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Visibility, Atrocity and the Subject of Postcolonial Justice

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In the context of the 2009 atrocities in Lanka, in this paper I attempt to think through a set of questions about visibility, witness, suffering, accountability and disposability as they are played out in the relations between the necro-geo-politics of global institutions and the patchworks of local and transnational movements that attempt to materialize peoples' suffering and realize the possibility of justice within fragile and compromised frameworks.

In an article in the *London Review of Books*, Mahmood Mamdani identifies George Washington Williams, the first black member of the Ohio State legislature, and also a lawyer and Baptist Minister, with formulating the concept of 'crimes against humanity' to describe the atrocities committed by Belgium in the Congo Free State in the late nineteenth century (Mamdani 2013, p. 33). Williams, Mamdani observes, provided the prototype for the form of justice, initiated at the Nuremberg trials, that came to be known as victims' justice. The Nuremberg process, underwritten by the United States and administered in the name of the victorious allies, was understood at the time as inaugurating a new model of justice, one in which a liberal geopolitical order of states would be seen to administer a transparent and transnational justice in the name of the victims or, as they came to termed in post-Holocaust literature, the survivors (Mamdani 2013, p. 33). Mamdani doesn't mention whether any of the Nuremberg prosecutors invoked George Washington Williams, or the tortured, raped and murdered Congolese in whose name he had first called, unsuccessfully, for an 'International Commission of Inquiry' (Mamdani

2013, p. 33). Their figures, it would seem, only enter the story of international justice at a distance, as shadowy precursors.

George Washington Williams's eloquent and meticulously detailed Open letter indicting King Leopold for the atrocities of the Congo is one of the founding documents for international law, as well as a key document of anti-colonialism, although it remains relatively unfamiliar among postcolonial scholars. It was more than a half century later, at Nuremberg, that Williams' call for an international judicial commission was to be taken up. That foundational international judicial commission was, however, not convened to acknowledge or redress the forms of colonial atrocity Williams had decried in the Congo; rather, it was in the service of what was understood by the allies as the imperative to restore justice within the clearly delineated boundaries of a European order, an order from which the subject of the colonial had to be excluded, for both victors and vanquished. One of the underlying tensions between the U.S. and the British and French allies after their success in WW2 was precisely around the topic of imperialism, as the latter fought to stave off decolonization in India, Africa and Southeast Asia. And it is only the exclusion of the colonial violence from the space of a racially and geographically bounded European justice that makes intelligible the logic of reparation initiated at Nuremberg: a logic that led to establishment of the state of Israel as a settler colony on seemingly unpeopled ground, *terra nullius*. This was the international order's act of restitution, outside its own limits, for the victims of Nuremberg, a restitution which continues to be exacted upon Palestinian bodies and lands (Mamdani 2013). Operations such as the 2014 'Protective Edge' offensive in Gaza instantiate this logic. At the same time, this authority to implement justice outside its own limits, in the name of specific victims of war, must be seen as the corollary of the authority to declare 'just wars' in the name of freedom outside its own territories that, as Denise da Silva writes, has 'been deployed to mark the ethical boundaries of post-Enlightenment Europe' (Silva, 2005, p. 122).

To remember George Washington Williams' call for justice for the Congo is to signal the exclusions and limits that constitute the order of international justice in the era initiated by the Nuremberg process, a little over half a century ago today. Nuremberg stands as inaugurating the contemporary order of international justice, both in its symbolic and performative dimensions and in the procedural and juridical precedents it set for the punishment of genocidal state violence and crimes against humanity. This new order of justice, as one dispensed or underwritten by an ethical, united international order in the name of the victims, is one that has ramified in various forms, extending from formal tribunals and inquiries of retributive justice to transitional justice mechanisms, truth commissions, official apologies, measures of restitution, reparations, and so on. Despite critical distinctions between these various judicial and quasi-judicial processes, what they have in common is their implicit or explicit recourse to the assumptions and practices that visibly locate the international order as

the initiator, overseer and/or guarantor of justice against forms of exterminatory violence perpetrated by states or state-like agents.

This essay, originally delivered as a keynote address at a conference titled 'Postcolonial Justice' held in Potsdam, Germany, begins with this marking of a series of key sites—*Congo, Belgium, Nuremberg, Israel, Gaza*—that links past and present, colonial and colonizing worlds. Together these names outline a map of international justice on which to locate the central events I discuss in this paper: the mass deaths of tens of thousands of civilians on the beaches of Mullivaikkal in northeast Sri Lanka. Cutting across colonial and postcolonial geographies and temporalities, the names and places that traverse this essay trace convergent and divergent histories as well as the crossed and missed connections, the lags, relays and blockages, of the fraught interplay of law and justice. It was at Potsdam that Churchill, Stalin and Truman agreed, as initiators of a new order, to institute a legal tribunal to be held at Nuremberg for the purpose of adjudicating on Nazi war crimes. How do the terms and premises of that founding moment set the terms for how international justice will be dispensed, and be seen to be dispensed, for the future?

In recent years, not only distant geographies, but the spaces of the colonial past are being brought within the purview of an international order of justice, as in the case of the 1992 inquiry into the Stolen Generations of Aboriginal children in Australia. More recently, the charges of torture against the British government by former members of the Mau Mau resulted in a finding against the former by its own High Court in 2013. A second set of questions for this essay centre on the terms on which the atrocities of the past and present enter the order of international justice, and the means by which they become perceptible and recognizable. How do they come to constitute the terms of entry, for both perpetrator and victim, into a new international order, an order whose continuity, chastened and purified, can be written as one that is visibly post-colonial, global and reconciled? Elsewhere I track how the dialectics of exposure, denial and acknowledgment through which colonial atrocities—invariably figured as shocking and revelatory disclosures—are recognized operate to ensure the continuities of liberal empire under the sign of the post-colonial (Perera 2014; Nguyen 2012). Here I consider the operative relations of the dynamics between the public revelation of contemporary atrocities and the reproduction of an international order of justice.

The emergence of new models of international justice is accompanied by a burgeoning of attendant political practices, cultural forms and subjectivities, by the proliferation of discourses and disciplines of international law, human rights and humanitarianism, and of the organizations that administer them, as well as by popular mobilizations and understandings of all of these manifestations. This discussion is located in the slippages and connectivities among these discourses, technologies and institutions, and in the spaces where law

and war, justice and geopolitics, converge and collide. The theorist Eyal Weizman whose work on the siege of Gaza in particular I draw on, notes that, 'international law and the systems of courts and tribunals that exercise and enact it are not conceived as spaces outside the conflict, but rather as being among the battlegrounds internal to it' (2011, p. 292). Yet despite the fact that the institutions of international law do not occupy a transcendental space outside or above the conflicts they seek to adjudicate, and are incommensurate to justice (Pugliese 2004; 2014), law continues to function as the primary site of the ethical call and quest for justice. The force of this ethical call for an international justice of accountability and redress continues to resound through George Washington Williams' open letter to Leopold of Belgium to the present.

My discussion of the end of the war in Sri Lanka in May 2009 is shaped by questions of the limits and possibilities of an international order of justice and its economies of perception and visibility. In March 2014, five years after the war's conclusion, the United Nations Human Rights Council (UNHRC) passed a resolution calling for an international inquiry into the conduct of the war in its final phase (OHCHR 2014). Just under five years earlier, the same body had passed a contrary resolution, praising the Lankan state's victory in the war (HRW 2009). In what follows I track the complicated stages between these two resolutions, and their implications for the possibilities and limits of international justice. In the rest of this paper I use the formulation The International Community (TIC) to signify the global institutions that are seen to administer and adjudicate matters of international justice.

The final stage of the war in Lanka corresponds with Israel's Operation Cast Lead in Gaza in late 2008 and early 2009 (see, for example, Ratner 2012, p. 801). These two brutal siege operations, with their terrible toll in civilian lives and environmental wreckage share a number of features. In each of these siege situations, the perpetrators—the Israeli or Lankan states—represented themselves as extended fronts of the war on terror whose actions were vindicated by the ruthlessness of the terrorists they were facing. Their tactics were positioned as comparable to U.S. counterinsurgency tactics in Iraq and Afghanistan. After the end of the war, counterinsurgency (COIN) theorists were quick to debate whether the 'Sri Lankan Model' could provide 'a different counterinsurgency template' for states such as Pakistan, Myanmar as well as the U.S. and Israel (Beehner 2010). Like the contradictory resolutions on Sri Lanka, the United Nations' Goldstone report on the Gaza death-siege has a fraught and tortuous history in the UN.

As Eyal Weizman and others point out, it is at the fringes and in 'an endless series of diffused border conflicts' that the body of international law is constantly reshaped and tested (2011, p. 91). Through my analysis of this war in a border zone and at the colonial limits, I track a set of questions about what forms of accountability are

at play in processes of international justice that, even as they call for accountability for crimes against humanity, reproduce and reinscribe the very conditions that have rendered those lives already unlivable, disposable: bare life. At stake in these questions are the economies of visibility that underwrite international justice processes; the technologies of perception that render bodies visible or invisible and the forms of what Diana Taylor names 'percepticide' that structure the 'given-to-be-seen' and the 'given-to-be-invisible' of dirty wars at local as well as international scales (1997, p. 119). If dynamics of revelation and recognition are central to the credible functioning of an order of international justice, how are conditions of suffering and atrocity made perceptible within that order, and on what terms are accountabilities assumed and assigned for them? Within the order of international justice on what terms are subjects of war's atrocities rendered visible or invisible, and what are the structures and identities that enable their entry into global perceptibility? The analysis that follows centres on the satellite images recorded by various international agencies of the brutal final weeks of the war as forms of remote monitorship that represent, both metaphorically and materially, the hovering, telescopic oversight of international justice over a seemingly obscure war.

In Plain Sight

In May 2009, the thirty-year war between the Lankan state and the Liberation Tigers of Tamil Eelam (LTTE) ended in the latter's utter military defeat. During the preceding months, as LTTE forces fell back before the Lankan army's advance, the latter unilaterally declared a sequence of 'Civilian Security Zones' (CSZs) and 'No Fire Zones' (NFZs) across the Vanni region in the north east of the country. The stated aim of these zones was to protect displaced civilians caught up in the retreat, voluntarily and involuntarily mixed in with LTTE cadres fighting to hold on to their rapidly contracting territory. In practice, although the defeat of the LTTE was now all but inevitable, the entire people of the region were shelled and bombed all the way through several temporary homes to a location that was pinpointed by the state's own tactics to become 'the most bitterly contested' battleground of the entire war (UTHR[J] 2009b, p. 17). This punitive approach to the local inhabitants positioned them as undifferentiated enemies and interlopers on the land, despite the states rhetorical insistence that they were hapless 'hostages' in need of rescue from the LTTE.

Following a statement that the Lankan government would no longer guarantee their safety, the International Community (TIC), in the form of the United Nations and NGOs, had withdrawn by painful stages several months before, abandoning both their local staff and the general population, although assuring them of a speedy return (Malathy 2012, p. 143). This trope of retreat is a familiar one in global human rights and international justice narratives, and one to which I will return. As happened more publicly in Rwanda or Bosnia, this moment of retreat is often coupled with a repeated insistence on the

helplessness or impotence of international institutions (Williams 2010). The moment of formal withdrawal, I argue, constitutes a type of crux of visibility at which international justice publicly recognises itself in the very moment of its turning away, as it is called to an admission of its own failure. At the edges of its field of vision, in this very act of turning away, it sets the conditions of (in)visibility for the violence shortly to be unleashed, delimits the ground of its (our) knowledge of the human suffering that will ensue, and determines the measures by which accountability for that suffering will be assessed.

It is now indisputable from the evidence of classified diplomatic cables released by Wikileaks and other sources that, despite its withdrawal from the scene, TIC remained well apprised of what was under way on a seemingly invisible and inaccessible patch of ground in the Vanni during the last months and weeks of the war in Lanka. This awareness of what was transpiring is evidenced in the nickname international officials adopted for the region, even as a series of No Fire Zones were nominated by the state in a show of compliance with formal conventions for the protection of civilians in combat conditions. Exposing that fiction for what it was, diplomats and international NGO workers, in a display of graveyard humour or, perhaps, a rare effort at accuracy, would refer to the beleaguered territory of the Vanni among themselves as The Cage. This is the title of one of the earliest books about the final days of the war, written by a former UN official, Gordon Weiss (Weiss 2011).

Between January and May 2009 the civilians trapped in The Cage were hunted by the Lankan army on the one hand, and held, often forcibly, as cover by the LTTE forces on the other. They were already weak and ill due to the systematic under-reporting of their numbers by the state, so that the carefully calculated Malthusian 'humanitarian minimum' of food aid dispensed to them by TIC was woefully inadequate (UTHR [J] 2009b, p. 20; ICEP 2014). Incredibly, a UN internal review 2012 states that 'The UN believed there to be about 350,000, but did most of its assistance planning on the basis of 200,000 beneficiaries', despite being aware that the 'LTTE may have taken up to 20% of assistance that reached the Wannu' (UN 2012, p. 55). The government put the figure of people in the region at only 70,000. Despite the starvation conditions in which these 'beneficiaries' were placed by the government, the LTTE and the TIC, continuing attacks from shells and bombs from government forces compelled them to keep on the run. An official interviewed by the BBC journalist Francis Harrison reported:

Ten displacements was the norm, and many arrived on foot. We would give them a hut. We kept finding people under mango trees; if they'd been hit by artillery in the night they just ran and jumped on the first tractor out. They had no cooking utensils. We started by handing out kits to construct shelters, and then we realised that they were building them and five days later, the same people were displacing. So it was pointless. We resorted to giving out three

pieces of wood and a bit of tarpaulin so that they could carry it with them. (Harrison 2012, Loc. 423)

Displacing and displacing yet again, carrying with them the pitiful means for the barest of shelters, three wooden sticks and a piece of tarp, feeding themselves on leaves boiled in sea water, hundreds of thousands of people made their way by weary stages in a frantic zig-zag across the no-exit of The Cage. Mired in shit and bloody corpses, as one witness described it (UTHR [J] 2009b, p. 96), beset on every side by infernal sights, sounds and smells, they found themselves in the last days of the war, at the very edge of the third and final of the No Fire Zones, on a painfully narrow extremity of land at Mullivaikkal, hemmed in by opposing armies, a lagoon on one side, the sea on the other.

Complementing TIC's rueful foreknowledge of the predicament of those ensnared in The Cage, throughout this period the conflict zone was also silently monitored via what Allen Feldman terms the powerful 'securocratic' optical technologies that have served to image famine-scapes, disaster-scapes, war-scapes and other cartographies of geopolitical risk across the globe since 2001 (Feldman 2006, p. 208), and that function as part of the growing military-visual complex (Mirzoeff 2005, pp. 12-13). Such imaging technologies, despite their aspirations to omnipresence and omniscience, are marked by their blind spots and zones of unseeing that screen, edit and structure objects, acts and relations within their field of vision, as they are also subject to mediation and framing by the national and supra-national agencies which attempt to control their meanings.

From on high, the frantic displacing of people through the scrub and swamp-scape of The Cage was logged by Google Earth and in more detail by the U.S. Defense Department's National Geo-Spatial Intelligence Agency (Weiss 2011, p. 207) as well as by the UN's Institute for Training and Research-Operational Satellite Applications Programme (UNITAR/UNOSAT). A 2011 report confirms that UNOSAT was 'requested by the UN Resident Humanitarian Coordinator in Colombo, Sri Lanka to provide detailed imagery analysis during the final months of the civil war' (UNITAR 2011, p. 17). However, footage from these sources was only selectively released at the time, with UNITAR/UNOSAT receiving criticism for withholding the images from April 19, 2009, after first making them briefly available online (Lee 2009; Visweswaran 2013, p. 239). Even more disturbingly, the information gathered by the UNOSAT images was subsequently discredited by the UN's own Resident Coordinator in Colombo who assured the government in writing that the visual evidence they presented of aerial bombardment was 'partial and provisional' (UN 2012, p. 17). The letter was released by the government to dismiss concerns about the shocking rate of civilian deaths inside its own declared No Fire Zone.

A crucial sequence of satellite images, only made publicly available after the war, documents the systematic destruction of the third and final of the No Fire Zones, recording the stage-by-stage deterioration of The Cage as it is meticulously pounded into wasteland (see Images 1 and 2 below).

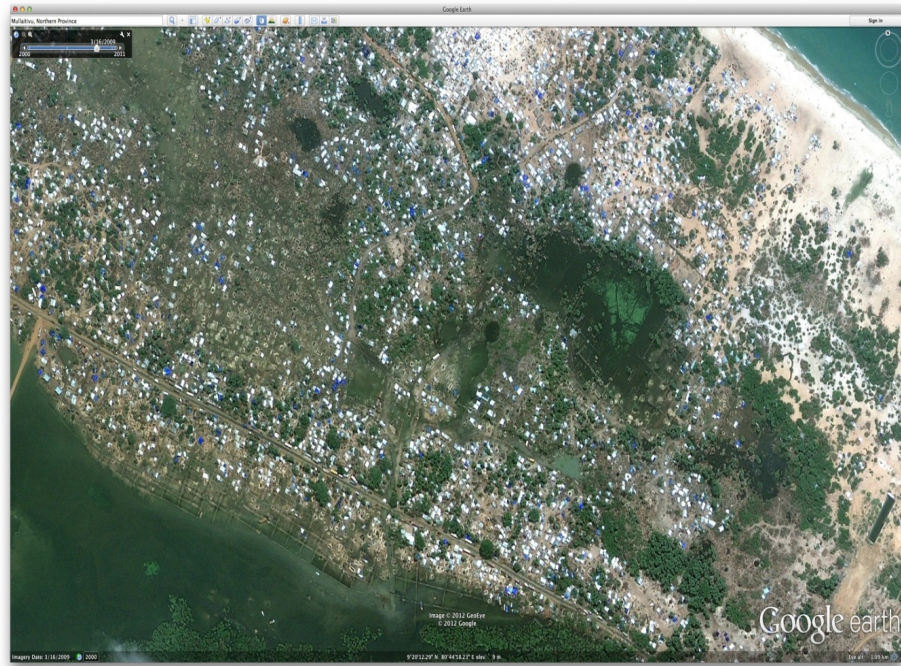


Image 1: Satellite image of The Cage
[\(http://groundviews.org/2012/09/12/the-end-of-war-in-sri-lanka-captured-for-posterity-by-google-earth/\)](http://groundviews.org/2012/09/12/the-end-of-war-in-sri-lanka-captured-for-posterity-by-google-earth/)

Under the impervious gaze of a sovereign technicity, the teeming dark green of this desperate enclave, thickly flecked with the luminescent white and blue of UN-issue tarpaulin, dulls and deadens, transforming into a corrugated topography of desert and dust. The beach sand, no longer white, dyes to an ominous rust; the brilliant blue-green of the surrounding waters turns clogged and murky. Against the scorched earth, a few tatters of dirty plastic are all that remain of any slight promise of human shelter this wrecked ground once held out.

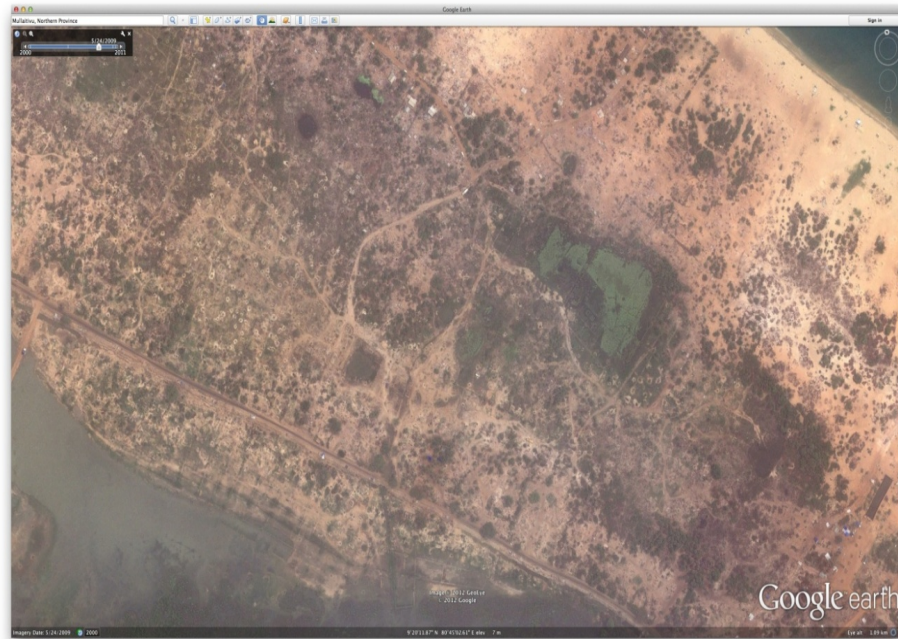


Image 2: Satellite image of The Cage
[\(http://groundviews.org/2012/09/12/the-end-of-war-in-sri-lanka-captured-for-posterity-by-google-earth/\)](http://groundviews.org/2012/09/12/the-end-of-war-in-sri-lanka-captured-for-posterity-by-google-earth/)

The orbiting gaze makes no claim to interpret or adjudicate the changes it records in the soundless landscape. Its view remains, as Lisa Parks puts it in her essay on Srebrenica, that of super-vision, and of over-sight (Parks 2010, p. 264). The sudden disappearance of a cluster of blue and white flecks between one day and the next, after a period of what looks like cloud cover, may signify the use of scorching white phosphorus gas to screen advancing troops. The appearance of craters and piles of debris on ground where tents once stood, the reddening of a patch of sandy soil, are one kind of evidence of the use of weaponry (cluster munitions, multiple barrel rocket launchers, repeated aerial bombing) criminally at odds with the conditions at hand, where hundreds of thousands of civilians and wounded were closely packed in with a small number of enemy fighters (ICEP 2014). In the Lankan government's stated view, on the other hand, the pits and deep indentations on the scorched earth of the NFZ signify bunkers and trenches dug for defensive purposes (Weiss 2011, p. 206).

What is indisputable is that each bright speck of plastic once represented a human cluster, a shelter built with three wooden sticks and a piece of tarp, a flimsy refuge for a family with children and elderly, or perhaps a makeshift medical tent for the wounded and ill. You can count the dots. After the fact, the UN did just that, averaging five people per dot, to estimate that, outside the capital city of

Colombo, this was the second largest concentration of people in the country. It was also, for those few months, said to be the largest refugee camp in the world, a ground that had held out the only hope of survival for 360,000 people (UN 2012, p. 55; Weiss 2011, p. 206; Harrison 2012, Loc 448).

No soundtrack of hovering aircraft or shock of heavy munitions accompanies the over-seeing satellite scenographies of Mullivaikkal. One commentator, indeed, describes these soundless frames as 'much like a cartoon' (Weiss 2011, p. 206). As Derek Gregory has discussed with regard to footage of drone strikes, the silence that attends these images reinforces an 'intrinsically *visual* economy that imbues the operation with a peculiarly truncated meaning' (2014, p. 10).

The pixellation of these silent, depthless images was deliberately formulated by Google Earth so as to obscure any view of a human body (Weizman and Manfredi 2013, p. 186). Atrocity and suffering on this human scale remain *structurally* imperceptible in the over-sight of the orbital gaze. Yet what is still represented in these images is a stark and shocking violence, visited on a seemingly unpeopled landscape. This is a violence that unfolds spatially—literally on the ground—as well as temporally in the relation of one frame to one another; its violence resides as much on what happens between the frames, in their very sequentiality. Plenty of direct on-screen evidence of the violence visited on human bodies did exist, but would not surface among global media until far too late. Although visual monitoring technologies might enable, eventually, the perception of 'a topological and continuous relationship between figure/human/object and the ground/network/system/assemblage to which it belongs' (Weizman and Manfredi 2013, p. 186), in these disembodied satellite scenographies with their broken constellations of dots and blips, no screams are heard from the dying, nor the anguished wailing of their bereaved; no vulgar traces of blood or shattered bodies: just a god's eye view of a massacre in progress.

The satellite images of Mullivaikkal have haunted me for many months, for what they show of the ground of massacre and for what they do not. They are a starting point for my questions about the work of bringing the materiality of slaughtered bodies and the suffering of survivors into view within a spatial and specular order under which mass violence and atrocities are ever more available to be surveilled, recorded, archived, and forensically analysed, and yet, paradoxically, can be rendered ever more incidental, instrumental or ignorable; and of how the biopolitics of global governance play out across necropolitical terrains of geopolitical inequality, in relation to those it locates as bare life.

Lawfare and the Economies of Atrocity

Compiling witness accounts from The Cage after the LTTE's defeat, the highly respected group University Teachers for Human Rights (Jaffna) (UTHR [J]), wrote: 'what these survivors' stories make clear is that for both parties, the key to military knowledge lay not in brilliant strategies, but in an utter disregard for the lives of civilians and combatants alike' (UTHR [J] 2009b, p. 1). The strategies of both warring parties in Lanka recklessly wagered the lives of the civilians in The Cage on the response of the International Community. At stake for each party was the very idea of a separate Tamil homeland (Mohan 2014, Loc 441). The government wagered, correctly as it turned out, that it could act with impunity to unleash indiscriminate violence against the inhabitants of The Cage, banking on TIC's stance on the war on terror, and backed by the staunch support of its major arms supplier, China and the indirect and direct support of the U.S. (Anderson 2011). While speaking loudly of 'humanitarian rescue' of 'hostages' the government adopted a strategy under which 'the entire people was shelled and bombed' all the way across the region, and into The Cage (UTHR [J] 2009b, p. 19). A campaign of brutal rape appears to have formed a part of these tactics. A UN official testified to Human Rights Watch that 'a large number of women fleeing from the conflict areas during the peak of fighting were sexually assaulted ... causing a large number of civilians to flee back to the theater of conflict to escape the abuse' by the army (HRW 2013, p. 7). Through these means the state carried out a deliberate strategy of violent displacement of the civilian Tamil population, including children, the ill, the vulnerable and the elderly into zones where they came under fire, 'as though to dispel any notion in their minds that the land belonged to them' (UTHR [J] 2009b, p. 19).

The LTTE strategy was based on the deadly miscalculation, as it turned out, that the spectacle of dead and wounded civilians would result in an eleventh-hour diplomatic intervention. To this end, it not only brutally exposed non-combatants to the government's brutal violence, but also even sought to incite it through means such as firing from amid civilian enclaves. The callous indifference demonstrated by the LTTE towards the lives of the Tamil population it claimed to represent was not a final resort undertaken *in extremis*, but was part of its continuing tactics. Rajani Thiranagama, a former supporter of the LTTE who became one of its most rigorous critics and was assassinated at its hands wrote of its battle with Indian forces in the late 1990s, in a poem that is frighteningly prescient:

Our great defenders and freedom fighters

lure the enemy right to our door-step

to the inside of the hospital

start a fight, . . .

And then come the shells, whizzing, whizzing.

Bloody hell,

Tigers have withdrawn, while

We, the sacrificial lambs

Drop dead in lots.

(Thiranagama quoted by Sumathy 2004, p. 145)

Although some apologists would claim a revolutionary, Fanonian, character to the LTTE's violence, and assert that its downfall was caused by requiring from it an impossible level of compliance with the norms and conventions of international law (Malathy 2012), the LTTE project had lost any liberatory or revolutionary energies it had commanded since at least the late 1980s (Hoole et al. 1990; Sumathy 2001; Manikkalingam 1995; Subramanian 2014; UTHR (J) 2009b). Tellingly, in the final days, selected senior members of the LTTE leadership hatched a plan with the aid of international journalists and diplomats for their own rescue. The Lankan government's clear violation of international law in failing to honor the surrender of these LTTE leaders under a white flag has been rightly widely reported and condemned as an instance of unlawful killing (UN 2012, p. 86; ICEP 2014, p. v). However, there is no denying the shocking indifference of these leading LTTE figures to the fate of those they planned to leave behind while negotiating safe passage for themselves and their families. During this same period, LTTE cadres forcibly prevented civilians, including families, the wounded and the dying, who sought to surrender or flee to government territory from doing so on pain of death (UTHR [J] 2009a, p. 1; UTHR [J] 2009b; ICEP 2014). Identifying these tactics of the LTTE, however, does not in any way exempt the state from its responsibility for its continuing program of murderous violence against Tamil citizens or vindicate its systematic campaign of bombing, killing and rape in the war.

Staked on the limit-points and thresholds that constitute International Humanitarian Law (IHL), the tactics of a cruel indifference to the human toll adopted by both sides approximate to a form of lawfare, under which warring parties weigh up the odds of killing or saving lives against the legal definitions, categories and limits that delineate crimes against humanity. In such instances, Weizman remarks, 'the "law making character" inherent in military violence' becomes evident, as the boundaries of the laws of war are tested and extended (2011, p. 94). The ability to mobilise public opinion by the parties concerned, both during and after the violence, is critical to this kind of lawfare, and to the ways in which the conflict is perceived by national and international publics, both in real-time and in retrospect.

Throughout the last phase of the war and for months after, the Lankan government maintained that it had carried out a 'humanitarian operation' with a policy of 'zero civilian casualties' in the No Fire Zone (Ministry of Defence, Sri Lanka 2010). The UN to all intents and purposes accepted these egregious assertions at face value, maintaining a 'discreet and hopeful approach' to the Lankan state despite overwhelming evidence to the contrary (Weiss 2011, p. 205; see also UN 2012). An internal review conducted in 2012 could not be more damning of the role played by the UN, both locally and at its highest levels:

There was a continued reluctance among UNCT [UN Country Team] institutions to stand up for the rights of the people they were mandated to assist. In Colombo, *some senior staff did not perceive the prevention of killing of civilians as their responsibility—and agency and department heads at UNHQ were not instructing them otherwise*. Seen together, the failure of the UN to adequately counter the Government's under-estimation of population numbers in the Wanni [sic.], the failure to adequately confront the Government on its obstructions to humanitarian assistance, the unwillingness of the UN in UNHQ and Colombo to address Government responsibility for attacks that were killing civilians, and the tone and content of UN communications with the Government on these issues, *collectively amounted to a failure by the UN to act within the scope of institutional mandates* to meet protection responsibilities. (UN 2012, pp. 26-27, my emphasis)

Shortly after the LTTE defeat, the UN Human Rights Commission even passed a resolution commending the government and its commitment to human rights. This despite the objections of its own High Commissioner for Human Rights at the time, Navi Pillai. In marked contrast to Pillai, who had openly voiced her concerns at the loss of civilian lives throughout the previous months, UN Secretary-General Ban Ki-Moon praised the government for its 'tremendous efforts' (HRW 2009; see also UN 2012, pp. 66-67 and p. 95 for a discussion of the ongoing disagreements between the Secretary-General's Office and the Office of the Commissioner of Human Rights on responding to the catastrophic numbers of civilian dead). Ban visited Lanka to mark the formal end of hostilities and, accepting the government's advice, did not deign to enter the battle zone; survivors from Mullivaikkal who were held incommunicado in the 'welfare villages' for refugees testified that they did not receive so much as a passing glance from the blandly smiling UN Secretary-General.

Among member states of the UN, especially in the region, Lankan army tactics were widely publicised as possible models for their own internal wars. The Indian Prime Minister declared that India would adopt the 'Sri Lankan Solution' to deal with its insurgent movements within its own borders (d'Souza 2012, p. 13), while Pakistan and Myanmar sought its advice (Beehner 2010). Basking in its victory, the Lanka Defence Ministry conducted a three-day conference, with sponsorship by two Chinese arms manufacturers, titled 'Defeating terrorism—Sri Lankan experience' to share the secrets of its success

with other states (Haviland 2011). Among the speakers was none other than David Kilcullen, an Australian army official who was Chief Strategist at the Office of the Coordinator for Counterterrorism in the U.S. State Department in 2005-6, and a contributor to the U.S. army's controversial *Field Manual 3-24, Counterinsurgency* (2006). The following year, Kilcullen would act as senior counter-insurgency advisor to General David Petraeus in Iraq. The Bush administration included a strong friend of the Lankan government in the form of James Clad, Deputy Assistant Secretary of Defense for South and Southeast Asia, until President Obama replaced Bush in 2009. It was during Clad's tenure, Jon Lee Anderson reports in the *New Yorker*, that U.S. support was 'crucial' in enabling the Lankan military to destroy the LTTE's naval fleet, the Sea Pigeons. Seven LTTE ships loaded with military resupplies were sunk on the basis of satellite intelligence provided by the U.S. in 2008. 'From then on, the Tigers were on the run, herded ineluctably into shrinking territory' (Anderson 2011).

Kilcullen's reflections on 'The Sri Lankan Solution' must be read in the context of the COIN operations he helped put in place for the U.S. in Iraq and Afghanistan. His presentation at the 'Defeating Terrorism' conference included high praise for the tactics adopted by the Lankan army, and identifies several instances of its 'best practice in counterinsurgency', such as 'tactical innovation' and adaptability (Kilcullen 2011). Kilcullen went on to commend the way in which the military had 'developed the soldier himself, nurturing professionalism within the army and revitalising confidence in the organisation itself' (Kilcullen 2011). Delivered two years after the war's end, when the horrific abuses of rape, torture and execution of captured civilians and enemy fighters perpetrated by the Lankan military had been well documented, these remarks about Lanka's successes in 'nurturing professionalism' are in keeping with the official response to the atrocities perpetrated by U.S. forces in their COIN operations in Iraq and Afghanistan. The ways in which the practices of the U.S. military in the war on terror licensed, and were adapted in, other conflicts in other parts of the world still remain to be fully documented. One instance, as I discuss elsewhere, is how the torture and abuse revealed in the Abu Ghraib images are mirrored and restaged in the trophy videos recorded by Lankan soldiers on the beaches of Mullivaikkal (Perera 2014b). These videos of the war in Lanka are indicative of the mobility and communicability of Abu Ghraib's trophy bodies across other wars, racio-ethnic divides and geographies, and the new grammars, repertoires and technologies of terror unleashed in the wake of the war on terror.

The atrocities committed at Mullivaikkal, together with the Lankan state's strategy of deliberately displacing and killing Tamil civilians clearly instantiate the former's identification of itself as a superior occupying power dealing with a conquered people. Kilcullen was unequivocal in endorsing the lethal force deployed against its own citizens by the Lankan state:

The government displayed in this case unshakeable political will opposing all external and internal pressure for a ceasefire. That political top cover provided the time, space and support that was needed for the free execution of the strategy. The nation of Sri Lanka is very fortunate in its armed forces, but the armed forces in this case were fortunate in the political leadership that they received. (Kilcullen 2011)

Fortunate indeed, the nation that has both an army and a political leadership with the stomach 'for the free execution of the strategy', i.e., the strategy of knowingly targeting non-combatants with murderous firepower.¹ Although Kilcullen ended his speech with some standard admonitions about the need to win over the civilian population in the aftermath of the war, his speech overall strongly endorses the Lankan state's actions, and is in line with the U.S. approach to the war as a COIN operation.

Between the 'top-cover' provided by the Lankan political leadership and the 'over-sight' of TIC, the civilians trapped in The Cage stood little chance. In the five years since the killing fields of Mullivaikkal, a series of reports by various international bodies details precisely the forms of violence involved in the 'free execution' of the Lankan military's counterinsurgency tactics (ICEP 2014; ICG 2010; UN 2012; HRW 2013). The accumulated disclosures of atrocity, including witness testimonies and trophy videos recorded by government soldiers themselves, eventually led to a reversal of the 2009 UN Human Rights Council (HRC) resolution that congratulated the Lankan government on its victory. In 2012, 2013 and 2014 a sequence of increasingly more forceful UNHRC resolutions called for an inquiry into the war crimes committed at Mullivaikkal. The International Community, which played such a critical role during the war when it lent its support to the Lankan state in the name of COIN and the global war on terror has, in the ensuing five years, become critical to the writing of the war into history, as it comes to recognise, purportedly for the first time, 'credible evidence of war crimes' that were perpetrated in plain sight (UN 2011). These failures of the UN are itemized, as mentioned above, with remarkable openness in the 2012 'Report Of The Secretary-General's Internal Review Panel On United Nations Action In Sri Lanka'. Although several passages of the report are redacted, it makes plain the grave failures of United Nations officials, both on the ground and at its centre of operations, to fulfil their core responsibilities. The report further pinpoints the failures of the Security Council itself: 'In the absence of clear Security Council backing, the UN's actions lacked adequate purpose and direction ... The tone, content and objectives of UNHQ's engagement with Member States regarding Sri Lanka were heavily influenced by what it perceived Member States wanted to hear, rather than by what Member States needed to know if they were to respond' (UN 2012, pp. 27-28).

'A gun in one hand, the Human Rights Charter in the other'

The contradictory roles played by TIC, in the form of the United Nations and its agencies and member states, together with the questions of visibility and witness to which they give rise, return again and again to the guiding principles on which the latter's actions are premised, the bases of its authorising instruments and the nature of the publics it addresses and to whom it holds itself accountable. Weizman argues that the entire apparatus of human rights, humanitarianism and international law are not separate from, but inextricably entwined with, economies of violence and 'have become the crucial means by which the economy of violence is calculated and managed' (2011, p. 4). In his studies of Operation Cast Lead, the 2008-9 siege of Gaza, which he terms 'the proper noun for the horror of our humanitarian present', Weizman analyses how technologies for managing war's violence, such as 'spatial organizations and physical instruments, technical standards, and systems of monitoring', now function to 'become the means for exercising contemporary violence and for governing the displaced, the enemy and the unwanted' (2011, pp. 4-5). Allowing states the space for, in Kilcullen's words above, 'the free execution of the strategy' in their campaigns to regulate displaced, enemy and unwanted populations, the role of TIC becomes one of the close calibration, oversight and calculation of violence. In Operation Cast Lead, for example, a spokesperson for Israel assured a global audience: 'We have international lawyers at every level of command whose job it is to authorize targeting decisions, rules of engagement' (McGreal 2009).

Caught between 'keeping violence at a low enough level to limit civilian suffering, and at a level high enough to bring a decisive end to the war and bring peace' (Weizman 2011, p. 9), TIC's interventions are structured by a set of 'moral technologies' for observing, measuring, quantifying and managing violence. The recourse to such moral technologies in the judgments made by UN officials is clearly identified in the 2012 Internal Review as among the contributing factors in the mass deaths at Mullivaikkal. In particular the review pinpoints the moral calculations officials made:

(i) choosing not to speak up about Government and LTTE broken commitments and violations of international law was seen as the only way to increase UN humanitarian access;

(ii) choosing to focus briefings to the Security Council on the humanitarian situation rather than on the causes of the crisis and the obligations of the parties to the conflict was seen as a way to facilitate constructive engagement. (2012, p. 26)

The guiding principle of the moral technologies Weizman discusses, that of identifying 'the lesser evil', in effect functions to establish thresholds of acceptability for conditions of unliveable violence and preventable death. The review names the critical distinction that needs to be made between a focus on the 'humanitarian situation' in

isolation and the identification of the political actions that are responsible for producing the 'humanitarian situation' in the first place.

Weizman focuses in particular on the 'technological continuum' between military violence and the legal and quantitative mechanisms used to assess that violence in order to comply with minimum humanitarian thresholds: the calculation of the 'proportionality', usually in retrospect, and, by an extension of this logic, the weighing up of its levels of permissibility and legitimacy, summed up in the chilling question 'how much is too much?' (Weizman 2011, pp. 122). What are the relations between practices of accounting and the process of accountability? Do TIC's post-atrocity actuarial practices of enumerating, adding, calculating, aggregating, balancing and summing up presume objects whose worth is commensurate to their weighty efforts? How many collateral deaths are acceptable in the execution of a targeted killing? What is the 'mathematical minimum' of homes or tents that it is permissible to reduce to rubble in order to wipe out enemy positions in a COIN operation? What are the adequate measures by which a 'voluntary human shield', who may be lawfully killed after a warning, is distinguished from a 'non-combatant' entitled to protection under international law?

In its subsequent 2014 siege of Gaza, revealingly titled Operation Protective Edge, the Israeli state responded to charges of indiscriminate bombing in its previous campaign by adopting practices such as the 'wake-up call'—sending warning phone or text messages to civilians prior to an attack—or the 'knock on the roof'—a preliminary strike by a missile that 'does not contain an explosive warhead', to be followed closely by one that did (Kishawi 2014). These tactics claiming to warn and protect do not only continue to exact a toll of civilian lives, as in instances where people were killed by the very 'warning' missiles supposed to save their lives, or were felled as they rushed out into the path of an airstrike following a 'wake-up call'; as Sami Kishawi writes, these practices also have the effect of allowing 'Israel to kill two birds with one stone. ... It can publicly claim that it works to minimize civilian casualties while at the same time killing Palestinians wantonly and with impunity' (Kishawi 2014).

The tactics Kishawi identifies strikingly parallel the corralling of the Tamil population into protective 'No Fire Zones' which in effect functioned as killing zones. In the latter case, as repeatedly documented, no sooner were the coordinates of field hospitals and shelters communicated to the military via international channels such as the Red Cross than they became, seemingly coincidentally, targets for shelling (Channel 4 2012). Assembled within these zones, in close proximity to the 'enemy', all civilian activities became suspect and potential targets: among those killed at Mullivaikkal were some children milling around a mobile food cart for a free sweet, and others playing on the beach for a brief respite from the bunkers (UTHR [J] 2009b, p. 83; p. 62).

In the space of The Cage, combatant and non-combatant, innocent and guilty, it seems, were to be distinguished only after the fact, depending on whether or not they survived: according to a statement by the Human Rights Minister, the 'soldiers saved all Tamil civilians ... without shedding a drop of blood' (UTHR [J] 2009b, p. 102). To have been killed or wounded, then, was conclusive evidence of non-civilian status: the dead and disabled were being retrospectively designated as legitimate targets of war. The Minister's statement acquires intelligibility within a historical context in which the categories of 'combatant' and 'non-combatant' are not transparent in international law, but the product of prior colonial wars and racialised histories in which entire local populations were classified as non-innocent, and therefore killable. As Christiane Wilke points out in the context of the killing of four children on a beach in Gaza during Operation Protective Edge, the insistence on the children as 'innocent victims' can serve to position other civilian dead as less so: 'When we invoke international law, we need to be cognizant of this [colonial and racialized] past and ask ourselves how we use this law and this history: to lessen violence, or to justify it; to analyse oppression, or to gloss over it' (Wilke 2014).

Weizman identifies the relationship between violence and the regulation and management of violence as 'the condition of collusion of ... technologies of humanitarianism, human rights and humanitarian law with military and political powers' and names the conjuncture in which they operate 'the humanitarian present'. As the UN internal review unflinchingly observes, this conjunction, with its blurring of the distinctions between humanitarianism and military and political powers, between the principle of the lesser evil and the legal obligations and conventions by which both states and the institutions that monitor them are bound, is productive of the very violence it is ostensibly aimed to curtail: 'The UN's development and humanitarian branches were unsuited to the situation and unable to fully address the UN's political and human rights and humanitarian law responsibilities; while it was these same responsibilities that became most fundamental to the survival of civilians' (UN 2012, p. 28). A statement made by the then Lankan President, Mahinda Rajapaksa, takes on an even more chilling cast when considered in the context of these calculative tactics of humanitarian present: in his commemorative speech on the second anniversary after the massacre at Mullivaikkal, Rajapaksa avowed that his 'soldiers went into battle, carrying a gun in one hand, the Human Rights Charter in the other' (Ministry of Defence 2011).

Accounting for Disposable Lives

In the humanitarian present with its collusions between humanitarian technologies, international law, political force and military power, what are the measures by which the identifiable remainder, or excess, between allowable and unallowable levels of deadly force is accounted for? How are target bodies of the unwanted and out-of-place at once counted and discounted in the calculus of international

justice? Beginning with the satellite scenographies from Google Earth and UNOSAT, how are the dead of Mullivaikkal made available for viewing *as they are also simultaneously* rendered 'structurally invisible' in the official and unofficial fora of international justice? The 'at risk' locations and crisis scenographies compulsively logged by global surveillance technologies cannot be dissociated from, and are already enframed and mediated by, a prior ordering of spaces, populations and life-chances, and by discursive and representational histories. Some lives register within this field of perception while others are rendered imperceptible under its scopic and legal regimes, including those regimes mandated to prevent massacres and genocides and protect civilians. Through what means and on what terms are these bodies and stories able to enter global view? Activist interventions, human rights discourses and popular culture all provide access to the formal mechanisms of international tribunals and resolutions, but are mediated by the ability to comply with normative visual frames of war, atrocity and catastrophe. They structure the modalities in which survivor testimonies, media reconstructions and other forms of reportage of the atrocity events at Mullivaikkal were couched.

It is in this context I turn to two powerful documentaries by Callum Macrae, *Sri Lanka's Killing Fields* (2012) and *No Fire Zone* (2013), produced by Britain's Channel 4. There is much to be said about these productions, which have been highly influential in bringing the stories of the last phase of the war to global audiences. The documentaries provided unprecedented access to the shocking trophy videos of their atrocities made by Lankan soldiers, as well as to the footage compiled by LTTE media teams, who risked their own lives to inform the world of the horrors that were unfolding. Raw, pointed, partisan, Macrae's documentaries are primarily addressed to international viewers. The voices most frequently heard in them are those of global NGO workers, international experts or diaspora, mostly pro-LTTE, Tamils fluent in English. The films are clearly aimed at achieving a UN Resolution and international inquiry into the atrocities of Mullivaikkal and in fact were screened at the UN prior to the 2014 debate on Lanka.

The opening sequence of *No Fire Zone* sets the scene for the narrative that follows: a series of children's hands thrust pleadingly through a gap in the locked gates of a UN compound, while inside TIC plans its withdrawal from the scene. The hands, small, brown, disembodied, are accompanied by a low keening, a voiceless plea not to be abandoned. A voiceover by an international (white) UN spokesperson articulates his sense of frustration at his inability to respond to the children's pleading as the convoy of official SUVs speeds away, seemingly helpless in the face of the Lankan government's decree to evacuate. Framed by this scene of the international failure to protect the innocent, to have *done something*, the documentary is a ringing call for an international justice that will keep faith, if belatedly, with those it failed; it seeks redress for the shameful act of abandonment of nearly five years before. The

documentary's narrative logic is one of exposure and shaming of TIC in the name of the dead and the survivors. This logic of shame and redemption can be said to have been partially assuaged when, on 27 March 2014, the UNHRC finally *did something*, by voting to open an international investigation into possible war crimes by both the Lankan government and the LTTE forces in the final stages of the war.

The March 2014 Resolution can be seen as one of vindication for the activists who sought to bring the events at Mullivaikkal to global visibility, and a moment of self-redemption for TIC, in light of the act of abandonment with which I began. These scenes of shameful retreat are already familiar to global audiences from various accounts of the UN's role in Bosnia, such as the withdrawal from Srebrenica, or in fictionalised versions, such as in the film *Hotel Rwanda*. Yet, the trope of TIC's shaming, its failure to *do something*, Randall Williams argues, works in complex ways that leave broader colonial geopolitical relations untouched. He asks: 'what if shaming operations promote, however unwittingly and unintentionally, a necessary misrecognition of geopolitics and power that renders them largely ineffective as an anti-imperialist political platform?' (Williams 2010, p. 46). Williams goes on to examine the narrative of the UN's shaming in *Hotel Rwanda* as a move by which TIC disowns its prior responsibilities for the past and present, as it authorises more intervention for the future. In his fine critique of *Hotel Rwanda*, Williams asks rhetorically, 'Who is this "we" that should have done something? ... What if this "we" were already doing a great deal in Rwanda? What if what "we" were doing in Rwanda was already in fact a major contributing cause to the slaughter?' (Williams, 2010, p. 50). Later, he goes on to point out that the trope of 'we should have done something' is premised on the presumption of the supreme agency of the west. Similarly, other theorists argue that 'we should have done something' functions as an insidious move to reassert the imperialist prerogative of intervention, in the form of the right to protect, or R2P (Jeganathan 2008).

There is a yet deeper issue here. I would argue that the moment of its turning away is simultaneously the moment at which, through the staging of the International Community's failure, humanitarian catastrophes come to be identified and recognised as such. In this moment of marking of the humanitarian catastrophe as exceptional, a breakdown of the international order, the moment of crisis is marked also as the moment when that crisis is implicitly resolved, through the invocation of its panoply of *future* measures of redress. The shameful moment of international withdrawal sets the scene for the series of subsequent inquiries, reports, tribunals, resolutions, sanctions and so on to follow, through which the principle of accountability for disposable lives will be performed, reinstating the status of international law and human rights as the custodians of those very rights, *even at the moment of their breakdown*. TIC's moment of shaming before the victim of humanitarian catastrophe then, is a necessary moment in which a necro-geopolitical order proactively reaffirms itself.

Return to the Lagoon's Edge

As the passing of the UNHRC Resolution on 27 March 2014 registers as the success of the first phase of call for accountability, the search for justice for the many thousands of dead at Mullaivaikkal, I end by returning to the battlefields on the shores of the Nanthikadal lagoon. Walking this scorched ground in the days after the battle, the narrator of UTHR[J], a tireless and unwavering witness to the prolonged carnage of this thirty-year war, spoke of 'the still eloquence of wastelands', of the earth harrowed by craters and mines, littered with fragments of shells and cluster bombs, and marked by the fragile and broken remnants of human presence (UTHR [J] 2009b, p. 8).

Five years later, this massacre ground has become, incredibly, the site of a luxury hotel operated by the Lankan military, and doubles as the Security Forces HQ for the region that remains occupied by the military. Named 'Lagoon's Edge', the hotel is literally built on the bodies and bones of those who died there. It was opened with ceremony and triumph by none other than the President and his brother, the Secretary of Defense. A photograph on its Facebook page shows a squat structure somewhere between a safari lodge and a pagoda. The grounds are landscaped with memorabilia, replicas and crude monuments to the war. The kitsch appearance of Lagoon's Edge is reminiscent of nothing so much as the simulacra produced by the retired Indonesian mass murderers of 1965-6 in Joshua Oppenheimer's acclaimed 2012 film, *The Art of Killing* (Perera 2014a). As with Suharto's Indonesia, in Oppenheimer's documentary, a new order has been initiated in Lanka following an era of mass violence. Its attendant features are a lavish display and visual excess, summed up by Sivamohan Sumathy as an aesthetics of triumphalism (Sumathy 2014). Advertisements and billboards dominate this landscape, as school textbooks are rewritten and state media units produce a rash of propaganda films to laud the state's victory. Millions of dollars are invested in expensive PR consultants to counter international critics. The monuments of this new era are gleaming shopping malls, luxury hotels and revived monuments of mythic Sinhala heritage (Perera 2014).

The Lagoon's Edge Hotel reinforces the triumph of what Sumathy describes as the militarising gaze that imposes itself, not only in the occupation of the former war zone but throughout the land:

The militarising gaze is also a consuming gaze, accompanied by a certain glitz and glamour. City gentrification programmes are underway, displacing the urban poor. Boutique hotels, coffee shops, night bazaars ... take racy nightlife styles hitherto confined to certain fashionable enclaves ... to the streets ... where masters and masses mingle. Mega construction projects connect cities through expressways ... and newly reconstructed roads are able to take a visitor deep into the interior where boutique hotels and resorts [proliferate]. (Sumathy 2014)

This form of neoliberal militarisation, with its aura of global glitz and glamour, its massive construction projects and booming tourist and heritage trade, complements and consolidates the military occupation of the north and, in Wijeyeratne's words, the technologies aimed at the 'existential encompassment' of Tamils and other minoritised subjects (2012, 403). As the military gaze is normalized throughout the land, the opposition to the notion of an international inquiry into the killings at Mullivaikkal has become noticeably less strident. The diplomat who led Lanka's successful campaign to foil a condemnatory resolution by the UN in 2009 has been quietly removed, to return as a soft critic of the regime; other government apologists, too, have moderated their defence of the indefensible, and turned to pre-war nostalgia. Despite some predictable outcry at the 2014 resolution calling for an international inquiry, there appears to be a level of recognition in ruling circles that the price of rehabilitation into the international order may be some form of cooperation with an international inquiry. The presidential election of January 2015 resulted in the shock defeat of Rajapaksa. A former minister of his cabinet is now President. While some moves by the new government, such as the replacement of the military governor of Jaffna by a civilian, are promising, the continuing presence of several members of the former government suggests that this is the 'moderate' face of regime change. Meanwhile, many LTTE supporters, too, have adopted new faces, remaking themselves in the image of the defenders of human rights to lead the call for justice for the thousands of dead at Mullivaikkal. As the Tamil-Canadian commentator D.B.S. Jeyaraj observed wryly: 'Ostensibly the name of the LTTE game [is] ... now a lofty quest for justice, accountability, reconciliation and equality. A tragic-comic aspect of the changed scenario was the spectacle of accredited representatives from respected human rights organizations associating with yesteryear tigers ... The battlefield had seemingly shifted to the UN Human Rights Council arena in the new venue of Geneva' (Jeyaraj 2014).

Steven Ratner, a member of the Secretary-General's panel of experts on Sri Lanka, concedes in his commentary on the dismal record of the international attempt to provide justice: 'The Sri Lanka case shows that, despite an impressive set of legal norms in place to deal with atrocities such as those committed in this conflict, the infusion of politics and the limitations of unprepared institutions can seriously delay prospects for accountability' (Ratner 2012, p. 795). As I have attempted to show, accountability through the fora of international justice has been not only delayed, but fatally compromised and deformed by its own processes. In the Humanitarian Present, does the prospect of a forthcoming international investigation into the war represent yet another compromising victory for the lesser evil, one in which the most culpable parties on both sides remain unscathed: an accounting in which the disposable lives of Mullivaikkal yet remain discounted? Williams' reflections on the need for an-other form of accountability, indeed for a *reckoning* that is critical, non-imperialist and non-judicial, resonate profoundly here: in this form of reckoning, 'our starting point should be neither the law nor any desire for a

“progressive” appropriation of the law, but the mounting dead for whom the law was either a useless means of defense, or an accomplice to their murder’ (Williams 2010, p. xxxii).

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ⁱ These remarks were later removed from some published versions of Kilcullen’s speech, but remain in others, and in the YouTube recording of his address.

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