <<http://tamilnet.com/art.html?catid=13&artid=28145>>.

western newspaper articles and media news items. It would be tremendously embarrassing for those journalists who were naive and unprofessional enough to have written those articles. It is unsurprising, therefore, that AP's Ravi Nessman would claim "there was no credibility" to the testimony of the Tamil doctors.<sup>145</sup> Given Nessman's very heavy reliance in his articles on clearly questionable claims by the doctors, his defensiveness is understandable.

The simple question not answered by Nessman and rest of the western media is why did they automatically assume that the Tamil doctors are under pressure from the government with regard to casualty figures during the Vanni operations, when the western media uniformly failed to in any way raise precisely the same question when the doctors were working under armed guard at the mercy of the world's most vicious, and by that stage very desperate, terrorist movements?

### **How many people died in the zone?**

It is sadly all too obvious that there were a large number of civilian deaths in the last few months of the Sri Lankan civil war. Whatever the final figure, one death was one too many. It is a simple statement of fact that all of these casualties could have been avoided had 300,000 civilians not been forced by the LTTE into a war zone. The LTTE's deliberate use of the civilians as human shields resulted in the death of civilians in cross fire between LTTE and government forces in the course of the grim fighting. It was also clear from independent sources that the LTTE deliberately drew government fire into civilian areas. In a report released in 2011 the government admitted that "[i]t was impossible in a battle of this magnitude, against a ruthless opponent actively endangering civilians, for civilian casualties to be avoided."<sup>146</sup>

Jon Snow claims that government shelling and other action may have resulted in "the deaths of as many as 40,000 people, probably far more". It is very difficult if not impossible to reach any such conclusion. Leaving aside claims that it is exaggerated, Channel 4's claim falls immediately because there is not the slightest attempt whatsoever to differentiate between how many of those said to have been killed were LTTE cadres (there were estimates that up to 20,000 LTTE fighters were killed in the last few months of fighting) or how many civilians Channel 4 claims to have died were killed by the LTTE. In one instance alone, for example, cited above, University Teachers for Human Rights reported that on 14 May, the LTTE killed 500 civilians near Nanthikadal Lagoon as they tried to cross to the other side or to Vattuvakkal to the south.<sup>147</sup> There are dozens of other examples of the LTTE killing civilians in and around the no-fire zones. Weiss himself states that the LTTE shot, executed and "beat to death many hundreds of people" and ensured "the deaths of thousands of teenagers by press-ganging them into the front lines, and [killed] those children and their parents who resisted".<sup>148</sup>

The University Teachers for Human Rights has urged caution in making the very sorts of claims to which Channel 4 has been party:

We also pointed out that in giving casualty figures, the distinction between civilians, conscripts and cadres has not been clearly made...The only accurate means of finding out casualties is to count and alternatively to have a clear idea of what was happening on the ground. In their absence, technology and statistical formulae may turn out to be very misleading. *Another important indicator is that the people who escaped during the last week of the conflict blame largely the LTTE, towards which their anger is directed...*We know that on the May 14th and May 17th night, the LTTE was to a large extent responsible for civilian deaths.<sup>149</sup> (Emphasis added.)

The estimates of how many people died in the Vanni are in any instance very varied. In February 2009, the US Embassy noted that the pro-LTTE "Tamil National Alliance parliamentary group leader R. Sampanthan claimed that 2000 Tamil civilians have been killed and 4500 injured since mid-December....Such reports from Tamil sources cannot be confirmed and are frequently exaggerated."<sup>150</sup> The *Voice of Tigers*, the LTTE's "official radio", claimed on 1 March 2009, that the Sri Lankan armed forces had been responsible for the deaths of 2,018 Tamil civilians in January and February 2009 in Vanni.<sup>151</sup> These figures were repeated by UN High Commissioner for Human Rights, Navanethem Pillay, on 13 March 2009. Sir John Holmes, the UN Under-Secretary-General for Humanitarian Affairs and UN Emergency Relief Coordinator, stated in New York on 24 March 2009 that this figure could not be verified: "The reason we have not come

<sup>145</sup> Weiss, *op. cit.*, p.231.

<sup>146</sup> "Sri Lanka says avoiding civilian deaths was 'impossible'", Reuters, 1 August 2011, available at <<http://in.reuters.com/article/2011/08/01/idINIndia-58562720110801>>.

<sup>147</sup> "Let Them Speak: Truth about Sri Lanka's Victims of War", *op. cit.*

<sup>148</sup> Weiss, *op. cit.*, pp. 141-42.

<sup>149</sup> "A Marred Victory and a Defeat Pregnant with Foreboding", *op. cit.*

<sup>150</sup> "Northern Sri Lanka SitRep 15: Heavy Fighting Continues; UN", US Embassy Colombo, 18 February 2009.

<sup>151</sup> "No 'Humanitarian Pause'", *South Asian Outlook*, Volume 8, Number 11, May 2009, available at <[http://www.southasianoutlook.com/issues/2009/may/sri\\_lanka\\_no\\_humanitarian\\_pause.html](http://www.southasianoutlook.com/issues/2009/may/sri_lanka_no_humanitarian_pause.html)>.

out with this as our figure is because, as I have said before, we cannot verify it in a way that you want to be able to verify, if you put it as your public figure.”<sup>152</sup>

Gordon Weiss’s estimate of 7,000 civilian deaths, made in 2009, was challenged by Sir John Holmes as unverified and unreliable. Reuters noted that “Holmes said the initial figure of 7,000 deaths had been deemed far too questionable for official publication because the world body was not in a position to calculate a reliable death count. It was not really present in the battle zone, he said.”<sup>153</sup> In late April a private UN document detailed the casualties of the last three months of fighting. According to “verified data”, some 6,432 Tamil civilians may have died with 13,946 wounded.<sup>154</sup> The US government has admitted that it has “not received casualty estimates covering the entire reporting period from January to May 2009”. It did place on record, however, that “one organization, which did not differentiate between civilians and LTTE cadres, recorded 6,710 people killed and 15,102 people injured between January 20 to April 20”.<sup>155</sup> At the end of May 2009, John Holmes was asked about a report in *The Times* claiming 20,000 civilians may have been killed in the zone. Holmes denied it was based on UN figures. “The truth is we simply don’t know. It doesn’t reflect any estimate we made for ourselves. We did have our own internal estimate until the end of April. After that, we didn’t have anyone on the ground.” The *Guardian* reported that Gordon Weiss claimed “we have always said many thousands of people died during the conflict”: the newspaper also noted that “privately, UN staff admitted they were puzzled by the methodology used to achieve the new death toll. ‘Someone has made an imaginative leap and that is at odds with what we have been saying before,’ one official said. ‘It is a very dangerous thing to do to start making extrapolations.’”<sup>156</sup> This is however exactly what Channel 4 News, Weiss and others have done. The UN has continued to distance itself from the claims made by Weiss. In February 2010, the UN office in Sri Lanka stated that his views were his personal ones and that while the UN “maintained internal estimates of casualties, circumstances did not permit us to independently verify them on the ground, and therefore we do not have verifiable figures of how many casualties there were.”<sup>157</sup> Data compiled by the South Asia Terrorism Portal, data “primarily based on figures released by the pro-LTTE Website Tamil Net”, put the casualty figure for civilians inside Mullaitivu at 2,972 till 5 April 2009.<sup>158</sup>

University Teachers for Human Rights also revealed pivotal testimony which fatally discredits the sorts of claims being made by Channel 4 News, Gordon Weiss and other anti-government figures, especially with regard to the issue of civilians who allegedly died as a result of government action:

It must be placed on record that, in the estimate of a school principal who was there in the NFZ, *about 25% of the civilian casualties in the NFZ, averaging about 15 to 20 a day, were of people killed by the LTTE when trying to escape.* Other estimates are similar.<sup>159</sup> (Emphasis added.)

UTHR also documents another equally important fact:

The principal described something else he had seen. 15 escapees had been shot dead opposite the Putumattalan Hospital. Along with the daily quota of dead resulting from army shelling, these bodies too were placed in a space ringed by ropes on a side of the hospital. With the help of labourers, the doctor looked at the bodies and pronounced the cause of death. The distinction was clear between shell injuries and bullet injuries. The doctor regularly pronounced all of them to have died due to army firing. The principal remarked, “*I wonder how he did it?*” This went on day after day and perhaps above a thousand died trying to cross the strip of water.<sup>160</sup>

UTHR notes that “we must keep in mind practices that had come to be accepted as normal under the provenance of terror. *No doctor in an LTTE-controlled area dared to certify the LTTE as the cause of a death.*” (Emphasis added.) The Tamil doctors present in the Vanni throughout the conflict have also confirmed that any LTTE-inflicted civilian casualties were never mentioned in these reports coming out of the area.<sup>161</sup> The implications of what UTHR described are very significant. Not only would it have meant

<sup>152</sup> *Ibid.*

<sup>153</sup> “Ban denies UN covered up death toll in Sri Lanka”, Reuters, 2 June 2009, available at <<http://www.asiaone.com/News/Latest%2BNews/Asia/Story/A1Story20090602-145445.html>>.

<sup>154</sup> “6,432 Tamil civilians killed in fighting”, *Evening Standard*, 24 April 2009, available at <<http://www.thisislondon.co.uk/standard/article-23680464-6432-tamil-civilians-killed-in-fighting.do>>.

<sup>155</sup> *Report to Congress on Incidents During the Recent Conflict in Sri Lanka*, US Department of State, Washington-DC, 2009, available at <<http://www.state.gov/documents/organization/131025.pdf>>, p.15.

<sup>156</sup> “Sri Lanka death toll ‘unacceptably high’, says UN”, *The Guardian*, 29 May 2009, available at <<http://www.guardian.co.uk/world/2009/may/29/sri-lanka-casualties-united-nations>>.

<sup>157</sup> “UN statement on former spokesman views”, The Office of the UN Resident Coordinator, Sri Lanka, 15 February 2010, available at <[http://www.un.lk/media\\_centre/for\\_the\\_record.php#title\\_17](http://www.un.lk/media_centre/for_the_record.php#title_17)>.

<sup>158</sup> “No ‘Humanitarian Pause’”, *South Asian Outlook*, *op. cit.*

<sup>159</sup> “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

<sup>160</sup> *Ibid.*

<sup>161</sup> “LTTE propaganda defeated, truth revealed”, *op. cit.*



that at the very least one quarter of the generally accepted civilian death toll was directly attributable to the LTTE, it also meant that any other civilians killed or injured as a result of LTTE action, whether shelling or otherwise, and brought to a hospital or medical point would automatically be ascribed to government forces by the doctors present. This too dramatically skews the mortality figures.<sup>162</sup>

It is also worth noting that UN Secretary-General Ban Ki Moon has spoken about the mortality figures being cited by newspapers: “Most of these figures do not emanate from the U.N. and most are not consistent with the information at our disposal.”<sup>163</sup> A coordinator for UN humanitarian relief, Elizabeth Byrs, told *The New York Times* that any estimate of the death toll is based on extrapolation and guesswork.<sup>164</sup> The BBC noted after the end of the war that: “The UN says that there are no confirmed estimates of civilian casualties.”<sup>165</sup> The *Guardian* has noted that “independent confirmation of the death toll in the final days has been impossible.”<sup>166</sup> Nonetheless, in his book, *The Cage*, published two years after the war, Weiss increased the figure from the Tamilnet figures of 2,972 through 7,000 and onwards: “The sixteen-week siege led to the deaths of between 10,000 and 40,000 people.”<sup>167</sup> It is worth noting that Weiss makes claims in his book regarding fatalities in the Vanni which self-evidently could be inaccurate by up to 300 percent. Jon Snow and Channel 4 weren’t content with this figure, asserting that the government was responsible for “the death of as many as 40,000 people, possibly far more”. Channel 4 News subsequently increased the death toll by a further 10,000, broadcasting a news item centred around a “witness” called “Fernando” who claimed to have personally seen 50,000 fatalities buried.<sup>168</sup> The statistical and common sense implications of Channel 4 News arbitrarily increasing the alleged number of fatalities from already deeply questionable claims to such figures that is even more difficult to sustain undermines any claim that it was presenting “evidence required to convict”.

Unlike Jon Snow, Reuters objectively summed up the debate about the Vanni casualty toll: “The United Nations has disavowed an internal tally that showed about 7,000 civilians died, which was leaked to the media and accounts of up to 40,000 or more deaths have yet to be substantiated by any independent authority.”<sup>169</sup> Simply put, the Channel 4 claims are absolutely unsupported. Channel 4’s star witness, Vany Kumar, would have the world believe that 20,000 people died in the last five days of the crisis. Even TamilNet, in propagandistic overdrive at the time, did not claim that 4,000 people died per day. In July 2011, UNICEF released the results of its Family Tracing and Reunification project dealing with requests regarding missing persons since the end of the war in May 2009. It was active in nine districts. The reunification project recorded 2,564 missing people tracing enquiries, 1,888 – almost 75 percent – relating to adults and 676 relating to children.<sup>170</sup> It perhaps goes without saying that if there had been 40,000 or many more deaths in the last few weeks then there would have been considerably more than 2,576 missing persons tracing requests.

It is difficult not to sympathise with the Sri Lankan Secretary of the Defence Ministry Gotabaya Rajapaksa’s response to the 40,000 deaths claim: “This a vague accusation, based on even vaguer arithmetic which keeps getting repeated with out any sort of critical analysis by people who should know better.”<sup>171</sup>

### Mobile telephone footage of executions

Channel 4 makes a lot of what appears to be video or mobile telephone footage of bound naked and semi-naked prisoners being executed by men in military uniforms. Jon Snow states that they were “naked Tiger prisoners” and that the killing was “recorded on a mobile phone by Sri Lankan government forces”. Channel 4 then presents some more footage of an execution of three people whom it states “appear to be Tiger fighters”.

<sup>162</sup> “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

<sup>163</sup> “Ban denies UN covered up death toll in Sri Lanka”, *op. cit.*

<sup>164</sup> Robert Mackey, “Sri Lanka Disputes Report of 20,000 Dead”, *The New York Times*, 29 May 2009, available at <<http://thelede.blogs.nytimes.com/2009/05/29/sri-lanka-disputes-report-of-20000-dead/>>.

<sup>165</sup> “Sri Lanka rejects deaths report”, BBC News, 29 May 2009.

<sup>166</sup> “As the shells fell, we tried to save lives with no blood or medicine”, *The Guardian*, 15 September 2009, available at <<http://www.guardian.co.uk/world/2009/sep/15/sri-lanka-war-on-tamil-tigers>>.

<sup>167</sup> Weiss, *op. cit.*, p.194.

<sup>168</sup> “The Sri Lankan soldiers ‘whose hearts turned to stone’”, Channel 4 News, 27 July 2011, available at <<http://www.channel4.com/news/the-sri-lankan-soldiers-whose-hearts-turned-to-stone>>.

<sup>169</sup> “Sri Lanka says avoiding civilian deaths was ‘impossible’”, Reuters, 1 August 2011, available at <<http://in.reuters.com/article/2011/08/01/idINIndia-58562720110801>>.

<sup>170</sup> “Overview of ongoing government efforts to trace and reunify missing children in Northern Sri Lanka”, UNICEF, July 2011. For a copy of the UNICEF release see <[http://www.defence.lk/new.asp?fname=20110711\\_03](http://www.defence.lk/new.asp?fname=20110711_03)>.

<sup>171</sup> “Sri Lanka says avoiding civilian deaths was ‘impossible’”, *op. cit.*

The authenticity of the film footage shown on Channel 4 has been called into question. It showed clear signs of some form of editing, and it is still not clear whether it was filmed with a mobile telephone or video camera. Channel 4 says the footage was filmed on mobile cameras: technical and digital experts who analysed the images say that it had to have come from a video camera with optical zooming. A Sri Lankan government expert pointed out, for example, that “30 frames at the end of the video stream only contained a letter ‘A’ against a blank background. This is not consistent with an original video from a mobile telephone source.” The UN’s expert found that “The multimedia file submitted for analysis actually contains 17 frames of the uppercase letter ‘A’ in white against a red background. The presence of this character is suspect, though not conclusive”. The UN’s own report stated that “The multimedia file submitted for analysis, VideoDJ.3gp, cannot be authenticated to an absolute certainty without access to the device purportedly used to make the recording for further testing and comparison.” It also stated that “*Of course, there is no way to confirm solely from this recording the identity of the potential victims or the shooters. Neither whether the shooters were actually Sri Lanka military members as opposed to Tamils dressed in Sri Lanka military uniforms, nor whether the potential victims were Tamils or instead innocent victims of another ethnic group can be determined from this recording.* There are unexplained characteristics of this file, the most troubling of which from a file integrity standpoint is the text which appears in the final 17 frames of video.” This was described as a “potentially suspicious feature”.<sup>172</sup> (Emphasis added.) These clear concerns notwithstanding, somewhat surprisingly, Channel 4 has claimed with regard to the tests that “Forensic video analyst Jeff Spivack concluded that the technical attributes of the images were entirely consistent with mobile phone footage. He also said there was no evidence of editing or image manipulation.”<sup>173</sup>

The Sri Lankan government states that it has repeatedly requested Channel 4 to provide a copy of the mobile telephone footage that was aired by them in order to ascertain the authenticity of the footage. The government states that Channel 4 has not provided a copy of the footage that is in their possession to the Government.<sup>174</sup> This would also be an equally “suspicious feature”.

For all its hype that the programme presented “evidence required to convict”, the mobile telephone footage left more questions unanswered than answered – most significantly whom was shooting whom. Accepting that the video or mobile telephone footage did record the real execution of soldiers or civilians, the question Channel 4 did not and cannot answer is whether it is possible that the gunmen doing the shooting – and the filming – were LTTE cadres and the people being killed were captured government personnel or Tamil or Sinhalese civilians? The report commissioned by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions said there was no way of doing so. The director of the Channel 4 programme, Callum McCrae, said the gunmen must have been army soldiers because they were wearing Sri Lankan army uniforms and spoke Sinhalese. For the very serious allegations being made in his programme this is an unacceptably naive but understandably self-serving position to take. Channel 4 may have been unaware that the LTTE had on several occasions posed as government soldiers while killing civilians. One of the best documented instances – it was filmed by the LTTE themselves – was when the LTTE used Sri Lankan army uniforms in an attack at Anuradhapura, the Anuradhapura Jaya Sri Maha Bohdi massacre, on 14 May 1985, in which 146 civilians were murdered.<sup>175</sup> They may have even spoken in Sinhalese during part of the attack. There is in any instance ample film footage of LTTE cadres wearing uniforms similar to those of government forces.<sup>176</sup> The University Teachers for Human Rights have also confirmed the LTTE’s deliberate misuse of army uniforms, mentioning, for example, that in February 2009 “[a]n LTTE reconnaissance unit wearing army uniforms had gone about five miles behind army lines.”<sup>177</sup> There is little doubt that the LTTE would not have hesitated to kill prisoners for propaganda reasons. Weiss notes that the organisation “appear to have slaughtered captured soldiers and policemen with especially terrifying ferocity”.<sup>178</sup> In November 2010, the BBC reported an alleged confession by captured LTTE fighters of the torture and execution of 26 Sri Lankan servicemen in January 2009.<sup>179</sup> It has also been stated that a video of

<sup>172</sup> “Technical Note prepared by the Special Rapporteur on extrajudicial, summary or arbitrary executions”, Philip Alston, in relation to the authenticity of the “Channel 4 videotape”, available at <<http://www2.ohchr.org/english/issues/executions/docs/TechnicalNoteAppendix.pdf>>.

<sup>173</sup> “Sri Lanka execution video ‘appears authentic’”, Channel 4 News, 7 January 2010, available at <<http://www.channel4.com/news/sri-lanka-execution-video-appears-authentic>>.

<sup>174</sup> Letter from the Embassy of Sri Lanka in Norway to Mr. Arne Helsing, Chief of TV-NRK, Embassy of Sri Lanka, Oslo, 26 September 2011, available at <<http://www.nrk.no/contentfile/file/1.7810954!sri-lanka.pdf>>.

<sup>175</sup> “Missing Parts Of The Story of Sri Lanka’s Killing Fields\_Part05”, Channel Sri Lanka, 6 July 2011, available at <[http://www.youtube.com/watch?v=v96X--eiQ\\_s&feature=related](http://www.youtube.com/watch?v=v96X--eiQ_s&feature=related)>.

<sup>176</sup> See, for example, “LTTE: Tamil Eelam Special forces in Action. Uyir Ampukal”, YouTube, Uploaded by ragukum on 22 January 2008, available at <[http://www.youtube.com/watch?v=4KEm\\_ZmWh60&feature=related](http://www.youtube.com/watch?v=4KEm_ZmWh60&feature=related)>.

<sup>177</sup> “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

<sup>178</sup> Weiss, *op. cit.*, p.80.

<sup>179</sup> *Ibid.*, p.313.

the original footage broadcast by Channel 4 News reveals those doing the shooting to be speaking in Tamil, and that Sinhalese commentary was then overlaid.<sup>180</sup>

The Channel 4 programme also carried claims made by yet another unidentified witness that a group of women and girls were raped and then taken away, with the implication that they were then killed: the witness does not explain why she and her daughter were similarly not taken away. Channel 4 also presents another unidentified witness who claimed to have a portfolio of photographs of dead LTTE leaders taken on a senior officer's camera. He does not show them. There are also questions that must be asked about a yawning credibility gap between the footage and the commentary. Jon Snow claimed that naked corpses filmed *in situ* or being moved onto trucks showed signs of having been raped or abused even though there was no visible sign or indication of any abuse on the bodies. When challenged on this issue, the director of the programme fell back on the views of an anonymous "forensic pathologist" who would not have seen any more than any other viewer.<sup>181</sup>

The programme shows a photograph of rows of dead LTTE personnel and claims that the same "forensic" expert noted that a number of them had "gunshots to the head". While Channel 4 showed long lines of dead LTTE leaders and fighters, and alleged that they had been executed by the Sri Lankan army, Weiss describes the same scene: "The forensic teams had...identified the bodies of the...senior Tiger leaders as they were dredged from bogs or dragged from the dune faces where they had fallen. They laid the fighters in long, stinking ranks, their corpses engorged, burned and mutilated, their arms outstretched, their flesh marked by chemical burns or cyanide, their faces contorted."<sup>182</sup> Did Channel 4 ask their forensic pathologist whether the visible head wounds he or she may have noted might have been consistent with injuries that might have ensued had they been killed in close combat with the Sri Lankan army, had they been shot in the head by their comrades for wanting to surrender (which is also reported as having happened to some LTTE cadres), or if they had committed suicide by shooting themselves in the head? Might these also have been possible reasons for gunshot wounds to the head? Was Channel 4 even aware of the all-encompassing cult of suicide within the LTTE?

#### **"Evidence required to convict"?**

For all Jon Snow's hyperbole, and despite the very serious allegations made in the programme, Channel 4 has followed the mundane and superficial path outlined in Professor Susan Moeller's clinical description of how the media handles crises: "[the crisis] will become a front-page, top-of-the-news story...At this point, the story is grossly simplified: clear victims, villains and heroes are created; language such as 'harrowing,' 'hellish,' 'unprecedented'...is employed; huge numbers are tossed off frequently and casually, with few references to sources...The set piece is ideal material for television and superficial print coverage."<sup>183</sup>

If Jon Snow truly believed that "Sri Lanka's Killing Fields" presented "evidence required to convict" then in addition to the remarkable decline in journalistic standards at Channel 4 as pointed out by A A Gill, there has also been a sharp decline in common sense. In a court of law, and indeed in any reputable journalistic institution, unnamed and disguised "witnesses" making sensationalistic and unverifiable claims about events that have been irretrievably mired in propaganda would be treated with extreme caution.<sup>184</sup> And while all the programme's Sri Lankan "witnesses" were nameless, Channel 4's star witness, Vany Kumar, actually had five names. Far from being an Englishwoman of Tamil descent accidentally caught up in Sri Lanka's civil war and therefore an impartial, neutral commentator and presented as such by Channel 4, Kumar was an active member of the LTTE movement who had been in Sri Lanka for military training and who had worked as a propagandist for the movement. It would be the equivalent of a member of Sinn Fein being presented on Sri Lankan television as an impartial commentator on events in Northern Ireland. Courts also do not like witnesses who change their testimony – as Kumar did in respect of her accounts of what happened in the last few months. Courts would also take a dim view of allegations being made on the strength of mobile telephone footage which UN-commissioned experts have said could not be sustained. But even more serious to the court would be the fact that Channel 4 clearly sought to hide exculpatory evidence – that is to say

<sup>180</sup> See, for example, "Channel 4 Original Video of LTTE Killings (Tamil Voices)", YouTube, Uploaded by wiki540123 on 13 September 2009, available at

<<http://www.youtube.com/watch?v=HaMqKJlI6VE&oref=http%3A%2F%2Fthelionandword.wordpress.com%2F2011%2F06%2F10%2Fchannel-4-original-video-of-ltte-killings%2F>>.

<sup>181</sup> "Exclusive interview with Callum McCrae, Director of 'Sri Lanka's Killing Fields' produced by Channel 4", Groundviews, 21 June 2011, available at <<http://groundviews.org/2011/06/21/exclusive-interview-with-callum-mccrae-director-of-sri-lankas-killing-fields-produced-by-channel-4/>>.

<sup>182</sup> Weiss, *op. cit.*, p.5.

<sup>183</sup> Susan Moeller, *Compassion Fatigue: How the Media Sell, Disease, Famine, War and Death*, Routledge, New York and London, 1999, p.106-7.

<sup>184</sup> It is worth noting that in "Lies Agreed Upon", the response of the Sri Lankan government to the Channel 4 programme, all of their contributors were identified and identifiable.

evidence which might prove the defendant is innocent. Had Channel 4 and its researchers read Weiss's *The Cage*, they would have known that the very hospital at the heart of their documentary (and others) was hit repeatedly by LTTE artillery. Weiss himself admits as much. It is very difficult indeed – and Channel 4 made no such attempt – to differentiate between the alleged shelling by the government and that of the LTTE. If they were not aware of that fact then they were grotesquely incompetent and unprofessional in making the serious claims contained in the programme. And on an equally vital issue, Channel 4 also fails to in any way account for the cause of death of the tens of thousands of people it claims were killed, how many of them may have been LTTE cadres or civilians or who may have been responsible for their deaths: Channel 4, for example, does not address claims by the UTHR that thousands of civilians were shot by the LTTE. Simply put, this does not add up to “evidence required to convict”.

Jon Snow and Channel 4 rightly hounded Tony Blair and his government over their “dodgy dossier”, and its manifest failings, regarding Iraq. Snow and Channel 4 have managed to produce their own dodgy documentary, in this case relating to Sri Lanka. Far from being a once in a lifetime journalistic achievement, “Sri Lanka's Killing Fields” will probably be remembered as a case study in journalistic prejudice, ineptitude and unprofessionalism.

There are a number of questions which Jon Snow and Channel 4 should answer before they continue to back-slap themselves about how unique and groundbreaking their programme was:

- Why did Jon Snow and Channel 4 claim that it was the Sri Lankan army that forced Tamil civilians from their homes in 2008 when Human Rights Watch and Amnesty International, amongst others, clearly stated it was the LTTE that illegally forced the civilians to accompany them?
- Why did Channel 4 not explain how it inflated the putative death toll from the UN's unverifiable 7,000 deaths to one some five times higher?
- Why did Channel 4 not mention that the LTTE had on a number of occasions shelled hospitals in the no-fire zones? Were they aware of these shellings or that Gordon Weiss, the UN and the University Teachers for Human Rights had reported the LTTE had done so?
- Did Channel 4 not consider the possibility that the LTTE might be shelling its own civilians and hospitals in order to provoke an international intervention or a forced ceasefire?
- Did Channel 4 not consider – as Gordon Weiss clearly did – that the Tamil doctors may have been put under LTTE pressure to make false statements?
- Why did Channel 4 not check Vany Kumar's background, especially as she had already appeared on Channel 4 News under a different name? Why did Channel 4 have doubts about Kumar's credibility in 2009 and not in 2011?
- Why did Channel 4 persist in its claims that the mobile telephone footage it showed was of government soldiers killing LTTE prisoners when the UN-commissioned expert said there is no way to confirm solely from this recording whether the shooters were actually Sri Lanka military members as opposed to Tamils dressed in Sri Lanka military uniforms?
- Does Channel 4 not accept that a statutory requirement for “balance” in a programme dealing with human rights abuse is not achieved by the cursory inclusion of 49 seconds out of 50 minutes dealing with LTTE human rights abuse when UTHR reports that the LTTE may have deliberately killed one quarter of those said to have died in the Vanni *just* for trying to escape from its illegal detention, ignoring for the moment how many more they may have killed by deliberate shelling?
- Does Channel 4 believe that “evidence required to convict” includes an estimate for the number of Tamil civilians displaced by the LTTE that had a 25 percent margin of error?
- Why did Jon Snow and Channel 4 not once mention that the LTTE was listed throughout the world as a terrorist organisation, or even once refer to it as such?
- Why were there no interviews with anyone with a contrary, questioning or neutral viewpoint – security analysts, or political or legal commentators?