



Sri Lanka: The Numbers of Civilian Deaths January – May 2009

I. Introduction

1. The numbers killed, missing and injured in the 30 years of conflict in Sri Lanka with the LTTE have been extraordinarily high and were one of the reasons that the Government of Sri Lanka ('GOSL') resolved to seek a decisive outcome against its adversary. The Sri Lankan citizens suffered the greatest number of casualties as a result of LTTE attacks upon: civilians; ethnic groups; religious groups including Muslims and Buddhists; rival Tamil politicians; Tamil dissident groups including low ranking LTTE cadres; Sinhalese politicians from all parties; villages; public areas; places of religious worship and economic targets.¹ The Sri Lankan Armed Forces ('SLAF') also sustained high numbers of casualties: prior to 2006, 19,282 SLAF personnel were killed; 2,609 were missing in action; and 82,104 were injured and the number continued to grow daily.² This submission will review the numbers of fatalities in the final period of the conflict known as 'Eelam IV', and will challenge the grounds on which international agencies have wrongfully ignored evidence of deaths rigorously calculated and verified by the GOSL.

II. Civilian Casualties in 2009

2. The Report of the Secretary-General's Panel of Experts on accountability in Sri Lanka of 31 March 2011 ('the POE Report') has focused upon the numbers of civilian casualties arising from the final stages of the conflict in January – May 2009, in the Vanni in the Northern Province.³ Eelam IV started in July 2006, as the GOSL sought to regain sovereign control over territory held by the LTTE forces. By January 2009, the LTTE had withdrawn to the Vanni, taking the Tamil civilian population with it by force. The LTTE immersed itself within the civilian population, intermingling LTTE cadres with civilians and using the civilian population as a human shield. Several international agencies have incorrectly increased the total number of civilian casualties that arose out of the final stages of the conflict.

¹ See Attachment 1, Sri Lankan Ministry of Defence, *Humanitarian Operation Factual Analysis: July 2006 – May 2009* (July 2011), pp. 1 - 27.

² See Attachment 1, Sri Lankan Ministry of Defence, *Humanitarian Operation Factual Analysis: July 2006 – May 2009* (July 2011), pp. 1 – 27, at p.16, para. 52.

³ Also referred to as the 'Wanni.'



III. The Sri Lankan Government's Figures

3. In 2011, the GOSL conducted the first comprehensive census in Sri Lanka since 1981 (the Enumeration of Vital Events 2011, 'EVE 2011'), using a robust and comprehensive methodology that produced verifiable results.⁴ This census was carried out by the Department of Census and Statistics ('DCS'). According to the census results, there were approximately 7,000 fatalities during the final stages of the Sri Lankan conflict, including LTTE cadres as well as civilians, some of whom in both categories were killed by the LTTE.⁵ These figures were calculated using a transparent and scientific method.⁶
4. In conducting the 2011 census, the DCS utilized the 'de jure' method of counting and tallying people according to their regular or legal residence.⁷ In October 2011 the collected data was subjected to rigorous field verification.⁸ The field operations for the enumeration of the population were coordinated by DCS statisticians who were appointed to each district in the Northern Province.⁹
5. According to the results of the census, there were 11,172 deaths in the Northern Province during 2009.¹⁰ The data indicates that 2,523 of those were "natural deaths" and 7,934 accounted for "other deaths".¹¹ The report calculates that of the 7,934 "other deaths", 6,858 occurred between January and May 2009.¹² Given the methodology employed, this figure should be deemed to accurately reflect the numbers of civilians killed in the final stage of the conflict. It is submitted that calls for further investigation based on unsubstantiated estimates that tens of thousands of civilians were killed in the conflict are unfounded and deliberately targeted to undermine the GOSL.¹³

⁴ See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, Executive Summary, p. xi and p. 1. The Enumeration of Vital Events 2011 census was produced by the Sri Lankan Department of Census and Statistics, in order to provide the Government of Sri Lanka with "important information concerning the population and vital events in the Northern Province" which had not been collected or recorded in the province since the Census of Population and Housing was conducted in 1981.

⁵ See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, p. 49.

⁶ See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, Executive Summary, p. 1.

⁷ See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, Executive Summary, p. 4.

⁸ See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, Executive Summary, pp. 1, 3 and 6.

⁹ See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, Executive Summary, p. 2.

¹⁰ See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, p. 20.

¹¹ Seventy one per cent of the deaths in 2009 were reported as "being due to extraordinary circumstances". See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, p. 20.

¹² See Attachment 2, Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka, *Enumeration of Vital Events - 2011 - Northern Province, Sri Lanka*, p. 49.

¹³ Report of the Secretary-General's Panel of Experts on accountability in Sri Lanka (31 March 2011) ('the POE Report'), p. 41, para. 137.



IV. Corroborative Reports

6. The EVE 2011 census data is corroborated by reference to the reports of the United Nations Country Team ('UNCT') and the United Nations Crisis Operations Group ('COG') produced at the time.¹⁴ The UN reports were never released publicly but their figures, which are known, have been largely ignored in the international arena without any justification, in favour of higher estimates.¹⁵
7. The UNCT "estimated a total figure of 7,721 killed and 18,479 injured from August 2008 up to 13 May 2009, after which it became too difficult to count."¹⁶ The POE report states that the UNCT figure accounts for casualties that were "actually observed" by observers who were operational in the LTTE areas.¹⁷ The figure therefore includes combatants, conscripts and non-combatants.
8. Similarly, the COG, which was established by the UNCT comprising "representatives from several UN organizations,"¹⁸ was "able to verify 7,737 killed and 18,479 injured."¹⁹ Even if considered to be "conservative",²⁰ the number can be considered as reasonably accurate as the COG used "a rigorous methodology for collecting and verifying information on civilian casualties using multiple independent sources for each individual death or injury reported."²¹ The methodology used was described by the Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka of November 2012 ('UN Internal Review Panel on Sri Lanka'), as being "of a standard comparable to best-practice on information collection in other conflict situations."²² These UN estimates importantly equate to the figures produced by the GOSL's 2011 census.
9. A report by the American Association for the Advancement of Science ('AAAS'), 'Satellite Analysis', considered the probable number of deaths using satellite analysis of gravesites and provides further corroboration of the GOSL's figures.²³

¹⁴ The POE Report, p. 40, para. 134, and the Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka (November 2012) ('UN Internal Review Panel Report on Sri Lanka'), Annex V, pp. 114 – 115, para. 20.

¹⁵ The POE Report, p. 40, para. 134, and the UN Internal Review Panel Report on Sri Lanka, Annex V, pp. 114 – 115, para. 20.

¹⁶ The POE Report, p. 40, para. 134.

¹⁷ The POE Report [emphasis added], p. 40, para. 135.

¹⁸ UN Internal Review Panel Report on Sri Lanka, Annex III, p. 64, para. 75.

¹⁹ "The COG received specific reports of 17,810 people killed and 36,905 injured from January to May 2009. Reports were received from numerous sources including the regional directors of the health services of Killinochchi and Mullaithivu; medical officers assigned to the PTK hospital; additional government agents from Mullaithivu; eyewitness reports from UN and international NGO national staff; satellite imagery and analysis obtained from UNOSAT; medical staff in receiving military and civilian health facilities at Mannar, Vavuniya, Trincomalee, and Pullmadile; and clergy, education department staff and community leaders. Once a casualty report was received, the COG would contact other credible sources, independent of the original source, to confirm every single casualty. The COG would consider a casualty report as 'verified' only when it had been corroborated by three independent sources. As a result of this methodology, out of the total number of reports [...] it was able to verify 7,737 killed and 18,479 injured," UN Internal Review Panel Report on Sri Lanka, Annex V, pp. 114 – 115, para. 20.

²⁰ UN Internal Review Panel Report on Sri Lanka, p. 10, para. 21.

²¹ See fn 19, *supra*.

²² UN Internal Review Panel Report on Sri Lanka, Annex V, pp. 114 – 115, para. 20.

²³ See Attachment 3, *Satellite Analysis*, by the American Association for the Advancement of Science.



The report identified three gravesites within the No Fire Zones (‘NFZs’) and scrutinized them using satellite imagery. It “counted the growth in graves at all three sites over time, using all imagery up to and including the image gathered on May 24”.²⁴ The report states that “[i]n all three gravesites reviewed, a total of 1,346 likely graves are estimated to be in the imagery by May 24, 2009.”²⁵ The satellite analysis was such that it was able to detect an increase to the southernmost gravesite by “an estimated 28% between May 6 and May 10” and a further “20% between May 10 and May 24.”²⁶ Importantly, the report states that the satellite analysis “**would have picked up on 30,000 deaths within one week or ten days**” had this taken place.²⁷ The satellite analysis picked up no mass gravesites capable of supporting the extraordinarily high number of civilian deaths alleged by some agencies.

10. Additionally, a leaked cable dated 18 May 2009, sent from the American Embassy in Colombo to the US Secretary of State in Washington DC, stated that a “UN contact also thought LTTE claims of 25,000 civilians wounded or killed in the conflict zone were exaggerated” and a “second contact also doubted the LTTE claims of 25,000 civilian casualties in the last few days, but could not offer an alternative estimate.”²⁸ The cable stated that based on the UN’s “May 10 shelter analysis and rough estimates of about 70,000-80,000 of people in the NFZ before the final assault, the number of unaccounted for people could be as high as 7,000-17,000, but there is no more precise information available.”²⁹

V. High Estimations of Civilian Casualties: Flaws in the Empirical Data

11. In order to estimate the number of civilian fatalities during the final stages of the conflict, the formula that has been broadly adopted is one of subtracting the number of civilians that it is claimed emerged from the NFZ by May 2009 from the number of people who were allegedly inside the NFZ in early 2009.³⁰

²⁴ See Attachment 3, *Satellite Analysis*, by the American Association for the Advancement of Science, p. 2.

²⁵ See Attachment 3, *Satellite Analysis*, by the American Association for the Advancement of Science, p. 2.

²⁶ See Attachment 3, *Satellite Analysis*, by the American Association for the Advancement of Science, p. 2.

²⁷ See Attachment 3, *Satellite Analysis*, by the American Association for the Advancement of Science, p. 2, states: “[t]he single most relevant observation with regard to the AAAS satellite analysis is that it would have picked up on 30,000 deaths within one week or ten days that would have need[ed] to have taken place to augment the UN Country Team’s 7,721 fatalities to reach the 40,000 deaths claimed by Channel 4.”

²⁸ See Attachment 4, Cable 09COLOMBO539, sent from the American Embassy in Colombo to the Secretary of State in Washington DC (*inter alia*), 18 May 2009, WikiLeaks, para. 12.

²⁹ *Ibid.*

³⁰ For example, the POE Report states, “[o]thers have put the estimate at 75,000, a figure obtained by subtracting the number of people who emerged from the conflict zone (approximately 290,000) from the estimate of the number thought to have been in the conflict zone (approximately 330,000 in the NFZ from January, plus approximately the 35,000, who emerged from the LTTE-held areas before that time),” p. 40, para. 133. See also, the UN Internal Review Panel Report on Sri Lanka, p. 38, para. 5 which states that “Some



However, the estimated population within the NFZ in early 2009 varies between 70,000;³¹ 120,000-180,000;³² 150,000-190,000;³³ 200,000;³⁴ and 330,000³⁵ according to different sources. Without a system to ensure the proper collection of population data, the flaw in the above calculation is clear.

VI. Additional Government Agent of Mullaitivu

12. The estimate that there were 330,000 people in the NFZ in early 2009 appears to have originated from a document allegedly provided by the Additional Government Agent of Mullaitivu, Mr K. Parthipan (“AGA Parthipan”). In his February 2009 Situation Report to the Ministry of Public Administration and Home Affairs (‘Situation Report’), AGA Parthipan estimated that the population of Mullaitivu District was “*about* 81,000 families, consisting of *about* 330,000 persons” at that time (‘February 2009 population estimate’).³⁶
13. There are several grounds upon which to question the accuracy of AGA Parthipan’s Situation Report:
 - i. AGA Parthipan’s February 2009 population estimate is inconsistent with the Government Agent for Mullaitivu’s 15 December 2008 food request for 16,780 displaced families (equivalent to approximately 67,120 people)³⁷ in Mullaitivu for *the months of January to March 2009*.³⁸
 - ii. The Situation Report offers no explanation as to how AGA Parthipan and his subordinates recorded and counted an additional 64,220 incoming

commentators (see table) have argued that the discrepancy between the number of people recorded as being within the Wanni at the beginning of the final stages and the number recorded as having left the Wanni by the end of the war, indicates the number of people who are unaccounted for and who may have died during the period;” and the Crisis Group Asia, *War Crimes in Sri Lanka: Crisis Group Asia Report No. 191* (17 May 2011), p. 6, states that “a comparison of the number of civilians known to be in the Wanni during the fighting with the number known to have reached government internment camps by the end of the fighting provides a rough estimate of those killed or missing.” <http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf>

³¹ “Estimates vary of the number of civilians trapped, from 70,000 according to the Government, through around 200,000 according to UN estimates, up to 300,000 or more according to Tamil groups,” ‘Briefing to the Security Council on the Humanitarian Situation in Sri Lanka: Statement by John Holmes, Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator’, 27 February 2009.

³² See Attachment 5, The Ministry of Defence, Public Security, Law and Order, 26th Meeting of the Consultative Committee on Humanitarian Assistance, 30 March 2009.

³³ “Our most recent estimate is that there are approximately 150,000 to 190,000 civilians squeezed into this area, whereas the Government continue to estimate that the number is less than 70,000”, ‘Briefing to the Security Council on the Humanitarian Situation in Sri Lanka: Statement by John Holmes, Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator’, 26 March 2009.

³⁴ See fn 31, *supra*.

³⁵ See Attachment 6, Situation Report to the Ministry of Public Administration and Home Affairs, from the Additional Government Agent of Mullaitivu, Mr K. Parthipan, 28 February 2009. In the Situation Report, AGA Parthipan estimated that the population of Mullaitivu District was “*about* 81,000 families, consisting of *about* 330,000 persons” [emphasis added] at that time.

³⁶ See Attachment 6, Situation Report to the Ministry of Public Administration and Home Affairs, from the Additional Government Agent of Mullaitivu, Mr K. Parthipan, 28 February 2009. The Situation Report added that “[a]lmost the entire people from all AGA Divisions of the District are displaced. The IDPs of Mullaitivu and Kilinochchi and parts of Vavuniya, Manar and Jaffna Districts are now staying in Mullaitivu District”.

³⁷ Calculated on the basis that “about 81,000 families, consisting of about 330,000 persons” is about 4 people per family.

³⁸ See Attachment 7, Letter from Mrs Emelda Sukumar, Government Agent for Mullaitivu District, to Mr S. B. Divaratne, Deputy Secretary to the Treasury & Commissioner General of Essential Services, 15 December 2008.



families (the equivalent of about 256,880 people),³⁹ from 15 December 2008 onwards, in order to conclude that the population was 330,000 on 28 February 2009;

- iii. On 27 February 2009, John Holmes, Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, referred to the number of civilians trapped in the Vanni as being “*tens of thousands*”;⁴⁰
- iv. On 18 March 2009, AGA Parthipan wrote a request for food and non-food for the IDP’s in Mullaitivu. The content of this letter did not reflect the Situation Report: it made no reference to the population estimation of 330,000; that there were now five times more people in the area than had been anticipated in December; or even the fact that the population of Mullaitivu had significantly increased;⁴¹
- v. On 29 April 2009, AGA Parthipan wrote a request for “WFP Food for Mullaitivu District”, stating that “there are about 40,000 families consisting of 165,000 people and staying in Chalampan, Mullivaikal West and Mullivaikal East villages in Maritimepattu DS Division of the District as at 24.04.09”, contrasting the February 2009 population estimate;⁴²
- vi. AGA Parthipan has not explained why his February 2009 population estimate is so much higher than the December 2008 and April 2009 estimates provided by himself and his superior,⁴³ which are corroborated by the UNOCHA, the UN Resident Commissioner Neil Buhne and John Holmes;⁴⁴
- vii. The Situation Report purports to request the provision of food during March 2009, yet it was not sent to Mr Divaratne, Deputy Secretary to the Treasury and Commissioner General of Essential Services, who had

³⁹ See fn 37, *supra*.

⁴⁰ See fn 31, *supra*. Whilst identifying that estimates of trapped civilians varied greatly, he expressed his “extreme concern about the fate of the *tens of thousands* of civilians trapped in the Vanni pocket” [emphasis added].

⁴¹ See Attachment 8, Letter from Mr Parthipan, Additional Government Agent for Mullaitivu District, to Mr S. B. Divaratne, Commissioner General of Essential Services, 18 March 2009. In the letter, AGA Parthipan expresses his “sincere gratitude” to Mr Divaratne “for sending 1000MT WFP Food items and 15MT vegetables by the ships on 08.03.2009 and 17.03.2009.”

⁴² See Attachment 9, Letter from AGA Parthipan Requesting Food for the Mullaitivu District, 29 April 2009.

⁴³ See Attachment 7, Letter from Mrs Sukumar, Government Agent for Mullaitivu District, to Mr S. B. Divaratne, Deputy Secretary to the Treasury & Commissioner General of Essential Services, 15 December 2008 and see Attachment 9, Letter from AGA Parthipan Requesting Food for the Mullaitivu District, 29 April 2009.

⁴⁴ See Attachment 10, The Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka’s Humanitarian Effort* (2011), pp. 10 – 21, at p.18, para. 49, citing an estimation from UNOCHA in the *Rapid Assessment of Nutritional Status among the Displaced Population in Vavuniya Transit Camps* (March 2009), Department of Nutrition Medical Research Institute in collaboration with UNICEF, that there were between “75,000 to 150,000” trapped civilians. Also see Attachment 5, The Ministry of Defence, Public Security, Law and Order, 26th Meeting of the Consultative Committee on Humanitarian Assistance, 30 March 2009, in which Neil Buhne estimated that there were between 120,000-180,000 trapped civilians; and see also John Holmes’ ‘Briefing to the Security Council on the Humanitarian Situation in Sri Lanka’, in which he stated that “[o]ur most recent estimate is that there are approximately 150,000 to 190,000 civilians squeezed into this area, whereas the Government continue to estimate that the number is less than 70,000”, 26 March 2009.



already been liaising with the Government Agent for Mullaitivu to arrange the provision of food for March 2009;⁴⁵

- viii. The original documentation used to compile the February 2009 population estimate has not been disclosed in order to check its accuracy;
 - ix. There is no record of the dates during which the data was collected; and
 - x. The Situation Report is dated 28 February 2009, but internally it provides the requirement of food items *as at 2 March 2009*.⁴⁶
14. These factors cast doubt over the authenticity and reliability of the Situation Report and suggest the pursuit of a political agenda.
15. AGA Parthipan apparently used information from a date unknown supplied by village headmen, *Grama Sevakas*, to estimate the population size.⁴⁷ The *Grama Sevakas* compiled lists of people by family units alleged by them to be within the NFZ. It should be noted that the *Grama Sevakas* did not have the resources to maintain at all times accurate family lists. The figures emerging from this process would require rigorous scrutiny by the Government Agent to eliminate any question of partiality in the data collection or erroneous duplication of numbers. There is no evidence to suggest that such checks were ever undertaken.
16. The following factors highlight the dangers of relying upon the *Grama Sevakas*' data to calculate the number of civilian fatalities in the final stages of the conflict:
- i. There was inevitably duplication of figures, including double entry of the same family onto lists; families being registered as IDPs in more than one location (as people were constantly moving around within the NFZ); the inclusion of family members outside the NFZ; and irregularities caused by the separation of families;
 - ii. The numbers included LTTE cadres and conscripts inside the NFZ;
 - iii. The numbers included civilians who later became LTTE cadres and conscripts (thus no longer qualifying as civilians);

⁴⁵ See Attachment 6, Situation Report to the Ministry of Public Administration and Home Affairs, from the Additional Government Agent of Mullaitivu, Mr K. Parthipan, 28 February 2009. Also see Attachment 7, Letter from Mrs Emelda Sukumar, Government Agent for Mullaitivu District, to Mr S. B. Divaratne, Deputy Secretary to the Treasury & Commissioner General of Essential Services, 15 December 2008 and Attachment 11, Letter from Mr Divaratne to Government Agent Trincomalee, dated 17 February 2009.

⁴⁶ See Attachment 6, Situation Report to the Ministry of Public Administration and Home Affairs, from the Additional Government Agent of Mullaitivu, Mr K. Parthipan, 28 February 2009, p. 19.

⁴⁷ University Teachers for Human Rights (Jaffna) ('UTHR(J)') Special Report 34, part 5.1, stated, "[w]e were given a jerk by a senior community leader who had been in the NFZ and told us of a conversation he had in early March 2009 with a high ranking government administrator. The latter told him that from the checks he had made through the village headmen (GSs) of the Vanni who were nearly all there, there were 330 000 civilians in the NFZ", <http://www.uthr.org/SpecialReports/Special%20rep34/Uthr-sp.rp34.htm>.



- iv. The numbers included people who later died of natural causes, were liberated, fled by sea or lagoon, were killed in cross-fire or were killed by the LTTE;
- v. Preparation of the lists were subject to LTTE influence as the *Grama Sevakas* were working under LTTE observation,⁴⁸
- vi. The LTTE had a clear strategic need at the time for the purposes of propaganda to inflate the numbers of people affected by the fighting; and
- vii. The LTTE had an interest in gaining access to increased supplies and inflated figures would achieve that end.

VII. Inflated Estimations of Civilian Casualties

17. The POE Report, the UN Internal Review Panel Report on Sri Lanka and the ‘War Crimes in Sri Lanka’, Crisis Group Asia Report No. 191 (‘Crisis Group Report’) are examples of international reports which have adopted AGA Parthipan’s population estimate, without any analysis of potential flaws in the content. Consequently, their calculations suggest that there may have been between 40,000 to 75,000 civilian deaths during the final stages of the conflict: some of the highest estimations to emerge in the public arena. It is submitted that it was incumbent upon any body making significant allegations against the GOSL to scrutinize and check the methodology of its formulation.

(i) The POE Report

18. The POE Report calls for an investigation into the total number of civilian deaths and without explanation ignores the statistical evidence produced by the DCS.⁴⁹ The POE Report records a casualty estimate of 75,000, a figure which it states is “obtained by subtracting the number of people who emerged from the conflict zone (approximately 290,000) from the estimate of the number thought to have been in the conflict zone (approximately 330,000 in the NFZ from January, plus approximately the 35,000, who emerged from the LTTE-held areas before that

⁴⁸ In the UTHR(J) Information Bulletin No. 39, Perera Veerasingam reported the following, “Controlling village headmen (GSs) is also to control the people. The government’s social welfare measures, ration cards, identity cards and voters’ lists are all routed through the headman. From the 1990s the LTTE has used the headmen under its control to police the people, force them to attend demonstrations, perform compulsory military service as auxiliaries, impose punitive cuts of rations, fiddle government aid and report on those coming in and going out. Veerasingam had no political connections. The LTTE evidently would not allow him to set a precedent to headmen who disliked taking instructions from them. The Sri Lanka government may pay them, but whoever wished to live must understand that there is only one ‘who must be obeyed’”, <http://www.uthr.org/bulletins/bul39.htm>.

⁴⁹ The POE Report, p. 41, para. 137.



time).”⁵⁰ This calculation was first advanced in the Crisis Group Report in 2010 which used the inflated figures to arrive at the final estimation of fatalities.⁵¹

19. The POE Report concedes the difficulties in producing reliable figures of casualties from the final stages of the conflict but leaves unexplained its reasons for preferring higher civilian casualty figures.⁵² For example, it states that “[a] number of **credible** sources have estimated that there could have been as many as 40,000 civilian deaths”.⁵³ However, it does not cite these sources, nor explain why it deems them to be more credible. Similarly unjustified is its condemnation of the UNCT’s figure of 7,721 fatalities, which it claims is “*likely* to be too low.”⁵⁴ It only speculates that “[m]any casualties *may* not have been observed”; that after “13 May, the number of civilian casualties *likely* grew rapidly”; and that “the total number *could easily be* several times that of the United Nations figure.”⁵⁵
20. The POE Report applies an unsubstantiated ‘injuries to deaths’ ratio of 1:2 or 1:3 to information received about the conflict. It states that “approximately 40,000 surgical procedures and 5,000 amputations [were] performed during the final phase” of the conflict, and “[d]epending on the ratio of injuries to deaths, estimated at various times to be 1:2 or 1:3, this could point to a much higher casualty figure.”⁵⁶ No justification is provided to support the speculation that there were two or three times as many deaths as there were injuries in the final phase of the Sri Lankan conflict. Well established research demonstrates that the number of people wounded in warfare is in fact at least twice the number killed and may be 13 times as high.⁵⁷

(ii) Crisis Group Asia (‘Crisis Group Report’)

21. The Crisis Group Report uses AGA Parthipan’s population figure of 330,000 in the NFZ in February 2009, describing it as “credible” but without having looked

⁵⁰ The POE Report, [emphasis added] p. 40, para. 133.

⁵¹ Crisis Group Asia, *War Crimes in Sri Lanka: Crisis Group Asia Report No. 191* (17 May 2011), p. 6. <http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf>

⁵² The POE Report states that “[s]everal factors make it very difficult to calculate a reliable casualty figure: (a) the number of persons in the conflict area remains uncertain, **although it was likely to have been as many as 330,000**; (b) the lack of an accurate count of the number of persons who emerged from the Vanni, due to the lack of transparency in the screening process; (c) lack of certainty on the numbers of LTTE combatants, complicated further by the increase in forced recruitment in the final phase; and (d) the fact that many civilians were buried where they fell, without their deaths being registered, in some cases, unobserved,” [emphasis added] pp. 39 – 40, para. 132.

⁵³ The POE Report, p. 41, para. 137.

⁵⁴ The POE Report, p. 40, para. 135.

⁵⁵ The POE Report, p. 40, para. 135.

⁵⁶ The POE Report, p. 40, para. 133.

⁵⁷ Research published in the British Medical Journal in 1999 shows that during the fighting of war the number of people wounded is at least twice the number killed **and may be 13 times as high**; this ratio of the number wounded to the number killed results from the impact of a weapon system on human beings in the particular context of war. “Mortality associated with use of weapons in armed conflicts, wartime atrocities, and civilian mass shootings: literature review”, accepted 7 April 1999.



for flaws or weaknesses in the collection of the data.⁵⁸ The Crisis Group Report does not explain why it attributes credibility to this figure. The report adds 33,000-38,000 to the figure of 330,000 stating “according to the government, there were between 33,000 and 38,000 internally displaced persons (‘IDPs’) from the Vanni already in camps in government held areas.”⁵⁹ The fact that the Crisis Group Report uses a Government figure to increase the number of civilians present in the Vanni demonstrates selectivity and bias.

(iii) UN Internal Review Panel Report on Sri Lanka

22. In November 2012, the UN Internal Review Panel Report on Sri Lanka referred to the GOSL’s 2011 census data, but attempted to discredit its statistical research by providing “additional and alternative information on numbers of people in the Wanni during the final stages of the war.”⁶⁰ This alternative information included, *inter alia*, AGA Parthipan’s figure.⁶¹ At the same time, the report states: “other sources have referred to **credible** information indicating that over 70,000 people are unaccounted for”.⁶² It does not identify these sources nor indicate that it has considered any potential flaws in the data, thereby demonstrating a bias. Further, despite the numerous requests by the GOSL to disclose the names of the dead, no names have been disclosed to date.

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⁵⁸ The Crisis Group Report stated that it had “credible evidence that there were 330,000 displaced civilians in the second NFZ and adjacent areas as of mid- to late-February” and that “[d]espite being advised in February and March by sources on the ground in the Vanni that the population in the remaining area was 81,000 families or 330,000 people, the government continued to understate the population, offering estimates around 70,000 through early April”, [emphasis added] pp. 6 and 22. <http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf>

⁵⁹ Crisis Group Report, 17 May 2011, p. 6. <http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/191%20War%20Crimes%20in%20Sri%20Lanka.pdf>

⁶⁰ UN Internal Review Panel Report on Sri Lanka, p. 14, para. 34, fn 47.

⁶¹ UN Internal Review Panel Report on Sri Lanka, Annex II, pp. 38 – 39, para. 7, fn 12.

⁶² UN Internal Review Panel Report on Sri Lanka, p. 14, para. 34.