

SRI LANKA

MAJOR GENERAL JAGATH DIAS

Dossier

May 2017

INTERNATIONAL
TRUTH
AND JUSTICE
PROJECT

NANAYAKKARA AGARAGE JAGATH CHULANAGA DIAS

57 Division Commander in 2009¹



“If a nation forgets its past it is certainly not focused to face the future”.

JAGATH DIAS²

¹ OHCHR Investigation into Sri Lanka (hereinafter referred to as OISL), 2015, A/HRC/30/CRP.2, Para 116.

² *Military transformed from victor to reconciler*, By Dhaneshi Yatawara, 8 September 2013, The Sunday Observer Lanka, <http://archives.sundayobserver.lk/2013/09/08/sec03.asp>

1. CAREER

1.1 SUMMARY OF POSITIONS

Jagath Dias joined the Army in 1980. After completing his initial training, in 1982 he was commissioned as a Second Lieutenant to the 1 Vijayabahu Infantry Regiment³. Later, he received an inter-regimental transfer to the Gajaba Regiment⁴. He was promoted to the rank of Captain in 1986.

2000	Officiating Commander of Special Forces Brigade ⁵
2000-1	Officiating Commander, 516 Brigade
2001-3	Officiating Inspector Infantry, Army Headquarters
2003-4	Commandant, Infantry Training Centre, Officiating Commander, 534 Brigade
2005-6	Commander 233 Brigade (note: this is during the final war in the East)
2006-7	General Officer Commanding 56 Division
26 Feb 2007	57 Division created (consisting of 571, 572, 573 Brigades and then in October 2008 the 574 Brigade was added) ⁶ .
Mid 2007-09	Appointed General Officer Commanding 57 Division ⁷
18 Sept.2009-2011	Deputy Chief of Mission to the Sri Lanka Embassy in Berlin (Also accredited to Switzerland and the Vatican ⁸)
2012-2014	Adjutant General for the Sri Lankan Army ⁹
Jan 2014	Security Force Commander Mullaitivu
7 May 2015-Feb 16 ¹⁰	46th Chief of Staff of the Army.

³ Major General Jagath Dias Appointed Chief of Army Staff, Daily Mirror Lanka, 15 May 2015, Accessed at <https://www.pressreader.com/sri-lanka/daily-mirror-sri-lanka/20150515/281539404534031>

⁴ Sri Lanka Army - Gajaba Regiment, Global Security, <http://www.globalsecurity.org/military/world/sri-lanka/army-gajaba.htm> .

Officiating Commander, 551 Brigade, Commander 553 Brigade, Officiating Colonel GS. Also Directorate of Operations, Army Headquarters Officiating Commandant Gajaba Regiment, Commanding Officer, 10 Gajaba Regiment.

⁵ "Lt. Col. N.A.J.C. Dias officiating commander of Special Forces Brigade" says *LTTE Order of Battle*, June 2000, accessed at: <https://forums.bharat-rakshak.com/viewtopic.php?t=313>

⁶ The European Centre for Constitutional and Human Rights (ECCHR, accessed at https://www.ecchr.eu/en/our_work/international-crimes-and-accountability/sri-lanka.html) says: "Major General Jagath Dias commanded his troops to capture Palampiddi, Periyamadu, Thunukkai, Mallavi and Akkarayankulam, Murikkandi, Iranamadu and Kilinochchi and then Ramanathanpuram and Visuamadu towns. An artillery officer, Colonel G.V. Ravipriya, first contributed towards the Vanni liberation operation, as one of the senior Brigade Commander of the 57th Division was appointed as the Commander of the Task Force 8 which initially commenced operations under the 53rd Division."

57 Division comprised: 57-1 Brigade, 57-2 Brigade, 57-3 Brigade, 57-4 Brigade.

⁷ Replacing Brig. Sumith Manawadu, who led the division during the first few months after its formation. Dias in charge except for one week when the Commanding Officer of the Commando Regiment, Colonel Ralph Nugera, reportedly replaced Major General Dias as GOC of the 57th Division between 30 March and 5 April 2009. From ICEP report, PIAC, accessed at <http://www.nation.lk/2009/04/05/defence.html>

⁸ Gajaba Regiment's website, accessed at http://222.165.180.163/gajabaregiment/Ach_deplomatics.php

⁹ Major General Jagath Dias Appointed Chief of Army Staff, Daily Mirror Lanka, 15 May 2015, Accessed at <https://www.pressreader.com/sri-lanka/daily-mirror-sri-lanka/20150515/281539404534031>

¹⁰ Major General Milinda Peiris new army Chief of Staff, 12 February 2016, Colobo Gazetee, accessed at <http://colombogazette.com/2016/02/12/major-general-milinda-peiris-new-army-chief-of-staff/>

1.2 MILITARY TRAINING

Major General Dias was trained at the National Defence College, India¹¹. Other foreign assignments reported by the military include: Pakistan, Qatar, Oman, US, India, Czech Republic, Turkey, China, Russian Federation, Australia, Germany & South Korea¹².

1.3 JAGATH DIAS DENIED VISAS

2011: On 24 January 2011, ECCHR, TRIAL and the Society for Threatened People (STP) urged the Swiss Federal Council to take action against Jagath Dias for the first time. On 3 May, they asked the Foreign Ministry publicly to declare Dias “persona non grata” and to withdraw his diplomatic visa. On 4 August 2011, they filed a criminal complaint with the Federal Attorney General against Jagath Dias for alleged war crimes. At the beginning of September 2011, Dias was stripped of his diplomatic status. In the meantime Jagath Dias returned to Sri Lanka. The Swiss Federal Attorney General indicated that a criminal investigation would be launched if Dias came back on Swiss soil¹³.

2012 August: Jagath Dias was reportedly rejected by the United States for a training programme on account of his involvement in alleged war crimes, according to Human Rights Watch¹⁴.

2013: Jagath Dias was reportedly denied a visa by the Government of Australia to attend an ICRC workshop due to the allegations against him. He was asked to withdraw his application for the programme by the Australian High Commission in Colombo, according to the Island newspaper in Sri Lanka quoting a senior official¹⁵. This was also reported by Human Rights Watch.

Despite the allegations against him, Jagath Dias was promoted by the Sirisena Government in mid-2015 to become Sri Lanka’s 46th Chief of Army Staff.

¹¹ Major General Jagath Dias Appointed Chief of Army Staff, Daily Mirror Lanka, 15 May 2015, Accessed at <https://www.pressreader.com/sri-lanka/daily-mirror-sri-lanka/20150515/281539404534031>

¹² Major General Jagath Dias Appointed New Chief of Staff, accessed at Army Website, <http://www.army.lk/news/major-general-jagath-dias-appointed-new-chief-staff> and Jagath Dias new Army Chief of Staff, 14 May 2015, Daily Mirror, accessed at <http://www.dailymirror.lk/72497/jagath-dias-new-army-chief-of-staff#sthash.qCSE1ICW.dpuf>

¹³ TRIAL, accessed at <https://trialinternational.org/latest-post/jagath-dias-2/>

¹⁴ Sri Lanka: New Army Chief a Blow to Justice, 6 Years After War, No Accountability for Serious Abuses, 15 May 2015, HRW, accessed at <https://www.hrw.org/news/2015/05/17/sri-lanka-new-army-chief-blow-justice>

Dias refused of participation in ICRC meet for alleged war crimes, 31 October 2013, TamilNet, accessed at <https://tamilnet.com/art.html?catid=13&artid=36785>

¹⁵ Maj. Gen. Dias denied Aussie visa over C-4 allegations, by Shamindra Ferdinando, 5 December 2013, The Island, accessed at http://www.island.lk/index.php?page=article-details&page_cat=article-details

Suspected War Criminal Jagath Dias Returns To Mullaitivu, 2 January 2014, Colombo Telegraph, <https://www.colombotelegraph.com/index.php/suspected-war-criminal-jagath-dias-returns-to-mullaitivu/>

Sri Lanka: New Army Chief a Blow to Justice, 6 Years After War, No Accountability for Serious Abuses, 15 May 2015, HRW, accessed at <https://www.hrw.org/news/2015/05/17/sri-lanka-new-army-chief-blow-justice>

One additional unconfirmed source suggests the UK also denied Major General Dias a visa: <https://redflag.org.au/node/5178>

1.4 JAGATH DIAS INVOLVED IN SRI LANKA'S INTERNAL INVESTIGATIONS

1.41 Journalists for Democracy Sri Lanka (JDS) Execution Videos

Media reports say the Sri Lankan Defence Ministry assigned Major General Jagath Dias to investigate the organisation, Journalists for Democracy in Sri Lanka, after it released video footage to Channel 4 TV showing soldiers executing naked bound Tamils. This was just after Major General Jagath Dias had become the deputy Ambassador to Germany, where several JDS figures were based in exile. "The first duty assigned to him by Defence Secretary Gotabhaya Rajapakse is to investigate into the people connected to the JDS organization and report back", said a media report¹⁶. It added rather ominously that, "Human Rights and Disaster Management Minister Mahinda Samarasinghe has said that the security units have already identified several journalists who have fled to Germany and are active members of the organisation".

1.42 Weliweriya

It was reported that Brigadier Deshapriya Gunawardena of the 58 Division allegedly ordered troops to shoot on protestors demanding clean water in the well publicised incident in Weliweriya in the South of Sri Lanka in 2013¹⁷. Brigadier Deshapriya Gunawardena was then posted as defence attaché to Turkey in 2013-14¹⁸. Jagath Dias was himself put in charge of the inquiry into the Weliweriya incident, investigating one of the 58 Division Commander Shavendra Silva's deputies, notwithstanding the conflict of interest given the fact that Dias and Silva had fought together in the final war and belonged to the same Gajaba Regiment.

1.43 Haiti

In 2013 Jagath Dias was put in charge of an inquiry by the Sri Lankan military into an allegation by a Haitian woman that she had been raped by a Sri Lankan UN peacekeeper¹⁹. In 2017 Jagath Dias told Associated Press that

¹⁶ Major General Jagath Dias assigned to investigate into JDS organization, Sri Lanka Guardian, 24 September, <http://www.srilankaguardian.org/2009/09/major-general-jagath-dias-assigned-to.html>

¹⁷ "Military forces led by Brigadier Deshapriya Gunawardena and Col. Shyamal Silva were deployed to launch an attack on protestors, villagers and bystanders. Lieutenant General Daya Ratnayake who took over the responsibility of commanding Sri Lanka Army on the day of this brutal attack announced the appointment of a board of inquiry". www.newsbird.news at <https://www.youtube.com/watch?v=wYHq9eEMWVO>.

Delayed Justice To Victims: CID Finally Arrests Three Soldiers Over Rathupaswala Shooting, 24 March 2017, Asian Mirror, <http://www.asianmirror.lk/news/item/23113-delayed-justice-to-victims-cid-finally-arrests-two-soldiers-over-rathupaswala-shooting>.

And US STATE DEPT: "Also in May the media reported that the military's investigation into the incident continued and that the government had posted the army commander on the scene of the killings, Brigadier Deshapriya Gunawardena, as the country's defense attache in Turkey. The government never publicly released the HRCSL report, and authorities had not released the results of any government investigations as of year's end.", BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, *2014 Country Reports on Human Rights Practices Report*, June 25, 2015, <https://www.state.gov/j/drl/rls/hrrpt/2014/sca/236650.htm>

¹⁸ Posted as defence attaché to Turkey in 2014. *The Defense Attaché of Sri Lankan Embassy Brig. Deshapriya Gunawardena has an important guests visiting Ankara*. 15 July 2014, Ankara Scene, <http://www.ankarascene.com/haber/brig-deshapriya-amp-buddhi-gunawardena-6290.html>

¹⁹ *Inquiry on alleged sexual misconduct in Haiti begins*, 24 October 2013, Daily Mirror Lanka, <http://www.dailymirror.lk/news/37628-inquiry-on-alleged-sexual-misconduct-in-haiti-begins.html>

when he investigated the allegation he did not interview the woman or medical staff who had examined her but he did exonerate the soldier²⁰.

²⁰ Sri Lankan sex ring in Haiti reveals cracks in UN system, KATY DAIGLE and PAISLEY DODDS, Associated Press, 26 May 2017, accessed at <https://apnews.com/96f9ff66b7b34d9f971edf0e92e2082c>

1989

Served in the Gajaba Regiment together

2009

Gajaba Regiment officers instrumental in final war



GOTABAYA RAJAPAKSA

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



MAJOR GENERAL KAMAL GUNARATNE

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



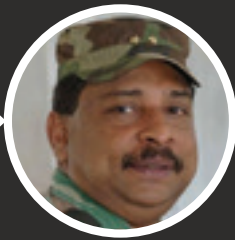
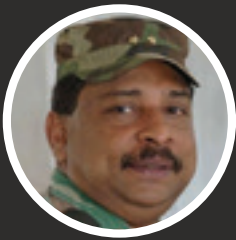
SHAVENDRA SILVA

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



BRIGADIER CHAGGI GALLAGE

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



JAGATH DIAS

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



MAJOR GENERAL UDAYA PERERA

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



MAJOR GENERAL A.K.SUMEDHA PERERA

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

2. GAJABA REGIMENT

2.1 GAJABA REGIMENT TIES

2.11 In the Final War

In the final phase of the war in northern Sri Lanka, the UN Investigation identified the main fighting units in the Vanni offensive as the 53,55,57,58,59 Divisions and Task Forces 2,3,4 and 8²¹. Of these, the commanders of the 53,57,58,59 Divisions were all from the Gajaba regiment.

2.12 The JVP Period

The roots of Sri Lanka's culture of violence and impunity lie in the counterinsurgency violence against Sinhala youth in the seventies and eighties that intensified in the ethnic conflict against Tamil separatists. The JVP²² uprising was a conflict in which 60,000 Sinhala youth are reported to have been killed, as well as the JVP assassinating 8 MPs and many provincial councillors. There were state sponsored death squads operating in the South of the island with impunity, many of them with ties to politicians who are still in power. The Sri Lankan military committed atrocities against its majority Sinhala population during this period and then honed its brutal tactics in the ethnic conflict against Tamils. The disintegration of the rule of law in Sri Lanka has its roots not in the Rajapaksa regime but many decades before, in the JVP era.

Jagath Dias belongs to the Gajaba Regiment of the Sri Lankan Army and served with the former defence secretary, Gotabaya Rajapaksa, in this regiment in 1989 when the army was violently crushing the JVP. In Gotabaya Rajapaksa's approved biography, *Gota's War*, it says:

“Lieutenants²³ Shavendra Silva, Jagath Dias and Sumedha Perera were among his company commanders in Matale...Gota remained the security coordinating officer of Matale until the end of the second JVP insurrection”²⁴.

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

²¹ OISL op cit, Para 116.

²² JVP or People's Liberation Front.

²³ At the time Jagath Dias was actually a Captain and Silva and Perera were Lieutenants.

²⁴ *General Involved In January 8th Coup Attempt To Be Sent To New York As UN Military Attache*, Colombo Telegraph, 15 September 2016, Ceylon-ananda.com, accessed at <http://ceylon-ananda.com/general-involved-in-january-8th-coup-attempt-to-be-sent-to-new-york-as-un-military-attache-posted-by-colombo-telegraph/> page 177. “Gota's war”.

2.13 The Matale Mass Grave

A mass grave with the remains of at least 154 people was recently discovered during construction work at the Matale Base hospital in the south of Sri Lanka²⁵. It is thought to date back to the JVP period. Matale is where the Gajaba Regiment was based and Gotabaya Rajapaksa was the commanding officer in the area from May 1989 and January 1990²⁶.

Tests carried out by archaeological and judicial medical officers indicated the skeletal remains dated to between 1987 and 1990²⁷ and the victims had been subjected to very brutal methods of torture before execution²⁸. Families of the disappeared hoped to get information about the fate of their loved ones after more than a quarter century but were thwarted. In June 2013 a three man presidential commission of inquiry was appointed by Mahinda Rajapaksa (the brother of Gotabaya Rajapaksa), usurping the judicial investigation.²⁹ The commission not unsurprisingly concluded in 2015 that the skeletons dated to before 1950 and had nothing to do with the JVP period. The commission's findings were rejected by the two Sri Lankan forensic experts who had supervised the digging of the grave, among others³⁰.

The atrocities perpetrated during the JVP period must be independently investigated to determine criminal responsibility for what may amount to crimes against humanity.

²⁵ Some reports say 155. *Skeletal remains have no connection to 1989-1990 disappearances: PCI*, 10 May 2015, Sunday Times Lanka, accessed at <http://www.sundaytimes.lk/150510/news/skeletal-remains-have-no-connection-to-1989-1990-disappearances-pci-148375.html>

²⁶ *Matale Mass Grave Dates To 87-90 JVP, Says Judge*, 28 March 2013, Colombo Telegraph, <https://www.colombotelegraph.com/index.php/matale-mass-grave-dates-to-87-90-jvp-says-judge/> and Sri Lanka Matale mass grave 'dates from late 1980s', BBC news, 28 March 2013, Charles Haviland, <http://www.bbc.co.uk/news/world-asia-21964586>

²⁷ *Ibid.*

²⁸ "On examining some of the bodies, he had observed that the victims were subjected to torture. This, his report to Court stated, was proved by the injuries found in the skeletal remains, such as decapitation, dismemberment of limbs, cutting of skulls with saws and nailing the toes. In one skeleton he had seen a metal noose in the left leg which, according to Prof Somadeva, is an adjustable device when fixing an interlock known as the "hangman's knot." *Skeletal remains have no connection to 1989-1990 disappearances: PCI*, 10 May 2015, Sunday Times Lanka, accessed at <http://www.sundaytimes.lk/150510/news/skeletal-remains-have-no-connection-to-1989-1990-disappearances-pci-148375.html>

²⁹ *Matale Mass Grave: The Investigation Has Been Taken Away From The Judiciary*, 22 June 2013, Colombo Telegraph, accessed at <https://www.colombotelegraph.com/index.php/matale-mass-grave-the-investigation-has-been-taken-away-from-the-judiciary/>

³⁰ 'MATALE COMMISSION CONCLUSIONS, AN INSULT TO PROFESSIONAL EXPERTS', 15 May 2015, Sri Lanka Brief, accessed at <http://srilankabrief.org/2015/05/matale-commission-conclusions-an-insult-to-professional-experts/>

3. OVERVIEW OF 57 DIVISION LOCATIONS IN FINAL WAR

“General Jagath Dias led the 57 Division; he did a tremendous task because it was his responsibility to regain Kilinochchi. He was there from the very beginning of the Humanitarian Operations till the very last minute”.

GOTABAYA RAJAPAKSA³¹
Defence Secretary



Photo: Major General Jagath Dias discussing the second assault on the bund from Southern Kilinochchi with 574 Brigade³².

³¹ *Military transformed from victor to reconciler*, By Dhaneshi Yatawara, 8 September 2013, The Sunday Observer Lanka, <http://archives.sundayobserver.lk/2013/09/08/sec03.asp>

DEFENCE SECRETARY GOTABAYA RAJAPAKSA SALUTES THE WAR HEROES, Business Today, accessed at:http://www.businesstoday.lk/cover_page.php?article=891&hl=JAGATH%20DIAS

³² Photo from <http://sf-3.blogspot.co.uk/2009/01/fallacy-of-stalingrad-example.html>

The 57 Division was involved in the Vanni offensive from the beginning - March 2007 - right up to May 2009. For a list of villages the army says the 57 Division captured see **Annex 1**.

Below in chronological order are some of the main places the 57 Division captured or fought for during 2008-9.

3.1 MANNAR

Eyewitnesses confirm that there were regular attacks against both civilian and LTTE targets in Mannar District, often using remotely detonated claymore mines in which civilians lost their lives, with many sustaining serious injuries. For a preliminary list of reported incidents see **Annex 2**. These attacks and violations have not been investigated as they occurred at the beginning of the Sri Lankan military's northern offensive and the focus of international inquiries to date has understandably been on the very bloody final months of 2009. In one incident in January 2008 reported in the media, a school bus was attacked and 22 children killed with the army being accused of responsibility, which it denied³³.

The 572 Brigade under the command of Col. Bandara³⁴ was reportedly given the task of capturing Madhu³⁵ in Mannar District, with its famous Catholic shrine, assisted by the 571 Brigade led by Col. G.V. Ravipriya. Both of these Brigade commanders reported directly to Jagath Dias and, according to the then Defence Secretary, the chain of command worked well, right up to the three service commanders³⁶. The Brigade commanders captured the church on 24 April 2008³⁷. Both the LTTE and the Sri Lankan military accused each

³³ *'School children killed' in Mannar*, BBC Sinhala Online, 29 January 2008, accessed at http://www.bbc.com/sinhala/news/story/2008/01/080129_mannar_school.shtml

11 schoolchildren killed in Sri Lanka, B. Muralidhar Reddy, The Hindu, 30 January 2008.

Video of aftermath of attack on YouTube: <https://www.youtube.com/watch?v=FCTCqn06gJI>

Also ITJP witness testimony.

Amnesty International wrote at the time:

"On 29 January, a claymore mine attack on a bus in Mannar District killed 11 schoolchildren. The bus was close to Madhu Church, in an area the Bishop of Mannar had urged to be respected as a "no war" zone. Both sides blamed each other for the attack. In the absence of independent monitors, it is impossible to verify or refute these claims."

SRI LANKA: RIGHT TO LIFE OF CIVILIANS DISREGARDED AS CONFLICT INTENSIFIES, 4 February 2008, accessed at <https://www.amnesty.org/en/press-releases/2008/02/sri-lanka-right-life-civilians-disregarded-conflict-intensifies-20080204/>

³⁴ Who told a journalist later: *"We had liberated the area on April 25, but took another 72-hour period to declare it as we were instructed by the Army Commander and Security Commander Wannu Maj. Gen. Jagath Jayasuriya to confirm the area as totally free of terrorists"*. When four military officers vowed to free Madhu Church of terrorists, Shanika Sriyananda, Sunday Observer, 9 August 2009.

³⁵ Ibid.

Also the Lessons Learned and Reconciliation Report (LLRC, 2011) (a government-appointed Commission) places some of the 57 Division in Madhu. Para 3.13.

³⁶ *"We have Task Force 1 operating on the Mannar-Pooneryn front, 57th Division operating on the Madhu-Thunukkai front, Task Force 2 on the Mankulam axis and 59th Division on the Welioya axis. In addition, we have two divisions positioned at Muhamalai, constantly threatening the enemy. During this period, the role of the three service commanders has been critically important. This is the first instance that we have had commanders who have faced the enemy from the beginning of their careers. All of them have been part of major operations and have brought that experience and knowledge into the equation. They were able to read the battle accurately. All of them exude supreme confidence, are highly motivated and possess exceptional skills. They all have a good understanding of the capabilities of their subordinates and therefore are able to select the proper officers to carry out specific tasks."*

MAN BEHIND THE COUNTRY'S DEFENCE STRATEGY, Business Today interview with Gotabaya Rajapaksa. Accessed at http://www.businesstoday.lk/cover_page.php?issue=201

³⁷ *Madhu where the LTTE began its retreat*, Shamindra Ferdinando, 14 JUNE 2011, THE ISLAND NEWSPAPER.

other of endangering the historic shrine by firing on or from it. As the battle came close to the church, civilians evacuated but priests remained to protect the precious statue of the Virgin Mary, and they describe being forced to hide in bunkers because the fire was so intense³⁸.

In August and September 2008, large numbers of Tamil civilians began to pour into Kilinochchi from the Mannar area as the army advanced eastwards. There were reports of large numbers of civilian casualties from the areas attacked by the 57 Division.

3.2 KILINOCCHI TO THE VANNI

After Mannar, Jagath Dias's 57 Division (and the 58 Division) went on the offensive against the LTTE's main administrative town, Kilinochchi³⁹. The UN evacuated its expatriate staff in September 2008. The 57 Division captured the whole of Kilinochchi on 2 January 2009, by which time it was deserted⁴⁰. According to the Government's own inquiry in 2011, the 57 and 58 Divisions then went on to capture Tharmakulam and Tharmapuram as well as Vishwamadu⁴¹.

3.3 VISHWAMADU

Vishwamadu is a place where thousands of displaced civilians from Kilinochchi fled, seeking safety and erecting temporary shelters. On 28 January, after the first "No Fire Zone" had been established, the 57 and 58 Division reportedly captured Vishwamadu⁴² with the 57 Division said to

The offensive involved 572 Brigade Commander Lt. Col. Senarath Bandara, 7 CLLI Lt. Col. Ranjith Abeywardena, 10 CLLI Lt. Col. Jagath Koddituwakku and 7SR Lt. Col. Kithsiri Liyanage, according to: *When four military officers vowed to free Madhu Church of terrorists*, Shanika SRIYANANDA, Sunday Observer, 9 August 2009.

"The liberation of Madhu by the 57 Div was the first significant victory achieved by the Army on the Vanni front." Ibid.

³⁸ *Shell fire hits Madhu Shrine*, Amantha Perera, The Sunday Leader, accessed at <http://www.thesundayleader.lk/archive/20080406/defence.htm>

³⁹ UN Panel of Experts report 2011, para 73.

Also defence.lk 16 September 2008: **Twin air strikes at LTTE gathering points- Kilinochchi on 16th September 2008**

"SLAF fighter jets made precision air sorties at two separate LTTE gathering points located 3km and 4.5km West of Iranamadhu, Kilinochchi, Tuesday(Sep 16), at 10.10a.m. According to Air Force Spokesperson, Wing Commander Janaka Nanayakkara, the air strikes were made in assistance of the advancing 57 Division troops now operating in the outer perimeters of Kilinochchi."

Defence.lk Situation report 1 February 2009: *Clashes continue south of A-35*: *"The Sri Lanka Army 57 Division, Task Force 3, Task Force 2 and Task Force 4 deployed south of A-35 road (Paranthan- Mullaitivu) continued to engage terrorists' pockets from Visuamadu to Puthukkudiyirippu areas yesterday (Jan 31)."*

⁴⁰ UN Panel of experts report 2011, para 77, also LLRC says *"The 57 Division with the support of the 58 Division had captured Killinochchi on 2nd January 2009"*, para 3.16.

War on terror revisited: President's 'daydream' comes true, By Shamindra Fernando, 30 November 2012, says: "On the night of Jan. 1, 2009, the 57 Division fought its way in to Kilinochchi town forcing the LTTE to vacate the town, hence bringing the entire A-9 road between Vavuniya and Paranthan under the army. The 57.1 Brigade troops (4 Sinha Regiment and 9 Vijayabahu Infantry Regiment) were the first to enter Kilinochchi. On the afternoon of Jan. 1, 2009, the 57.4 Brigade (8 Sri Lanka Light Infantry and 7 Sri Lanka Light Infantry) liberated Iranamadu area. The main body of the 57 Division entered Kilinochchi in the afternoon. The ditch-cum bund, which was breached by the army extended from the edge of the Jaffna lagoon via Akkarayankulam to Iranamadhu, west of the A-9. The army suffered heavy damage in overcoming the obstacle. The 57 Division had breached a section of the bund about a week before TF I liberated Paranthan. The four Brigades attached to the 57 Division were commanded by Col. Herendra Ranasinghe (57.1), Brig. Senarath Bandara (57.2), Col. Dhammika Jayasundera (57.3) and Col. Senaka Wijesuriya (57.4). Brig. Aruna Wanniarachchi functioned as the Deputy to Maj. Gen. Dias. The SLAF stationed Air Commodore Sumangala Dias assigned to the 57 Division at the height of the battle for Kilinochchi to coordinate air operations.

⁴¹ *"The 58 Division supported by the 57 Division had continued Eastwards capturing Tharmapuram on 15th January 2009, Visuamadu on 28th January 2009 and Thamarakulam on 3rd February 2009. Whilst the 58 Division and 57 Division had moved Eastwards on the A35, the 59 Division and Task Force 4 had been moving up Northwards and captured Udayakattukulam on 25th January 2009."* LLRC, para 3.18.

⁴² LLRC, para 3.17, says *"After the capture of Killinochchi and taking over the A9, the Security Forces (57 Division and 58 Division) had moved Eastwards on the A35 road towards Visuamadu, Puthukkudiyirippu area."*

consolidate positions there⁴³. There are many survivors and witnesses to the Vishwamadu attacks in January 2009 in which large numbers of civilians were killed and injured. The Vishwamadu atrocities too, have not been the subject of a thorough investigation as they occurred before the establishment of the first “No Fire Zone” (which did not include Vishwamadu). The focus of investigations has been on the latter months and the violations that occurred in the “No Fire Zones”. However there is video footage of the targeted attacks on civilians in Vishwamadu shot by a member of the LTTE media unit, who says such attacks by the army were commonplace⁴⁴. There are also contemporaneous SMS sent out of the war zone by local INGO and UN employees detailing the attacks and casualties as they were happening⁴⁵. By 8 February, the military announced 57 Division troops were conducting search operations in Ramanathapuram and Vishwamadu⁴⁶.

3.4 VALLIPUNAM

The 57 Division was also involved in the offensive that continued towards Thevipuram⁴⁷ and Vallipunam where there were repeated attacks on the hospital⁴⁸.

“On Friday afternoon, the 57 division captured a building complex in Vishwamadu East which was the headquarters of the ‘Radha Regiment’ which provided LTTE leader Velupillai Prabhakaran’s personal security”, The fall of Chalai and the death knell to Sea Tigers, by Asif Fuard, Sunday Times Lanka, 8 February 2009, accessed at http://www.sundaytimes.lk/090208/News/sundaytimesnews_16.html

⁴³ *“In other developments, troops of the 57 Division consolidated their grip in the Vishwamadu town. Clearing operations are continuing. Troops of this division also captured the main base of the Ratha Regiment, located in Tharavikulam area. Apart from combat role, the Ratha Regiment has been assigned air defence and intelligence gathering roles within the LTTE.” LTTE deploys ultimate weapon, 11 February 2009, accessed at <https://lrrp.wordpress.com/2009/02/11/ltte-deploys-ultimate-weapon/>*

⁴⁴ Referring to video he supplied this witness said: *“I heard about 5-6 explosions in the area. X (his colleague) was assigned to go there. I can say that scene on this video is at Vishwamadu and along A35. It shows a typical attack by the Security Forces on the civilian population. There was no LTTE presence whatsoever in the area. It also shows the kinds of ditches along A35 that had water in them from the recent rains.”*

⁴⁵ For example:

15 January: more than 40 injured at market area and Thodiyadi in Vishwamadu. Shelling in Vishwamadu [among other places].

17 January: 5 dead in Vishwamadu, 21 injured by shelling.

18 January: heavy shelling in Vishwamadu area; 9 dead, 40 injured; 6 dead from one family.

⁴⁶ **Troops uncover military hardware during search operations- Killinochchi:** 57 Division troops while conducting search operation in general area Ramanathapuram and Visuamadu have made several recoveries of hidden LTTE weaponry and mines, yesterday (Feb 8). Manual search of Ministry of Defence archive online, accessed at http://www.defence.lk/main_situ.asp?fname=Situationrep

3 February 2009 Defence Ministry situation report says: **“Troops of 57 Div uncovered more LTTE military items and vehicles - Visuamadu:** *“Troops of 57 Division have uncovered more LTTE military items and vehicles while conducting further consolidating operations in general area Visuamadu yesterday, 12 February.”*

Defence Ministry Situation Report 16 February 2009: Troops of 57 uncover a large quantity of LTTE military items - Visuamadu . *“Troops of 571 and 572 Brigades serving under 57 Division operating in Visuamadu area are continuing search and clear operations in recently liberated areas while strengthening own defences, defence sources in battlefront said.”*

⁴⁷ **How the war was won, Shamindra Ferdinando, 5 April 2009, The Island, <http://www.island.lk/2009/04/05/defence1.html>, says:** *“The TF I liberated Mullikandal, Minnaniranchan and Marattikannaddi (June 24), the Mannar rice bowl (June 29), linked-up with 57 Division at Periyamadu (June 30), Vidattaltivu (July 16), Illuppaikkadavai (August 2), Vellankulam (August 12), Mulankavil and Pallavarayankaddu (August 12), Nachchikuda (August 21), Maniyankulam (October 16), Vannerikulam (October 20), Nochchimodai (October 28), Jeyapuram (October 29), Nachchikudah (October 29), Kiranchi (November 10), Devil’s Point and Vallaipadu (November 13), Pooneryn (November 15), Sinna-Paranthan (December 23), Nalanawakulam (December 26), Paranthan (January 1, 2009), Murasumodai (January 8), Dharmapuram (January 15), Vishwamadu (January 28), Thevipuram (February 20) and Iranapalai junction (March 17).”*

A Tamil website also says 57 and 58 Division fought for Thevipuram; March 11, 2009, [Fighting moves to Thevipuram](#), Sessa Balasingham. Other sites say it was 58 Division that actually captured Thevipuram.

⁴⁸ OISL has seen a copy of a military communication dated 24 January, 10.50 p.m., to the 57th, 58th and 59th Division, as well as to Task Forces 2, 3 and 4, informing them of the coordinates of Vallipunam Hospital. Para 804, OISL.

LLRC Op cit, para 3.17 says : *After the capture of Killinochchi and taking over the A9, the Security Forces (57 Division and 58 Division) had moved Eastwards on the A35 road towards Visuamadu, Puthukudiyirippu area”. Note: Vallipunam lies between Vishwamadu and Puthukudiyirippu town.*

The Defence Ministry, 6 February 2009 Situation Report said: 57 Div troops capture a main base complex of LTTE’s ‘Radha Regiment’ - Mullaittivu. “Sri Lankan Army troops of the 57 Division operating East of Visuamadu have taken total control over a main base complex of the LTTE’s ‘Radha Regiment’, Friday (Feb 6) morning.”

Vallipunam is so small that it is not displayed on Ministry of Defence maps showing troop locations but the 57 Division appears as present in the nearby village of Thevipuram. At this point in the battle the Ministry of Defence reportedly says the 57 Division is active in the offensive”⁴⁹.

Map: Defence Ministry showing 57 Division in Vallipunam area⁵⁰.



3.5 PUTHUKKUDIYIRUPPU (PTK)

In early February 2009, media reports say, “the Army’s 57 Division began bombarding LTTE strategic points in Puthukkudiyiruppu from the West of the region while the 58 Division kept firing mortars and artillery from the north of Puthukkudiyiruppu⁵¹.

⁴⁹ *Civilians die' in S Lanka battle*, 26 January 2009, BBC, accessed at http://news.bbc.co.uk/1/hi/world/south_asia/7850603.stm This said: “The defence ministry website's latest report says helicopter gunships had “successfully” targeted rebel positions north of Mullaitivu and that “troops of 57 Division are on the final phase of the offensive”.

⁵⁰ From <http://www.defence.lk/orbat/>

⁵¹ *When Counterinsurgency Wins: Sri Lanka's Defeat of the Tamil Tigers*, By Ahmed S. Hashim <https://books.google.co.uk/books?id=9AKqCT5DeZcC&pg=PA161&dq=57+division+PTK+2009&hl=en&sa=X&ved=0ahUKEwiG3c3XrLHTAhV1CsAKHUWLDLgQ6AEIJTAA#v=onepage&q=57%20division%20PTK%202009&f=false>

Gorden Weiss: “In January 2009, Tamil Tiger forces also faced the Sri Lankan Army's 53rd Division holding the line at the northern tip of this spit, while to their south the 57th Division pushed steadily towards Mullaitivu.”, *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers*.

TAG says: “From the movement of Sri Lanka Army troops towards Puthukkudiyiruppu town, as described in the Sri Lanka Government run, and Task Forces 2, 3, 4, and 8 have participated in the shelling of the PTK town and environments including the PTK Hospital.” Evidence Submitted to: The People’s Tribunal on Sri Lanka - Dublin, Ireland 14th, 15th January 2010 , Satellite Imagery Evidence Showing Sri Lanka Military “Purposely or Intentionally” Targeted PTK Hospital. Accessed at <http://www.tamilsagainstgenocide.org/Docs/DublinTribunal/TAG-PPT-PTK-Hospital-Satellite-Final.pdf>

The position for the 57 Division is corroborated by Army info graphic maps on the defence ministry website⁵². Uncorroborated reports indicating that Major General Jagath Dias had an oversight role for the entire assault on PTK for a period after things began to go wrong exist, requiring further investigation. The need to relaunch the offensive is confirmed by the Lessons Learned and Reconciliation Commission report but does not clarify Dias's precise role⁵³.

On 1 February 2009, one military blogger says after the LTTE broke Army defences south of PTK, "Lt. Gen. Sarath Fonseka immediately sent Brigade Commander 57 Brigade, Maj. Gen. Jagath Dias⁵⁴ and Brigade Commander 53 Brigade, Brig. Kamal Gunaratne to assist Brigade Commander 59 Brigade, Brig. Nanadana Udawatta. Army Headquarters took immediate measures and made unprecedented changes on the battlefield. Major General Jagath Dias, the General Officer Commanding (GOC) 57 Division was directed to oversee both 59 Division and TF [Task Force] IV"⁵⁵. This report says troops pulled back 3 kms as a result of a fierce attack by the LTTE. The LTTE offensive was countered by midnight on 3 February 2009, the blogger said, after the air force had carried out dozens of raids.

This assault is corroborated by the Ministry of Defence Situation Reports⁵⁶.

The involvement of the 57 Division in PTK is further corroborated by another media source which said: "The 59 division which also suffered heavy casualties, was immediately reinforced by the 57 division. The 53 Division was also brought in"⁵⁷.

⁵² Battle Progress Map - Defence.lk, accessed at <http://www.defence.lk/orbat/>

⁵³ LLRC para 3.18 says: "Officials briefed the Commission that operations around Puthukudiyirippu area had continued for a very long time as Puthukudiyirippu had been an LTTE stronghold (a built up area which had been fortified by the LTTE) from where there had been heavy resistance and the Security Forces had suffered many casualties and had to pull back and re-launch their operations after consolidation."

⁵⁴ Corroborated by Sri Lanka War on Terror Revisted, *TRIUMPH following massive DEBACLE on Vanni front, SPECIAL REPORT : Part 147* November 8, 2016, which says: "By Feb 2 evening, Maj. Gen. Jagath Dias (now retired), Special Forces Brigade Commander Colonel Nirmal Dharmaratne (presently GOC, 55 Division deployed in the Jaffna peninsula) and Artillery Brigade Commander Colonel Priyantha Napagoda (presently Director, Veterans Affairs) had joined KG as the Army explored ways and means of halting the enemy advance...". This report goes on to say: "The Feb 3 battle, in the evening, at one point threatened to cause total collapse of Army lines with the LTTE pouring perhaps all available reinforcements. Maj. Gen. Jagath Dias had been with KG at the time the LTTE forced the breakthrough at two locations. At the first location, according to KG, one and half infantry battalions had fled causing widespread confusion on the entire front. In the wake of the LTTE breakthrough, senior officers present there, namely KG, Jagath Dias, Nirmal Dharmaratne, Priyantha Napagoda and Chandigarh Fernando struggled to contain the situation."

⁵⁵ Blog entry: *The inconvenient truth on the Wannu front*, 6 February 2009, accessed at <http://www.lankalibrary.com/phpBB/viewtopic.php?f=2&t=4680>

⁵⁶ The Defence Ministry, 2 February 2009, Situation Report said: "**Troops avert LTTE suicidal attempt to wreck disaster: 'planned to destroy Iranamadu Tank bund'**: "An LTTE attempt to destroy the Iranamadu Tank bund flooding an entire landscape with 2 military divisions while raging havoc on thousands of civilians entrapped in the region was successfully averted by Sri Lankan Army troops of the 57 Division recently."

The Defence Ministry, 23rd January 2009, Situation Report said: "**Air Force jets, helicopter gunships continue raids at LTTE positions - Mullaittivu: "SLAF jets and MI-24 helicopter gunships continued air sorties at identified LTTE resistance positions in support of the advancing 59 Div, 57 Div and TF-3 troops at Mullaittivu, today (Jan 23). Multiple air attacks were carried out South of Mullaittivu, East of Visuamadu and Northeast of the Kalmadukulam Tank since 6.30 this morning, Air Force sources said. According to Air Force Spokesperson Wing Commander Janaka Nanayakkara, the initial raid was conducted by fighter jets in support of the 59 Division troops, at an LTTE resistance position located South of Mullaittivu at around 6.30a.m. A similar raid was conducted Northeast of the Kalmadukulam Tank Bund in support of the 57 Division troops at 12.20a.m., the sources said."**

⁵⁷ *Heavy fighting leaves thousands dead in Northern Sri Lanka*, By David Sabapathy - TNS, 25 February 2009, accessed at http://www.tamil.eelamnews.com/news/publish/tns_11086.shtml

Media reports suggest that Jagath Dias had a coordinating role at this period over more than just his own Division:

“As GOC 57 Division, Maj. Gen. Jagath Dias was detailed to coordinate Task Force IV, 53 Division and 59 Division; Deputy Commander Col Aruna Wanniarachchi took over command of 57 Division. 57-4 Brigade was able to capture the upper area of Udayarkattukulam tank and eliminate the LTTE’s obstructions to the advancing forces. This was also the main and final obstacle facing the SF, on their forward march to Pudukudyiruppu. The 8th Infantry Regiment under Lt. Col. Ipshitha Dissanayaka, coming under the 57-4 Brigade under Lt. Col. Senaka Wijesuriya, overcame this challenge within 48 hours and advanced about 1.5 kilometres⁵⁸”.

3.6 CONSOLIDATION & DEFENCE

From February 2009 it appears that some elements of the 57 Division were involved in consolidating the areas captured by other Divisions who were attacking the second and third “No Fire Zones”⁵⁹. One report said: “The 57th division, which is supposed to be avoiding combat and being held as a “reserve” force, was hit in attacks that have penetrated all the way through the 58th division to the secondary reserve lines⁶⁰”.

By early April 2009 the Army reported that the 57 Division was still present in Puthukkudiyiruppu (PTK) conducting searches for weapons⁶¹; by this time the town had already fallen to the Army in February 2009.

3.7 FINAL DAYS OF WAR

An ITJP witness places Jagath Dias on the south side of the Wadduvakkal Bridge on 18 May 2009 but does not say he was among the officers who went to accept the “white flag” surrender of the LTTE Political Wing leaders, Nadesan and Pulidevan. The role or otherwise of Jagath Dias in the violations that occurred in the final days of the war is another area that needs further investigation.

⁵⁸ Also “62-1 Brigade was instructed to proceed, after the last Tiger obstacle in Pudukudiruppu area was removed by 57-4 Brigade. 57-4 Brigade comprising 8th Gajaba Regiment (GR) under Lt. Col. Chandana Wickremesinghe, 6th Vijayaba Regiment (VR) under Maj. Prabhath Kodituwakku, the 7th Signals under Maj. Dhammika Tilakarante, and the 18th VR under Maj. Laksiri Perera, are proceeding from Pudukudiruppu West to the East, along the South of A-35 highway.”, *UAVs show frantic Tiger attempts to bury weapons*, 15 February 2009, The Nation. Reproduced at <https://lrrp.wordpress.com/2009/02/14/uavs-show-frantic-tiger-attempts-to-bury-weapons/>

⁵⁹ This article refers to the role as “belly clearing team” that involved the deployment of 10 man surveillance teams in recaptured areas to prevent infiltration and recover arms caches. The article says the operations were led by Col. Senarath Bandara of the 57 Division under Dias’ command. *‘To be or not to be’ week for Itte, Tissa Ravindra Perera, 10 May 2009*, The Nation, accessed at <http://www.nation.lk/2009/05/10/defence.html>

⁶⁰ *LTTE overruns PTK junction; fighting reported up to Visuamadu*, accessed at <http://puligal.blogspot.co.uk/2009/03/ltte-overruns-ptk-junction-fighting.html>

⁶¹ *‘To be or not to be’ week for Itte, Tissa Ravindra Perera, 10 May 2009*, The Nation, accessed at <http://www.nation.lk/2009/05/10/defence.html>

Shavendra Silva pointing at the bodies of other dead LTTE fighters, standing next to Army Commander, Jagath Jayasuriya in camouflage and on his other side Major General Jagath Dias (later to be deputy Ambassador to Germany).



First Photo: May 2009

Second Photo Caption Online⁶²: “Senior most Commander in the Wannai Front, Major General Jagath Dias inspecting a transit point”

⁶² *Soldiers risked life and limb to save civilians*, 24 May 2009, Sunday Observer, <http://archives.sundayobserver.lk/2009/05/24/sec05.asp>

4. KILINOCCHI

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

General Jagath Jayasuriya
Vanni Commander⁶³

4.1 UN REPORT ON ATTACKS ON THE TOWN

The UN referred to the Kilinochchi town where they had their humanitarian operations in the Vanni as the Kilinochchi Box. This had long been recognised and accepted by the Government as a safe zone for the delivery of humanitarian aid. Despite the fact that the Government was aware of the UN location, United Nations facilities in the Box were deliberately bombed by the army.

The UN Investigation into Sri Lanka (OISL)⁶⁴ said that between July and October 2008 Kilinochchi was subjected to aerial bombardment and shelling as the 57 and 58 Divisions approached. As the army attacked Kilinochchi, eyewitnesses say their shells (which included Multi Barrelled Rocket Launchers) landed on civilian areas⁶⁵.

The UN report cites the following attacks in 2008:

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

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

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

9 September: an artillery shell exploded near a United Nations warehouse in the Box. The Sri Lankan security forces continued their

⁶³ LLRC, 2011, op cit, Testimony Transcript.

⁶⁴ OISL, 2015, op cit, Para 794

⁶⁵ This man described his own home coming under attack in September 2008:

“In September I was outside my house at Paranthan Junction and security force heavy artillery was landing in our civilian housing area. I could hear the shells (artillery shells and Multi Barrelled shells) launch from the security force held areas, travel, and then explode amongst the houses. The shells were hitting civilian housing areas and inflicting deaths and casualties amongst those civilians living there.” ITJP Testimony.

advance on Kilinochchi, causing thousands of civilians to flee, and United Nations facilities were further damaged.

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

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

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

4.2 ATTACKS ON KILINOCHCHI HOSPITAL

The UN Investigation⁶⁶ says that the Kilinochchi Hospital, near to which it notes there were no LTTE positions, came under repeated shelling as government forces advanced, on 25 October, 24 December and 30 December 2008, causing damage to buildings. Witnesses to OISL stated that the shelling came from the direction of Sri Lankan Army positions to the south of Kilinochchi. These attacks on Kilinochchi Hospital and the Ponnampalam Hospital in Kilinochchi are also further corroborated by ITJP witnesses, including a pregnant woman and those in the maternity ward when it came under aerial bombardment⁶⁷.

A University Teachers for Human Rights report quoted the Defence Ministry saying air attacks were made on Kilinochchi in support of the 57 Division:

“Only the first three deaths were reported and the second event bringing the toll to 17 was not reported anywhere. The Defence Ministry (defence.lk 16th Sept.08) described the morning’s bomber attacks as ‘precision air sorties at two separate LTTE gathering points located 3km and 4.5km West of Iranamadhu, Kilinochchi’ at 10.10 AM, ‘made in assistance of the advancing 57 Division troops [under Maj. Gen. Jagath Dias] now operating in the outer perimeters of Kilinochchi.’⁶⁸”

⁶⁶ OISL, 2015, op cit, para 796.

⁶⁷ Excerpt from ITJP Testimony:

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

Additionally an LTTE medical wing cadre says he witnessed the bombing of the Kilinochchi District Hospital in 2008; he says 3 people from the same family were killed in the accommodation hostel of the hospital in the attack he saw.

⁶⁸ *Let Them Speak: Truth about Sri Lanka's Victims of War*, UTHR(J), Special Report No: 34, 13th December 2009.

5. VALLIPUNAM HOSPITAL



PHOTO: 22 January 2009, Vallipunam Hospital after shell attack, picture taken by witness.

5.1 UN: No Justification

The UN Investigation into Sri Lanka⁶⁹ concluded that there appeared to be no plausible justification for the attacks on the Vallipunam Hospital. There was no indication that the LTTE had positions in the hospital⁷⁰.

It added, "If the object of the attack were the injured LTTE fighters receiving treatment, these were not lawful targets"⁷¹.

⁶⁹ OISL, 2015, op cit, para 810.

⁷⁰ "In examining the nature of the strikes on Vallipunam hospital, there appears to be no plausible justification for carrying out attacks on the hospital. OISL received no information indicating that the LTTE had positions in the hospital. If the object of the attack were the injured LTTE fighters receiving treatment, these were not lawful targets." OISL, 2015, op cit.

⁷¹ OISL, 2015, op cit, para 810.

5.2 Vallipunam Hospital Clearly Marked

The UN investigation says on 18 and 20 January 2009, the GPS coordinates of the hospital were communicated to General Fonseka, Commander of the Army, and to Major General Jagath Jayasuriya, the Security Force Commander for the Vanni⁷².

There is also no doubt that the Vallipunam Hospital buildings were clearly marked as a protected site⁷³. A government official also confirmed the building had a red cross on the roof⁷⁴.

Additionally, a Sinhalese military officer told the ITJP that the army always had forward observers out in front of the artillery batteries within sight of the target to make corrections after the initial rounds landed. This would mean, the military knew the site they repeatedly hit was a hospital. Also, the officer added that artillery commanders only fired on the orders of commanders from the field and only on the coordinates included in the orders they were given.

The UN says the area around the hospital was crowded with displaced civilians in temporary shelters. The hospital premises were also very crowded with war casualties at the time it was attacked. A Tamil photographer working for the local media based inside the Vanni visited Vallipunam Hospital on a number of occasions:

"I went into the hospital several times. Each time I did, the hospital was terribly overcrowded with about 300-400 wounded men, women and children in the wards on beds and tables and under them as well as on mats. There were no open spaces left. It was so overcrowded that approximately 300-400 others were being treated on the mats and floors of the outpatient area. Ambulances were always coming and other wounded civilians were brought in by family or friends by different means of transportation, or simply carried in people's arms. This hospital had a big 'H' and a big red cross on the roof. ICRC also had

⁷² "OISL has seen a copy of a military communication dated 24 January, 10.50 p.m., to the 57th, 58th and 59th Division, as well as to Task Forces 2, 3 and 4, informing them of the coordinates of Vallipunam Hospital".

OISL, 2015, op cit, para 804.

⁷³ Also as this international UN worker confirmed:

"We passed the Vallipunam Hospital. It was clearly marked as a hospital with red crosses on white backgrounds on the signage in the front of the hospital as well as on the roof. I saw perhaps a dozen ambulances parked in the front of the hospital grounds. They were clearly marked vehicles painted white with easily visible red crosses on them. Some of them were seriously damaged and one parked at the front fence was completely destroyed."

⁷⁴ Excerpt from Testimony:

"Vallipunam Hospital was set up in Vallipunam CCTMS School, this was a secondary school that had previously presented classes up to 'O' level or year 11, and it is located along the A35 road. The ICRC assisted the Department of Health in converting some of the classrooms into operating theatres, and also to set up some temporary shelters to house all of the patients from both Mullaitivu and also the fresh patients we were expecting from the shelling. I visited the Vallipunam Hospital during this time and it had a Red Cross banner on the roof as did all medical facilities."

a large white flag flying. Yet the Security Forces shelled it with artillery”.

5.3 Immediate Attacks on Vallipunam Hospital as soon as “No Fire Zone” Declared

The UN report⁷⁵ describes the role of the Sri Lankan military in the shelling of Vallipunam Hospital, which was inside the “No Fire Zone” (NFZ). This is corroborated by a great deal of ITJP witness testimony⁷⁶.

The UN report is clear that the 57, 58 and 59 Division and Task Forces had been informed of the coordinates of the hospital but it was nevertheless shelled, including immediately after the Government’s declaration of the first “No Fire Zone” which came into force on 20 January 2009.

For a list collating reports of attacks on Vallipunam see **Annex 3**.

In total the UN investigation report details an extraordinary level of physical damage sustained by the hospital building. It cites the result of 15 direct hits on the hospital and 50 additional impact sites around it:

“Satellite imagery of Vallipunam hospital examined by OISL shows two impact craters in the hospital compound and four rooftop impacts on three different buildings, partial destruction of one building and total destruction of another eight buildings, that all occurred between 21 January and 18 February 2009. Over 50 additional artillery impact sites can be seen within a one-kilometre radius of the hospital, an area designated by the Government as an “additional buffer zone”, indicating that the hospital and its vicinity were exposed to sustained shelling, despite being inside the newly declared NFZ”⁷⁷.

⁷⁵ OISL, *op cit*, para 804 on.

⁷⁶ A local aid worker visited Vallipunam Hospital after it had been evacuated:

“I could clearly see that the hospital had been damaged by shelling. The old hospital had two or three smaller buildings and each of the buildings had sustained damage from shelling”.

A different witness was displaced with his wife and children and set up a tent and dug a trench about 200 metres from the Vallipunam Hospital, thinking it would be safe because it was in the “No Fire Zone”:

“The security forces started shelling the NFZ soon after we arrived. There were tens of thousands of civilians in the NFZ. It was densely populated and many people build shelters or set up tents. We stayed in our bunker much of the time while we were there for fear of artillery...One day while in the first NFZ my son was sick with a fever and I took him to the hospital that used to be a school at Vallipunam. I was actually in the hospital when a big shell hit and we ran out. In that attack many people were killed including my wife's sister's daughter and grandchild and the daughter's husband was wounded.”

Another survivor now abroad also witnessed the aftermath of an attack on the hospital:

“I was at the Vallipunam Hospital shortly after the SLA shelled it and killed and wounded civilians in the hospital, including a close friend my sister. We did not go down A35 as it was too dangerous because of SLA shelling. We left Vallipunam around the end of January to Iranaipalai because on the day we left there were so many shells hitting around our area that we had to leave. I saw many people wounded screaming for help.”

⁷⁷ OISL, 2015, *op cit*, para 808

5.4 Heavy Weapons, Cluster Munitions

The UN report⁷⁸ also confirms Multi Barrelled Rocket Launchers (MBRLs) were used in Vallipunam and several people were killed. It says witnesses also reported seeing “cluster munitions” that “exploded in mid-air, 20 to 25 metres above ground, which further divided into 40- 45 bomblets”⁷⁹. This is also confirmed by survivors interviewed by the ITJP:

“I was present when the Security Forces launched a MBRL attack on the civilians in the NFZ who were near the junction and the former school and then makeshift hospital called Vallipunam Hospital. I saw many dead and wounded civilians. That is why we went north of the junction to the Colony, thinking we would get away from this shelling and killing. A short time later, we realized it did not matter as shelling from the Security Forces soon began there as well.”



Figure 7: Satellite-based damage assessment for Vallipunam hospital, Sri Lanka (UNITAR/UNOSAT).

Photo from: *Documenting violations of international humanitarian law from space: a critical review of geospatial analysis of satellite imagery during armed conflicts in Gaza (2009), Georgia (2008), and Sri Lanka (2009)*, Joshua Lyons, International Review of the Red Cross, Volume 94 Number 886 Summer 2012.

⁷⁸ OISL, 2015, op cit, para 807.

⁷⁹ Ibid.

In addition, an aid worker said he witnessed cluster munitions being used near Vallipunam and a child picking up one bomblet to play with it who was injured:

“The main cluster munitions would explode high in the air and then small bomblets would flower out from it. I personally witnessed this. When the bomblets started flowering out they would sound like heavy rain. The bomblets would all explode separately over a fairly large area. When the bomblets fell and exploded they would hurt and kill people. Some bomblets would fall to the ground, but not explode. The bomblets from the cluster munitions were bell-shaped and very attractively packaged. The bomblets had a red ribbon on them, which made children mistake the unexploded bomblets for a toy. Sometimes, children would see the bomblets and try to play with them. On one occasion in Vallipunam, I personally witnessed a little girl pick up a bomblet and get injured. The little girl died and two or three children nearby were injured”.

The same witness says he saw white phosphorous used against civilians⁸⁰.

The UN report⁸¹ concluded with regard to the use of cluster munitions in Vallipunam:

“...the reported use of fragmentation munitions in an area densely populated by civilians maximized the risk of significant damage to civilians as well as protected objects, including hospitals and, if confirmed, is unlikely to have been in compliance with obligations under international humanitarian law”.

⁸⁰ He was on the way from Suthanthirapuram to Vallipunam with a colleague and his family but they became too exhausted to continue the journey.

“There was little creek running through the area where we were walking and he stopped there to camp. It was close to dusk at about 5pm. My family and I did not stop, but continued walking towards Vallipunam. Very shortly after this, I heard a huge explosion. There had already been continuous shelling throughout the day, but this explosion sounded very close so I ran back and saw that my friend had been injured and his family had died in the attack. When I arrived at the scene I could see many dead people there including my friend’s wife, his two children, his sister and about five others I did not know. They were unidentifiable because they were so badly burnt. I recognised their injuries as being caused by white phosphorous. When I spoke to my friend he told me that when the white phosphorous bombs hit he was cutting branches off a tree at the time to keep his families tent up. For this reason, he was slightly away from his family when the bombs hit. When he went to help his family, he also got burnt. As soon as my friend felt his skin burning, he jumped into the creek next to him. I believe this is the reason he survived. On this day, including shortly before the white phosphorous bombs were dropped, I remember that we saw a special kind of Security Forces aircraft watching us from the air. The flight was in operation all the time and could see where the civilians were moving. This aircraft was known to us as a Beechcraft and it had a camera which recorded where all the civilians and LTTE were.”

⁸¹ OISL, 2015, op cit, para 810.

6. PUTHUKKUDIYIRUPPU (PTK)

6.1 BATTLE FOR PTK

The UN investigation report says as the Sri Lankan Army advanced, areas in and around PTK experienced significant bombardment from Government forces from 10 January – 6 February 2009⁸². The shelling of PTK, which the Army wished to capture in time for Sri Lankan Independence Day on 4 February 2009, eventually forced medical staff to evacuate the hospital and move patients in trucks and on the back of motorbikes to Putumattalan on the coast⁸³. This meant transferring the injured from a district hospital to a makeshift site they set up in a school building without any proper equipment, even operating tables. At the time when it came under attack, the UN said 500 patients were in the PTK hospital receiving treatment, many of them on the floor as it was so overcrowded⁸⁴.

6.2 PTK HOSPITAL CLEARLY MARKED

This hospital was clearly marked and the UN says the coordinates well known to the Government⁸⁵. In addition the UN interviewed witnesses who said there was frequent surveillance of the areas by the security forces using drones or UAVs.

The UN also says it viewed UAV footage, which clearly showed the Red Cross emblem on the roof of the PTK hospital. Satellite imagery also confirms that hospital buildings referred to in this section were clearly marked with the Red Cross emblem⁸⁶.

A UN employee testified that he never saw LTTE defensive positions near PTK Hospital – that is to say within 10 to 15 kilometres of the hospital.

6.3 PTK HOSPITAL ATTACKS

For a collated list of attacks on PTK (cited in the UN report and witness testimony) please see **Annex 4**.

The UN Report found the PTK hospital was one of the most heavily hit medical facilities⁸⁷. It described a shocking level of destruction:

⁸² OISL, 2015, op cit, para 801.

⁸³ OISL, 2015, op cit, para 88.

⁸⁴ OISL, 2015, op cit, para 825.

⁸⁵ OISL, 2015, op cit, para 823.

⁸⁶ OISL, 2015, op cit, para 782.

⁸⁷ OISL, 2015, op cit, para 822.

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

The UN report says UN officials informed the Government and Sri Lankan Army on multiple occasions that the hospital was coming under attack⁸⁸.

There are multiple eyewitnesses to attacks on PTK Hospital, many of them now abroad⁸⁹. Some were actually present in the hospital during attacks and witnessed wounded family members being injured again as a result of the attack on the hospital⁹⁰. Many survivors described seeing or hearing drones fly over the hospital before the attacks⁹¹.

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

6.4 WEAPONS USED

The UN says PTK hospital was also attacked with unguided weapons and ammunition such as MBRLs, according to witness testimonies. Witnesses, including some with military expertise, described how they were able to hear the launch of the fire, estimate its direction of travel and, in some cases, determine the type of weapons being used⁹².

⁸⁸ Witnesses described multiple rounds falling sequentially on the hospital within a very short period of time, indicating the possible use of MBRLs by SLA, OISL, 2015, op cit, para 825.

⁸⁹ For example a medic said she was coming to the hospital when she heard a noise and hid in a ditch near the entrance of the hospital in February 2009. She saw 2 pregnant women lying on beds who were killed in the attack. She didn't know they were pregnant but their crying husbands said so. She took the injured to Puttumattalan hospital. She collected the bodies from the entrance and had a vehicle she used though the window glass was shattered. She heard screaming in the building and as people brought women out of the hospital she felt their pulses to check they were dead and tried to do first aid on 2 bodies. She took the corpses to Puttumattalan Hospital.

Another witness recalls:

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

⁹⁰ Witness Testimony:

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

⁹¹ Witness Testimony:

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

⁹² OISL, 2015, op cit, para 750.



PTK Hospital 27 January 2009



PTK Hospital 13 January 2009

6.5 AIR ATTACK ON DR PONNAMPALAM MEMORIAL HOSPITAL IN PTK

The Dr. Ponnampalam Memorial Hospital was located north of the A35 junction at PTK and between PTK and Iranapalai⁹³, about 1.5 to 2 kilometres from the PTK District Hospital. Its location was well known to the Government of Sri Lanka for many years.

It was a private hospital⁹⁴ for civilians established in 1996 and registered in Colombo, officially recognised as such by the Sri Lankan government with a board of directors comprising 5 government doctors and 2 LTTE doctors. The main branch of the hospital was in Kilinochchi but by 2009 the sub-branch in PTK had become the only operational one until it was destroyed on 5 Feb 2009. Thereafter the staff and any remaining patients and supplies (X-ray spare parts and units) moved to merge with the Putumattalan Hospital. Witnesses say in 2009 there were no LTTE military hospitals in proper buildings; the LTTE medical corps worked in camouflaged bunkers underground near the frontline and in temporary locations in the jungle without lights or buildings.

6.6 CLEARLY MARKED

Those who worked at Ponnampalam hospital in PTK say in 2007/8 the ICRC recorded all the details of the locations of the hospitals, including this one and helped to paint red crosses on the roofs. Staff say this hospital was clearly marked with a red cross⁹⁵. The hospital was the only building in the vicinity to have lights on all night and it also had red crosses on the roofs and white flags. In addition witnesses say the LTTE did not mount attacks from inside or near the hospital⁹⁶.

6.7 DRONES

Witnesses say surveillance drones flew overhead every morning and sometimes at night. On the morning of the attack witnesses and survivors of the attack say a drone flew overhead⁹⁷.

⁹³ There was another branch in Kilinochchi which was also attacked on 1 October 2008, according to witness testimony.

⁹⁴ Doctors say if they treated any LTTE cadres they would charge the LTTE finance wing for their services. This was until 2009 when all treatment was free for everyone because of the dire conditions. Furthermore Ponnampalam Hospital had during the ceasefire period obtained permission to bring in drugs from Colombo and they had a private pharmacy called Neelan which operated as a medical distributor for the North-East but was not part of the LTTE civil administration. Even the LTTE medics bought from Neelan until an LTTE financial section restructuring changed this.

⁹⁵ Witness Testimony:

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

⁹⁶ At no time did I ever see any LTTE armed presence in any of the hospital compounds. The doctors and ICRC issued advisories for the LTTE to not bring weapons into the compound compounds even when they were bringing casualties. There were some occasions when they were assisting civilians into the compounds where things were chaotic and they did not take the time to unslung and remove their rifles strapped to their back.

⁹⁷ Witness Testimony:

6.8 BOMBED

The Government of Sri Lanka twice bombed the hospital on 5 or 6 February 2009⁹⁸; the second bomb targeted rescue workers trying to dig out the casualties.

The Government of Sri Lanka corroborated that an attack took place because it released drone video of the hospital, which shows the clearly marked red crosses on the roofs and then the destruction of a building where witnesses say patients were being treated. The drone footage shows the exact GPS coordinates of the area. The graphics accompanying the footage claim the site was the Sea Tiger commander's secret hideout - something survivors refute.

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

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

After the first bomb, the central building collapsed. Staff were initially using an LTTE bulldozer to try and get any survivors injured out of the wreckage but the second bomb totally destroyed even the bulldozer. One of the government released videos of drone footage shows a bulldozer. Survivors describe substantial damage⁹⁹:

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

“I was kept near to Ponnambalam Hospital but in an LTTE field hospital. I witnessed the attack on Ponnambalam Hospital. I saw it and more than 60 people inside died. I noticed a drone hovering in the sky all through the morning. There were two Kfir bombs.”

“One day in early February 2009 while at the Ponnampalam Hospital, I heard a drone circling overhead.”

⁹⁸ The UN Panel of Experts says the attack was on 6 February 2009 but one testimony suggests it was 5th.

⁹⁹ An LTTE cameraman filmed some of the injured and dead from the attack who were brought to Putumattalan Hospital, and also visited the site the day after it was attacked:

“I went there the next day. When got there I saw that Main Hospital was damaged. There were three buildings that were severely damaged by the bombing, including the Main building. The Annex was virtually demolished. I saw destroyed bed frames and other hospital equipment in the rubble. All casualties were removed by that time.”

Survivors says estimating the casualties is difficult because some bodies were blown to bits; also some of those who came from outside to help after the first bomb were killed or injured in the second attack¹⁰⁰. Two witnesses estimated 60 people were killed; another later heard the death toll reached 85 people¹⁰¹.

6.9 UN

The UN Panel of Experts included satellite imagery of the site after the attack:

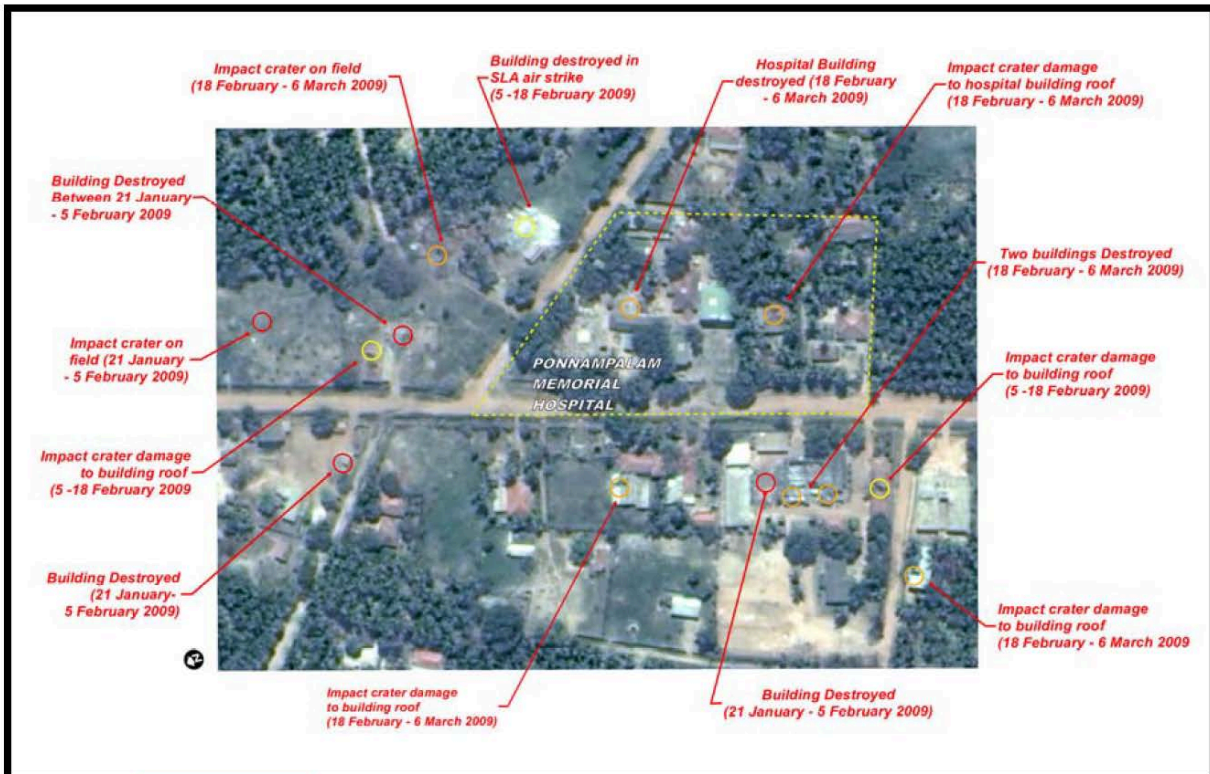


Image 3.4: Ponnampalam Hospital

¹⁰⁰ Witness Testimony:

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

¹⁰¹ Witness Testimony:

"I could hear the bombing from my location in Irinapalai, perhaps only 2 kilometres away. There were a number of bombs dropped by the KFs. We waited and prepared for an influx of casualties. None came. Some time after someone came to the Hospital and informed us that it was the Ponnampalam Private Hospital that had been bombed, and that the whole 3 storey building had collapsed. It appeared that there were no survivors. I later heard that 85 patients were killed."

7. CONCLUSIONS

The OISL concluded their inquiry and reported to the Human Rights Council on their findings, on 16 September 2015¹⁰². The ITJP has in the period since then, amassed a considerable archive of evidence including videos, photographs, SMS, and the testimony of eye-witnesses to the atrocities perpetrated by the Sri Lankan army. The conclusions in this report are based on evidence available in respect of the attacks by the Sri Lankan military on civilians not involved in the hostilities, civilian objects and protected sites such as hospitals and religious sites, prior to the designation of the first “No Fire Zone” (NFZ) as well as attacks in the NFZ’s which led to a massive loss of civilian life and injuries in the final stage of the war in the Vanni. The attacks launched prior to the designation of the NFZ’s have not been investigated by the OISL. This report shines the spotlight on the role of the Sri Lankan military and the 57 Division under the command and control of Major General Jagath Dias in the atrocities. The 57 Division played a decisive role in the capture of Kilinochchi and the Vanni offensive from the beginning of March 2007 to the final stage in May 2009. Evidence gathered by the ITJP includes the ‘*modus operandi*’ of the Sri Lankan military as well as their tactics and the weapons used in the attacks. The attacks documented in this report implicate the Sri Lankan military in serious violations of international humanitarian law, which, if proven, would amount to serious international crimes. As such, it is critical that they are the subject of an independent international inquiry in order to determine the criminal responsibility of those responsible. The framework for analysis in this report has primarily been based on the relevant rules of treaty and customary international humanitarian law and in particular Article 3, common to the four Geneva Conventions of 1949¹⁰³ and the customary rules relevant to the conduct of hostilities.

IMPACT OF THE CONFLICT ON CIVILIANS AND CIVILIAN OBJECTS

57 Division

Major General Dias served in the Gajaba Regiment between 1989 and 2009. In the final stage of the war in the Vanni he reported to General Sarath Fonseka and Major General Jagath Jayasuriya, the head of the Security Force

¹⁰² A/HRC/30/CRP.2.

¹⁰³ International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949, 75 UNTS 287, available at: <http://www.refworld.org/docid/3ae6b36d2.html> on 24 May 2017.

HQ in the Vanni¹⁰⁴. General Jagath Jayasuriya was in command and control of the Vanni operation which involved inter alia the 57, 58, 59 Divisions¹⁰⁵. Major General Jagath Dias was in command of the 57 Division with four brigades under his authority. The 57 Division was one of the main divisions fighting in the final phase of the Vanni offensive and was among units responsible for attacks on civilians and civilian objects in Mannar, Vishwamadu, Kilinochchi, Vallipunam, and Puthukkudiyriippu (PTK) which involved shelling and bombardment ultimately resulting in the capture of Mannar, Vishwamadu, Kilinochchi, Vallipunam and PTK. Major General General Dias has the singular honour of being congratulated by Former Defence Secretary Gotabaya Rajapaksa for being responsible for capturing Kilinochchi. The attacks mounted by the Sri Lankan military in the Vanni were deliberate and intentionally targeted at civilians not involved in the hostilities, and civilian objects including food distribution centres and queues, protected sites such as the UN humanitarian centres and hospitals.

On the basis of the evidence set out in this report, there are reasonable grounds to conclude that the conduct of the 57 Division under the direct command and authority of Major General Jagath Dias constitutes a violation of international humanitarian law in that the core principles of distinction, proportionality and precaution were not observed. The principle of distinction between civilians and combatants requires that parties to an armed conflict distinguish between civilians and combatants and also between civilian objects and military targets¹⁰⁶. This principle is indispensable for securing the protection of civilians. The principle of proportionality is integral as it seeks to prevent unnecessary suffering among civilians in all military operations. They require all those involved to take every possible precaution with respect to the means and methods of warfare used so as to avoid or minimize incidental loss of life, injury to civilians and damage to civilian objects¹⁰⁷.

Attacks on Mannar District

In Mannar, the 57 Division was alleged to have regularly and consistently attacked and shelled civilian and LTTE targets, and also used remotely

¹⁰⁴ OISL report, Op Cit, para 113, General Sarath Fonseka was army commander from December 2005 and was replaced by General Jagath Jayasuriya in July 2009.

¹⁰⁵ Jagath Jayasuriya's testimony to the Lessons Learned and Reconciliation Commission in Sri Lanka said: " I was based in Vavuniya and saw the entire picture of war, practically of course the General Officer Commanding will know exactly what they did, but overall I know and was responsible for the conduct of the whole thing with the formation commander doing the detailed ground operations, plus maintaining essential service and looking after civilians for the entire population of Wannu." Accessed at: <http://www.llrcarchive.org/2010/09/lieutenant-general-jagath-jayasuriya/>.

¹⁰⁶ International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Volume I: Rules, available at: <http://www.refworld.org/docid/5305e3de4.html> [accessed 24 May 2017] Rule 1.

¹⁰⁷ The 1977 Additional Protocols seek to ensure respect for the principle of proportionality in all military operations.

detonated claymore mine attacks in which many civilians lost their lives or sustained serious injuries. Two attacks perpetrated by the Sri Lankan military stand out during this period. The first was an attack on a school bus in January 2008 in Madhu which resulted in the deaths of 22 children. While the Government of Sri Lanka denied responsibility for this attack, evidence available points to Sri Lankan military being responsible. The attack on the school bus and children constitutes a serious violation of international humanitarian law (IHL) and the Convention on the Rights of the Child (CRC)¹⁰⁸.

A second attack took place when the 572 Brigade assisted by the 571 Brigade under the command of Colonels Bandara and G.V. Ravipriya respectively were instructed to capture Madhu in Mannar District. The 572 and 571 Brigades reported directly to Major General Jagath Dias. These brigades were involved in the capture of the church on 24 April 2008. The capture involved heavy shelling of the Catholic shrine which had been occupied at the time by civilians and the local priests. The intensity of the shelling led to civilians evacuating the church, with priests remaining behind in the building, hiding in bunkers to protect the sacred statue from being damaged. The intense shelling of the church not only endangered civilians but also the church. While both the Government and the LTTE blamed each other for the shelling and destruction of the church premises, the presence of the LTTE during the attacks was not verified by any independent source¹⁰⁹. Neither the priests nor the civilians were involved in the ongoing hostilities and the attack as such was unwarranted.

The Sri Lankan military were in possession of intelligence, including satellite footage as well as the GPS coordinates, clearly identifying civilian locations including schools, food distribution centres, churches and hospitals which nevertheless they deliberately targeted and shelled. The attack on the church in Madhu (Mannar District) is a violation of International Humanitarian Law (IHL) as all parties to the conflict, including the military, have the obligation to conduct military operations in compliance with international humanitarian law. The targeting of civilians and civilian objects if proven, constitutes a war crime as Article 8(2)(e)(i) of the Rome Statute prohibits the intentional directing of attacks against a civilian population not taking part in the

¹⁰⁸ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html> [accessed 24 May 2017].

¹⁰⁹ European Center for Constitutional and Human Rights, *Major General Jagath Dias*, 2011 at 9.

hostilities¹¹⁰. Article 8(2) (e) (iv) of the Rome Statute also prohibits attacks against church building which is considered to be a protected site¹¹¹. More recently the International Criminal Court in the case of the *Prosecutor v. Ahmad Al Faqi Al Mahdi* confirmed that attacking protected sites constitutes a war crime under Article 8(2) (e) (iv) of the Rome Statute¹¹². The OISL report noted the complexities inherent in conducting military operations against legitimate military targets in or near densely populated areas and indicated that the presence of LTTE cadres directly participating in hostilities from within the predominantly civilian population did not change the character of the population, nor did it affect the protection afforded to civilians under international humanitarian law. Parties to the conflict retain at all times the obligation to conduct military operations in compliance with international humanitarian law¹¹³. Furthermore jurisprudence of the ICTY confirms that the presence of LTTE cadres amongst the civilians would not alter the character and composition of the civilian population¹¹⁴.

Capture of Kilinochchi

Following the capture of Mannar, the 57 and 58 Divisions went on the offensive against the LTTE's main administrative town Kilinochchi in the Vanni which they captured on 2 January 2009. The 57 and 58 Divisions also captured Paranthan and Iranamadu, villages close to Kilinochchi¹¹⁵. The capture of Kilinochchi was accelerated by aerial bombardment by the Sri Lankan air force reinforced by well-coordinated attacks between July and September 2008, mounted by the 58 Division backed up by the 57 Division which ultimately resulted in the town's capture. The UN's humanitarian operations based at the 'Kilinochchi Box' were bombed and shelled by the Sri Lankan military. It was well known to the Government and the military that the UN conducted its humanitarian operations from this 'Box'. Civilians too were targeted in these attacks despite the Sri Lankan troops being fully aware of the location of UN warehouses and personnel in the box, as well as the presence of civilians congregated there. UN officials

¹¹⁰ Rome Statute of the International Criminal Court, text of the Rome Statute circulated as document A/CONF.183/9 of 17 July 1998 and corrected by process-verbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002

¹¹¹ Rome Statute of the International Criminal Court, text of the Rome Statute circulated as document A/CONF.183/9 of 17 July 1998 and corrected by process-verbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002. Article 8(2)(e)(iv) which states that intentionally directing attacks against buildings dedicated to religion constitutes a war crime provided they are not military objectives.

¹¹² ICC-01/12-01/15-171 27-09-2016 2/49 SL T para 52 Accessed from https://www.icc-cpi.int/CourtRecords/CR2016_07244.PDF on 19 May 2017.

¹¹³ OISL Report, Op Cit, para 1148.

¹¹⁴ The ICTY case is *Prosecutor v. Dario Kordic, Mario Cerkez (Appeal Judgement)*, IT-95-14/2-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 17 December 2004, available at: <http://www.refworld.org/cases,ICTY,47fdfb53d.html> accessed 24 May 2017 para 50 .

¹¹⁵ European Center for Constitutional and Human Rights, *Major General Jagath Dias*, 2011 at 9.

raised the attacks on UN and humanitarian facilities including that of an INGO compound with the Government. In the bombing and shelling, civilian buildings, shops, NGO compounds and humanitarian facilities were damaged and destroyed, resulting in deaths and injuries of civilians. The 57 and 58 Divisions went on to capture Tharmakulam, Tharmapuram and Vishwamadu as well. The attacks resulted in large numbers of civilian casualties in violation of international humanitarian law in the main due to the principles of distinction and proportionately not being observed¹¹⁶.

Vishwamadu

The capture of Kilinochchi led to thousands of displaced civilians fleeing, seeking safety and shelter in Vishwamadu. The 57 and 58 Divisions subsequently launched attacks and captured Vishwamadu by 28 January 2009, using rocket-propelled grenades which resulted in high numbers of civilian deaths and injuries¹¹⁷. The 57 Division subsequently consolidated its position there. The indiscriminate shelling by the 57 and 58 Divisions and the use of rocket-propelled grenades while fully aware of the presence of civilians in makeshift shelters who did not have access to bunkers or any substantial protection violated the basic tenets of international humanitarian law.

The targeted attacks on civilians, civilian objects, humanitarian centres and hubs in Kilinochchi and the attacks on civilians not part of the hostilities in Vishwamadu were deliberate and intentional and should be the subject of an independent international inquiry.

Article 8(2)(b)(iv) of the Rome Statute prohibits [i]ntentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the non-human environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated¹¹⁸. Furthermore, Article 8(2)(e)(i) of the Rome Statute prohibits the intentional directing of attacks against the civilian population who are not taking part in the hostilities¹¹⁹. In *The Prosecutor v. Germain Katanga*, the Chamber notes the prohibition in article 8(2)(e)(i) of the Rome Statute, on directing the attacks at the civilian

¹¹⁶ Report on the Commission of Inquiry on Lessons Learnt and Reconciliation, para 3.18 accessed at: <https://littewatch.files.wordpress.com/2011/12/report-of-the-commission-of-inquiry-on-lessons-learnt-and-reconciliation.pdf>

¹¹⁷ European Center for Constitutional and Human Rights, *Major General Jagath Dias*, 2011 at 15.

¹¹⁸ Rome Statute of the International Criminal Court, text of the Rome Statute circulated as document A/CONF.183/9 of 17 July 1998 and corrected by process-verbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002.

¹¹⁹ *Ibid.*

population, which can in no circumstances be counterbalanced by military necessity and is therefore absolute¹²⁰.

Vallipunam

The 57 Division was also involved in the offensive which involved attacks on Valipunam, including the hospital which was the subject of repeated shelling.

ATTACKS ON HOSPITALS

Kilinochchi General Hospital

The OISL Inquiry reported that Kilinochchi hospital was repeatedly shelled by the Sri Lankan military on 25 October, 24 December and 30 December 2008 despite there being no LTTE positions in the immediate vicinity to justify such attacks. Both the Kilinochchi Hospital and Ponnampalam Hospital in Kilinochchi were subjected to aerial bombardment by the Air Force in order to facilitate the advance of the 57 Division to the area. The deliberate and intentional shelling of the Kilinochchi General Hospital, resulted in the destruction of hospital buildings and hospital equipment, the loss of life of civilian patients also causing massive displacement¹²¹. The location of the Kilinochchi hospital was well known to the Sri Lankan military who were in possession of the hospital coordinates. The hospital was marked by a big cross, which was aurally visible. The targeted attack of the hospital under these circumstances was therefore deliberate and intentional and constitutes a violation of Customary International Humanitarian Law, as hospitals, medical units and medical personnel enjoy special protection under rule 25 and 28 respectively. Hospitals, both fixed and mobile, ambulances, hospital ships, medical aircraft, and medical personnel—whether civilian or military—are also entitled to protection from hostile fire under the Geneva Conventions, provided that structures are marked with a red cross or red crescent and not used improperly or near military objectives, and staff are properly protected. Staff include not only doctors, nurses, and orderlies, but the drivers, cleaners, cooks, crews of hospital ships—in short, all those who help a medical unit to function.

¹²⁰ ICC-01/04-01/07-3436-tENG 20-04-2015 2/660 EC T para 800 accessed from https://www.icc-cpi.int/CourtRecords/CR2015_04025.PDF on 19 May 2017.

¹²¹ OSIL report, *op cit*, para 796.

Some aid workers—for example, Red Cross volunteers treating the sick and wounded on the battlefield—are also covered, as are military chaplains ¹²².

Vallipunam Hospital

Vallipunam Hospital was located in the “No Fire Zone” and yet was deliberately targeted and attacked by the Sri Lankan military. It was well known that it was operating as a makeshift civilian hospital and at the time of the attacks was surrounded by civilians displaced by the conflict who were housed in temporary shelters in the “No Fire Zone” in the Vanni. The hospital was clearly identified by a red cross on the roof. The OISL report confirms that the GPS coordinates were provided to the army commander, General Sarath Fonseka, in order to ensure that it would not be attacked. While the declaration of the NFZs was unilateral, its establishment (according to the Government) was intended to provide the maximum safety for civilians. Vallipunam hospital should have been protected. However it was deliberately and intentionally targeted and shelled by forces including the 57 Division on the 19, 20 and 21 January despite its location in the ‘No Fire Zone’, resulting in the deaths and injury of large numbers of civilians as well as the destruction of the buildings and medical infrastructure which is inexcusable¹²³. ITJP witness testimony confirms that as the military had forward observers, they would have been informed that this was a hospital site and yet repeatedly shelled the hospital. Security force sources also say there were no LTTE defensive positions around the hospital. The OISL report confirms the extraordinary level of physical damage to the hospital. The targeted and intentional bombardment and shelling of the hospital in the designated safe zone is particularly perfidious as civilians would as a consequence congregate to this zone deeming it safe. The bombardment and shelling constitute a serious violation of international humanitarian law which specifically prohibits military attacks on hospitals, medical personnel and units. The Fourth Geneva Convention specifies in Article 20 that, “Persons regularly and solely engaged in the operation and administration of civilian hospitals... shall be respected and protected”. Other articles forbid the destruction, closure (whether temporary or permanent), or knowing interruption of the supply of food, water, medicines, or electricity to civilian hospitals and clinics.

¹²² *Crimes of War, Immunity from Attack*, Emma Daly, accessed at: <http://www.crimesofwar.org/about/crimes-of-war/>

¹²³ Human Rights Watch, *War on the Displaced: Sri Lankan Army and LTTE Abuses against Civilians in the Vanni*, at 18.

Puthukkudiyiruppu (PTK)

In the course of the battle for PTK, the PTK hospital came under attack and experienced heavy bombardment by the Sri Lankan military between 10 January to 6 February 2009. The targeted attack and bombardment of the PTK hospital by the Sri Lankan military led to medical staff and patients being forced to evacuate the hospital and move to Putumattalan on the coast. The lives of patients were severely endangered by having to move precipitously to a makeshift hospital without any proper medical equipment or facilities. Evidence before the UN inquiry confirmed that the PTK hospital suffered a number of attacks with its medical facilities severely hit and damaged. The targeted attacks by the Sri Lankan military resulted in the destruction of hospital buildings, hospital equipment, and the death and injury of civilians. Again the military knew that this was a civilian hospital as it was visible from the air and because they were also in possession of the GPS coordinates as well as UAV footage which clearly identified that PTK was a civilian hospital¹²⁴. The UN also indicated that they had informed the Sri Lankan army on multiple occasions that the hospital was under attack. Despite the intelligence, the hospital was deliberately and intentionally attacked.

The indiscriminate shelling and use by the military on PTK of unguided weapons like multi-barrel rockets which are designed for hitting point targets are prohibited under international humanitarian law and should not be used in such densely populated areas. Under international humanitarian law, large bombs and missiles, indirect-fire weapon systems such as mortars, rockets and artillery, multi-barrel rocket launchers, and certain types of improvised explosive devices, are prone to indiscriminate effects when used in population centers, owing to their wide-area effects and are prohibited when civilians are at risk. The subsequent loss of civilian life as well as injuries was thus entirely foreseeable. Under international humanitarian law, hospitals, medical units and medical personnel enjoy special protection under international humanitarian law. International Humanitarian Law specifically prohibits military attacks on medical personnel and units. The Fourth Geneva Convention specifies in Article 20 that "Persons regularly and solely engaged in the operation and administration of civilian hospitals... shall be respected and protected".

¹²⁴ OISL report, *op cit*, para 832.

Dr. Ponnampalam Memorial Hospital in PTK

Dr Ponnampalam Memorial hospital in PTK was located approximately 2km from PTK District hospital. The location of the hospital was well known to the Sri Lankan military and was clearly marked with a red cross which was aurally visible and was the only hospital in the vicinity to have its lights on all night. The ICRC had recorded the location of this hospital and had assisted to paint the red crosses on the roof. The Government also had possession of drone evidence of the location of the hospital. Shockingly, the hospital was bombed by kfires on two occasions in early February 2009 resulting in severe damage from both attacks, the loss of life and civilians with serious injuries as well as the destruction of medical buildings.

Survivors indicate that it is difficult to confirm the total death toll with figures veering between 60 and 85 civilians and a large numbers of civilians injured. The targeted attacks on this hospital were deliberate and intentional as there is evidence that the Sri Lankan government was in possession of drone footage which confirmed the location of the hospital. Witnesses also confirm that the hospital was not near LTTE installations. Under international humanitarian law, hospitals, medical units and medical personnel enjoy special protection under international humanitarian law which specifically prohibits military attacks on medical personnel and units¹²⁵.

ATTACKS ON CIVILIAN OBJECTS

This report is not exhaustive insofar as the conduct of the Sri Lankan military in capturing the Vanni in the final stage of the war. The report highlights the conduct of the 57 Division under the command and leadership of Major General Jagath Dias in the final stages in the Vanni and demonstrates that neither the Sri Lankan military nor the 57 Division complied with the IHL rules on the conduct of hostilities and in particular the obligation to distinguish between civilians and civilians objects on the one hand and lawful military targets on the other, both in the period preceding the setting up of the three successive “No Fire Zones” and in the period when three successive “No Fire Zones” were established. The attacks carried out on humanitarian facilities including hospitals, the UN Hub and

¹²⁵ Article 20 of the Fourth Geneva Convention

food distribution centres, as well as the targeting of civilians were in clear violation of the principles of distinction, proportionality and precaution. In fact, the OISL Inquiry pointed out that “Hospitals and other medical units and personnel enjoy special protection under international humanitarian law and cannot be made object of attack”¹²⁶. Under international humanitarian law, Rule 30 of the ICRC Customary Humanitarian Law Study prohibits intentional attacks directed against medical personnel and objects¹²⁷. The protection to which medical units and transports are entitled does not cease unless these are used to commit hostile acts, outside their humanitarian function. However even then, international humanitarian law requires that a warning be given, with a reasonable time limit, and that such warning remain unheeded before an attack can occur.

The OISL noted with grave concern the repeated shelling of hospitals in Vanni. The recurrence of such shelling despite the fact that the security forces were aware of the exact location of hospitals, suggests that these attacks were not random occurrences but deliberate and intentional. The attacks on civilian hospitals constitute a war crime under article 8(2)(e)(iv) of the Rome Statute which provides that intentionally directing attacks against hospitals and places where the sick and wounded are collected is unlawful which if proven would result in the Sri Lankan military including the 57 Division and Major General Dias being held accountable for war crimes.

Civilian objects both in and out of the NFZs were impacted by attacks of the Sri Lankan military, notably humanitarian facilities and food distribution centres despite the armed forces being regularly notified of their exact location. Moreover, they had real-time images of the locations from their UAV's, according to their own statements as well as witnesses. One cannot but conclude that these attacks were not random but part of a deliberate and intentional policy of targeting civilians not involved in the hostilities as well as civilians objects. It was foreseeable that civilians would be killed and that civilian objects would be destroyed. The information available to the OISL indicates that in none of the incidents reviewed was there any grounds that could have reasonably led the security forces to determine that these facilities were used for military purposes. These facilities therefore maintained their civilian character and could

¹²⁶ OISL, 2015, op, cit, para 1150 onwards.

¹²⁷ International Committee of the Red Cross ‘Customary International Humanitarian Law Volume I: Rules’ accessed from <https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>

not and should not have been directly targeted under international humanitarian law.

The OISL report confirms that in terms of targeting procedures followed by the Government, they were in possession of surveillance assets 24 hours a day¹²⁸:

“Whenever the enemy moves, we are able to spot them and either we take it or we tell the Army or the Navy... we match our weapons according to the target and we send our UAVs up into the sky and we give a live picture to the Squadron that is going to do this, and while monitoring the target from Air Force HQ as well”.

Given the nature of the intelligence that the Government was in possession of and available to the Sri Lankan military, there can be no doubt that the Sri Lankan military were fully aware of not only of enemy locations but also those of civilians and civilian objects including hospitals and UN humanitarian locations. Directing attacks against civilian objects and/or against civilians not taking direct part in hostilities is a serious violation of international humanitarian law and, depending on the circumstances, may amount to a war crime if proven¹²⁹.

USE OF INDISCRIMINATE WEAPONRY

The Sri Lankan military employed weapons that, when used in densely populated areas, are likely to have indiscriminate effects. The use of weapons such as Multi-Barrelled Rocket Launchers (MBRLs), appears to have been a part of a deliberate and consistent policy when firing towards the NFZ's. The use of RPG mortars and these multi-barrel mortars which are direct-fire weapons decreases the accuracy of these weapons and increases the possibility of harm to civilians and civilian objects.

Intentional attacks directed against civilians not taking part in hostilities, indiscriminate attacks (which do not distinguish between civilian and military targets), and disproportionate attacks (which may be expected to cause incidental harm to civilians that would be excessive in relation to the concrete and direct military advantage anticipated) are prohibited and constitute war crimes. These rules apply equally to all

¹²⁸ OISL report, op cit, paras 737,738 and 739.

¹²⁹ Article 8(2)(e)(i) of the Rome Statute.

parties to armed conflicts (whether government forces or non-state armed groups) at all times without exception. Jurisprudence in the ICTY indicates that the use of such weapons and indiscriminate attacks may qualify as direct attacks on civilians¹³⁰.

COMMAND RESPONSIBILITY

Major General Jagath Dias, commanding officer of the four brigades (ie 571, 572, 573 and 574) of the 57 Division of the Sri Lankan Army was directly involved in the planning and execution of the offensive operations conducted in the Vanni during the final stage of the war conducted by the Sri Lankan Army against the Liberation Tigers of Tamil Eelam (LTTE). Major General Jagath Dias reported directly to General Jagath Jayasuriya who was in overall command control of the Vanni offensive during the final phase of the armed conflict, heading the Security Force HQ for the Vanni¹³¹. As the commander in control of the 57 Division, Major General Dias was effectively in authority and control over the Brigades falling under the 57 Division. Major General Dias therefore has command responsibility for the crimes by the units under his effective control and must be held accountable¹³².

Article 28 (a) of the Rome Statute provides that a military commander or person effectively acting as a military commander is criminally responsible for the crimes committed by the forces under his/her effective control as result of failing to control properly where the commander knew or should have known that the forces were committing or about to commit such crimes. Failure by the military commander to take the necessary and reasonable steps to prevent or repress the commission of crimes by forces under his/her effective command and control, will render the commander responsible for those committed crimes.

In '*The prosecutor v Jean-Pierre Bemba*', the Chamber noted that there is an overlap between the factors relevant to assessing the status of someone effectively acting as a military commander and a person's effective authority and control¹³³.

¹³⁰ ICTY, *Prosecutor v. Galic*, case No. IT-98-29-T, Judgement, 5 December 2003. The International Court of Justice in the Nuclear Weapons Case linked the prohibition of indiscriminate attacks to attacks against the civilian population, by stating that: "States must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets." Para. 78. Article 8 of the Rome Statute of the International Criminal Court lists intentionally directing attacks against the civilian population or civilian objects as a war crime.

¹³¹ OISL report, op cit, para 113-117.

¹³² OISL report, op cit, page 27.

¹³³ ICC-01/05-01/08 accessed from https://www.icc-cpi.int/CourtRecords/CR2016_02238.PDF, para 696.

The ITJP notes that in the period since the adoption of the consensus UN HRC resolution on Sri Lanka in 2015, the Sri Lankan government has failed to ensure that resolution 30/1 dealing with justice and transitional justice is implemented. Impunity for serious international crimes relating to the final war has become entrenched¹³⁴. It is therefore critical for the Office of the High Commissioner for Human Rights (OHCHR) and the international community to ensure that the hybrid Special Court for Sri Lanka is established speedily and that it is preceded by an independent international investigation to establish the facts with particular regard to establishing criminal accountability in order to ensure that those responsible are held accountable. Any independent investigation must therefore examine the responsibility of those commanders based in the Vanni during the final stages of the war, including Major General Jagath Dias, and their overall, Commander General Jayasuriya, with a view to criminal accountability.

END

¹³⁴ United Nations General Assembly A/HRC/RES/25/1 accessed at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/132/86/PDF/G1413286.pdf?OpenElement>.

ANNEX 1

Chart shows areas captured by 57 Division.

#	Area Liberated ^[17]	Date
1	<u>Madhu church</u> complex	24 April 2008
2	<u>Palampiddi</u> Town	16 May 2008
3	<u>Mundumurippu</u> Village	23 May 2008
4	<u>Periyamadhu</u> Village	15 June 2008
5	<u>Naddankandal</u> Village	11 July 2008
6	<u>Kalvilan</u> Village	13 August 2008
7	<u>Thunukkai</u> and <u>Uilankulam</u> Towns	22 August 2008
8	<u>Mallavi</u> Town	2 September 2008
9	<u>Akkarayankulam</u> tank bund	29 October 2008
10	<u>Akkarayankulam</u> built-up	5 November 2008
11	<u>Kokavil</u> Town	1 December 2008
12	<u>Terumurikandy</u> junction	10 December 2008
13	<u>Kilinochchi</u> Town	2 January 2009
14	<u>Ramanathapuram</u>	7 January 2009
15	<u>Visuamadu</u> Town	28 January 2009

Source for chart: Wikipedia quoting Sri Lanka Army site no longer available¹³⁵.

¹³⁵ [https://en.wikipedia.org/wiki/57_Division_\(Sri_Lanka\)](https://en.wikipedia.org/wiki/57_Division_(Sri_Lanka)) original SLA site deleted.

ANNEX 2

MANNAR TO KILINNOCHCHI

August or September 2007: a claymore attack killed the doctor in charge of Nedunckeray Hospital. He was in an ambulance and also killed were his driver, two medical staff and two civilian patients.

29 January 2008: a claymore attack near Madhu on a bus travelling with about 50 school children aged from 6 to 15 years old from a school from Mannar. Every child was either killed or wounded. There were around 30 killed¹³⁶.

US State Department report¹³⁷ cites the same incident: On January 28, a claymore mine attack killed 17 civilians, including nine school children, near Madhu, an area controlled by the LTTE at the time. A military spokesperson denied the army was behind the attack.

Approx. June 2008: Travelling from Malangarvi Hospital to Pallamadam Hospital a witness saw a van coming the other way that was blown up by a claymore. There were about 3 people killed, including a senior LTTE cadre and some civilians.

Late 2008: between Thunakkai and Vellankulam, the vehicle of a doctor was hit using a claymore mine killing a Catholic priest who was travelling in the vehicle and one of the health staff, and injuring the driver severely and one medical staff. The driver Kumar was severely injured in the attack.

27 November 2008: a claymore attack occurred near Iyangankulam, south west of Kilinochchi. This was the LTTE Martyrs Day. An ambulance was ferrying 13 or 14 first aid workers from the NGO, the Health Development Council; they were reportedly not linked to the LTTE. Some of the first aid workers were school children. 11 were killed and only one or two survived the attack.

¹³⁶ Among other media reports: *11 schoolchildren killed in Sri Lanka*, B. Muralidhar Reddy, *The Hindu*, 30 January 2008. Also witness testimony.

¹³⁷ BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, *2008 Country Reports on Human Rights Practices*, accessed at <https://www.state.gov/j/drl/rls/hrrpt/2008/sca/119140.htm>

ANNEX 3

VALLIPUNAM HOSPITAL

A doctor based in the Vanni said the attacks on the hospital started from 19th January 2009:

*“On the **19, 21 and 22 January** the Vallipunam Hospital was shelled. The shelling was constant in the area. It was coming from the SFs. I was not in direct phone contact with the Vallipunam Hospital, as at this time all infrastructures were breaking down and being destroyed. The first I knew that the Vallipunam Hospital had been shelled on these occasions was when wounded civilians and their families came to my hospital to seek treatment and they told me that they had fled the Vallipunam Hospital due to shelling. I visited the Vallipunam Hospital after the shelling and saw the damage”.*

HRW¹³⁸; January 19 – HRW reported that shells landed in the yard of Vallipunam Hospital injuring six people in the outpatient ward¹³⁹.

HRW - January 20 – Sources in the conflict zone reported to HRW heavy shelling in Thevipuram, Vallipunam, Suthanthirapuram, and near Udayarkattu, killing at least 18 people and injuring over 50.

HRW - January 21 – HRW reported that one shell hit Vallipunam Hospital with no reported casualties.

Official - January 21¹⁴⁰: “in the evening I received reports that Vallipunam Hospital (the former Mullaitivu District General Hospital) had been shelled, I believe that one shell fell inside the Hospital and there were others that fell outside the hospital buildings”.

HRW - January 22 – HRW reported that on this morning shells hit the Vallipunam Hospital compound, killing five people and injuring 22. Sources who corroborated this story said that the hospital’s coordinates had been transmitted to the GSL on the previous day.

¹³⁸ US State Department quoting Human Rights Watch.

¹³⁹ US State Department, accessed at <https://www.state.gov/documents/organization/131025.pdf>

¹⁴⁰ An aid worker corroborates that he moved to the first “No Fire Zone” (NFZ) on 20 January 2009 and heard the hospital come under fire: “The ones I personally saw were killed on or near A35 inside the NFZ and close to our compound. The barrages were systematic and definitely coming from the security forces side. Though I could not personally see the shells hit, I could hear the shelling of the AGA food distribution centre, the UN Compound, Udayarkaddu Hospital and the Vallipunam Hospital. There were no LTTE positions near the area that I could see.

Official - January 22: “in the morning there was further shelling inside the Hospital with I recall, five patients killed and over 20 others injured, in addition to the original injuries they were in Hospital to receive treatment for”.

[This was confirmed by an international aid worker].

Official - January 23: A doctor who had been working in Vallipunam Hospital narrowly escaped being killed then when he was in the Vallipunam Hospital and the ward he was in was struck by a shell, killing several patients.

HRW - January 29 – HRW reported that the SLA shelled Vallipunam, a town just outside the government-declared safe zone. A local source reported that there were no known LTTE positions in the vicinity at the time of the attack.

Amnesty International¹⁴¹ - February 6 – 48 people were killed and 174 injured during heavy shelling in Mattalan, Thevipuram, Suthantirapuram, Moongilaru, Udayarhaddu and Vallipunam. Amnesty International cannot confirm where the shells originated¹⁴².

SMS¹⁴³ - February 11: “15 killed in Vallipunam, including children (UN)¹⁴⁴”.

SMS - February 12: “24 civilians killed and 81 injured in shelling in Thevipuram and Vallipunam¹⁴⁵”.

SMS - February 14: “36 killed, 84 injured by shelling in Thevipuram and Vallipunam”.

¹⁴¹ Quoted by US State Department.

¹⁴² US State Department accessed at <https://www.state.gov/documents/organization/131025.pdf>

¹⁴³ Text messages from UN and INGO staff inside the Vanni sent at the time.

¹⁴⁴ Same source quoted by US State Department: *February 11 – A source in Mattalan reported to HRW that shelling killed 19 civilians in Thevipuram and 15 civilians in Vallipuram.* Accessed at <https://www.state.gov/documents/organization/131025.pdf>

¹⁴⁵ Same source as for US State department: *February 12 – A source in Mattalan reported to HRW shelling in Thevipuram and Vallipuram, killing 24 civilians and injuring at least 81. Ten more people died the following day from their injuries. One person was killed in Mattalan by shelling along the coastal area at noon, Ibid.*

ANNEX 4

PTK



United Nations¹⁴⁶ - 13 January: between 10 and 11 a.m., the hospital was directly hit by two rounds [of gunfire], reportedly fired from areas controlled by the SLA, causing damage to the buildings and severely injuring at least two patients.

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

SMS¹⁴⁷ - 15 January: “6 injured closer to AGA office in PTK, 1 km from ICRC...Shelling in Uddayarkaddu Visuwamadu & PTK...”.

¹⁴⁶ OISL, 2015, op cit.

¹⁴⁷ These are contemporaneous SMS sent out of the war zone by UN staff.

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

United Nations - 26 and 27 January - shells and salvos of rockets were fired towards the hospital from the south and east, reportedly where SLA forces were located, causing damage to ambulances and other hospital vehicles.

SMS - 26 January - “we are in PTK again. I have no words to describe our today experience. I saw more than 10 dead bodies when crossing the road and heard over 60 people got killed in the same village”.

United Nations - 28 to 29 January - the area was shelled again during the night using heavy artillery and MBRL fire.

SMS - 28 January - “Heavy shelling continues close to PTK hospital within 1 km. We dug bunkers in the new hub, horrible scenes in PTK hospital with injured”.

United Nations - 29 or 30 January - one shell hit the male ward of the hospital, and two shells fell on the hospital grounds.

SMS - 31 January - “17 killed and many injured, no actual figures yet by shelling. 5 dead bodies were taken to PTK hospital”.

United Nations - 1 February - PTK hospital was hit directly with shells on three occasions reportedly fired from SLA positions around Oddusadduan, killing at least five people and injuring others, including children. Between 3 and 4 p.m., two shells hit the hospital, the second killing at least one person. A third attack, later in the evening, hit a ward with women and children, killing at least four patients and injuring at least 14 others. The hospital was hit again during the following evening, damaging the children’s ward, reportedly killing seven people, including one medical staff member and a baby, and injuring 15 others. The hospital’s operating theatre was also damaged in an artillery attack, probably on 3 February.

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

SMS - 2 February - “more tension in PTK after hospital attack”.

United Nations - 3 February - “the attacks continued throughout the night”.

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

SMS - 4 February - “PTK hospital being vacated, heavy shelling for about 16 hours, we are in trenches”.

SMS - 14 February - “Today score: 14 killed in a kfir attack in areas close to PTK hospital”.

"It's very difficult [to shoot at children] but when someone has a weapon and is firing it at you, it doesn't matter what age, you have to shoot".

Jagath Dias¹⁴⁸

¹⁴⁸ *Kill or be killed: 11-year-olds forced to fight for Tamil Tigers*, Matt Wade, 5 May 2009, Sydney Morning Herald, accessed at <http://www.smh.com.au/news/world/kill-or-be-killed-11yearolds-forced-to-fight-for-tamil-tigers/2009/05/04/1241289104129.html>