



AN UNRELIABLE WITNESS

Gordon Weiss, *The Cage* and Sri Lanka

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AN UNRELIABLE WITNESS: GORDON WEISS, *THE CAGE* AND SRI LANKA

Gordon Weiss was a spokesman for the United Nations organisation in Sri Lanka for two years at the end of that country's civil war. His 2011 book, *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers*, is described as a close study of the last months and weeks of the conflict in the Vanni.¹ *The Cage* is a controversial, anti-government view of the end of the war. His book is well-written, as might be expected of an articulate, middle-class and well-educated international bureaucrat. The problem is that it is a deeply-flawed account of a crisis that in several key respects was impossible to document – most notably with regard to civilian casualties. The events said to have been described in *The Cage* were infinitely complicated. Leaving aside mistakes in historical detail and other simple facts², it is Weiss's inability to answer key questions he begrudgingly or accidentally poses; selectivity with information and a particularly self-serving slant on the events in the Vanni from late 2008 up until May 2009 that are of concern to anyone expecting an accurate account of the crisis.

A background to conflict

The Sri Lankan Civil War was a 26-year-long conflict fought between the government of Sri Lanka and the "Liberation Tigers of Tamil Eelam" (LTTE, also known as the "Tamil Tigers"), led by Velupillai Prabhakaran, from 1983 until the defeat of the LTTE in May 2009.³ The LTTE was a militant organisation which sought to establish an independent Tamil state, "Tamil Eelam", in the north and the east of the island, separate from Sri Lanka's Sinhalese majority. Given the LTTE's unambiguous use of terrorism, thirty-two countries listed it as a terrorist organisation. The United States designated the LTTE as a Foreign Terrorist Organization in October 1997: it was named as a Specially Designated Global Terrorist movement on 2 November 2001. The European Union listed the LTTE as a terrorist organisation on 17 May 2006. In 2006, the United Kingdom listed the LTTE as a Proscribed Terrorist Group under the Terrorism Act 2000. Canada has since 2006 listed the movement as a terrorist group, and does not grant residency to LTTE members on the grounds that they have participated in crimes against humanity. India listed the LTTE as a terrorist organisation in 1992. The *Economist* noted that "The Tigers were as vicious and totalitarian a bunch of thugs as ever adopted terrorism as a national-liberation strategy."⁴

After the unsuccessful deployment of an Indian peace keeping force from 1987 to 1990, and several failed rounds of peace talks, an internationally-mediated ceasefire agreement was signed in 2002. Shortly after the then Prime Minister Mahinda Rajapaksa was elected as President of Sri Lanka in November 2005, the LTTE withdrew from the Geneva and Oslo peace talks indefinitely. In April 2006, the LTTE tried to assassinate the commander of the Sri Lankan army. In July that year, the LTTE seized the Mavil Oya reservoir in the east of the country, cutting water to 15,000 villagers and thousands of hectares of rice paddy. This has generally been seen as the final straw as far as the government was concerned. The army reasserted control and it was clear that from then onwards the Rajapaksa government was committed to bring the LTTE insurgency to an end. To do that the government had to reoccupy the territory controlled by the organisation.

The government formally announced its withdrawal from the ceasefire agreement in early January 2008, claiming the LTTE had violated the agreement over 10,000 times.⁵ Government action drove the LTTE out of the entire eastern province of Sri Lanka with remarkably few civilian casualties. In 2007,

¹ Gordon Weiss, *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers*, The Bodley Head, London, 2011.

² See, for example, Sanjana Hattotuwa "A review of 'The Cage: The Fight for Sri Lanka & The Last Days of the Tamil Tigers'", Groundviews.org, 24 May 2011, available at <<http://groundviews.org/2011/05/24/a-review-of-the-cage-the-fight-for-sri-lankan-the-last-days-of-the-tamil-tigers/>>, and Anil Perera, "Book Review – The Cage by Gordon Weiss", 10 July 2011, Lankaweb.com, available at <<http://www.lankaweb.com/news/items/2011/07/10/book-review-%E2%80%93-the-cage-by-gordon-weiss/>>.

³ For the government's history of the final phase of the war, see *Humanitarian Operation Factual Analysis July 2006-May 2009*, Ministry of Defence, Democratic Socialist Republic of Sri Lanka, Colombo, July 2011, available at <http://www.defence.lk/news/20110801_Conf.pdf>.

⁴ "Truth and consequences. Nationalistic fury is good for the government, terrible for Sri Lanka", *The Economist*, 28 April 2011, available at <http://www.economist.com/node/18620572?fsrc=nl%7Cwwp%7C04-28-11%7Cpolitics_this_week>.

⁵ "Government takes policy decision to abrogate failed CFA", Ministry of Defence, Democratic Socialist Republic of Sri Lanka, Colombo, 2 January 2008, available at <http://www.defence.lk/new.asp?fname=20080102_12>.

the government launched an offensive in the north of the country. Government forces gradually re-established control of the rest of LTTE-controlled areas, including their de-facto capital Kilinochchi and the main LTTE military base at Mullaitivu, in the Vanni region.⁶ From late 2008 onwards, as their area of control shrank, the LTTE forced 300,000 Tamil civilians to accompany their fighters as human shields. The government declared several “No-fire Zones” to protect civilians which were nevertheless caught up in the relentless fighting between government forces and the LTTE. A large number of civilians were killed or injured in crossfire between the combatants, especially as the pocket of territory controlled by the LTTE was ultimately reduced to an area twice the size of New York’s Central Park. The LTTE leader and virtually all of the organisation’s remaining leadership died in the last few days of the fighting, something perhaps unsurprising given the culture of suicide within the LTTE.⁷ The LTTE admitted defeat on 17 May. The Sri Lankan government cited their campaign as the only modern instance of an unambiguous defeat of terrorism.

Gordon Weiss in Sri Lanka

While it is claimed of him that Weiss was “a close observer” of the war⁸, the reality is that he was self-evidently nowhere near the war zone in north-eastern Sri Lanka of which he wrote and spoke. He was behind a desk in Colombo sipping *caff  latt *. Weiss is no specialist on Sri Lanka, anymore than being a foreign administrator or secretary working for an international non-governmental organisation, and reading international and local media, would automatically make one an authority. To his credit Weiss himself is the first to concede the fact he is not an authority on the country: “I am not an expert on Sri Lanka, and do not strive to be one.”⁹

Having admitted that he was not an expert on Sri Lanka in general, Weiss also concedes that Sri Lanka’s civil war was in and of itself very difficult to get to grips with: “[a]ccording to international journalists, Sri Lanka was notorious as one of the toughest wars on which to report.”¹⁰ And this was before events became even more difficult to observe or cover in the course of the final six months or so of the war. Weiss noted “the absence of the independent media” during this period.¹¹ Weiss, for example, cited one veteran reporter on Sri Lanka as stating that verifiable information during the Vanni crisis was “as rare as hen’s teeth”.¹² All of Weiss’s claims are by default based on hearsay and secondary sources. His claims to the contrary aside, Weiss nonetheless does not prevent himself being projected as an authority on perhaps the most complex crisis in that country’s history, the events in the Vanni pocket, while trying to market and sell his book.

While Weiss claims that “[t]he Sri Lankan Government was masterful at controlling information and in refuting information”, it is very clear that he himself was adept at selecting which information and which assertions he wished to use in his book. This is manifested in several ways, not least of which is his turning a blind eye to the intimidation of Tamil doctors within LTTE-controlled areas. Similarly Weiss does not address the most important issue he himself raises in passing, which is that for the government deliberately killing civilians made no strategic or tactical sense. In addition, his claims regarding civilian casualties, especially his arbitrary inflation of the numbers of civilians killed, are deeply flawed: amongst other things, he does not seek to differentiate between casualties that may have been caused by LTTE or government action, nor the intent of that action.

How objective an observer was Weiss?

The reality is that Weiss is almost automatically disqualified as an objective observer of events in Sri Lanka as he is so much part and parcel of a particular, narrow elitist western liberal mindset that while being very articulate in describing dilemmas cannot see a fence without wanting to sit on it. They may

⁶ The Vanni, also spelled Wannu, is in the northern part of Sri Lanka, and comprises parts of the districts of Kilinochchi (to the north), Mullaitivu (east), Mannar (west), and Vavuniya (south).

⁷ LTTE recruits on graduation were issued with a cyanide tablet to take if the fighter might be captured. Suicide bombers were another feature of the LTTE’s culture of death. See, also, for example, “Female Tamil Tiger bomber kills 28 after hiding among civilians fleeing war”, *The Times*, 10 February 2009: “All their fighters in the field wear cyanide capsules around their necks to be taken in case of capture”, available at <<http://www.timesonline.co.uk/tol/news/world/asia/article5692956.ece>>.

⁸ See, for example, <<http://www.gordonweissauthor.com/>>.

⁹ Weiss, *op. cit.*, xxvi-xxvii.

¹⁰ *Ibid.*, p.98.

¹¹ *Ibid.*, p.104.

¹² *Ibid.*, p.98.

well condemn something but will as often as not drift towards inaction. Weiss and the response of the “international community” to the LTTE and its harrowing reign of terror is a case in point.

Gordon Weiss himself presents observers with a stark picture of the LTTE and its “record of appalling violence”.¹³ He records that the LTTE chief gave orders “to bomb buses full of women and children...murder monks and kill prisoners”¹⁴, and that “[t]hey hacked, bludgeoned, shot, burned and hanged civilians in a long series of massacres...Children were slaughtered alongside the elderly in dozens of small-scale incidents.”¹⁵ The LTTE “planted bombs on trains, aircraft and buses...In 1987, a car bomb exploded in Colombo’s Pettah, killing 113 civilians. In 1996, four briefcase bombs exploded simultaneously on a train, killing sixty-four passengers and wounding more than 400 others. In 2006, a roadside blast killed sixty civilians on a bus in Kebithigollewa.”¹⁶ Weiss also points out that between 1983 and May 2009: “there were around 200 individual Tiger attacks on civilian targets, in which between 3,700 and 4,100 civilians were killed.”¹⁷ Weiss also notes that “This figure does not include the number of Tamils allegedly killed by the Tigers in the areas they controlled, nor the many hundreds of prisoners thought to have been killed in Tamil Tiger gulags”.¹⁸ Human rights groups have stated that the latter figure is as high as 7,000. Weiss also confirms that the LTTE “systematised the use of suicide bombers...and child soldiers.”¹⁹ This just skims the surface of the LTTE’s involvement in terrorism.

Weiss makes a point of mentioning in his book that during the Second World War his own grandfather “and dozens of other relatives were taken from their homes and killed because of their ethnicity”.²⁰ Yet, together with other international bureaucrats, he displayed a remarkably lackadaisical attitude towards ending the LTTE’s systemic genocidal and racist behaviour in Sri Lanka. The genocidal nature of the LTTE and its leadership was noted by the veteran foreign correspondent and two-time Pulitzer Prize winner John F Burns, who reported that the LTTE leader Prabhakaran had “shown a bloodthirstiness in dealing with opponents that has been compared with some of the cruellest figures in recent Asian history, including Pol Pot of Cambodia”.²¹ The LTTE’s violent racism was equally clear. This included LTTE pogroms against Sinhalese and Muslim Sri Lankans in the north-east of the island, the LTTE’s murderous and systematic ethnic cleansing of these communities, the destruction of whole villages, the murder of thousands of Tamil civilians and the LTTE’s commitment to an inflexible cult of violence in pursuit of a racially-pure Eelam, cleansed of Sinhalese and Muslims. As but one example, the 1971 Sri Lankan census showed 20,514 Sinhala civilians living in Jaffna. By mid-October 1987 there were none. In comparison there are hundreds of thousands of Tamils living in the south of Sri Lanka. Weiss himself confirms that the LTTE “mounted...destructive and horrifically brutal attacks on the Sinhalese and Muslim populations of Sri Lanka.”²²

One has to ask of Weiss what was the practical difference between his grandfather and others being killed as part of systematic murderous ethnic cleansing in Europe by the Nazi movement and the systematic and equally murderous ethnic cleansing of Sinhalese and Muslim civilians in north-eastern Sri Lanka by LTTE movement? Weiss himself had no suggestion as to how this LTTE ethnic murder campaign being visited upon countless families was to be brought to an end short perhaps of some sort of “engagement” with the killers.

While Weiss observed with hindsight and from the safety of his study in Australia that “undoubtedly, the world is a better place without the Tamil Tigers”²³ he is seemingly unwilling to accept that the only way to end the LTTE’s murderous racism and genocidal activity once and for all was by force. Indeed, he may also have been one of those western “experts” who believed that there could never be a military solution to the conflict. In these respects he closely resembles those commentators – in Europe and the United States – who believed that the Nazis were unbeatable and had to be appeased. Weiss and millions of other people can be grateful that democratic governments in Europe chose to put an end to

¹³ *Ibid.*, xxiv.

¹⁴ *Ibid.*, p.2.

¹⁵ *Ibid.*, p.80.

¹⁶ *Ibid.*, pp.80-81.

¹⁷ *Ibid.*, p.81.

¹⁸ *Ibid.*, p.299.

¹⁹ *Ibid.*, xxii.

²⁰ Weiss, *op. cit.*, xxvii.

²¹ “A Sri Lankan Evokes Pol Pot; Asia’s Latest Master of Terror”, *The New York Times*, 28 May 1995.

²² Weiss, *op. cit.*, p.55.

²³ Gordon Weiss, “Tiger Blood”, *Foreign Policy*, 26 April 2011, available at <http://www.foreignpolicy.com/articles/2011/04/26/tiger_blood>.

the Nazi regime in Europe. We can also be grateful that those governments rejected a negotiated end to that war and went on to secure an unconditional victory over Nazism. After almost 30 years of unspeakable violence, an unconditional victory over the LTTE was the option chosen by the Sri Lankan people and its democratically-elected government.

The reality is that while rightly decrying the Nazi regime – although presumably he would have opposed both the appeasement of Hitler and the Nazi movement in the 1930s or calls for a ceasefire leaving the remnant of the Nazi movement in power in 1944 – Weiss is part of the modern-day equivalent of the 1930s appeasers of the Nazis. These new appeasers sought to reach any sort of accommodation with the inflexible, murderous and intransigent LTTE organisation dominated by a cult of the personality in the shape of Prabhakaran. This was despite – as noted by Weiss himself – the LTTE’s “record of duplicity and intransigence in negotiations”.²⁴ The “international community”, in the self-selected form of David Miliband and Bernard Kouchner, travelled to Sri Lanka – and doubtlessly supported by other international bureaucrats such as Weiss – tried to halt the Sri Lankan government’s attempt to bring the LTTE’s racist terrorism to an end once and for all. They called for ceasefires and the evacuation of the LTTE leadership from the island. The government resolved to unconditionally defeat the LTTE in spite of the blandishments of the new appeasers.

Weiss and the Tamil doctors

A prime example of Weiss’s reluctance to depart from the accepted international script regarding events in the Vanni was with regard to the issue of the Tamil doctors. The biggest difficulty that faced anyone trying to ascertain what really happened in the last few months of the Vanni conflict was the absence of independent witnesses. While Weiss is dismissive of any non-western media reporting of the events in the Vanni – apparently only white western journalists are capable of accurate reporting – he does not address the question of western journalists misreporting events in the Vanni as a result of their reliance on claims by Tamil doctors present throughout the crisis that were subsequently revealed to have been coerced. As Weiss points out, throughout the period in question, from the forced displacement by the LTTE of 300,000 civilians through to the final days of the siege, a group of Tamil government doctors remained active in the zone. It is clear that they continued to treat wounded civilians almost until the final day of the operation. Weiss states that “The compilation of memory, as well as cumulative systematic record of the scale of deaths, comes largely from their hands.”²⁵ Foreign observers such as Weiss and especially western media latched on to the Tamil doctors as an “independent” source. The trouble is that they were not independent, something Weiss and western journalists have difficulty in addressing, let alone conceding.

The importance of the Tamil doctors to the LTTE and its desperate attempts to force an international intervention to prevent the organisation’s defeat is clear. Claims of mass deaths from alleged government shelling were said by Ravi Nessman, the Associated Press Colombo bureau chief, to be “based on scattered reports that we’re getting – the very few reports we’re able to get.” Nessman cited as sources the doctors, who were some of “the very few people with telephones that still work.”²⁶ Having logically focused on the medical, “humanitarian” intervention button to push in its desperate effort to avert defeat, the LTTE used the Tamil government doctors who had remained active in the zone as a vehicle to that end. While the organisation strictly controlled communications with the outside world they pressurised Tamil government doctors to contact western media on a regular basis throughout the conflict. These doctors made a number of LTTE-directed allegations about the situation in the zone. Whether these doctors were coerced by the LTTE – as the doctors subsequently stated – was an inconvenient question virtually ignored by Weiss and the western media. While Weiss records that the Sri Lankan government believed that UN Tamil staff could have been “forced to distort their reports”²⁷ and he mentions in passing “the prospect that the Tamil Tigers might be forcing the Tamil doctors or the UN’s own staff to give inflated figures of the dead and wounded”²⁸, Weiss leaves it at that. He examines the issue no further.

²⁴ Weiss, *The Cage*, xxiv.

²⁵ *Ibid.*, p.187.

²⁶ Interview with Ravi Nessman, the Associated Press Colombo bureau chief from 2007-2009, Aired on PBS stations on 18 February 2009, available at <http://transcurrents.com/tc/2009/02/kohona_says_its_best_for_mia_t.html>.

²⁷ Weiss, *op. cit.*, p.143.

²⁸ *Ibid.*, p.135.

Weiss ignored clear evidence that the Tamil doctors were very tightly controlled by the LTTE. That evidence was provided by an organisation present throughout the crisis, the University Teachers for Human Rights (UTHR). Weiss describes the University Teachers for Human Rights as a “highly regarded” and “independent” human rights organisation.²⁹ Like Weiss, UTHR has historically been very critical of the government. The University Teachers for Human Rights revealed, for example, that Dr Weerakathipillai Shanmugarajah, one of the most prominent of the doctors, had tried to escape from LTTE control during the Vanni crisis, was apprehended by the LTTE, beaten and taken back to the no-fire zone: “The LTTE kept all the doctors under close watch. An armed guard was placed near them even when they did surgical operations.”³⁰ Independent sources then have confirmed that the doctors were under armed LTTE guard. While Weiss does admit that the LTTE “sought to totally control those it ruled”³¹, and notes the organisation’s “use of summary executions” to effect control of “all aspects of life”³² he studiously avoids linking this coercion to the Tamil doctors and the claims they were forced to make, as if despite being central to the possible survival of the LTTE they somehow lived in a vacuum.

The UTHR also provides further clear evidence of LTTE intimidation of the doctors. It recorded that when the bodies of Tamil civilians who had been killed by the LTTE were brought to the hospital, despite the fact that they had clearly been killed by the LTTE, they were pronounced to have been killed by government forces.³³ UTHR notes that “we must keep in mind practices that had come to be accepted as normal under the provenance of terror. No doctor in an LTTE-controlled area dared to certify the LTTE as the cause of a death.” The Tamil doctors present in the Vanni throughout the conflict have also confirmed that any LTTE-inflicted civilian casualties were never mentioned in these reports coming out of the area.³⁴ The implications of what UTHR described – while very significant in assessing the independence and credibility of the Tamil doctors – were studiously ignored by Weiss and his western media friends. Weiss has himself described the pressure on all civilians within LTTE-controlled areas: “[D]issenting voices who opposed the Tigers faced assassination. In areas controlled by the Tigers, dissent was virtually impossible, whilst in peripheral areas such as the Jaffna peninsula or Trincomallee, Tamils who published pieces critical of the movement could expect to be reproached, threatened, beaten and otherwise intimidated, or killed.”³⁵ The reality, whether Weiss or western media liked it or not, was that the Sri Lankan government was correct in noting that there was “no free flow of information from” the conflict zone “under control of the LTTE”.³⁶ To have believed otherwise was either naive or disingenuous. It was also bad journalism.

On 8 July 2009, in the wake of the LTTE’s defeat, the five Tamil doctors present throughout the crisis, Drs Sinnathurai Sivapalan, Weerakathipillai Shanmugarajah, Thurairajah Vartharaja, Thangamurthy Sathyamoorthy and Kathiravelu Ilancheliyan, held a press conference in Colombo. The doctors admitted that they had lied through the conflict and had been forced by the LTTE to exaggerate civilian casualty figures.³⁷ Dr Shanmugarajah confirmed the Tamil doctors misled the international media and foreign governments: “Yes we regret giving a false impression to the outside world.”³⁸ He also admitted that “The information that I have given is false...The figures were exaggerated due to pressure from the LTTE.”³⁹ He stated: “When they (LTTE) asked me to put the figure at 1000, I said that it is totally unacceptable...There were times when ‘Voice of Tigers’ (LTTE official radio) reports exaggerated figures of casualties quoting me as the source of information without actually interviewing

²⁹ *Ibid.*, p.69.

³⁰ “A Marred Victory and a Defeat Pregnant with Foreboding”, University Teachers for Human Rights (Jaffna), Sri Lanka, Special Report No. 32, 10 June 2009.

³¹ Weiss, *op. cit.*, p.68.

³² *Ibid.*, p.69.

³³ *Ibid.*

³⁴ “LTTE propaganda defeated, truth revealed”, *The Sunday Observer* (Colombo), 12 July 2009, available at <<http://www.sundayobserver.lk/2009/07/12/fea02.asp>>.

³⁵ Weiss, *op. cit.*, p.310.

³⁶ “Sri Lanka war hospital ‘hit again’”, *Al-Jazeera*, 13 May 2009, available at <<http://english.aljazeera.net/news/asia/2009/05/20095139268272268.html>>.

³⁷ Weiss, *op. cit.*, p.231. See, also, “S Lanka medics recant on deaths”, BBC News, 8 July 2009, available at <http://news.bbc.co.uk/1/hi/world/south_asia/8141007.stm>.

³⁸ “LTTE propaganda defeated, truth revealed”, *op. cit.*

³⁹ “We exaggerated war deaths, say arrested doctors”, Breaking News Ireland, 9 July 2009, available at <<http://www.breakingnews.ie/world/we-exaggerated-war-deaths-say-arrested-doctors-417975.html>>. See, also, for example, “Tamil War Toll was exaggerated”, *The Daily Express*, 9 July 2009, available at <<http://www.express.co.uk/posts/view/112738/Tamil-war-toll-was-exaggerated>>.

me.”⁴⁰ Dr Sathyamoorthy also confirmed that “[t]he LTTE...quoted us in their web sites without our consent or knowledge giving exaggerated figures of civilian deaths and casualties.”⁴¹

It should be noted that the western media have been gushingly sceptical at the claims of coercion made by Tamil doctors once they had left LTTE control. While arguably this may well be as a result of an innate western media prejudice against the Sri Lankan government, there is a more obvious reason. Given there were no “independent” sources in the Vanni, many western media reports quoted the Tamil doctors (as they were encouraged to do by the LTTE) and used the claims and “figures” provided by the Tamil doctors without reservation in “coverage” of what was happening. If even half of what the Tamil doctors revealed in July 2009 regarding LTTE intimidation and having to make false claims is true, it would invalidate dozens of western newspaper articles and media news items. It would be tremendously embarrassing for those journalists who were naive and unprofessional enough to have written those articles. Weiss cites AP’s Colombo bureau chief, Ravi Nessman as saying that when Dr Varatharajah denied the claims he had made to AP during the crisis “That was the clincher...There was no credibility to their testimony.”⁴² The reality was that the doctors’ testimony had junked a considerable body of sensationalist international media “coverage” of the crisis. It is unsurprising, therefore, that international journalists would seek to discredit the post-conflict testimony of the Tamil doctors. Given Nessman’s very heavy reliance in his articles on clearly questionable claims by the doctors, his defensiveness is understandable.

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

The legacy of this selectivity and unprofessionalism on the part of Weiss and journalists such as Nessman continues to this day. The narrative of deliberate and indiscriminate government shelling of civilians that was based so much on the Tamil doctors’ coerced claims continues to colour and distort the western media’s image of the last few weeks of the war. Weiss and Nessman, amongst others, appear to be content for this grotesque misrepresentation to perpetuate itself.

Weiss and “military imperatives”

There is a far more glaring shortfall in the credibility of Weiss and his book. He does not adequately differentiate between intent and action. He claims that “[c]aught in the middle of competing military imperatives, some 10,000 to 40,000 civilians died and many more were seriously injured.”⁴³ Leaving aside for a moment the alleged casualty figures, the issue of “competing military imperatives” is the single most important issue his book should have addressed: Weiss, however, neither defines or examines the subject. “Imperative” is defined as “impossible to deter or evade; pressing: imperative needs...A rule, principle, or instinct that compels a certain behavior.”⁴⁴ Weiss does not address the LTTE’s military imperative. The imperative was clear: to survive, to avoid defeat at the hands of government forces. and ultimately if threatened strategically to seek international intervention in the form of a humanitarian ceasefire or the preservation by evacuation of the LTTE leadership. It was clear from the beginning of the offensive that to pursue this imperative the Tamil civilians under the organisation’s control were expendable. The LTTE in using the Tamil civilians as human shields had in effect incorporated them into their military strategy.

While Weiss avoids drawing any such conclusion, the ultimate responsibility for the deaths and injury to civilians during the final northern offensive lies with the LTTE. It is a matter of record that the LTTE deliberately forced 300,000 Tamil civilians to accompany the organisation as it withdrew in the face of a government offensive. On 28 January 2009, for example, Human Rights Watch reported that “*As the LTTE...retreated into its stronghold in the northern Vanni area since the start of a Sri Lankan*

⁴⁰ “Lies Agreed Upon”, Ministry of Defence, Democratic Socialist Republic of Sri Lanka, Colombo, available at “Lies Agreed Upon: Sri Lanka counters Channel 4 (Full Video)”, Uploaded by gihangamos on 1 August 2011 available at <<http://www.youtube.com/watch?v=z5O1JAfRXew>>.

⁴¹ “LTTE propaganda defeated, truth revealed”, *op. cit.*

⁴² Weiss, *op. cit.*, p.231.

⁴³ *Ibid.*, p.96.

⁴⁴ See, for example, The Free Dictionary, available at <<http://www.thefreedictionary.com/imperative>>.

army offensive in October 2008, the rebel group...forced civilians deeper into territory they control...Altogether, an estimated 250,000 civilians are now trapped in the small part of Mullaittivu district that remains under LTTE control.”⁴⁵ Amnesty International also confirmed that “*As the Tigers have lost territory, they have forced thousands of Tamil civilians to move with them.*”⁴⁶ (Emphases added.) In February 2009, the BBC noted that UN “says there are credible reports to suggest that the Tamil Tigers are preventing civilians from leaving and a number of those trying to get away are being shot at and in some cases killed.”⁴⁷ The *Economist*, for example, noted that “the Tigers held some 330,000 civilians as human shields” in the last few months of the war.⁴⁸ As Weiss explains this was not the first time the LTTE had forced a civilian population to accompany them as the organisation retreated in the face of an army offensive: “In April 1996, a massive army offensive forced the Tamil Tigers to withdraw from Jaffna. They retreated into the jungle and villages of the Vanni to the south, along with between 300,000 and 400,000 civilians who in just a few hours were intimidated into leaving their houses, jobs and villages.”⁴⁹

Not only were 300,000 civilians forcibly displaced by the LTTE, they were then deliberately placed in harm’s way by the organisation. They were used as human shields. In April 2009, the British and French governments noted that “[i]t is clear that the LTTE...have been forcefully preventing civilians from leaving the conflict area and we deplore their determination to use civilians as a human shield.”⁵⁰ In early May, Amnesty International stated: “At this point, an estimated 50,000 civilians are still being held as human shields by the Tigers in a small coastal strip in northeastern Sri Lanka, surrounded by the Sri Lankan army on three sides.”⁵¹ Human Rights Watch made it clear at the time that “LTTE forces are increasingly deployed near civilians in violation of the laws of war... it is considered to be ‘human shielding,’ which is a war crime.”⁵² Weiss himself provides the reason for this forced displacement, something which is central to the events in the last few weeks of the conflict: “[T]he presence of civilians served multiple purposes for the Tiger command. Primarily a civilian population was a buffer against an all-out assault by the army.”⁵³ If a human shield is accidentally killed or injured during a rescue attempt then it is the person who forced them into that position who is responsible.

Despite the government’s declaration of “no-fire zones” for the protection of civilians, the LTTE deliberately fired from civilian concentrations, especially within the “no-fire zones”. Weiss himself notes that “the Tamil Tigers were placing mobile artillery pieces in areas...inundated with tens of thousands of people.”⁵⁴ The BBC reported that “[v]ideo evidence published by *The Times* suggests that the Tamil Tigers established mortar positions and military encampments within camps for displaced people, which were then shelled by the military.”⁵⁵ Jacques de Maio, International Committee of the Red Cross (ICRC) Head of Operations for South Asia, said to US officials that the LTTE “had tried to keep civilians in the middle of a permanent state of violence. It saw the civilian population as a

⁴⁵ “Sri Lanka: Urgent Action Needed to Prevent Civilian Deaths”, Human Rights Watch, New York, 28 January 2009, available at <<http://www.unhcr.org/refworld/docid/498178afc.html>>.

⁴⁶ “Shocking video from Sri Lankan camp for displaced civilians”, Amnesty International USA, 7 May 2009, available at <<http://blog.amnestyusa.org/iar/shocking-video-from-sri-lankan-camp-for-displaced-civilians/>>.

⁴⁷ “Tamil Tigers ‘target civilians’”, BBC News, 16 February 2009, available at <<http://news.bbc.co.uk/1/hi/7893201.stm>>.

⁴⁸ “Truth and consequences. Nationalistic fury is good for the government, terrible for Sri Lanka”, *op. cit.*

⁴⁹ Weiss, *op. cit.*, p.84.

⁵⁰ “Britain accuses Tamil Tigers of using civilians as human shields. David Miliband, the Foreign Secretary, and his French counterpart said that Tamil Tiger rebels in Sri Lanka were using civilians as human shields, which was preventing them from leaving the conflict zone”, *The Daily Telegraph*, 16 April 2009, available at <<http://www.telegraph.co.uk/news/worldnews/asia/srilanka/5161118/Britain-accuses-Tamil-Tigers-of-using-civilians-as-human-shields.html>>.

⁵¹ “Shocking video from Sri Lankan camp for displaced civilians”, Amnesty International USA, 7 May 2009, available at <<http://blog.amnestyusa.org/iar/shocking-video-from-sri-lankan-camp-for-displaced-civilians/>>.

⁵² *War on the Displaced. Sri Lankan Army and LTTE Abuses against Civilians in the Vanni*, Human Rights Watch, New York, February 2009. For a detailed analysis by Human Rights Watch of the development of LTTE restrictions imposed on civilians in the Vanni, see *Sri Lanka – Trapped and Mistreated: LTTE Abuses against Civilians in the Vanni*, Human Rights Watch, New York, 15 December 2008, available at <<http://www.hrw.org/en/reports/2008/12/15/trapped-and-mistreated-0>>, and *Besieged, Displaced and Detained: The Plight of Civilians in Sri Lanka’s Vanni Region*, Human Rights Watch, New York, December 2008, available at <<http://www.hrw.org/en/reports/2008/12/22/besieged-displaced-and-detained>>.

⁵³ Weiss, *op. cit.*, p.108.

⁵⁴ Weiss, p.133. In 2007 the LTTE was believed to have had a wide range of artillery and mortars, including nine 152mm long-range guns, nine 130mm artillery pieces, twenty-two 122mm artillery guns, eighty 120mm mortars and many 81mm and 60mm mortars. The LTTE also had notoriously inaccurate Multi-Barrel Rocket Launchers. In addition to this ordinance, the movement also had hundreds of Rocket Propelled Grenade RPG-7 launchers. See, for example, “Tigers enhance firepower. Acquires sophisticated, long range weaponry as the military prepares counter measures for a decisive showdown”, *The Nation*, 10 August 2007, available at <<http://www.nation.lk/2007/08/12/military.htm>>.

⁵⁵ “Sri Lanka rejects deaths report”, BBC News, 29 May 2009.

‘protective asset’ and kept its fighters embedded amongst them. De Maio said that the LTTE commanders’ objective was to keep the distinction between civilian and military assets blurred.”⁵⁶ The University Teachers for Human Rights documents that witnesses noted that the LTTE was “shelling from among the civilians at advancing troops” and that this provoked a response from the army, resulting in civilian deaths.” They also noted that “[t]he LTTE did fire its mortars from isolated positions among...civilians.”⁵⁷ Witness testimony recorded by UTHR shows that the “no-fire zones” were abused by the LTTE. The group cited a civilian’s perspective on the zones: “Experience had taught him to be cautious. He had decided that the safe zones were the least safe as the LTTE went about in its gun mounted vehicles firing at the Army with no thought of the civilians.”⁵⁸ LTTE behaviour was documented by UTHR:

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

UTHR noted that “[t]he popular belief is that many civilians got killed and others maimed as a result of LTTE men ducking into a place having a group of civilian tents after some incident or provocation, leaving the people huddled together in a state of extreme anxiety.”⁵⁹

There is no doubt that many civilians were killed in this crossfire. Weiss points out that “if a hospital is used as an artillery position, or a command bunker, then its status is potentially converted into that of a military objective.”⁶⁰ Weiss notes that the LTTE stationed mobile artillery batteries near hospitals. A UN official accompanying a UN humanitarian convoy, sheltering in a compound opposite the main Puthukkudiyiruppu (PTK) hospital “could see the barrel flashes from a Tiger heavy artillery piece just 300 metres from [the] hospital, quite apart from hearing its thumping reports. As the Tiger artillery sent outgoing rounds against the army’s advance, and then quickly shifted position, he could count off the seconds until an incoming barrage responded in an effort to destroy the guns.”⁶¹ Weiss notes that “Tiger mobile artillery units played cat and mouse with SLA artillery locator-devices. They would fire off a shell or two before hitching their howitzer and moving quickly to a new location.”⁶² The UN official noted that “The Tamil Tigers were placing their guns dangerously close to our location, and were quite intentionally in my view drawing fire towards the hospital. Civilians were being killed.”⁶³ As Weiss noted, the official “had seen the Tiger gun positions that had violated the agreed no-war zone around the hospital.”⁶⁴ He further noted that “the Tigers appeared to have ignored the brokered agreement meant to safeguard the wounded and medical staff...the sanctity of the hospital had in effect evaporated.”⁶⁵

These were not isolated incidents. The United Nations Panel of Experts report on Sri Lanka also reported that “The LTTE...fired mobile artillery from the vicinity of the [PTK] hospital.”⁶⁶ Dr Sivapalan, the medical officer at Chavakachcheri and former medical officer in the Vanni, one of the Tamil doctors who remained in the zone until the end, confirmed that LTTE had a command post within 100 metres of the PTK hospital – something which he says the ICRC confirmed to him – and that the LTTE had heavy weapons and a vehicle-mounted heavy weapon system very close to the hospital.⁶⁷ The ICRC complained on several occasions to the LTTE “about stationing weapons at a hospital”. The ICRC noted that following complaints, the LTTE would move the assets away, but as

⁵⁶ “Subject: Sri Lanka: S/Wci Amb. Williamson’s Geneva Meetings”, US Government cable, 15 July 2009, available at <<http://www.aftenposten.no/spesial/wikileaksdokumenter/article4109603.ece>>.

⁵⁷ “Let Them Speak: Truth about Sri Lanka’s Victims of War”, University Teachers for Human Rights (Jaffna), Sri Lanka, Special Report No. 34, 13 December 2009.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ Weiss, *op cit.*

⁶¹ *Ibid.*, p.109.

⁶² *Ibid.*, p.110.

⁶³ *Ibid.*, p.111.

⁶⁴ *Ibid.*, p.125.

⁶⁵ *Ibid.*

⁶⁶ *Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka*, United Nations, New York, 31 March 2011, available at <http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf>, paragraph 94.

⁶⁷ “Lies Agreed Upon”, *op. cit.*

they were constantly shifting these assets, “they might just show up in another unacceptable place shortly thereafter”.⁶⁸ Dr Shanmugarajah, a Tamil doctor at the Jaffna Teaching hospital and Mullaitivu district hospital, also confirmed that LTTE military forces used the cover of hospitals, and noted that his family had been wounded as a result: “The LTTE had their camps located in a 100 - 200 metres vicinity of the Mullaitivu hospital where I was working. My quarters was damaged and my wife and son received minor injuries due to an artillery shell in 2008. I don’t know from which side it was launched. It is very difficult to guess. Later the ICRC asked the LTTE to move their camps away from the hospital.”⁶⁹

With regard to attacks on hospitals and particularly Puthukudiyirippu hospital, UTHR recorded that “[a] senior educator familiar with the hospital told us that the LTTE largely disregarded the ICRC’s request not to drive or park its vehicles in front of the Hospital, as these could be spotted by UAVs leading to shell attacks.” UTHR reported further that “[t]he ICRC had in fact asked the LTTE not to bring their vehicles and weapons near PTK Hospital, but to no avail. Some of the hospital ambulances had also been taken over by the LTTE, whose leaders were using them to move around.”⁷⁰

Why did the LTTE shell civilians under its control?

Had Weiss’s *The Cage* been a full and accurate account of events in the Vanni it would have asked why would the LTTE deliberately shell their own civilian population, something he himself had noted? An honest account would have at least explored the issue. Would the LTTE’s deliberate killing of civilians, its placing civilians in danger by firing from or positioning artillery and mortar units in their midst, and the shelling of civilians and hospitals constitute a military imperative? The answer is clear. As Weiss correctly pointed out, the LTTE leader Velupillai Prabhakaran “chose...to play out the ‘CNN effect’ of a brutal and bloody siege of Tamil civilians on international public opinion.”⁷¹ Weiss notes that by January 2009, the LTTE “were increasingly desperate to force an international intervention. Tiger cadres were ordered to turn on those at their mercy.”⁷² Given its record for coldblooded ruthlessness, it can safely be assumed that the LTTE would not hesitate to kill civilians under its control to further its cause. As the government offensive gradually reduced the area controlled by the LTTE, the movement became increasingly desperate and ruthless. It was fighting for its very existence. Its only way of avoiding total defeat was for international intervention to stop the offensive or secure a ceasefire: this was how the LTTE had avoided defeat during a similar offensive in 1987.⁷³ Skilled propagandists that they were, the LTTE would have realised that the only possible way of provoking that international intervention would be through allegations that government forces were deliberately killing civilians and especially patients in hospitals. Independent commentators noted that “[c]learly, the LTTE hopes that international pressure and the growing anxiety over the loss of civilian lives will force Colombo into some compromise.”⁷⁴ In May 2009, an independent Canadian geopolitical monitoring publication noted: “The Liberation Tigers of Tamil Eelam (LTTE) find themselves up against a wall with no hope of launching a conventional counter-attack against the Sri Lankan Army. As such, their survival now hinges on a worldwide propaganda war.”⁷⁵

It was not a particularly complicated or even original formula. The LTTE would shell or mortar or fire rocket-propelled grenades at hospitals or other medical points. They would have experienced video teams waiting to film and photograph any incident and its aftermath and then immediately broadcast attacks on the hospitals in calls for international intervention to halt the army’s offensive. Dead civilians, and especially dead and mutilated patients in hospitals, provided the basis for this desperate propaganda war. If the army was not shelling civilians or hospitals as needed to tip the propaganda balance the LTTE stepped in. Weiss himself recorded that the LTTE deliberately shelled Tamil civilians: “there is good evidence that at least on some occasions the Tamil Tigers fired artillery into

⁶⁸ “Subject: Sri Lanka: S/Wci Amb. Williamson’s Geneva Meetings”, US Government cable, 15 July 2009, available at <<http://www.aftenposten.no/spesial/wikileaksdokumenter/article4109603.ece>>.

⁶⁹ “LTTE propaganda defeated, truth revealed”, *The Sunday Observer* (Colombo), 12 July 2009, available at <<http://www.sundayobserver.lk/2009/07/12/fea02.asp>>.

⁷⁰ “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

⁷¹ Weiss, *op. cit.*, p.101.

⁷² *Ibid.*, p.96.

⁷³ The Indian government intervened during a Sri Lankan army offensive in 1987, just as the LTTE was on the verge of defeat. Peace negotiations ensued. See, for example, “India airlifts aid to Tamil rebels”, *The New York Times*, 5 June 1987.

⁷⁴ “No ‘Humanitarian Pause’”, *South Asian Outlook*, Volume 8, Number 11, May 2009, available at <http://www.southasianoutlook.com/issues/2009/may/sri_lanka_no_humanitarian_pause.html>.

⁷⁵ “Tamil Tiger propaganda – May 13, 2009”, *Geopolitical Monitor*, 13 May 2009, available at <<http://www.geopoliticalmonitor.com/tamil-tigers-fighting-for-survival-may-13-2009-2134/>>.

their own people. The terrible calculation was that with enough dead Tamils, a toll would eventually be reached that would lead to international outrage and intervention.”⁷⁶ Weiss also states with regard to Puthukkudiyirippu hospital that it was hit by artillery fire on several occasions on 4 February 2009, and that “a number of strikes appeared to be from Tamil Tiger positions.”⁷⁷ UTHR noted when Puthukkudiyirippu hospital was hit “on 2nd February at 6.40 PM or on a subsequent occasion, the hospital staff and the people around” were sure it was the LTTE that attacked them.”⁷⁸ The US government also reported that “UN sources reported shelling in the new safe zone on February 18 with ‘large numbers of casualties.’ The Sri Lankan Army (SLA) denies they delivered the fire. The UN noted it could not be ruled out that the LTTE shelled civilian areas to assign blame to the SLA.”⁷⁹ UTHR stated that senior LTTE cadres confirmed that the movement had deliberately attacked hospitals: “A senior officer who lost close relatives due to army shelling, and is just coming out of a prolonged depression, blamed the LTTE for much of the suffering and said emphatically that the LTTE fired shells on civilian institutions such as hospitals.”⁸⁰

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

Weiss had already admitted that “that the Tamil Tigers were...exercising a brand of ruthless terror on their own people that defies imagination. As the combat area shrank and their desperation increased, their brutality increased exponentially. They would shoot, execute and beat to death many hundreds of people, ensure the deaths of thousands of teenagers by press-ganging them into the front lines, and kill those children and their parents who resisted.”⁸¹ Who for one moment would not consider them capable of ordering the shelling of hospitals and other medical points and the deliberate killing and injuring of Tamil civilians if in so doing it meant the LTTE might be able to provoke international intervention or a “humanitarian” ceasefire? This is the elephant in the room not addressed by Weiss. The question is why? Was it through oversight or could Weiss not bear to contradict the central plank of his book and claims?

Who benefited from civilian casualties?

Any responsible account of the deaths of civilians in the Vanni would have asked the simple question, *cui bono*, who benefits? The LTTE’s interest is clear: dead civilians, especially dead hospital patients, might provoke international intervention in their favour. What then was the Sri Lankan government’s military imperative? How would the government have benefitted from the deliberate shelling of civilians and hospitals? What gain would the government have secured? While there is a discernible benefit to the LTTE, dead civilians could provoke international intervention, there is no obvious benefit to the government, only negative consequences including international condemnation and pressure for intervention – something clearly unwelcome to the government.

While Gordon Weiss does make the simple observation that “[f]or the SLA, it made no tactical sense to kill civilians”⁸² he does not take it any further. It is also clear that killing civilians also made no strategic sense whatsoever from the government point-of-view. The government’s military imperative was to defeat the LTTE but clearly not at any cost. It is evident that the military went out of its way to avoid civilian casualties. Indeed, the government declared a Zero Civilian Casualties policy. As we will see below, Weiss himself documents army attempts to minimise civilian casualties. The government publicly accepted and exercised a responsibility to all of its citizens throughout the war, regardless of

⁷⁶ Weiss, *op. cit.*, p.109.

⁷⁷ *Ibid.*, p.131.

⁷⁸ “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

⁷⁹ “Northern Sri Lanka SitRep 15: Heavy Fighting Continues; UN”, US Embassy Colombo, 18 February 2009.

⁸⁰ “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

⁸¹ Weiss, *op. cit.*, pp. 141-42.

⁸² *Ibid.*, p.103.

whether they were in government-administered or LTTE-controlled areas. Weiss confirms that the Sri Lankan government “had continued to exercise its writ over Tiger-controlled territory by supplying a full range of government health and education services”.⁸³ The government continued to provide LTTE-controlled populations with food and medicines throughout the war – not just during the Vanni crisis – fully aware that the LTTE was diverting large amounts of this assistance.

Weiss confirmed that the government was very aware of the need to prevent the deaths of civilians. He noted that “for thirty-seven months [the army] had worked its way meticulously across the territory controlled by the Tigers, at great cost to young Sinhalese soldiers.”⁸⁴ That is to say they had been deliberately trying to avoid civilian casualties – something they had managed during the offensive in eastern Sri Lanka, which had preceded the final northern phase. Weiss also observed: “Up until the beginning of 2009, the army’s tactic of driving civilians away from the front lines had been relatively successful in limiting the propaganda advantage that the Tigers might gain from images of dead civilians.”⁸⁵ He also noted that “[t]he SLA’s strategy...had limited the deaths of non-combatants for the previous two years.”⁸⁶ Weiss himself provides numerous examples of the careful approach taken by the Sri Lankan army in seeking to differentiate between LTTE fighters and civilians, often in incredibly dangerous and confusing circumstances as it moved deeper into the Vanni. He provides a snapshot of the behaviour of the army as it did so:

58th Division troops overran 20,000 civilians crouching in bunkers inside the No Fire Zone. Using loudspeakers as they inched forward through the jungles and across the rice paddy fields, troops summoned people towards their lines, despite the ferocious fighting and shelling all around...On the whole...the vast majority of people who escaped seem to have been received with relative restraint and care by the front-line SLA troops, who quickly passed them up the line for tea, rice and first aid.⁸⁷

Weiss records that “the army probed the Tiger defences, and calculated how to separate civilians from cadres.” That is to say to differentiate who, as LTTE fighters, were legitimate targets, and who as civilians were not. And he notes further that in the last few days “[c]ommandos were fighting their way through a tent city, hurling grenades, trying to distinguish Tiger fighters from civilians...Thousands of people streamed across the lagoon to the safety of army lines as soldiers urged them on. Tiger cadres fired at both soldiers and civilians.”⁸⁸ Weiss further notes:

It remains a credit to many of the front-line SLA soldiers that, despite odd cruel exceptions, they so often seem to have made the effort to draw civilians out from the morass of fighting ahead of them in an attempt to save lives. Soldiers yelled out to civilians, left gaps in their lines while they waved white flags to attract people forward and bodily plucked the wounded from foxholes and bunkers. Troops bravely waded into the lagoon under fire to rescue wounded people threading their way out of the battlefield or to help parents with their children, and gave their rations to civilians as they lay in fields, exhausted in their first moments of safety after years of living under the roar and threat of gunfire.⁸⁹

Weiss, therefore, clearly states that civilians coming into contact with the army were able to enjoy “first moments of safety” in years. He also observes:

By most accounts, despite isolated cases of looting by soldiers, the army did their best to retrieve the wounded and transport them to hospitals. One old man, left alone and with a wounded leg in the burning tent city, was retrieved by soldiers and was then able to notify his family that he was alive because he could recall his son’s telephone number in Germany. There were many acts of mercy that emerged from the inferno of civil war. The bedraggled columns of civilians were massed and counted, fed as well as possible and then transported by truck and bus to waiting internment camps in Vavuniya. Front-line soldiers gave their own rations to the terrified civilians.⁹⁰

Weiss provides an additional description of the treatment of civilians as they encountered government forces: “The front-line soldiers who received the first civilians as they escaped to government lines, those who guarded them in the camps and the civilian and military doctors who provided vital

⁸³ *Ibid.*, p.178.

⁸⁴ *Ibid.*, xxiv.

⁸⁵ *Ibid.*, p.108.

⁸⁶ *Ibid.*, p.133.

⁸⁷ *Ibid.*, p.181.

⁸⁸ *Ibid.*, p.211.

⁸⁹ *Ibid.*, p.217.

⁹⁰ *Ibid.*, p.212.

treatment distinguished themselves most commonly through their mercy and care.”⁹¹ There was an additional, Weiss-approved, observer of events towards the end of the conflict, the University Teachers for Human Rights. UTHR stated:

In the context of the present war which took a heavy toll on the lives of soldiers, these ordinary men have shown remarkable restraint towards civilians when they come to contact with them. The civilians are uniformly scathing about the LTTE, and frequently found the Army helpful and considerate...It is hard to identify any other Army that would have endured the provocations of the LTTE, which was angling for genocide, *and caused proportionately little harm.*⁹² [Emphasis added.]

The University Teachers for Human Rights also further described the behaviour of the army:

Soldiers who entered the No Fire Zone on 19th April 2009 and again on the 9th and 15th May acted with considerable credit when they reached the proximity of civilians. They took risks to protect civilians and helped across the elderly who could not walk. Those who escaped have readily acknowledged this.⁹³

Weiss additionally reports on the response of the rest of the Sri Lankan society – overwhelmingly Sinhalese – to the reception of the freed Tamil civilians: “As the injured evacuated by the ICRC ships began to overwhelm the hospitals in government territory, hundreds of Sinhalese doctors and nurses were drafted in from the south.”⁹⁴ He notes that:

In Colombo, as television images appeared of those civilians who had escaped and were not in internment camps, many dozens of private individuals, schools, banks, religious institutions, department stores and newspapers began drives to raise money, food and clothing for the bedraggled ‘enemy’, to the considerable credit of a population that had lived in fear of random Tamil Tiger terrorism for three decades.⁹⁵

Any independent observer would have noted that the Sri Lanka government was a particularly politically aware and media savvy government. An independent observer would also have noted that the government fully acknowledged its responsibility for all Sri Lankan civilians, whether they were living in Colombo or in LTTE-controlled areas. An independent observer would have noted that the government’s offensive in the eastern part of the country had succeeded largely without civilian casualties, and that the government’s commitment to a similar policy in the north had been made clear. Simply put, the government would have known all too well that the death and injury of civilians would have led to unwanted international pressure on the government.

It is clear that Weiss, despite both having admitted that for the government to deliberately kill civilians made no tactical sense and providing example after example of exemplary behaviour on the part of the Sri Lankan army, nonetheless went along with claims by sections of the “international community” – especially the western media fuelled by the “Tamil doctors” – that the government deliberately shelled civilians and hospitals. In short Weiss chose expediency over reality.

Deeply questionable casualty claims

Weiss’s credibility has also been irretrievably damaged by his claims regarding how many civilians may have died during the crisis. It is sadly a matter of record that a large number of civilians were killed and injured in the course of the Vanni crisis. While most sources speculate that there may have been several thousand casualties, Weiss claimed a dramatically larger number. On two separate occasions in his book, for example, he states that between 10,000-40,000 civilians were killed: “The sixteen-week siege led to the deaths of between 10,000 and 40,000 people.”⁹⁶ In February 2010, Weiss upped his estimate: “I think most likely it’s somewhere between 30,000 to 40,000.”⁹⁷ Weiss very clearly admits that he has not explained these estimates or figures in any depth, how they were derived or how reliable the sources for those estimates may have been: “I have not dealt in close detail with the

⁹¹ *Ibid.*, p.186.

⁹² “A Marred Victory and a Defeat Pregnant with Foreboding”, *op. cit.*

⁹³ *Ibid.*

⁹⁴ Weiss, *op. cit.*, p.186.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*, p.194.

⁹⁷ “War Story”, Dateline, SBS (Australia), 28 February 2010, available at <<http://www.sbs.com.au/dateline/story/transcript/id/600331/n/War-Stories>>.

matter of figures of dead and wounded, how they are calculated and how reliable those sources might be. I make the point in the text that it is for others to get closer to that particular particle of truth.”⁹⁸

Weiss’s claim of 10,000-40,000 deaths is questionable for several reasons. Firstly, he arbitrarily inflated previous estimates. In February 2009, the US Embassy noted that the pro-LTTE “Tamil National Alliance parliamentary group leader R. Sampanthan claimed that 2000 Tamil civilians have been killed and 4500 injured since mid-December....Such reports from Tamil sources cannot be confirmed and are frequently exaggerated.”⁹⁹ The *Voice of Tigers*, the LTTE’s “official radio”, claimed on 1 March 2009, that the Sri Lankan armed forces had been responsible for the deaths of 2,018 Tamil civilians in January and February 2009 in the Vanni.¹⁰⁰ These figures were repeated by UN High Commissioner for Human Rights, Navanethem Pillay, on 13 March 2009. Sir John Holmes, the UN Under-Secretary-General for Humanitarian Affairs and UN Emergency Relief Coordinator, stated in New York on 24 March 2009 that this figure could not be verified: “The reason we have not come out with this as our figure is because, as I have said before, we cannot verify it in a way that you want to be able to verify, if you put it as your public figure.”¹⁰¹

Gordon Weiss’s earlier estimate of 7,000 civilian deaths, made in 2009, was challenged by Holmes as unverified and unreliable. Reuters noted that “Holmes said the initial figure of 7,000 deaths had been deemed far too questionable for official publication because the world body was not in a position to calculate a reliable death count. It was not really present in the battle zone, he said.”¹⁰² The *Guardian* newspaper reported that “privately, UN staff admitted they were puzzled by the methodology used to achieve the new death toll. ‘Someone has made an imaginative leap and that is at odds with what we have been saying before,’ one official said. ‘It is a very dangerous thing to do to start making extrapolations.’”¹⁰³ This is however exactly what Weiss did at the time and has continued to do since. The UN has continued to distance itself from the claims made by Weiss, including the earlier 7,000 claim. In February 2010, the UN office in Sri Lanka stated that his views were his personal ones and that while the UN “maintained internal estimates of casualties, circumstances did not permit us to independently verify them on the ground, and therefore we do not have verifiable figures of how many casualties there were.”¹⁰⁴ Data compiled by the South Asia Terrorism Portal, data “primarily based on figures released by the pro-LTTE Website Tamil Net”, put the casualty figure for civilians inside Mullaitivu at 2,972 until 5 April 2009.¹⁰⁵ The US government has admitted that it has “not received casualty estimates covering the entire reporting period from January to May 2009”. It also placed on record that “one organization, which did not differentiate between civilians and LTTE cadres, recorded 6,710 people killed and 15,102 people injured between January 20 to April 20”.¹⁰⁶ Weiss would subsequently increase the LTTE’s own figure by a factor of 14 in a reckless extrapolation.

Secondly, Weiss’s 10,000-40,000 figure is also in and of itself so elastic as to be meaningless, allowing as it does a 300 percent margin of error even if one accepts the 10,000 figure, which was itself a very questionable estimate. There is also a third reason why Weiss’s claims about the death toll in the Vanni lacks credibility. There is not the slightest attempt whatsoever on his part to differentiate between how many of those said to have been killed were LTTE cadres (there were estimates that up to 20,000 LTTE fighters were killed in the last few months of fighting) or how many civilians he claims to have died were killed by the LTTE or how many were killed deliberately or died accidentally. The University Teachers for Human Rights, which unlike Weiss was present in the Vanni throughout the conflict, had urged caution in making precisely the sorts of claims made by Weiss in *The Cage*:

We...pointed out that in giving casualty figures, the distinction between civilians, conscripts and cadres has not been clearly made...The only accurate means of finding out casualties is to count and alternatively to

⁹⁸ Weiss, *op. cit.*, xxvii.

⁹⁹ “Northern Sri Lanka SitRep 15: Heavy Fighting Continues; UN”, US Embassy Colombo, 18 February 2009.

¹⁰⁰ “No ‘Humanitarian Pause’”, *South Asian Outlook*, Volume 8, Number 11, May 2009, available at <http://www.southasianoutlook.com/issues/2009/may/sri_lanka_no_humanitarian_pause.html>.

¹⁰¹ *Ibid.*

¹⁰² “Ban denies UN covered up death toll in Sri Lanka”, Reuters, 2 June 2009, available at <<http://www.asiaone.com/News/Latest%2BNews/Asia/Story/A1Story20090602-145445.html>>.

¹⁰³ “Sri Lanka death toll ‘unacceptably high’, says UN”, *The Guardian*, 29 May 2009, available at <<http://www.guardian.co.uk/world/2009/may/29/sri-lanka-casualties-united-nations>>.

¹⁰⁴ “UN statement on former spokesman views”, The Office of the UN Resident Coordinator, Sri Lanka, 15 February 2010, available at <http://www.un.lk/media_centre/for_the_record.php#title_17>.

¹⁰⁵ “No ‘Humanitarian Pause’”, *South Asian Outlook*, *op. cit.*

¹⁰⁶ *Report to Congress on Incidents During the Recent Conflict in Sri Lanka*, US Department of State, Washington-DC, 2009, available at <<http://www.state.gov/documents/organization/131025.pdf>>, p.15.

have a clear idea of what was happening on the ground. In their absence, technology and statistical formulae may turn out to be very misleading. *Another important indicator is that the people who escaped during the last week of the conflict blame largely the LTTE, towards which their anger is directed...We know that on the May 14th and May 17th night, the LTTE was to a large extent responsible for civilian deaths.*¹⁰⁷ (Emphasis added.)

That this differentiation was not reflected in the claims made by Weiss is clear. The extent of direct LTTE responsibility for the deaths of civilians is made clear by University Teachers for Human Rights. They state that:

It must be placed on record that, in the estimate of a school principal who was there in the NFZ, *about 25% of the civilian casualties in the NFZ, averaging about 15 to 20 a day, were of people killed by the LTTE when trying to escape.* Other estimates are similar.¹⁰⁸ (Emphasis added.)

UTHR, therefore, reports that a quarter of civilians killed were deliberately killed by the LTTE for trying to flee their control. Weiss would have been aware of this UTHR material – if not he is remiss. He chose to cherry-pick what he used. In one instance alone, for example, UTHR reported that on 14 May, the LTTE killed 500 civilians near Nanthikadal Lagoon as they tried to cross to the other side or to Vattuvakkal to the south.¹⁰⁹ There are dozens of other examples of the LTTE killing civilians in and around the no-fire zones. Weiss himself states that the LTTE shot, executed and “beat to death many hundreds of people” and ensured “the deaths of thousands of teenagers by press-ganging them into the front lines, and [killed] those children and their parents who resisted”.¹¹⁰

Leaving aside the thousands of civilians shot, slashed or beaten to death by the LTTE for trying to escape, Weiss also does not seek to quantify how many civilians may have died as a result of them being used as human shields by the LTTE, that is to say the deliberate use of civilians to impede government advances and deliberately shelling and mortaring of government forces from areas of civilian concentration. There is another category of civilian casualty that is not raised or quantified by Weiss, despite the fact that he himself documented their death and injury: how many civilians died as the result of the LTTE’s deliberate shelling of civilians and hospitals.

Conclusion

There is a rising and very understandable resentment within emergent and developing nations at the presumption that their history can only be written by self-selected western institutions, organisations or “observers” such as Gordon Weiss. This is particularly the case when those histories or accounts seek to shoe-horn events into pre-conceived views or abstract political theory. Weiss’s *The Cage: The Fight for Sri Lanka and the Last Days of the Tamil Tigers* is a case in point. It reflects clearly flawed perceived wisdom with regard to the conflict in Sri Lanka, that somehow the LTTE had to be courted and appeased, that there could and indeed should be no military solution, that the whole issue could be settled by consensus – as if all concerned were European trade unionists around a negotiating table in Brussels. Weiss also fails to ask or answer key questions regarding the deaths of civilians during the Vanni crisis. These questions included how many civilians actually died in the months leading up to the end of the conflict; who would have benefited most from the deaths of civilians; why did the LTTE deliberately shell civilians and hospitals, was it to provoke international intervention? Weiss is also silent regarding the related, coerced statements made by the Tamil doctors that have skewed international perceptions of the conflict. Weiss is also unable to address the glaring contradiction in his claims about the government forces. He notes that for the army to deliberately cause civilian casualties made no sense and documents the army’s painstaking efforts to avoid civilian casualties. Yet he has publicly claimed that the army was responsible for the deaths of between 10,000-40,000 civilians in the last few weeks of the war. Whatever the consensus might be amongst unelected international bureaucrats, western and western-funded international non-governmental organisations and politically-prejudiced western media organisations about events within the developing world, it is as often as not very different to the reality. Gordon Weiss and his book are clear proof of that.

¹⁰⁷ “A Marred Victory and a Defeat Pregnant with Foreboding”, *op. cit.*

¹⁰⁸ “Let Them Speak: Truth about Sri Lanka’s Victims of War”, *op. cit.*

¹⁰⁹ *Ibid.*

¹¹⁰ Weiss, *op. cit.*, pp. 141-42.