

ANNUAL REVIEW REPORT 2000

TWAN

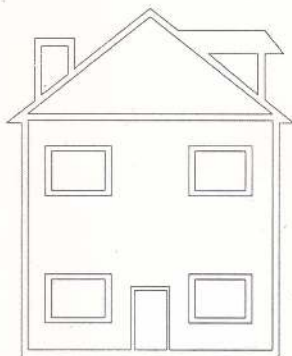
தமிழர் நலவழி சங்கீதம் (நியுஹாம்) யு.கே.

Tamil Welfare Association (Newham) UK

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செந்தமிழ் மொழி கூறும் மானிடனே
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(தமிழ் எங்கள் உயிர் என்பதாலே - வெல்லத்
தரமுண்டு தமிழருக் கிப்புவீ மேலே.)

- பாரதிதாசன்

ANNUAL REVIEW REPORT 2001

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Charity Registration No: 1047487

CHAIRPERSON'S ADDRESS



Ladies and Gentlemen,

I would like to take this opportunity to say a few words regarding the progress of our charity organisation - Tamil Welfare Association [Newham] - that has been serving Tamil speaking community in Great Britain for the last fourteen years.

I have great pleasure in announcing that though during the year 2000 we encountered more work than the previous ones, we were able to execute the tasks entrusted to us with great satisfaction. The year 2000 witnessed a sudden increase in the number of new clients beyond all our expectations and so we had to cope with the rush and demand patiently. Though accommodation facilities and the number of staff were limited, we were able to attend to our clients needs successfully. On the other hand the increase in the number of clients is the result of their having absolute trust in our ability and dedication. I have to say that clients who had been dropped by a few solicitor firms too had availed themselves the services of our association.

The most noteworthy feature of the year 2000 was that more than 60% of our asylum cases were successful and the credit must go to our outreach worker Mr. Janarthanan.

Also, I would like to take this opportunity to thank, on behalf of the Board of Directors, the donors who gladly provided funds to run the charity association last year successfully, the staff who performed their duties to the board's satisfaction, the clients and well-wishers who encouraged and helped us to run the association smoothly and successfully.

Also, I would like to thank Hon. Stephen Timms M.P. for Newham for his wholehearted help he has been rendering to our community and for having graced this occasion by his presence.

Thank you.

K. Balasundaram

President -
Board of Directors

14.04.2001

தலைவர் உரை



பேரன்புடையீர்,

பெரிய பிரித்தானியாவில் வாழும் தமிழ் பேசும் மக்களுக்குச் சமூகப்பணியாற்றி வருகின்ற நியூஹாம் தமிழர் நலன்புரி சங்கம் தனது பதினான்காவது ஆண்டு சேவைகளைச் சிறப்புறச் செய்துள்ளது என்பதனை அறியத் தருவதில் மகிழ்ச்சியடைகின்றேன்.

சென்றாண்டு எமக்கு வேலைப்பளு மிக்க ஆண்டாக அமைந்திருந்தது. எம்மை நாடி வருவோரின் எண்ணிக்கை அபரிதமாக இருந்தமையே இதற்குக் காரணமாகும். இடவசதி ஆளணிவசதி இரண்டும் சேவைநாடி வருவோரின் எண்ணிக்கைக்கு ஈடுகொடுக்காத போதிலும் நாம் சிரமத்தைப் பொருட்படுத்தாமல் எமது பணியை நிறைவு செய்துள்ளோம். விரைவில் எமது அலுவலகம் முழுவதும் புதிய பணியகத்துக்கு மாற்றப்பட்டதும் இடவசதிக் குறைபாடு நிவர்த்தியாகும். தேவைக்கேற்றளவு ஆளணிகளைச் சேவைப்படுத்த நாம் முயல்கின்றோம். சில சட்டத்தரணி நிறுவனங்களால் கைவிடப்பட்ட தஞ்சங்கோருவோரும் எமது சேவையை நாடி வந்துள்ளனர் என்பதனையும் குறிப்பிடவிரும்புகிறேன்.

எமது பதினான்காவது ஆண்டின் சிறப்பம்சம் யாதெனின், அகதிகள் தஞ்ச முயற்சிகளிலும் வழக்குகளிலும் நாம் அபரிதமான வெற்றிகளைப் பெற்றுள்ளோம் என்பதே. இந்த வெற்றிகளை ஈட்டுவதற்கு எமது வெளிக்கள அலுவலர் திரு. ஜனார்த்தனின் சேவைமனப்பாங்கே பிரதான காரணம்.

இவ்வேளை, சென்ற ஆண்டில் எமது சங்கம் சிறப்பாகச் சேவையாற்ற உழைத்த நிர்வாக சபை அங்கத்தவர்கள், அலுவலக பணியாளர்கள், நிர்வாக ஆலோசனை வழங்கிய அமைப்புகள், சங்கத்தைத் தொடர்ந்து நடாத்த நிதியுதவி வழங்கிய நிறுவனங்கள் யாவற்றுக்கும் எமது நன்றியைச் சொல்கின்றோம்.

இறுதியில், நாம் உதவிகோரி நாடிய சமயமெல்லாம் எமக்கும், எமது வாடிக்கையாளருக்கும் மகிழ்ச்சியோடு உதவிபுரிந்த நியூஹாம் பாராளுமன்ற உறுப்பினர் உயர்திரு ஸ்ரீபன் ரிம்ஸ் அவர்களுக்கும் இவ்வேளை நன்றி பகர்கின்றோம்.

நன்றி.

க. பாலசுந்தரம்

தலைவர்

14. 04. 2001

SECRETARY'S REPORT 2000

We had yet another busy year with increased number of immigration cases. Unlike in previous years, besides large number of Tamils who arrived from Sri Lanka and Europe, there were others whose cases were dealt with by other institutions also turned up. Our staffs are over stretched. However, they rendered sincere and dedicated services that none of our clients suffer from the threat of removal.

Office Development

We have on several occasions told the public that the present Office premises at 33A Station Road was not adequate to meet the growing needs of our users and the increased activities and that we were looking for a spacious premises. In September last year, we managed to rent out the ground floor premises at 602 Romford Road, Manor Park, London E12, and use that premises as well for our services. However close these two premises are, there are practical difficulties in providing services from two premises as our staff members as well as our clients have to run to and from one to another. We are likely to be success in securing the first floor of that building too and hopefully we will be completely moving to that building shortly.

Office Staff

We have an Information and Advice Worker, who is a full time staff, and an Outreach and Development Worker and a Caseworker who are both part time staff. There are also five volunteers. The office is open all five days of the week from 9.00 am to 5.00 pm except on Public and Bank holidays. In the last several months, there had been several asylum interviews for our clients and interviews were held at the Home Office, Croydon, and at

two other centres, one in Liverpool and the other in Leeds. Besides our Outreach Worker and the Caseworker, Mr S Thinakaranathar, two of our casual Caseworkers have also been representing the clients at the interview. This resulted in frequent visits to Home Office, Croydon, and also to Leeds and Liverpool. However, the day to day services in the Office to the users calling at our Office are not affected. We are really thankful to our staff members and our volunteers for the interest they evince and the dedication to work.

Travel Costs

As a result of frequent visits to Home Office, Leeds and Liverpool, our travel costs have increased manifold, which is somewhat unforeseen.

Quality Mark

TWAN is working towards achieving Quality Mark Standard for our Services in Immigration matters as that is a requirement for our organisation to be exempted as Immigration Advisers by the newly appointed Commissioner of Immigration under a new law. In this matter, we would be registering with the Commissioner who in turn would decide whether our immigration services are of Government approved standard. The Government has set up some requirements to be met.

Advice on Internet

TWAN intends developing a system of advisory work on the internet. Once this is set up we would be in a position to extend services to clients on internet, particularly to those living far away. This will enable clients seeking advisory help without loss of time, cost and inconvenience of travel. Clients from distant places such as Newcastle and Liv-

erpool could seek advice over Radio. TWAN, along with other immigration advisers/Solicitors, had been advising clients on immigration matters over Sunrise Radio, which provides from time to time a slot in its broadcast with a view to meet the demand for vital information in immigration matters

Representation

TWAN represents clients at the Home Office, Ports and at Immigration Appellate Authority. We also represent clients at County Courts and Social Security Tribunals. Services of a team of experienced Counsels are obtained in immigration appeals

Management

We have a Management Committee consisting of 10 members as Board of Directors who are responsible for running of the organisation and decision making in affairs of the organisation throughout the year.

Sub Committee

These Committees are set up as and when necessary to run certain projects such as children project, education projects which includes helping refugee children with English, Maths and Science to those who have difficulties in coping in schools. We have recently started computer classes for adults. These classes are held regularly on Saturdays and Sundays. Our playscheme is conducted during Summer holidays. In previous years, our children playscheme during Summer holidays had attracted over hundred children. However, we had difficulty in getting approval from Council to admit 7 to 11 year old children. I am hoping that the matter will be resolved before we start our session in June 2001.

ANNUAL EVENTS

New Year Cultural Show

TWAN carried out various activities during the year to the community. Our colourful New Year Celebrations took place at the Newham Town Hall on 28th April. Music, dance, variety entertainment were the main events. Mr Stephen Timms, MP for East Ham, who has been associated with TWAN for a long time and who also has sympathy for Sri Lankan Tamils suffering as a result of the politi-

cal and war situation in Sri Lanka, was the Chief Guest.

Annual General Meeting

The Annual General Meeting was held on 25 June 2000 at the Manor Park Community Centre. It is a day of meeting the members and discuss about the performance, planning the future and make important decision on the activities of TWAN. Members of TWAN participated with great enthusiasm.

Summer Playscheme

Summer Playscheme was planned in July/ August 2000 as in previous years. This time, we held our playscheme at the Shalom Centre. We planned to have it for four weeks. However, after one week of operation, there was a fire at the Shalom Centre, and as a result, we have had to wind up our playscheme operation. This was very unfortunate. Anyway, this year's playscheme will be held at Kensington Primary School and we hope to run it for 4/5 weeks as usual.

Summer Trip

This year the Summer Trip was to Swanage. Over 150 people from all walks of life and of all ages, both men and women, participated. We went in three coaches. All of us enjoyed the day. This is one of the events that TWAN organises annually and the one that all look forward to participate with great enthusiasm.

End of Year Celebration

TWAN hold a sweet and less colourful get-together with a limited crowd - those closely associated with TWAN's activities throughout the year. This event serves as thanks giving for those who are associated with TWAN and also for those who help TWAN in many ways.

National Lottery Charities Board

It will not be complete if I do not mention about our main funder. We would not have achieved our aims if not for the funding we receive from mainly the National Lottery Charities Board. Our humble thanks to the National Lottery Charities Board for their great help and sincerely. We also wish to thank The Tudor Trust and the Newtrain Bursary Fund for the grants provided to us by them.

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INTRODUCTION

AN ANALYSIS OF THE YEAR 1999 AND THE YEAR 2000.

Tamil Welfare Association has completed fourteen years of meritorious service to the local community in London. A wide variety of legal services have been provided for over five years and there has been legal representation at various levels. The Welfare Association has made constant efforts to alleviate poverty and distress and to prevent a situation where people are left destitute without any adequate provisions for their welfare. The importance of education has been constantly re-emphasised and various opportunities have been created to find the employment in the job market. Numerous attempts have been made to invest in health services and to preserve the Tamil cultural heritage. The Welfare organisation has grown considerably over the years and there are many willing assistants who complete the tasks. There is usually one full time member of staff, two part time assistants and a few volunteers who reduce the workload. Nevertheless there is still room for expansion in the organisation, since immigration remedies are usually required. There are also frequent changes in the legal system and a recent survey has shown that immigration advisory work has been given top priority.

The Immigration and Asylum act of 1999 was promulgated after lengthy debates. Thereafter the Tamil community suffered much hardship; poverty and stress as a result of the system of distributing refugees around the country. The restrictive welfare benefit system produced a combined effect of homelessness and starvation. For all attempts to resettle refugees in various parts of the country yielded unsatisfactory results. Because of this the displaced persons became dependent on the community and led a nomadic life instead of returning to the allocated areas.

Despite the introduction of the national asylum support service, health services were given top priority and houses were allocated according to each person's requirements. Yet the new members in the community found these services were rather inadequate for their purposes. There was

evidence to show that the apartments of the people who had recently arrived in Scotland were empty and people relied completely for assistance from the Tamil Welfare Association and still attempted to return to London as squatters.

An analytical survey has revealed that many refugees are uneasy about moving to unfamiliar territories without vital community solidarity cultural unity and religious affinity which would enable them to overcome language barriers and any difficulties which they may encounter. About 6,040 persons claimed asylum in the year 2000, out of which 88% were refused and 9% were granted refugee status, 4% were granted to exceptionally to remain. 152 persons made the asylum claim through us in the last year.

The percentage of displaced persons who have no fixed place of abode has risen considerably, for instance in London the community groups lack the facilities to provide alternative accommodation within their vicinity and in the private sector.

Consequently Tamil Welfare Association has been unable to provide the vital services, which our usual clients have been accustomed to for over fourteen years, due to the number of requests received and the limited resources. This year the community was left with no other resort than to refer clients elsewhere due to considerable financial constraints. Therefore almost twenty new applicants who required for our representation in their Immigration matters are turned down by us due to the lack of resources.

Immigration interviews held in Liverpool and Leeds have also created other problems as a result of the travel expenses, which have been incurred. Additionally the financial resources are limited increasing pressure on the budget reserved.

Along with this, is the problem of inadequate functioning of the distributive pool, which has of-

ten been described as a one-stop service? Consequently clients who have arrived recently are not unaware of the procedures followed and most of the times do not have a proper accommodation and travelling long distances adds to these problems. Due to these, the clients may not be able to answer the questions posed to them as they may be either tired due to travelling or may be very flustered. Some asylum seekers are given accommodation in Scotland and the Northern part of the country, due to this they may find it difficult to be on time for the interview.

The government has often reiterated that there will not be any repatriation of unsuccessful Tamil asylum seekers until we find that they would be safe and sound on their return to the countries they originally came from. Despite this in actual prac-

tice the law enforcement officials are constantly deporting the asylum seekers forcefully. According to a survey report three Sri Lankan Tamils were forcefully deported to Sri Lanka this year.

Moreover there is evidence that people returning are often arrested at the airport for contravening the immigration laws of Sri Lanka. Despite the fact that there are emergency regulations under the prevention for terrorism act it appears that people arrested for various reasons are often detained. The asylum seekers who are arrested under the Emergency Regulations and Prevention of Terrorism Act are detained for eighteen months or longer without any charges or trial. Apart from these unfortunate incidents the advisory and immigration services and other associated organisations have continued to function effectively.

THE IMPLEMENTATION OF THE IMMIGRATION AND ASYLUM ACT OF 1999

On the 28th of July 2000 immigration rules concerning leave to enter and remain were placed before parliament. For all good intentions and purposes this act could introduce a more flexible immigration outlook. A person may be granted leave to remain before he arrives in the United Kingdom. This privilege can be obtained from the entry clearance officer in the country the applicant originally came from or issued from the country of actual destination. Moreover multiple entry visas could still be allocated whenever deemed to be appropriate.

The time limit and the conditions regarding a person's leave to enter and remain may be made known to that particular person verbally. Asylum seekers may also discover that letters are posted to them, which show they have not been permitted to enter the U.K or have been allowed to enter the U.K and have a right of free ingress and egress within the country. The immigration officer could be empowered to vary leave to enter and remain at the port of entry or outside the U.K.

The leave to enter or remain could be granted for duration of over six months and should not lapse whenever the traveller leaves the country.

Furthermore some of the following regulations could still be enforced.

1. Regulation 2000 No.2326 European Economic Area.
2. Regulation 2000 -243: Removal Directions.
- 3.No 2244 :One stop procedure on asylum appeals
- 4.No 2246 Appeal notice procedures

Under the safe country list, Canada, Norway, Switzerland and USA have become the alternatives, which have been regarded as safe countries, in which one may live peacefully. According to the removal directives in the past those who have been granted leave to enter or remain and have stayed illegally are still entitled to appeal. Those who had forwarded asylum applications but received notices of deportation could still refer to Regulation 2243 section 10: which specifies that all non British citizens who have extended their stay beyond the stipulated time limit for which they were given leave to enter or remain may discover that they have very slight chances of obtaining leave to remain in the country. Nevertheless although they may have breached a condition by which they were granted leave to enter or remain and could be regarded to have obtained leave to enter or remain by deception, they may be severely reprimanded and deported instead of being expelled from the country. Regulation No 2244 provides that appellants should complete a statement of additional grounds when requesting for leave to enter for additional reasons, but false claims are unacceptable.

For example if someone is making a claim for

leave to enter the U.K in accordance with the terms of the 1952 UN Convention and leave to enter and remain is sought for humanitarian reasons, then such reasons ought to be clearly specified in the notice of appeal. The additional grounds must be completed in English and forms need to be signed by the appellant or their representatives. The time limit for submitting further and better particulars will be ten working days. Any additional grounds that are submitted will only be considered if there are reasonable grounds for doing so.

IMMIGRATION ADVISERS REGISTRATION

Part 5 of the Immigration and Asylum Act has been enacted and is presently being enforced. On May the 22nd of 2000, the Home secretary appointed Mr. John Scampion as the Immigration Service Commissioner. The Commissioner was entrusted with the responsibility of supervising the activities of immigration advisers. The Commissioner's duties included considering whether advisers could be registered as genuine immigration advisers. Furthermore there are numerous checks and balances in the legal system and the activities of unscrupulous immigration advisers will be closely screened and complaints about malpractices shall be thoroughly investigated.

Previously applications for registration or exemptions ought to have been submitted before the 2nd of October 2000, but in actual fact the registration process may still be considered from April 2001 onwards. Mrs Linda Allen was appointed as the Deputy Immigration Services Commissioner. The Commissioners office is situated on the 7th floor of the Whitgift centre in Croydon. The overall aim of this scheme is to actively encourage access to qualitative advice. Moreover the Commissioner is determined to consolidate the existing regulations. Therefore there have been numerous consultations with the Law Society, the Bar Council and the Immigration Legal Practitioners Association.

The Tamil Welfare Association has been recognised to be a non-profitable charitable organisation and has presented an application for registration and exemption. This application was presented for registration to enable the Welfare Association to continue to provide legal services on immigration matters. The Welfare Association received confirmation of the exemptions requested for in the form of a letter from the Deputy Immi-

gration Service Commissioner dated 30th of October 2000.

Subsequently we received a copy of the immigration rules, and the code of conduct as well as the complaints procedure, which could be used to determine the required standard. Moreover all the necessary documents for making a formal application for exemption have been received.

The Commissioner expects the community groups or voluntary sectors and immigration advisers in organisations to provide legal services of a certain standard. Only those organisations that provide information and advice in accordance with the guidelines stipulated by the Community Legal Service are to be considered for registration. Caseworkers who are entrusted with representing clients may have to attain Level 2 of the required standard. There have been directives which state that from April the 1st 2001 anyone who provides immigration advice without proof that they are recognised immigration advisers would be regarded to have acted illegally and may be prosecuted by the Commissioner.

COMMUNITY LEGAL SERVICES AND QUALITY MARK

Tamil Welfare Association is determined to attain the required standard and continues to provide services in accordance with the standard marked as qualitative and quantitative. The Welfare Association has also been included in the directory of the Community of Legal Services. In order to fulfil the necessary requirements, members of the Welfare Association attended various seminars and workshops so that they may be recognised as one of the associations, which have acquired the acceptable standard. Moreover the Tamil Welfare Association has fulfilled the necessary requirements after acting in accordance with requirements to submit an application before the 31st of October 2001. Furthermore there have been continuous attempts to carry out the aims and objectives of the association and a request has been made for assistance in improving the level of the services provided. The new regulations have been carefully scrutinised and the innovations have been utilised resourcefully.

REGULARISATION SCHEME FOR OVERSTAYERS

By virtue of the regularisation scheme, anyone

who has stayed in the country beyond the stipulated time would be required to register before the 2nd of October 2000 or forfeit his or her right of appeal. As a result any who entered the United Kingdom with a valid visa or who was granted a visa during their stay in the country could be entitled to apply to secure a right of appeal. Those who forwarded successful applications to regularise their immigration status before October 2nd 2000 will automatically have an existing right of appeal. Section 265 has reaffirmed this right of appeal. Therefore the Tamil Welfare Association has forwarded an application for all those who are entitled for this.

Case Study 1:

Mr. P entered into the U.K as an asylum seeker, his asylum application was considered by the Secretary of State and then disregarded, but still the applicant made another application. This was an attempt to elevate the immigration status by renewing exceptional leave to remain. However the Secretary of State refused to reconsider granting exceptional leave to remain and stated that the ancillary application for asylum would be thoroughly examined. Subsequently the ancillary application for asylum was refused and all efforts to appeal did not yield any satisfactory result. Moreover every equitable remedy appeared to have been exhausted. Eventually a fresh asylum application was prepared which clearly specified the various reasons why it would be detrimental to the interest of the unsuccessful applicant to remove him from the country of his choice to a place where it was unsafe to return. This new application is still being considered despite the fact that it was forwarded numerous years ago. Therefore in order for the appellant to secure a right of appeal it was considered crucial for an application to be made under the new scheme of arrangement, especially since there was some element of exceptional leave to remain.

Case Study 2:

Mr. M came to this country in 1991 as a student and he was granted leave to enter the U.K for that purpose. Immediately after the completion of his studies in 1994, Mr. M made an application for asylum since there was political instability in his country of origin. Consequently the applicant had become apprehensive about his safety there was no alternative for him but to return to the country from which he originally came. The asylum application forwarded by Mr. M was refused and all rights of appeal appeared to have been exhausted.

Meanwhile a fresh application, which was made, is still being considered. Mr. M is entitled to make an application by virtue of the Over stayers regularisation scheme because he stayed in the country with a valid visa.

PENALTIES FOR TRANSPORTERS

There are certain penalties for the owners of vehicles, which transport unauthorised persons. The vehicles in question include lorries, cars and other methods of transporting passengers such as caravans. Initially the levies and fines, which were imposed, were restricted to owners of airlines who conveyed people into the country illegally but recently owners of ships yachts and trains have been penalised. According to Part 2 of the Immigration and Asylum Act S.33 Part 1, whenever anyone is brought into the United Kingdom in an unusual way the people in question will be regarded as trespassers and could be prosecuted. Furthermore the owner of the vehicle will be fined £2,000 for each unauthorised person who is brought in and the vehicle will be confiscated. These new measures compel refugees to resort to all possible means to arrive at their destination and some asylum seekers have taken unnecessary risks and endangered their lives.

Article 31{1} of the 1951 United Nations convention states as follows- "The contracting states shall not impose penalties on account of the illegal method of entry or the presence of refugees who come in directly from a territory where their lives or freedom have been threatened in the way which was contemplated when Article 1 of the legislation. Was enacted".

Whoever enters or present themselves without delay to the designated authority and shows good cause for their illegal entry may fall within the category mentioned in article 31{1}. In order to utilise S.31 effectively Mr. A applied for asylum as soon after arriving in the U.K. The asylum application claim was based on the U.N convention requirements and attempts were made to show good cause for the irregular method of entry. The asylum applicant had also contacted the immigration officials directly without any delay soon after he arrived in the U.K. However anyone who stopped in another country during his voyage to the U.K could not reasonably be expected to rely on the rules, which were specified during the 1951 U.N convention. The case of Mr. A revealed that asylum seekers have a choice where they may

choose to apply for asylum.

Article 31 applies specifically to anyone who owns false documents and to all those who have entered the U.K in an unauthorised way. In some instances people who have falsified their records and have used deceptive documents attempt to rely on S.31.

The jurists have mentioned that the following issues would be considered when deciding whether or not anyone could be exempted from the regulations specified in Article 31:

- [a] The length of time a person spends in transit.
- [b] A detailed account of the amount of time they spent in the country, which they Passed through on their voyage to the U.K
- [c] Whether or not protection from persecution was available.

In a situation where a person has made a successful claim for asylum in France for reasons of persistent persecution, such a person could not be regarded to have travelled to the U.K because he required asylum. Therefore whosoever passes through another country on their way to the U.K would have to establish that he falls within the provisions of S.31 {2} and could not reasonably expect to receive the full protection provided by the UN rules. As a result anyone who passed through a country, which was recognised as a member of the European Economic Community, would find it difficult to fulfil the necessary requirements.

Furthermore Judge Simon Brown specifically stated that S.31 of the Immigration and Asylum Act 99 could not be interpreted objectively and would not reflect a broad approach. Therefore S.31 merely narrows the scope of Article 31 but does not protect certain groups of people. Moreover there are numerous attempts to ensure that anyone who seeks refuge in the U.K is not persecuted irrespective of their status. The Tamil Welfare association has discovered that many of their clients enter the U.K without proper travel documents for various reasons.

The Tamil asylum seekers, particularly those who are coming from the North and Eastern regions are unable to obtain valid passports in the countries they originally came from, therefore the possibilities of their arrests are high.

The countries, which favourably consider applications for asylum, have made it more difficult for asylum seekers to seek protection in safer countries. Numerous clients often travel through some other countries when they discover that they will be screened very carefully. Added to this is the problem of transportation because they cannot reach their destinations directly.

Case Study

Mr. D left his country and requested for political asylum immediately he arrived in the U.K. Thereafter he informed the immigration officials that he travelled through a few countries on his journey to his U.K. Mr. D claimed that in one country he was arrested by the police and evidence of his fingerprints were recorded before he was released. Eventually an agent sent Mr. D to the U.K in accordance with his plans. After a few months his fingerprints were carefully analysed and it was concluded that he travelled through Germany. Consequently the immigration officials made sure that he returned to Germany. Later when he landed in Germany he was detained and all efforts to present an asylum claim were constantly thwarted. From there he was repatriated to Sri Lanka. The airport officials then arrested Mr. D for breaching the immigration act of Sri Lanka and he was vulnerable to indefinite imprisonment. When further investigations were made under the Prevention of Terrorism Act it was decided that Mr. D would be detained indefinitely.

PROTECTION UNDER ARTICLE 3 OF THE EUROPEAN CONVENTION FOR HUMAN RIGHTS

Numerous Tamils fleeing from Sri Lanka may qualify for international protection under Article 3 of the European Convention treaties, which contain provisions for human rights.

Article 3 specifically states that 'no one should be subjected to torture or any inhumane or degrading treatment or punishment'. A survey has shown that many Tamils from Sri Lanka who have made unsuccessful asylum applications still require the protection guaranteed within Article 3, which was summarised when the European courts convened to evaluate treaties concerning human rights. Furthermore in some instances the Secretary of State had decided not to expel a person when substantial grounds were submitted and forwarded. Apparently, those who have been unsuccessful with

their asylum applications could be faced with the punitive measures mentioned in Article 3 of the guidelines, which were drawn up during the European Convention for Human Rights. For instance in the case of Vilvarajah in 1991 the European courts upheld the decision of the domestic courts concerning Judicial review. The courts were entitled to overrule a decision where there was evidence of a vicious propensity to show inhuman and degrading treatment.

In the case history of Pardeepan (00/TH/2414), an asylum application was made and the Immigration appeals Tribunal discovered that the adjudicator had dismissed the appeal but there was leave to appeal to the Tribunal on a preliminary issue. The Tribunal was eventually able to consider the full implications of the Human Rights Act of 1998 and allow the appellant to argue that any adverse decision would not only breach the regulations but would also violate his human rights. Nevertheless the appeal was unsuccessful because the appellant had not raised convincing and compelling issues earlier and moreover the Human Rights Act had become enforceable from October 2nd 2000 onwards. Therefore the appellant ought to effectively utilise the human rights provisions whenever there is the prospect of expulsion from the country.

The definition of torture can be summarised as severe pain or suffering, either physical or mental punishment inflicted intentionally in order to obtain information or confession or calculated to punish or intimidate. There are other categories also and torture can also be classified as inhumane treatment of an alarming proportion, which causes intense pain. Degrading treatment can be categorised as humiliating a person with a deliberate aim to undermine their ability to assert their rights and uphold their human dignity.

Moreover airport officials in Sri Lanka are determined to arrest those asylum seekers who have been deported and have returned at the port of entry itself for breaching the Immigrant and Emigrants Act of Sri Lanka (Though this Law came into force during the establishment of the Parliament, it was amended in 1998. This law states that any person leaving the country without proper travel documents or valid passport, will be prosecuted on returning back to the country). Thereafter they are usually detained in high security prisons where they are interrogated and thoroughly questioned. Eventually some of them are

remanded in custody are taken to court where they are sentenced in accordance with the Immigrant's Act. Those prisoners who are convicted are often penalised and fined 2,00,000 Rupees, sometimes they even receive prison sentences, which last for lengthy periods ranging from one to five years. Those incarcerated are usually ill treated and face periods of solitary confinement. There is also a possibility that suspects who are detained under the Prevention of Terrorism Act will be unable to have access to legal representation and have no interpreters to clarify issues. Anyone who is not arrested at the airport could still be arrested and detained at random at different checkpoints located at different places. There are various reasons for arresting suspects and some of the reasons are listed as follows:

1. The absence of 'national identity card' and anything to signify that there has been valid registration
2. Evidence of physical scars and unusual marks.
3. Disabled persons who have valid police registration documents and national identity cards can still be arrested.

It may so happen that a person may be arrested based on suspicion if police registration slips or identification cards reveal a person was found in a completely different area or had travelled from abroad.

Moreover anyone who has significant marks or scars would be treated as a suspect of LTTE activist because security personals may suspect the scars or marks as after effects of the battlefield or the vicissitudes of military training. Notwithstanding the fact that they are registered as disabled, such people could be still suspected to be members of the dissident group known as the LTTE, The Liberation Tigers of Tamil Elam. The LTTE are directly opposed to the Sri Lankan government and anyone whose legs and arms are amputated and who bears marks, which show the ravages of warfare, are regarded as prime suspects.

Case study 1:

Mr. Nanthakumar was deported from the U.K on the 10th December 1998 and changed his name to Selvarajkumar when he returned to Colombo, but after he arrived there was no sign to indicate where he was residing. Nevertheless Mr. Selvarajkumar often received medical treatment for psychiatric ailments. The Virakesari newspaper re-

ports mentioned that Mr.Selvarajkumar was arrested and later detained at the Negombo prison but his lawyer discovered he was nowhere to be found. Finally a conciliatory committee traced Mr.S and with their assistance he was released in 1999, after he attended the Magistrate court.

Case study 2:

Mr Krishnapillai was 28 years when he was deported from the U.K (3rd February 1999) and had also received treatment for psychological ailments. Although there was every indication that he had arrived in Colombo he disappeared soon thereafter. Shortly afterwards it was discovered that he had been left in Trincomadeee in a chronic state of uncertainty.

Case study 3:

Sundaram was deported from Germany on the 4th of September 1999 without providing vital documents. The immigration officials in Germany had deported him without giving him the documents he urgently required for purposes of identification. Initially the airport officials in Colombo released him but later members of the Sri-Lankan armed force arrested him in October 1999. Thereafter he was suspected to have been actively involved in attempts to overthrow the government and subvert justice. Eventually a magistrate gave instructions that Mr.S be detained without specific instructions as to the length of time for detention.

DUBLIN SCREENING INTERVIEW

The Immigration and Asylum Act of 1996 clearly specified that anyone who requests for asylum from a country which was a member of the European Economic Community would be removed to that country without any opportunity to appeal while they are in the U.K. However certain rules were evaluated during the 'Dublin Convention' and these rules became enforceable on September the 1st 1997. Thereafter new asylum seekers discovered that their fingerprints were compared with an analysis of fingerprints from other countries within the European Union. If the fingerprints turns out to be the same or identical as the ones recorded earlier in another country, the officials would regard the person as the same as the one previously applied and a formal request would be made by the immigration officials, for the country in question to be regarded as an alternative. Thereafter the asylum applicants would be expected to leave the U.K immediately and would

have no right to appeal while they are within the country. Besides there are possibilities that such a person could be detained. Nevertheless an appellant can still appeal 28 days after an instruction has been given for deportation. However the deportation orders are usually reversed particularly when applications are made for judicial review.

A survey has revealed that many Sri Lankan Tamils especially those who have travelled from Germany or Holland are likely to return to Sri-Lanka when they are deported from the U.K for third safe country principle. Therefore judicial review has provided some effective remedies. For instance in the case of Subaskaran and two other nationals the court of appeal allowed the appeal and reiterated that the German officials did not give due consideration to the fact that the applicants had been persecuted by notorious secret agents. Therefore any attempt to remove the refugees from the country would be contrary to what was contemplated when the United Nations provided guidelines concerning refugees.

The case of Iyathurai is instructive, since this case was decided when members of the United Nations considered the question of human rights during their annual convention. . Therefore any effort to remove asylum seekers summarily could breach Article 3 of the ECHR regulations. The various submissions were regarded to be of persuasive value but the appeal was eventually dismissed.

Case Study 1:

Mr M visited this country on the 15th of December 1999 and was interviewed soon after he arrived about his method of entry into the U.K. Mr. M was apprehensive about mentioning that his application for asylum had been refused in Germany because the immigration officials might recommend him for deportation. Thereafter Mr M was allowed to enter the country temporarily and evidence of his fingerprints was reproduced and circulated within other countries, which were members of the European Economic Community .An intensive search revealed that Mr. M had previously claimed asylum in Germany and consequently in July 1999 his application for asylum in the U.K was summarily refused. Immediately after the immigration interview Mr. M was detained and arrangements were made to deport him, but he appealed against the deportation order and relied on S.212 of the Asylum and Immigration Act of 1996 which is quoted below.

"Section 212 (a): Thorough checks ought to be made to ensure that a person is not a national or citizen of the country which he is sent to.

(b) A person should not be removed to a territory where his life could be endangered or his liberty infringed because of his race, religion, nationality, membership of a social group and affiliation with a political party.

(c) The various countries within the European Union recognise the treaties, which were drawn up during the U.N convention for human rights and would act in accordance with the guidelines and not repatriate anyone in a way, which was contrary to the existing principles.

The following case is illustrative as it will soon be determined: Mr. A arrived in this country on March the 18th 2000 and his claim was thoroughly investigated during an interview. Immediately afterwards an asylum application was presented.

During the preliminary interview Mr. A concealed evidence of a previous application for asylum in Germany to counteract any adverse decision. Subsequently the asylum application was refused because the records, which contained his fingerprints, were examined and revealed there was an earlier attempt to claim asylum. Section 8(1) Schedule 2 of the Immigration Act of 1971 was referred to when instructions were given that the asylum seeker ought to be removed from the U.K and analogies were drawn with the relevant provisions of the Human rights act. The courts granted leave to appeal but the date when the case will be heard has not yet been ascertained.

Meanwhile the appellant has been fortunate enough to be released from detention.

THE QUEST FOR INTERNATIONAL PROTECTION

The 1951 Geneva Convention was designed to protect people who required the international protection specified within Article 1[a] of the U.N rules which states as follows:

"Owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political party is outside the country of his nationality and as a result of this the applicants are unwilling or unable to avail himself of the protection of that country". The Welfare Association has discovered that numerous Sri-Lankan Tamils are in actual fact apprehensive about being persecuted because of their ethnicity or political affiliation. However the interpretation of fear of persecution is susceptible

to various meanings and must be proved beyond reasonable doubt. Therefore the Welfare Association has observed their clients are often excluded from the above-mentioned Article 1[a] and risk receiving deportation orders. Moreover there are attempts to ensure that the question of overpopulation does not arise when countless immigrants attempt to emigrate from countries where there are civil wars and natural disasters have occurred such as earthquakes, famines and political instability. Therefore in an atmosphere of uncertainty the British courts have applied the U.N rules in various ways. Primarily the asylum applicants are regarded to be the responsibility of the country the applicant originally came from. However at the Geneva Convention specific references were made to the fact that there is inadequate protection given by European Member States who are signatories to the U.N Convention and that they have forbidden the amount of responsibilities they were actually to take.

INTERPRETATION OF PERSECUTION

The word persecution was not defined at the Geneva Convention and each country could attempt to interpret the word persecution in accordance with their own immigration laws. However the UNHCR handbook states that there are 51 signatories to the United Nations agreement who have been entrusted with upholding the chosen principles. Furthermore a reasonable inference may be drawn that persecution could be regarded as "a threat to life or freedom on account of race, religion, nationality". Certainly members of political parties or particular social groups could show they have a reason to be apprehensive. The case laws already established show that there are five conditions which an applicant must fulfil in order to be classified as a refugee.

[a] The people are outside the country of their nationality because they have cause to be apprehensive.

[b] The degree of persecution that a person feels apprehensive about must be sufficient to cause great concern.

[c] There must be a well-founded fear of persecution based on the United Nations reasons for determining that persecution exists. Therefore as a result of persecution the person seeking refuge in another country is unwilling or unable to avail himself of the full protection of the country he has renounced.

According to a feasibility report many clients cannot fulfil the rigid requirements, which could constitute persecution but might fall within other categories and could be considered for exceptional leave to remain. An observation has been made that the decision makers in the Home Office and the immigration arbitrators have applied the test of persecution in various ways. Moreover the statistics in the home office reveal that about 9% (400) of the Sri Lankan asylum seekers applications are granted refugee status by the Home Office in year 2000. However decisions are often overturned during asylum appeals stage and granted Refugee Status after the court decision 45% of the Sri Lankans appeals are allowed by the Adjudicators in last year. In contrast 17% total all nationals of appeals were allowed.

MAKING AN ASYLUM APPLICATION

During the process of making an application for asylum the applicants making the application in two ways.

- [a] Asylum seekers apply at the port of entry and are referred to as 'port applicants'.
- [b] Asylum applications are forwarded after a person has arrived in the country and these are referred to as 'in-country applicants'.

Travellers who arrive in the U.K are expected to give substantial reasons at the earliest opportunity, or their immigration applications could be disregarded and referred to as incredulous. However in actual practice most asylum seekers are unaware that adverse conclusions could be drawn when their asylum applications are reviewed. Therefore many asylum seekers are apprehensive and uncertain whether or not it is advisable to present asylum applications at the port of entry. There are other factors, which have been taken into consideration when applications for asylum are presented tentatively and some of the reasons are listed as follows:

- [a] Language and communication barriers.
- [b] Previous harrowing experiences from uniformed officials.
- [c] Moreover some people are reserved because of their past experiences and are unlikely to confide in anyone easily and are reluctant to divulge information.
- [d] The cost of legal advice.

Consequently many people are wary about

presenting asylum applications immediately they arrive in the U.K. Furthermore in instances where asylum applications are forwarded the reasons are sometimes unconvincing when compared with the United Nations requirements. In cases where further and better particulars of an immigration application are submitted this could be of persuasive value but; however the ratio of credibility could also be regarded to be minimal. The Tamil Welfare Association has observed that some of the people who prepared asylum applications last year were invited for immigration interviews immediately after they arrived whereas some asylum seekers received notices of immigration interviews on a later date. There have been situations when asylum seekers have been instructed to attach 'statement of evidence' (SEF) form to their asylum application. Depending on the circumstances of each case some asylum seekers have acted through interpreters and have not fully comprehended the implications of the statement of evidence form. The SEF form must be forwarded within 14 days otherwise the prospective asylum seekers may soon discover that their applications have been refused because they have not complied with the necessary requirements.

NON-COMPLIANCE REFUSAL

As a result of the innovations, which have been included in the asylum application process, asylum seekers must complete their asylum claim within the stipulated time limit or forfeit the option of having their asylum applications considered. However the Home Office has claimed that ten of our clients were refused based on non-compliance i.e., have not reached on time. Usually the SEF form is completed and a method of special delivery accelerates the process. As a result the Welfare Association continues to strive to obtain evidence from the postal department, which proves most conclusively that the forms have been delivered promptly in accordance with the immigration requirements. In ten of our cases, seven were withdrawn by the officials when proved that they were delivered on time but three cases were not withdrawn. These were taken to the court wherein the adjudicator affirmed that if the officials did not withdraw, the adjudicator would permit the appeal. The appeal process has not yet been finalised. However a conclusion has been drawn that asylum seekers could be deprived of a fair hearing if they discover that a decision has been made within a certain time limit, before the Home Secretary is fully seized of the facts of each case.

The defence that a case has been heard without a fair hearing has been used by some asylum seekers when the prospect of deportation looms ominously overhead. When the initial asylum application is refused then the asylum seeker would be stripped of state benefits. Subsequently the asylum seekers would lose their privilege to secure accommodations with immediate effects. The combination of all these disadvantages has caused the asylum seekers untold hardship and a certain amount of trauma. An appeal has been made to the Secretary of State to apply the laws appropriately when dealing with the applicants who can show convincing and compelling reasons why their appeals should be considered.

Case Study 1:

Miss B arrived in the U.K on the 5th of August 2000 and presented an asylum application at the Home Office in Croydon. After an intensive investigation at the asylum screening unit Miss B received a SEF form which she completed and returned by a special delivery on the 14th of September 2000 before the required date which was on September the 19th 2000. Nevertheless the application for asylum was refused on the 27th of September 2000, and a paragraph of the letter of refusal is reproduced for ease of reference.

"You have failed to return the SEF form within the required time limit, therefore your application for asylum has been refused because the Secretary of State carefully considered the asylum application but was not satisfied that you have established a well founded fear of persecution. Therefore paragraph 336 and 340 of HC 395 is not apposite in your peculiar case and you shall cease to receive all Government assistance". Nevertheless an appeal was lodged on the 4th of December 2000 and the asylum application was reconsidered. Thereafter a letter was received on December the 4th 2000 which specifically stated that the reasons for deciding the case were given without taking cognisance of the fact that there were further and better particulars simply because there was a slight delay in returning the statement of evidence form. Therefore there was a chance that the case could be reviewed and the "ratio decedent" could be extracted from the form, which was marked as Exhibit ICD-0093.

Case Study 2:

Ms S landed at the Terminal 4 immigration on July 2000 and claimed asylum. She was given self-completion asylum application form and requested to send back within 14 days time limit.

With our help she returned the completed form by special delivery and it was served 1 day before the dead line. However her asylum application was refused under the paragraph 336 and 340 of HC 395. We made the appeal to the special adjudicator and at the direction hearing we made the request to the special adjudicator to ask the Secretary of State to review this matter in the interest of Justice. But the Home Office was hesitant in withdrawing the case but the adjudicator's decision forced them to do so and finally they withdrew. Our request was accepted and we are waiting for the reply from the Home Office.

DUBLIN CONVENTION REFUSAL

In our experience, last year some of our client's asylum claims were turned down without substantive considerations because they had claimed asylum in other European Member States. Therefore under the Dublin Convention, those claims were not be considered by other Member States. Those, whose applications have been turned down, will face possibility tension and removal from the U.K. to the particular European Member States under the Safe third Country principal.

Though their asylum claims were turned down by that particular member state, and most of the asylum seekers were kept in detention and removed to their native countries. Those who fail to declare their asylum claims in the member states can be caught by their fingerprints. Many whose asylum applications were refused were deported to Sri Lanka but many of these who felt that it was too risky to return to Sri Lanka have sort the help of other countries like the U.K or the other European member States. These failed asylum seekers are treated like criminals once their previous asylum claims are discovered. Who ever were refused under the Dublin Convention agreement have not got the right of appeal while in U.K. However in the past successful judicial review prevented them from such a removal. In the case of Mr. Subaskaran (INLR 176), the court of appeal found that the applicant's removal was not appropriate because his claim was not properly considered by the European Member State (Germany) particularly non-state (agents of) persecution is not considered by the German Asylum Law. In another case Aitsegeur, an asylum seeker who feared persecution by non-state agents in his country of origin and his state was unwilling or unable to protect him was entitled to persecution of the Geneva convention relating to the Status of the Refugees (1951)

(Cmd 917) and its protocol (1967)(Cmd 3906).

Therefore Germany and France which did not recognise the Convention as affording such protection were not safe third countries to which the Secretary of State for the Home Department would authorise, pursuant to section 2 of the Asylum and Immigration Act 1996, the return of asylum seekers who claimed to fear persecution by non-safe agents. In this case House of Lords found the Secretary of State materially misdirected himself and maintained that his decision must be quashed and stated France or Germany is not always safe country for all asylum seekers.

SECTION 65 OF THE IMMIGRATION AND ASYLUM ACT 99:

Since October 2000, due to the effect of the Human Rights Act and Section 11 of the Immigration and Asylum Act 99 there are considerable changes in this matter. Any asylum claim certified under the provision of Dublin Convention after 2nd of October 2000, no challenge is possible against the Secretary of State's decision where the third country signatory to the Dublin Convention is willing to accept the responsibility of the particular asylum applicant. Section 11 was introduced to deal with the delay and complication wherein the asylum seekers were removed from the U.K. to the particular EU Member States.

Under the section 11, if the Secretary of State certifies that the Member State has accepted its responsibility under the standing arrangements then the removal will be the administrative order. However section 65 of the Asylum Act 99 provides opportunity to make the application on Human Rights ground. The European Court of Human Rights in the case of *Ti v UK* (2000 INLR 211) rejected the U.K's contention that the return of Asylum seekers to Germany did not engage the U.K's obligations under the European Human Rights Convention. In such circumstances attempt by the Secretary of State to certify Human Rights application for a Tamil asylum seeker should be subject to judicial review. There is an existing test case (Mr. Yogathas) that is due to be heard in February 2001. The outcome of this case may give further direction to deal with this matter.

MAKING AN ASYLUM APPLICATION

In the year 2000 6,040 (8%) Sri Lankans are claimed asylum in UK and second highest nation-

als made the applications in UK most of our clients were found to be in-country applicants. Because of the increased surveillance at the ports and the carrier's liability fine, asylum seekers avoid seeking asylum at the ports. Further the fear of removal also prevent them to enter the country once they secure their presence in a safer place, then they are making their asylum claim at the port or Home office. These applicants will be called 'in-country applicants'. Once they make their asylum claim, they will be screened and fingerprinted after they may be called for an interview or asked to send the self-completion asylum application within 14 days time limit. But who claim asylum on their arrival will be called 'port applicants'. Many of the port applicants are interviewed for their full asylum claims on the same day after the arrival with the help of interpreters. Due to this practice port applicants are inept to seek much needed legal advice before they make their claim, sometimes these asylum seekers are interrogated by the interviewing officers because there are no independent witness available at the interview. Additionally the interviews are not recorded in audio recorders. At these circumstances interpreters can make the mistakes or interviewing officer can record whatever answer he/she wants to record in the interview notes.

The asylum seekers are frightened to speak freely as a result of that many important facts are not disclosed at the interview. Many late submissions by the applicants mostly are found to be an adverse credibility findings. This is another reason asylum seekers do not want to claim asylum at the ports on their arrivals. Sometimes these practice and system wrongfully coached by the agents those who are helping them to get out of the country safely and bring them into a safe country to encourage and improve the asylum seekers to disclose their truthful and full claims in first opportunity can be only possible through a fair legal representation. Therefore the government needs to review this practice and allow the applicants for a few days time to seek legal advice and to recover from their past trauma before they face their asylum interview. In our experience most asylum seekers who shout legal advice and also have their representatives with them during the interview were feeling more comfortable and co-operative with the interviewing officer. Therefore quality of the applications were good and decision-makers can make their decisions without any errors or mistakes. The persons those who are asked to submit the asylum applications within

14 days time, sometimes not be called for an interview. This is also causing some problem at the later stage because the decision-makers haven't got the answers for their questions as a result of that decisions are made on assumptions by the decision-maker.

ASYLUM INTERVIEWS

At Leeds and Liverpool

Since July 2000 most of our clients were asked to attend for an interview in Liverpool or Leeds. This sudden arrangement without any advance notice is causing problems for the immigration practitioners and asylum seekers. Many Community Organisations are mostly affected adversely. For instance we are functioning with limited resources and tight financial budget is the most worrying matter and has caused a lot of inconvenience over a period since this change took place. To attend an interview at Liverpool in the mornings costs £140 for a Travel ticket only. The first in October to January this year train available from London Euston 6.58 -Liverpool is at 11:20 a.m in the morning and at this rate it may be highly impossible for the applicants to attend the interviews fixed at 9:30 a.m. Therefore our staff are forced to travel one day prior to the interview and stay in the hotel to complete the next morning interview. This is another expensive arrangement forced to make of the appellant. Those who are receiving financial assistance from the local authority or national asylum support service can get a travel expenses cost for the relevant authority. But for 9:30 a.m interview asylum seekers are given travel vouchers to national express coach which they have to take at mid night 11 p.m, a coach service from Victoria to Liverpool. They will arrive at 6:30 a.m and they are made to wait until 9:30 at the station or in front of Liverpool interviewing office. Due to the freezing temperature and all-night journey they may be unable to answer the questions posed to them by the interviewing officer. Further more due to the speed restrictions imposed by the rail track agencies and flooding between Octobers to Decembers, many interviewees were unable to attend them on time or they were not able to reach Liverpool at all due to cancellation of train services. The representatives, if they are late more than 20 minutes for any reasons will be turned away from Liverpool or Leeds. Many of their interviews were rescheduled in January 2001 in the same places. Two of our client's asylum applications were turned down and

one of their applications were considered without the interview and wrong decisions were made. In both the cases applicants had attended the interview with half an hour to 40 minutes delay due to the train service. We wrote to the Liverpool interview booking unit and requested them to reschedule the interviews but our requests were not considered. Both of them have now made their appeal to special adjudicator and are waiting for the hearings. In some cases we are suspecting that the decisions were made before the asylum interviews, because two days after the interview we received the negative decisions by post. Nonetheless these applicants are allowed to make their further representations within 5 working days if necessary. However interviewing officer's approach, attitude and decision making processes are reasonably good compared to the ports in the southeast of England.

INTERVIEWS AT THE HOME OFFICE CROYDON AND PORTS IN AND AROUND LONDON

Many of our clients also were asked to attend the interviews at the Whitgift centre at Croydon mainly those people who had arrived at the Waterloo station or Dover port. These interviews are scheduled within very short notices; sometimes we receive letters on the days of interviews. Normally these interviews take about an hour and half compared to the past 3-4 hours because majority of the clients are asked to send the standard of evidence form. However decision-making processes are not very good off late, decisions are made in the rush without adequate considerations. Besides interviewing approach also are different from Liverpool and Leeds. However it is much better than the interviews held at the ports. Since October 2000 asylum seekers, those who arrive at the airports are interviewed immediately after the arrival. Sometimes they may be left outside the airports over the night and will be asked to attend interviews, the next day morning 9 a.m. This type of practice clearly prevent applicants seek legal advice and also try to make much difficulty for the asylum seekers to put their cases properly. On top of this there are always risk of detention while attending the interviews at the ports and the legal representatives are also made to wait long hours and the treatment towards the representatives or the asylum seekers are very callous. The representatives are scrutinised before they attend the interviews and the interviewing officers think that they are the main authorities i.e., they are investi-

gation officers and judges. They always try to get the answer from the asylum seeker's mouth according to their wish. Until they are satisfied they will repeat the same question in different ways. The legal representatives are strictly ordered by the officers to sit as an observer, any attempt to facilitate the interview smoothly will end up in removal threat of the representative from the interviewing room. The people who are attending without a legal representatives face uphill struggle to put their cases according to their wish. The main reason behind this is that the officers are only trying to find the adverse credibility of the applicants, instead of finding the relevant experience faced by the asylum seekers in the past or their reason for their fear.

EVIDENCE TO SUPPORT THE ASYLUM CLAIM

Often interviewing officers ask the applicants for evidences to support their claims. But it is not always possible to put a subjective evidence to support their claims because in Sri Lanka, Tamils are arrested under the **Prevention of Terrorism act and emergency regulation**. Therefore the applicants are not given any documentation registered or any reasons/reason for their arrest or detention. Further detention can be held by the approval of the chief commander of that camp involved in the arrest. Therefore the detainees need not be brought to the court and hence most of the times detained without any reason, but for ethnic discriminations amongst Singhalese and Tamils.

Further many of the North and East of Sri Lanka, the civil administration does not exist and court services are also not available. The Tamils who are held in South are lacking their legal representations because very few Tamil-speaking lawyers are practicing in the South and also another problem is the fees, as they are too high to be afforded by the clients. However some of the clients those who manage to submit the documentary evidence to support their claims are also undermined by the decision-makers. Sometimes this will discourage the applicants to put forward their available evidence. Despite this fact, many of our clients were able to put their scars and wounds caused by the torture as evidence. Sometimes these scars were put forward in the form of photographs. Whenever possible medical reports were also put forward as evidences, sometimes newspaper cuttings were included as evidences. But it is to be noted that only the objective evidence is adept

able to support the asylum seeker's claims, even then the decision-makers give little weight on this matter. This attitude of the officers has to be changed or else they cannot make a proper decision.

INITIAL DECISION MAKING BY THE SECRETARY OF STATE

In year 2000, 4035(88%) Sri Lankans appeal were refused by the Secretary of State. In the past initial decision-making were served through an interview but in the year 2000, in the effect of Immigration and Asylum Act 99, initial decisions are sent by post as refusal letters. Those asylum seekers who disagree with the decisions can make their appeal within 10 working days time through their representatives. In the year 2000 more than 100 of our applicant's decisions were refused and they re-applied against the decision of the interviewing officers, particularly April-June 2000. This as a time when the war was severe in Sri Lanka between the LTTE and the security forces and also the rate of human rights abuses by the security forces were high. According to the decision-making process, 'the applicant has to establish a reasonable likelihood that the person would suffer persecution for a convention reason'. The lower standard of proof is established in the case Sivakumaran (1988 1 AC9 58) and Kaja (1995 Imm Ar 1), the existent of that likelihood had to be considered as at the date of the decision-making and issues in the round, and taking into account all relevant circumstances -(Ravichandran-1996 Imm AR 97); giving each item of evidence such weight as it deserves -(Karunakaran-2000 Imm AR 271). We took this matter to the immigration minister Barbara Roche through our MP Mr. Stephen Timms. We received the reply on 11th of July 2000 from the minister stating - " I can assure you that no asylum seeker is removed to any other part of Sri Lanka other than Colombo, and that directions are set only when we are satisfied that it is safe to do so".

This policy of sending the North and East Tamils to Colombo in the South is unduly harsh. When the asylum seekers fail to convince the interviewing officers, they are simply dumped in Colombo airports by the western countries, most of them are immediately arrested at the airport on arrival just because they breach the Immigrant Act of Sri Lanka. Later they will be investigated by the C.I.D officers and kept in the detention for unlimited period under the Emergency Regula-

tion and Prevention of Terrorism Act. During this detention period, the returnees are tortured by the security forces or jail guards or fellow Sinhala inmates, this being the usual habit. Whoever is left at the airport will be followed by the C.I.D's or the plane cloth officers and they can be arrested or the person may disappear. Whoever manages to reach the community may be saved for one or two days until the person may be caught during the routine round of or at security check points for simple reason that they do not have their residency permit to live in Colombo area or they do not have the identity cards with them. Even for those who hold identity cards identified as a Tamil person from the North and East of Sri Lanka will be at a high risk of arrest and long-term detention. There are no official monitoring system available in this matter but reports are suggesting that majority of people are released within 48 hours. But there is no evidence to support this claim. Therefore we believe that the government policy to repatriate the failed North and East Tamil asylum seekers to Colombo is objectionable. The immigration enforcement unit always tries to keep some of the failed asylum seekers in detention with a threat of possible removal order. Further since last year the asylum seekers whose applications were initially rejected were asked to report to the police station or at the home office on monthly basis, while their appeals were waiting for hearings. These unnecessary practices are panicking the community and put the pressure on immigration practionars and community groups.

REASON FOR REFUSAL

Common grounds featured in the Tamil asylum seeker's refusal letters

a. "According to your claim Secretary of State has noted that you have been arrested/detained and ill-treated by the security forces in Sri Lanka on many occasions on suspicion of involvement with your political group. However Secretary of State noted on each time you were released without charge, moreover authorities would not have released you if they had any continuing interest on you."

b. "You claim you helped the political group (LTTE) willingly, therefore Secretary of State considers your arrest, questioning and detention are related to the terrorist offence, therefore the Sri Lankan security forces had legitimate and lawful action against you"

c. "The Secretary of State is aware of reports of continuing abuses of human rights by members of security forces in Sri Lanka and concerns about impunity of those responsible. However he understands that the government of Sri Lanka and president herself are firmly resolved to improve the human rights"

d. "You did not leave Sri Lanka immediately following the first incident or arrest. Therefore the Secretary of State holds that if your fear of persecution was genuine you would have left Sri Lanka at the earliest opportunity and the effect that you did not, casts doubt on your claim"

e. "You failed to claim asylum on your enroot to the U.K, therefore it has reduced your credibility"

f. "You assisted the LTTE in the past, albeit under duress, if it is correct there are no reason to leave your country and continued interest by the security forces in you are inevitable."

g. "You were able to obtain a properly issued passport when you used to live in Sri Lanka without difficulty, therefore it indicates that you are no longer interested in Sri Lankan authorities"

h. "You stated that you would have been able to depart Colombo airport using a forged passport, Secretary of State is aware that there are very strict security controls at Colombo airport, and hence unable to justify your claim. This has casts doubt on the credibility of your claim"

i. "In your own admission you failed to claim asylum on the day of arrival, therefore its casts doubt on your credibility"

j. "The Secretary of State remains of the view that members of the civilian population, whatever their religion or ethnic origin, have nothing to fear from routine action and inquiries made by the authorities. In order to combat terrorism and to maintain law and order"

In Sri Lanka LTTE suspects are highly at risk of arrest, detention and ill treatment under the 'Emergency Regulation and Prevention of terrorism' act without any trial or lawful action. Amnesty International 2000 report states "Human rights committee expressed particular concern that

Sri Lanka did not fully comply with its pre-treaty obligations ... the changes made to the emergency regulations in May 2000 far from insuring the regulations compliance with Sri Lanka's obligations under International Human Rights Law, instead further erode the protections they contain against Human Rights violation. They facilitate torture and disappearances, violation of non-derogable rights such as the right to life and the right not to be tortured....., although the Human Rights Commission of Sri Lanka Act number 21 of the 1996(Section 28) requests that the Human Rights Commission should be informed of all detentions forth with and in any case not later than 48 hours after the event. This requirement has not been incorporated into ER17. If detentions are not reported to the HRC, it will not be able to fulfil its mandate to ensure the welfare of prisoners ". As stated by the Amnesty International Report, the Security Personnel on arresting a person based on suspicion do not report to the higher authorities nor a valid arrest warrant is shown to the suspect and the Security Personnel has the authority to keep the suspect in the prison without any interference with a time limit. Further unofficial detention camp and pro-government militant group's unauthorised activity is also another contributing factor with regards to this. This is so because Emergency Regulation and Prevention of Terrorism Act facilitates such a situation and it is preventing the other laws to be active on these matters.

The Hague Report 99, Ministry of Foreign Affairs, UK states -" Tamils often find themselves in detention on the grounds of the Emergency Legislation (PTA or ER). Some are kept in detention for long period without ever coming before the judge. In other cases, the judge repeatedly extends their remands because the police report that the investigation is not yet complete" Further the Human Rights Commission found evidence that 16,742 persons disappeared after having been moved voluntarily from their homes, in most cases by the security forces. Human Rights Observers believe that due to inadequate leadership and a failure of the HRC to give long term contracts to many of its workers the organisation was not pursuing its mandate aggressively. "Those who disappeared in 1998 and previous years are presumed dead.....no security force personnel have been prosecuted to date".

U.S State Department of States Report 2000 reports "Torture is defined as a specific crime and

high court has jurisdiction over violation of the act. the government however has not developed effective regulations under the new legislation to prosecute and to punish military and police personnel responsible for torture, though it has ceased paying fines incurred under civil law. Member of the security forces continue to torture and mistreat detainees and other prisoners both male and female, particularly during interrogation. Most torture victims were Tamils suspected of being LTTE insurgents or collaborators ". In the case of Pat (15060) the learned Adjudicator states- " we add only that we do not think it necessarily "incredible" that a person would be released after 10 days without being charged with any offence. It is perfectly possible for a person to be detained and ill treated, then released with the thought that ill-treatment would be sufficient to clear the defer from further activity. But whether or not that is so, depends on the view taken of the evidence as a whole."

Under the article of the United Nations convention relating to the refugees 1951, as amended by the New York protocol, a refugee is a person who is entitled to international protection by reason that they-"owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of particular social group, or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country". It is quite clear that the protection level in Sri Lanka on the minorities i.e., the Tamils is nil. Though they support the political party, which they think will relieve them of their current fear of persecution due to different ethnic origin, language and sometimes religion, they are considered to be active terrorists. This group although considered to be terrorists, still peace negotiations are often held by the high authorities like the President and the authorities of the LTTE. International government's representatives including UK are nevertheless very much involved with these negotiations. If they considered them to be terrorists they would not take part in such negotiations. Further the asylum seekers who haven't committed any crime or illegal activities cannot be named as terrorists and the Home office should not refuse their applications so inconsiderately.

All the Human rights reports including U.S State Department Report, Amnesty International Report, UNHCR report, Human Rights World Watch report, UN Special report have stated in

their year 2000 report that human rights situation handled by the Sri Lankan Government only appear to be committed to be improving the Human Rights situation but in reality, this is not true. The Hague Report 99 says that about one thousand six hundred and fifty (1650) have remained as long-term detainees arrested on the basis of PTA and ER. For example in Kalutara prison alone, on 3rd of June 1999, there were 682 Tamils remands under the ETA and ER amongst whom there are only 42 are convicted prisoners.

UN report says that mistreatment and torture is used in police stations and other detention centers to make someone admit that he is an LTTE member or sympathizer and also to get possible information from the suspect. One of the former Lance Corporal Somarantne Rajapakse claimed that he had knowledge of mass grave at Chemmani in Jaffna where the bodies of up to 400 persons killed by security forces in 1996 had been buried. Amnesty International 2000 Report titled 'Sri Lanka: Torture in Custody' says - "As seen by the continuing reports of disappearances and torture being reported from Sri Lanka, there are still major problems in implementing the safeguards. Although failure to implement them is an offence under the ER, to date no members of the security forces are known to have been charged under these provisions".

For the asylum seekers it is the last resort to leave the country and seek international protection. Initially they try to replace themselves from the army-controlled areas to the LTTE controlled areas. When even these areas become prone to dangers, they seek to flee from the country. In the case of Mr. Sabanathan V Canada (FAC A 536-90) it was found that - 'a person successfully hiding from his prosecuted can scarcely be said to be experiencing no problems'. The applicant's fear explained very well during the interview that delay in leaving the country is not relevant and further applicant stated in his evidence he thought he was safe in LTTE controlled area until he fled.

The refugees flee from their country without knowing their destinations. Their immediate task is to get out of the country and seek protection anywhere possible. In our experience their agents or the circumstances decided many asylum seekers future i.e., what they can at that moment of their lives. Further there is no safer asylum giving countries available for Sri Lankan Tamils amongst the neighbouring countries. By law there is no con-

vention that a refugee seek protection in the country nearest his/her home or even in the first state which she/he flees. Nor is it a requisite that a claimant travel directly from his/her country of first asylum to the state in which she/he intends to seek durable protection. The universal scope of refugee law effectively allows refugees to choose for themselves the country in which they will claim refugee status.

In Sri Lanka army is not arresting the people or ill-treating them after the investigation. As a Tamil, for some reason if one is suspected then the person will be arrested and tortured. The security forces are not bothered to find out whether his association with LTTE was wilfully done or not. Further there are no references under the PTA or ER that people is free from risk of arrest and detention, especially those whose involvement are under albeit under duress. In our experience we have some across many seekers who were detained by confession due to torture.

The Sri Lanka Country Assessment report, April 2000(5.2.39 and 5.2.42) states, how corruption are widespread among officials. The asylum seekers are employing the agents to bribe the officials in the airport to ensure safe departure. The Government is not keen on retaining these people, particularly the LTTE supporters. On top of all these the entire system is not computerised because of which a person most wanted in a different area goes unnoticed and hence can flee from the country. Manually updated lists of the wanted persons are also not available for further checking. Due to the fear of losing life one is forced to take up a forged passport and tries to escape from the place, which poses danger to a safer place.

Due to effects of trauma, language problems, lack of information, previous experiences with authority and feelings of insecurity rather than with a view to falsifying their claims with the assistance of friends and contacts in the country fled, a refugee may not be able to open up completely (Adimi, 1999, NLR 490). According to Prof Jackson determining the case Bollou (20751-14/15/99) states-"persecution is not limited to ill-treatment or physical harm, but includes the denial of fundamental rights. Further IAT agreed with Gooduim-Gill and Hathaway principle the applicant seeking protection on his own past experience and fear of persecution on his return, the applicant fear can be well founded by objective evidence".

POSITIVE DECISIONS BY THE SECRETARY OF STATE

In the year 2000 about 16 of our clients were granted the refugee status without the interference of the court. Compared to the previous years, this number has increased. But still we feel many asylum seekers can be granted because 50% of the asylum seeker's appeal heard by the adjudicators allowed refugee status without the court interference. This result indicates that Home Office decision-makers are not applying the law appropriately. Further those who are not found to be a refugee under the convention reason, (about 3) people were granted exceptional leave to remain outside the immigration rules. Still we strongly feel many Tamils may be granted exceptional leave to remain in the country because they are unable to move back to their native places for many reasons. Further people who are severely affected by the civil war are 'not cowards' as 'a refugee' under the UN refugee convention. And also unaccompanied refugee children, disabled persons and elders can be granted exceptional leave to remain in the country.

QUALITY OF THE DECISION-MAKING

Compared to previous year, there are slight improvements in the assessment of asylum seeker's applications and the reason for refusal is some information about the particular persons claim-related issues. Even then only 2-3 paragraphs are considered according to the applicant's individual claim while other 10-12 grounds are general country information. Again this information is also contradicting very much with the home office country assessment report. It clearly shows decision-making officers is either not referring the country information policy unit documents properly or they are misinterpreting the facts in the policy documents. This is the main reason why we believe that the decision-making by the Secretary of State is continuously below the standard. Additionally adverse credibility findings are the most common techniques used by the decision-makers and based on that adverse credibility, they refuse the applicant's entire claim. Nonetheless we noticed compared to previous years the applicants are aware of the credibility issue and putting forward their claims without any discrepancies. However the asylum seekers who are dispersed around the country particularly Liverpool, Glasgow, Newcastle area are still in disadvantageous

positions to make their applications properly because of no quality legal representations, interpreters availability and lack of knowledge and awareness of the dispersed asylum seeking community. Therefore we believe that the quality legal representations and introduction of the statement of evidence form are the main contributing factor about this improvement. However the decisions made hastily prevents the asylum seekers to put their evidence before the initial decision-making, particularly medical report. Obtaining these medical reports related to their claim is not a fast process in practice, it takes a minimum of 3 months, sometimes it may take up to 6 months, but the decision-makers are not prepared to wait for the evidence. Sometimes they make their decisions without these evidences. The applicants are allowed to put their further representations within 5 days after the asylum interviews. But in our experience we have seen that the applicants receive the decision letter (refusal letter) in 3 days after the interview.

Case study 1:

Mr. J was interviewed on 30th of January 2001, but on 5th February 2001 he was informed by letter that his asylum application was refused. Again in the meantime, a letter dated 8th February was received asking him to put forward any evidence related to his asylum claim before the 19th of February 2001. This clearly indicates that some blunders have taken place at the decision-making office.

Case Study 2:

Ms S attended the interview on 15th of January 2001 at Liverpool. She was informed on 19th January 2001, that she did not qualify for asylum therefore the application was determined (decision made on the same day) on 19th January 2001. Again in this case, at the end of the interview she was told, she can put forward any evidence related to her claim within 5 working days.

These kinds of errors can be avoided which will improve the quality of decision-making by the officials and the confidence and trust among asylum seekers. However we have noticed some applicants are granted refugee status within a short time limit.

Case Study 3:

Mt T arrived in this country 6th of October 2000, on his arrival he was asked to send the completed statement of evidence form not later than 20th of

October 2000. He was asked to attend an interview on 8th of November 2000, subsequently he was granted refugee status on 14th of November 2000. This applicant was granted his refugee status within 37 days of his arrival.

GRANTING EXCEPTIONAL LEAVE TO REMAIN

In the year 2000, 5 of our clients were granted exceptional leave to remain after their asylum applications were refused. But these people are in unfavourable positions compared to the persons granted refugee status because 3 of them were married persons, their family, wives and children were left in Sri Lanka, they were unable to rejoin them within 4 years because the exceptional leave to remain is not allowing the family reunion. The exceptional leave remain letter clearly states - "this grant of exceptional leave does not entitle your spouse or children under 18 to join you. An application for them to do so cannot normally be considered until 4 years from the date of this letter. An application for family reunion may be granted at an earlier point if there are compelling compassionate circumstances." But this is clearly breach of Article 8 of the Human Rights Act and ECHR, which states that '*one has a right to private and family life, home and correspondence*'. When this decision was informed the asylum seeker could appeal against the decision, not to accept this asylum claim. But in practice this is too risky because once the appeal is made against the Secretary of State's decision, then Secretary of State will most likely withdraw his exceptional leave to remain or it may not be valid when the appeal is active. Then the immigration court can make the decision according to it's own findings either way. Further those who are granted exceptional leave to remain are required to renew their VISA within 6 weeks time of their expiry. At the time of expiry the Secretary of State can review their situation and it can be renewed or rejected.

Case Study 1:

Mr. J arrived in this country and made his claim on 1st February 2000. On his arrival he was asked to send the completed SEF (Statement of Evidence Form) within the time limit. Then he was asked to attend an interview on the 3rd of November 2000, subsequently on 5th of December 2000 he was informed by a letter stating he was granted exceptional leave to remain and also he was sent the refusal letter for asylum with appeal papers. However Mr. J does not want to take a

risk to use his right of appeal. This means he may need to wait 4 years to reunite his wife and child in Sri Lanka.

DECISION MAKING BY THE SPECIAL ADJUDICATORS

Last year about 120 of our client's asylum were refused and appeal was made within the time limit. Most of them are now waiting for their appeal hearing. However the practice procedure states once the appeal is made then the Appellate Authority needs to send the appeal related documents to the appellate representative. But these 42 days time limit in many cases are never met by the Appellate Authority. We believe that the reason behind this is that the Home Office recruits the workers to process the asylum seekers claim in a fast track method, at the same time Appellate Authority is not in a position to cope with the appeal made by the applicants after the refusal. Therefore the asylum seeker's applications initially may be determine by the Secretary of State, but they have to wait for many months to hear their cases. During this time their permission to work is also suspended or withdrawn subjected to court decisions. Similarly their benefits and accommodations also are affected. Due to these reasons, many of them are facing the uncertainty and their statuses are in limbo. We expect the Government to take action to hear the refused asylum seeker's cases without much delay.

Case Study 1:

Mr. A arrived in UK on June 1999. He was interviewed on September 1999 about his asylum claim. His asylum application was refused on April 2000. He made the appeal within the 10 working days time limit. However he did not receive the documents bundle related to his appeal until February 2001 or any other status related documents from the Appellate Authority or the Immigration Office.

FIRST HEARING OR MENTION HEARINGS

This is the new pre-hearing in practice in the last 2 years. The purpose of this hearing is to establish the applicant's procedural matter in order, particularly to find out the readiness of the asylum seeker's ability to face the assessment by the special adjudicators and also to establish the convention reason. Further number of witnesses will give the evidence within the estimated time limit

and the interpreter's need. Besides this, at this hearing further directions can be set out by the adjudicator to produce the witness statement paginated and indexed bundle of documents to be relied on at the hearing. A skeleton argument and chronology of events if there is any evidence involved, those evidences are also put forward not later than the requested time limit. Any preliminary issues existing must be put forward at this stage. The legal representatives may need to attend the hearing when necessary. If not they must comply with the directions set out by the special adjudicator. After this pre-hearing normally applicants will be scheduled for a full hearing within 8 weeks time

APPEAL HEARING BY THE SPECIAL ADJUDICATOR

The purpose of this hearing is to find out whether Secretary of State made the right decision or if there are any new evidence available for consideration after the Secretary of State's decision. The special adjudicators normally will carry out their assessment through appellant oral evidence, witness statements and his interview notes with any other available evidence before him or front of adjudicator including objective material. The initial findings are with the applicant's who fall under the UN Convention reason. If the applicant falls under this reason then they check if there are any serious possibilities of persecution in the future if returned to Sri Lanka. In our experience, about 90% of our clients are meeting at least 2 convention reasons set out in the Refugee Convention. But to prove that they are prone to future persecution is very difficult. Many adjudicators are accepting the past persecution but they are concluding that the particular asylum seeker can be relocated within Sri Lanka and majority of the returned asylum seekers are arrested at the airport in Colombo and released within 48 hours. With this statistics there is no reason to suppose that the appellant would not fall within the majority returnees. However there is no official monitoring or authorized statistics available on this matter.

CREDIBILITY FINDINGS

The Adjudicators during the assessment will first scrutinize the appellant on credibility issues. If the adjudicator accepts the credibility, only then the other evidences are likely to be believed, further onus of proof is laid on the appellant. There-

fore appellant fulfils the criteria established in the case of Horvath (INLR 7). This test includes 5 criteria namely:

- He is outside the country of his nationality because he has a fear of ill treatment.
- The ill treatment that he fears is of a sufficiently grave nature as to amount to persecution.
- His fear of persecution is well founded.
- The persecution is for a Convention reason.
- He is unable, or owing to (well -founded) fear of the persecution and is unwilling to avail himself of the protection of that country.

Even when the applicant fulfils these criteria, if the court finds the adverse credibility, then the claims of the applicant may not be accepted. Then the applicant needs to prove that he/she will face the persecution on their return. The House of Lords in the case of Sivakumaran (1998 Imm AE 147) and also in the case of Koyazia Kaja (11038, Imm AR 1), have defined that the standard of proof be at the lower end of the civil standard of proof of the balance of probabilities, that there has to be demonstrated a reasonable degree of likelihood that the person will be persecuted if he/she returned to his/her own country i.e., there is a lower standard of proof expected in asylum cases. However in practice many adjudicators claim that they are applying lower level of standard but in the end they are making the decision with higher standard of proof. This is another hurdle the refugees are to overcome to pass their asylum test.

METHODS OF ASSESSMENT BY THE ADJUDICATOR

Last year many of the asylum seekers were asked to complete the statement of evidence form (SOE) and majority of them were interviewed based on their claim. When their cases failed before the hearing they were asked to produce witness statement finally on the hearing day, applicants would give the oral evidence before the adjudicator. During this oral evidence Home Office presenting officers always try to undermine the asylum seeker's credibility putting them in confusion. Further adjudicators may also examine the asylum seeker's claims, all these process asylum seekers can easily make many mistakes which will cost some discrepencies in their claim which resulted in they losing their cases in the court. Despite the immigration appeal, Tribunal decision in the case of Bavan (12829) was different. If the credibility is not challenged at the refusal letter, then credibility can't be an issued at the hearing.

This means Secretary of State generally accepts the applicant's claim without any doubts, despite these decision adjudicators and the presenting officers insist on entering the credibility findings. Though the appellant has the option of verbal evidence, sometimes the officers find these against them. The evidence put forth before the adjudicator may be believed or not and entirely up to the adjudicator. Whenever we are making the appeal against the special adjudicator's decision based on adverse credibility findings normally Tribunal won't grant leave to appeal to the Tribunal, which means the rehearing by the Tribunal is not possible. The proof based on their scaring or torture related medical report very often are not given adequate consideration by the adjudicators. Some of our cases that are evident of the impairment have been put under.

Case Study 1:

In the case of Mrs.B, the adjudicator stated _ "The appellant is not telling the truth. Though she did say that she there were fingerprints on her and her dress was torn but had she truly been beaten in the manner described it is reasonable to suppose that she would have suffered injury". Hence it was concluded that she would not receive asylum status.

Case study 2:

In the case of Mr. K though enough evidence were produced, the adjudicator said that though the appellant would be interrogated on his return, the chances of he receiving ill-treatment based on LTTE were remote. Also he concluded that he was not satisfied about the appellant's record and said that he would not be suspected to be LTTE by the authorities and even if he would be detained, he would not be persecuted. Finally the appeal was dismissed.

Case study 3:

In the case of Mr.P though the adjudicator agreed that the appellant was injured as a result of detention albeit, the medical examiner was not positively able to ascribe to the likely effects of ill treatment. The adjudicator ended the case stating that every scar, which would not cause a Tamil to get into difficulties with the authorities on account of, suspected involvement with the LTTE. His case was also dismissed.

Case study 4:

In the case of Mrs. T, the adjudicator affirmed that though the appellant voluntarily supported

the LTTE, she could not refuse as she was living in a place surrounded by the LTTE dominated area; her subjective fear that the army wanted to kill all Jafna Tamils was not well founded. Though the army arrested her and tortured, she was released on the intervention of Red Cross when her uncle obtained their assistance. The adjudicator simply ruled to believe that her daughter was killed during an assault by the army on the LTTE area and that she suffered from depression or post-traumatic stress disorder. However he accepted that she was detained longer than 48 hours and asserted that it was normal for identification purposes and sometimes they may be stopped at checkpoints. He found the appellant would not be tortured during an over-length time in custody.

PROOF OF DOCUMENTARY EVIDENCE

In our experience whenever our clients try to put the documentary evidence, the court mostly finds them negative. The adjudicators stating "In this case the documents look more authentic than is often the case but there are enough doubts surrounding the story, they purport to support to cast doubts on their genuineness". Another adjudicator stated -" From my experience gained in hearing the appeal of this nature over the years I attribute very little evidential value to documentary evidence emanating from the Indian sub-continent which has frequently been found to be untrue and frequently utterly fraudulent. I have attributed such evidential value as I see fit to it in this claim." Because of this attitude of disbelief sometimes clients feel that the documentary evidence may harm their claim even if they are highly harsh. Whatever the case it very much depends on the attitude of the adjudicator or either.

OBJECTIVE EVIDENCE

In Sri Lankan cases ample of objective evidences supporting Tamils from North and East are highly in risk of persecution on their return. The forum for Human Dignity 2000 states "deportees from abroad if they are Tamils, are often viewed with suspicion by the airport authorities... deported suspect who are taken into the custody by CID have been tortured. Torture occurs regularly in Colombo and is especially directed against Tamils on the basis that they are LTTE suspects. A severe problem is that their methods whom to suspect of Tamil Tiger's involvement are very random, so many innocent Tamils get caught up, in-

cluding deportees."

The Country Information and Policy Unit Document October 2000 section 5 describes how the human right abuses are continuing by the security forces despite the effort taken by the Sri Lankan Government. US State Department Report February 2000 states - "*Ongoing war between the Sri Lankan Government and the LTTE continue to be accompanied by serious human rights abuses committed by the security forces, these abuses included extra judicial executions, killing of prisoners captured on the battle field, disappearances, torture and mass arrest and detention. Impunity for those responsible for human rights abuses remains a serious problem.*" Paragraphs 5.12 state that the Government had imposed censorship of domestic news papers reporting and foreign television broadcasted on military and security operations. In Para 5.13 the reports state that in May 2000, the Sri Lankan authorities assumed sweeping new powers, the public security act introduced a day after the authorities put Sri Lanka on a war footing, allowed the Government to impound property, prohibit strikes, ban news papers and sensor foreign media. Any news story deemed by the Government to contain sensitive information relating to the war was not allowed to be published. Paragraph 1.4 refers accordingly Amnesty International July 2000 report where amnesty has expressed concern regarding the new emergency regulations. Although there was a Human Rights Commission set up, this commission and the safeguards build into the emergency regulation, were being routinely ignored by security forces, especially those provisions requiring receipts to be issued for arrest and those ordering the security forces to notify the Human Rights Commission of any arrest within 48 hours....the report at Paragraph 5.5.40 stated that the police, the army and other similar bodies have been held to be responsible for the incidents of torture. This torture is used reportedly to extract confessions from suspects on other cases not related to LTTE. Paragraph 5.2.42 gives several factors, which are said to contribute to the prevalence of torture in Sri Lanka. "The Emergency Regulations and the Prevention of Terrorisms Act (PTA) allow long term detention in police and army custody without having to bring the detainees before a judicial authority.

There are no standards in law setting out minimum detention conditions. The current safeguards laid down in law, such as requirement that the people arrested under the ERS and PTAs can only be held in authorized places of detention and re-

ceive regular visits by delegates of the Red Cross and the Human rights Commission, which to some extent reduce the risk of torture and disappearances. Although keeping a detainee in an unauthorized place is an offence under the ERS no member of the security forces has been charged under these provisions. Paragraph 5.2.43 sets out references where confessions are admissible as evidence under the emergency regulations; this provides an incentive to interrogating officers to obtain such confessions by many means, including torture. Paragraph 5.2.45 then lists forms of ill treatment and torture used by the forces. Paragraph 5.1.35 to 37 set out the treatment of failed asylum seekers. It is reported that UNHCR believe it is extremely risky for individuals to be in Colombo without travel documents although individuals can gain documents eventually. The appellant may be detained at the airport, as he would be returning to Sri Lanka after a number of years without any travel documents. He may be questioned. It may be that the appellant is allowed to proceed without any further difficulty but the reports go on to indicate in paragraphs 5.2.4 and following that Tamils living in Colombo are subjected to periodic identity checks by the authorities on the street at checkpoints and road blocks and also through round ups in searches of premises. These are said to take place following bombings carried out by the LTTE in Colombo from time to time. Such identity checks can also be made in days proceeding and important festival. Persons may then be detained for either 48 hours or in some cases 72 hours. If this were to happen to the appellant there is a reasonable degree of likelihood that he would be interrogated and his detentions in the past be discovered.

INTERNAL FLIGHT ALTERNATIVE

This finding is about to find whether the applicant is safe in another part of his own country to find safe haven in his return. When the applicant is found to be unsafe in the Northern-East area, then decision-makers turn on to find the findings whether this appellant will be safe in other part of the country. In Sri Lankan Tamil cases decision-makers often find Colombo and South of Sri Lanka as safe areas for Tamils. This opinion also varies from adjudicator to adjudicator. Many of our clients fail on their claim because adjudicators holding the view that a particular applicant is safe to return to Colombo. We as concerned persons wrote to Barbara Roche, Immigration minister, on July 2000, she wrote back saying that she

assures that no asylum seeker would be removed to any part of Sri Lanka other than Colombo, and that removal directions were set only when they were satisfied that it would be safe to do so. The Immigration Appeal Tribunal found in the case of Gobalasingam Iraguvaran(00-TH-01501)-"Tamils in Colombo run the constant risk of being suspected and arrested under the Emergency Legislation (ER Emergency Regulations and the Prevention of Terrorism Act). Each of the individuals described in the case studies has been arrested at least once and sometimes several times. Seven case studies were found wherein concerning asylum seekers were deported in early 1999. What is more, 2 of the people in these case studies were arrested twice more after that. All this happened during a period of just a few months. Two case studies concern asylum seekers who were deported in early 1998 in one of these case studies. The person in question was arrested in Colombo 4 times within one and half years. The other person was arrested twice in Colombo. One of those arrests resulted in a half a year stay in prison."

In Thievendran Kumaran's (00/TH/01459) case, Mr. Drabu, Chairman of Tribunal expressly determined that where it was established that an appellant had a well-founded fear of persecution in the North/East of Sri Lanka, then the issue of "internal flight" did not arise; the authorities in Colombo are the same authorities in the North/East of Sri Lanka.

In another case in August 2000 Thulasichelvan (00/TH/01962) Tribunal chaired by Mr. Disley stated that it would be unduly harsh at the present time for the appellant to be returned to Colombo, particularly because of the increased state of vigilance of the Sri Lankan security forces caused by the Tamil Tigers Terrorist Acts. The standard of the short-term detention center were criticized in the said report (paragraph 10, on which page also there was a reference to persons being detained not merely for several days but also up to several months). The report (paragraph 10) referred to hundreds of Tamils being detained without bail awaiting trial and some persons had been held for up to 5 years.

The Home Office presenting officers unit agreed with the Tribunal decision of Mr. Disley and stated-"On the totality of the evidence" that it would be unduly harsh for the present time for the appellant to be returned to Colombo particularly of increased state of vigilance of the security

forces caused by the Tamil Tigers terrorist acts. Despite all these series of court decisions from the adjudicators and Tribunals particularly in Taylor House, allowing many Tamil asylum seeker's cases based on removal direction to Colombo is unreasonable to return the North and East Tamils to Colombo, in spite of these decisions Immigration enforcement unit are continuously attempting to remove the people from UK to Colombo without the knowledge of their legal representatives or community groups. Once the asylum applications were initially refused by the Secretary of State, then failed asylum seekers are asked to report back to the police station or home office or ports. While their appeals or further representations under considerations. During this time persons are arrested without any explanation and keep them in detention and actions are taken to remove them to Colombo from UK. Sometimes there are no time limits given by the officers to challenge the enforcement unit actions. There are no official figures available as to how many Tamils were deported against their will.

EXCLUSION CLAUSE

Article 1 F (b) of the convention excludes those who have committed a serious non-political crime outside the country of refuge from having their asylum application considered. This clause is normally interpreted as situations where the applicant had attempted to flee just to avoid a prosecution, after committing serious crime, accordingly some asylum seekers may face their asylum application excluded from the refugee convention and the asylum claim may be refused, particularly armed activity against their opposition group without the political objectives can be treated as a crime. However in the case of Sriranganathan, the appellant had claimed that his armed activities targeted only the armed forces and not the civilian and the issue of exclusion was not acceptable.

DECISIONS BY THE IMMIGRATION APPEAL TRIBUNAL

Last year about 20 of our clients leave to appeal to the Tribunal were refused by the Tribunal and mostly Tribunal stating there are not enough merits to review this case. In some cases, Tribunal agreeing the adjudicators made the errors on their findings. However outcome of the adjudicator's decision is not going to be changed therefore leave to appeal is refused. In some cases almost most of

மலரும் 'விஷு' தமிழ்ப் புதுவருடத்தை முன்னிட்டு
தமிழர் நலன்புரீ சங்கம் (நியூஹாம்) ஐ. ரா.
வழங்கும்

பல்கலை இரவு

5. 5. 2001

East Ham Town Hall

London E6

நிகழ்வுகள்

★ வயலின்: செல்வி. டர்க்ஷனா சண்முகவடிவேல்
(ஸ்ரீமதி கலைவாணி இந்திரகுமாரின் மாணவி)

★ வாய்ப் பாட்டு: திரு. வை. விஜயசிங்கம்
பக்கவாத்திய கலைஞர்கள்:
ஸ்ரீமதி கலைவாணி இந்திரகுமார் - வயலின்
திரு. முத்து சிவராஜா - மிருதங்கம்
பிரம்மஸ்ரீ சோமஸ்கந்த குருக்கள் - கஞ்சீரா
திரு. கணநாதன் - கடம்

★ பரதநாட்டியம்: வசந்தகுமாரி

★ நடனம்: பிருந்தா & பிரவீணா

★ வீணை (திரை இசை): திரு. சுரேஸ்

★ ஷங்கராஸ் வழங்கும் திரை இசைப் பாடல்கள்

| | |
|---------------------|-----------------------------------|
| Key Board Organ | 1: இசைமணி திரு. எம். ஜோன் |
| | 2: இசைமணி திரு. உமா மகேஸ்வரன் |
| Tabla | 1: இசைமணி திரு. எஸ். ஸ்ரீபாலமுரளி |
| | 2: திரு. ராஜராஜேஸ்வரன் |
| Pad Drum | 1: இசைமணி திரு. பிரதீபன் |
| | 2: இசைமணி திரு. சக்திதரன் |
| Gongo Drum | : கலைமணி திரு. எஸ். ரவிஷங்கர் |
| Singers | : திரு. எஸ். ரவிஷங்கர் |
| | திரு. அஷோக் திரு. தியாகு |
| | திரு. ராஜ்பவன் திரு. ஏ. ஈ. டினோ |
| | ஸ்ரீமதி. பிரேமா தயாளன் |
| தயாரிப்பு நிர்வாகம் | : கலைமணி திரு. எஸ். ரவிஷங்கர் |

ஜெசி ஒலியமைப்பு

the Tribunals state they do not want to interfere the adjudicator's findings. Therefore Tribunal found this not to be an appropriate case to grant a leave for a Tribunal. However 8 of our cases leave to appeal to Tribunal were granted and 2 of the appeal were allowed by the Tribunal and 3 of the cases were remitted back to the adjudicator, 3 of our appeals were dismissed after the hearing. 2 of the appeals that were allowed by the Tribunal are significant for a Sri Lankan Tamil cases.

Case Study 1:

Seetharamaiyer (00/TH/01955), the Tribunal chaired by the Hon. Judge Platt stated - "In our judgement it seems there is real risk that a Tamil who sit on crutches would appear in exactly the same way to the authorities as a person who is likely to have been disabled while fighting for the LTTE and is therefore at real risk of being not only detained but also tortured. Accordingly Tribunal allowed this appeal"

Case study 2:

Mr. Poovendran (00/TH.02398, Nov 2000), in the light of the country information with which we are familiar and the facts found by the Special Adjudicator we find that the appellant is likely to be stopped, detained, and investigated on his return to Sri Lanka. He will be identified as a returning failed asylum seeker. The factors to which we have referred, in particular that he is a wanted man with a record and, to a lesser extent, the nature and extent of his scarring, make it likely he will be suspected of involvement with the LTTE and will not be released after a brief investigation. There is a real risk he will be detained for a longer period and subjected to serious ill treatment amounting to persecution. There is a similar risk of persecution at some later stage, even if he is able to get through the re-entry checking process.

OTHER TRIBUNAL FINDINGS

Kandiah (00/HX/010010) heightened due to the deteriorating security situation in the north and east brought with it heightened risks of detention in the course of a round up.

Devaraj (00/TH/00235) - all young Tamils are in the risk of being detained by the police following a round up, particularly if there has been a recent outrage by the Tamil Separatists or one, which is suspected of having been caused by the Tamil Separatists

Arumairajah (00/TH/00306) - the deteriorating security situation, with concomitant heavy casualties, has contributed to the increase in tension in the capital.

Yasotharan (00/TH/01816) - a young male Tamil from the Jaffna peninsula with a history of torture and detention and with visible scars arising from that torture possessed a well-founded fear of persecution.

Rudralingham (00/TH/02264) "In November 2000, the Tribunal stated the issue of the applicability of the principle governing civil war set out in Adan". The Tribunal reminds the adjudicators should ask themselves "not whether Adan applies but only how it applies on the cases involving in civil war situation. The adjudicator would have to determine whether the fighting has risen above the threshold 'i.e. conflict which has gone beyond what Art 2 of the 1997 Additional Protocol 11 defines as' situations of internal disturbances and tensions such as riots isolated and sporadic acts of violence and other acts of similar nature". Apparently the Tribunal believes that the approach proposed will ultimately clarify matters and "would go some way to blunting the force of the main criticism made in the Australian and New Zealand cases, whether such optimism is justified in the light of the quality of decision-making.

DETENTION AND ATTEMPT TO REMOVALS

Since October 2000, the number of Tamil asylum seekers detained has increased. Most of them are expected to make further representation based on the certainty of abhorrent treatment by the Sri Lankan authority on their return. Only those who have this in validity are entitled to submit their application based on Human Rights Act, which was effective since 2nd of October 2000. To comply with the law, failed asylum seekers may need to make their application under the section 65 or 69 (5) of the Immigration Asylum Act 99. Those who fail to make such an application can be removed without further appeal rights in this country. But in practice many asylum seekers or their legal representatives are not in a position to make such an application within short time period. In these circumstances enforcement unit are arresting the people and put them in detention and if possible they are attempting to remove them to Sri Lanka. This situation caused some panic and unnecessary to the refugee community and their

legal representatives. In the case of Partheeban, the Tribunal was heavily influenced by the confirmation given by the council on behalf of the secretary of State that persons refused asylum under the 1951 Geneva convention would be able to exercise a section 65 appeal right in the future in respect of a subsequent decision to remove. The failed asylum seekers or their representatives need to be given adequate time limit to comply with the new Act. Denying that right is not appropriate action by the British Government. Therefore we believe failed asylum seekers detention for removal is not necessary. All must be given the opportunity to exercise the right to appeal under the Human Rights Act, until then people should not be removed or kept in detention. Another practice policy also is another reason of increased detention. Since May 2000, the Home office policy is stating that - "If an asylum seeker is convicted and sentenced to a term of imprisonment of 1 year or more then on completion of the present sentence, that asylum seeker shall continue to be detained under immigration powers at the same prison pending on the outcome of the asylum application or appeal". Further asylum seeker also is detained for breaching the condition temporary admission or not to cooperate with the immigration officers. In our experience these kinds of treatments are also purely depending on the particular officer, those who are handling the matter at that time. At many occasions many Tamil asylum seekers are wrongfully detained by the immigration or enforcement or unit officers.

Case study 1:

Mr. A was asked to report back to the immigration in Portsmouth in June 2000/ also the temporary admission was given stating telephone this office before reporting. Accordingly we made the query at the port on the time officer was convinced because his appeal decision is on pending and he confirmed that he need not report to the immigration on the same day. Again he was to report back to the immigration on 23rd August 2000. Our representative and the applicant attended at the Portsmouth immigration office. In this occasion he was detained. Our legal representative asked the reason for detention, at that time the officer told him his appeal rights are exhausted and has not got any grounds to stay in this country and will be removed soon, therefore they are keeping the person in the detention until he will be removed. However immediately our representative made the point that particular asylum seeker made his further representation to secretary of state on

3rd of August 2000 and that further representation stating why he cannot be removed to Sri Lanka. A copy was also sent to the court. But the officer initially denied that a copy was received of any such application. Then we faxed the original copy to the court immediately from the office. Then the officer told our representative "I accept you made the application, however this matter will be dealt as soon as possible, until then Mr. A will remain in the detention". Accordingly the next day his further representation was refused and was stated that he would soon be removed. Subsequently on 30th of August 2000 we put the legal argument to the secretary of State any attempt of removal id breach of section 21 of the immigration Act of 1971. While this application was under consideration, immigration decided to keep the person in detention continuously. Then we made the appeal to the senior immigration officer to review Mr. A 's detention and release him under the temporary admission. Then we received the reply which stated " Mr. A fails to comply with the condition of the temporary admission because he failed to report to the immigration on 26th June 200, therefore this person is not trustworthy to be released". When we challenged this matter to the officer, the denied the telephone conversation and kept on saying that the person failed to report on the given date. Finally we made the bail application to the adjudicator at the first hearing, Home officer continuously argued that the person continuously failed to comply with rule and tried to influence the adjudicator. Finally when we put up the evidence in front of the adjudicator it was accepted and Mr. A was released on 15th of December 2000.

Case Study 2:

Mr. K was asked to attend an interview on 31st of May 2000 at Stansted airport. Accordingly he attended the interview. At the interview his asylum application was refused and refusal letter was served, also he was asked to sign the Sri Lankan passport application form to obtain a passport form high commission, because he never had a passport on his own. But he refused this request stating that he would be appealing against the decision to the special adjudicator as he strongly hoped that his case would succeed because the adjudicators allow many of the Tamil asylum seekers claims. If his claim is not successful, then he is prepared to come and sign the application form. But the immigration refused to accept his explanation and threatened him of detention if he does not cooperate with them. Accordingly he was de-

tained. We made the representation to his release, but our request was turned down. Immigration stated he would be released only if he signs the form. After a week's detention, the applicant signed the form and he was released. In our experience we believe that this kind of unnecessary forceful actions will harm the relationship between the authorities and the asylum seeking community, while the applicant is believe in their appeal rights, they should be given enough time to exercise their appeal rights without any interruption.

FAILED ASYLUM SEEKERS AND THE FRESH APPLICATIONS

Since 1993, 95% of the Tamil asylum seekers applications are refused by the secretary of state because they do not meet the refugee convention criteria subsequently their appeals are also turned down by the immigration courts. Once they loose their appeal rights those people are subjected to deportation to Sri Lanka. In this situation asylum seekers can make further representation under the section 21 of the immigration Act 1971 with new evidence. This application can be called fresh application or second application. Purpose of this application may be that the particular asylum seeker may not have fulfilled the Un criteria for refugee status, therefore they do not qualify for refugee status but in the meantime those people cannot be removed for some reasons. Further there may be a mew evidence suggesting the particular person's removal may harm him/her on their return. The divisional court also confirms validity of this application in this case of Ravichandran and Chandralingham. Further in the case of Noor Uddin (IMM Ar 181) confirmed secretary of State needs to look at the mew evidence in a wider prospective under the section 21 of 1971 of Immigration Act. Furthermore court of appeal in the case of Kalunga (IMM AR 585) and Onibiyo (IMM AR 370), the urgency of the "acid test" to determine whether that particular person's removal is safe or not because burden of the proof in this matter belongs to the Secretary of State. In another case, court of appeal on 25th January 2000 stated that the decision-maker was not constrained by the rules of evidence that had been adopted civil litigation, and was bound to take into account all material considerations when making its assessment about the future. In Tamil asylum seeker's cases situation in Sri Lanka is ever changing, particularly political unrest and human rights abuses by the security forces are on the increase of all the time in last 15 years. Further immigrant and Emi-

grant Act of Sri Lanka facilitate many Tamil asylum seekers to be arrested and be questioned them on their return. Later these returnees can be treated under the Emergency Regulation and Prevention Terrorism act, which means the security forces, can keep the persons for unlimited period without any trial or court interference. During this detention period detainees are disappearing, also killed by the inmates or officials or face sever torture. Therefore we strongly believe that all the failed asylum seekers applications needs to be assessed properly and if necessary those people should be given the opportunity to use their right of appeal. Also we are requesting the Secretary of State to consider along standing fresh applications under the Humanitarian grounds and be given exceptionally to remain outside the immigration rule which may give peace of mind about the particular asylum seeker's uncertainty.

SECTION 65 OF IAA 99 APPLICATION AND HUMAN RIGHTS 99

The following are rules set forth in section 65:

1. A person who alleges that authority has, in taking any decision under the Immigration Acts relating to that person's entitlement to enter or remain in the UK, acted in breach of his human rights may appeal to an adjudicator against that decision unless he has grounds for bringing an appeal against the decision under the Special Immigration Appeals Commission act 1997.

2. For this purpose, an authority acts in breach of a person's Human right if he fails to act in relation to that person in a way which is made unlawful by section 6(1) of the Human Rights Act 1998.

3. Subsections (4) and (5) apply if, in proceedings, before an adjudicator or the Immigration Appeal Tribunal on an appeal, a question arises as to whether an authority has acted in breach in making a decision relating to the appellant's entitlement to remain or enter UK.

4. The adjudicator or the Tribunal has the jurisdiction to consider the question.

5. The adjudicator or the Tribunal may decide that the appellant may be allowed to appeal again if the authority has breached in appellant's Human rights.

6. No appeal should be brought if, that deci-

sion is already the subject of an appeal by him under the special immigration or the appeal under the act has not been determined.

The section 65 application is mostly applicable where the decisions are made after 2nd October 2000. Whose ever application is determined prior of October 2000 but those who do not serve fresh removal direction, come under this section 65 application and is not valid until they receive new removal direction. In practice home office has been issuing fresh removal directions and requesting the affected persons to report to the immigration or the police station.

Through this practice they are allowing the applicants to make their Human Rights application. This new application can be put forward by the asylum seeker's representative based on the ground and the evidence available at that time. There are no specific applications available at present but those whose asylum applications are refused after the 2nd of October 2000 or have claimed asylum after that date can be given an application by the authority under section 75/74 of the Asylum Act 99. This is also called as 'One-stop notice' (Home Office Form IS74), another form 'Statement of Additional Grounds (Home Office Form IS76). The purpose of this form is to invite the asylum applicants to state whether there are any other reasons to be considered by the secretary of State if the asylum application is not successful.

This application again needs to be returned within the 14 days time limit with proper grounds and additional statements if necessary. In most of our Sri Lankan tamil cases, the person may not pass the UN Refugee Convention test, but removal to Sri Lanka can be breach of Human Rights Act 98 and European Human Rights Convention.

ARTICLES OF THE EUROPEAN HUMAN RIGHTS CONVENTION

Convention

Article 2: Right to life

This article safeguards most fundamental rights. Everyone who lives in this country including suspected terrorists or violent criminals who put or led the lives of the other people at risk have right to live. Also it safeguards people about to extradited, expelled or deported to a country

where there is a real risk to their life for instance from being tortured. Further if some one living in the U.K faces death threat or torture from people here or abroad, the government may have to ensure adequate protection for the potential victim.

Article 3: Freedom from torture or inhuman or degrading treatment or punishment

According to article 3 one has the absolute right not to be tortured or subjected to treatment or punishment that is inhumane or degrading. Torture is defined as a serious kind of ill treatment. It consists of deliberate inhumane treatment, causing very serious and cruel suffering. The suffering can be either mental or physical or both. Beating a person to obtain confession or information about his political activities is defined as a torture under the articles of ECHR. Inhumane treatment less severe than torture like physical assault psychological interrogation, inhumane detention and failing to provide proper medical health where necessary. Degrading treatment or punishment can be interpreted as grossly humiliating, added to this is the poor treatment. There are indications that severe discrimination based on race might constitute degrading treatment and can be extended to other form of acute discrimination. Deportation or extradition to countries where there is a real risk of torture or inhumane or degrading treatment or allegation of serious discrimination is considered seriously unlawful and the EHRC gives protection to the affected persons.

Article 4: Freedom from slavery, servitude and forced labour

One has the absolute right not to be treated like a slave or forced to perform compulsory labour. Even at times of war or under the public emergency one has the right not to be treated in this way. Forced or compulsory labour can be interpreted as if one is made to work under threat or punishment. However military services that threaten life are not interpreted as forced labour.

Article 5: Right to liberty and security of persons

One has the right not to be deprived of his/her liberty by being arrested or detained even for a short period. But lawful detention approved by a court or lawful arrest approved by the court is considered to be acceptable under this article. Also this article says that those who are arrested or detained to be taken to the court promptly,

Article 6:**Right to a fair hearing within a reasonable time by an independent And impartial Tribunal established by law.**

One has the right to fair a trial in a democratic society. This means fair and public hearing before independent and impartial court or Tribunal within a reasonable time limit. This article also supports certain ideas like the right to be presumed innocent until proven guilty, which means that it is for the prosecution to prove a person as guilty of the offence and right to be informed promptly of the details of the accusation against him/her in a language that he/she understands. Also the right to adequate facilities and time to prepare defence are given importance.

Article 7:**Freedom from retroactive criminal law.****Article 8:****Right to respect private and family life, home and correspondence**

This includes the right to choose one's looks and dresses and right for freedom from intrusion by the media.

Article 9:**Freedom of thought, conscience and religion**

This protects the rights in relation to a broad range of views, thoughts, believes and position of conscience as well as ones faith in religion. However there are acceptable restrictions in this article that allows the interference that has a clear legal basis or the interest of the public. Also this article protects prisoner's religious practices and how far people can go in trying to encourage others to convert their religion. The consideration of objectives of those pressured to act in a way which is contrary to their convictions, for example, to sit on exam on a holy day or to wear a uniform contrary to their convictions are also upheld by this article.

Article 10:**Freedom of expression.**

This article gives a very important right to hold opinions and express ones views singly or in dialogue. As with articles 8 and 9, interferences with Article 10 must be justified a special framework set out in the ECHR. Expression means to hold views in public, publishing articles in or booklets, television or radio broadcasting, communication through Internet and many other activities. However, offensive language insulting to particular ra-

cial or ethnic groups would be an example of where a lawful restriction on expression might be imposed. Even when expressing political views, there can be responsibility to respect the rights of others.

Article 11:**Freedom of assembly and association**

One has the right to assemble with other people in a peaceful way, which includes right to form trade unions or associations. Particularly against the State, one can exercise the right freely provided that while exercising one's rights, one should not commit any wrongful acts, and act peacefully without violence or threat or without obstructing traffic. One also has the right not to take part in an assembly against ones own will, and hence has the right to choose and participate to the extent of ones wish. The state is under a duty to take certain positive steps in order to ensure that one can properly enjoy and exercise ones freedom.

Article 12:**Right to marry and find a family**

The right to start a family means that there is no restrictions to start a family on one's one will. Although there is no obligation on the state to provide any specific system of adoption, no system should obstruct the right.

Article 13:**Right to an effective remedy before a national authority**

This right says why a person can avail for protection from one of the services of the International government when he has been considered to be unlawful by his/her own State or authority.

Article 14:**Freedom from discrimination**

Discrimination means treating people in similar situation differently or those in different situation in the same way without justification. Article 14 prohibits discriminations against sex, race, colour, language, and religion, political or other opinion, association with minority and birth

Article 25:**Applications by persons, non-governmental organisations or Groups of individuals****Article 30:****Reports of the Commission in case of friendly settlement**

Article 31:

Report of the Commission "if a solution is not reached"

Sri Lankan Tamils are mainly seeking protection under the Human Rights act 1998 and ECHR articles 2, 3, 5 and 14 mainly. The removal of failed asylum seekers to Sri Lanka can be breach of this act.

WELFARE AND SUPPORT OF THE ASYLUM SEEKERS

Since the introduction of the Immigration and Asylum Act 99, asylum seeker's social security benefits are removed and the benefits and the support mainly were replaced by the National Asylum Support Service (NASS). Under this arrangement people who are receiving support from the local authority under the National Assistance Act 1948 and Children and Family Act will be continuously supported by the local authority. However if the local authority does not want to support, then responsibility falls on NASS. In the meantime those who claim social security benefit (income support) can get the benefit until initial decision is made by the Secretary of State about the asylum claim. If the Secretary of State rejects his asylum claims and particular asylum seeker makes another successful appeal, then the person may be able to get the support through NASS. If the Secretary of State's decision is positive and grants indefinite leave to remain (ILR) or exceptionally to remain (ELR) then that particular person can claim social security through Job Seeker's allowances. However those who had arrived after the 3rd of April 2000 were not entitled for any social security benefits until they succeeded their asylum claim. Under these new changes almost 90% of the asylum seekers lost their Social Security Benefit in the year 2000, and their benefit will be replaced by NASS. Under the Social Security Benefit system, asylum seekers are given 90% of their entitlement in the form of order book, which is convertible to cash. But under the new Support System, asylum seekers can only get vouchers, which are not convertible to money. They can use their food vouchers to buy their food and toiletries at the specifically listed Super market or stores like Sainsbury (Suva centre), ASDA super market, Cost Cutter, Sommerfield, T&S Stores, WM Morrison, BHS, C&A etc. on using the food vouchers, the asylum seekers are not entitled for change, i.e., 'no change' policy. Whenever they do shopping, they need to utilize the full amount of

voucher at that time itself.

Further asylum seeker's eating habits are different from the European community; therefore many supermarkets do not contain the food items that the asylum seekers are used to. Sometimes it may be very costly to buy that food in the super market. Therefore asylum seekers are forced to change their eating habits or spend their vouchers against their will. Further asylum seekers are forced to travel some distance to get their food items. If the asylum seekers are permitted to purchase their food in any shop, they can buy a bottle of milk at any shop near to their house. Since the asylum seekers are not given money, they cannot use the public transport and are forced to go by walking to do their shopping. While many asylum seekers are dispersed in unwanted housing estate in rural areas all over the country, the super markets are in the Town causing inconvenience to meet their day-to-day requirements. Furthermore asylum seekers are given £94 cashable voucher at the beginning that allows them to purchase the essentials items for their daily lives. Fixed amount of £30 a week is given by the Sodexo PASS agency to the asylum seekers. If they do not plan what to buy, they may be in trouble and may starve at times. The cash voucher has a particular expiry date within which they need to make their purchases; also such vouchers are not transferable. Later they can collect their vouchers at the local post office on weekly basis.

It is humiliating for any human being, but especially for families with children, to have to queue in a shop with vouchers whilst those in front and behind have real money. Vouchers also send out negative messages to society about asylum seekers at a time when there is already much ignorance about asylum. One young refugee girl has described vouchers as "like getting a stamp saying you don't belong". This clearly cuts across government social exclusion and race relations. They can get the free medicine but travel expense will be paid only if they have to travel long distances and for this a Travel Application Form has to be filled and submitted to NASS 5 days before the Travel. Nevertheless asylum interviews are scheduled in 3 working days, therefore, many of the clients are unable to meet their legal representatives to discuss these matters or are unable to attend the interviews as a result of this. The Home Office Secretary of State can refuse the asylum application as they fail to attend the interviews.

Case Study 1:

Mr. S arrived in this country and claimed asylum on 15th May 99. He was living with the help of NASS's assistance in London. He was asked to attend an interview at Leeds on October 2000; he approached NASS through us for Travel assistance but didn't receive the voucher on the required day and hence was unable to attend the interview. Immigration Office refused his claim stating that he had failed to attend the interview without satisfactory explanation. He has now made an appeal and is waiting for the hearing.

Case Study 2:

Mr. V arrived on 5th May 2000 and claimed asylum. Initially he was accommodated in London and later was dispersed to Glasgow. Within a short period he was asked to send a completed Statement Of Evidence form. He approached the Tamil Welfare Service and we helped him to complete his form and made the representation. Subsequently he was asked to attend an asylum interview on 30th October at Croydon. Mr. V wanted to meet us on 28th in order to get legal advice related to his interview, he requested the Glasgow City Council Asylum Project Team to provide his travel expense on 28th, but his request was refused. Then he travelled on 29th night. He was late because his train, which was supposed to have arrived on 30th morning, arrived at 2 p.m. in the afternoon at London. However he managed to go to the Croydon office around 10 past 4 in the evening, but security officers refused to let him inside stating that they cannot allow any one inside after 4p.m. and also mentioned that he was supposed to have come at 3 and that he was late by 1 hour. Our representative intervened and explained to the security officers but all in vain and they kept on repeating their terms. As a result of that Mr. V returned to Glasgow without completing his asylum interview. Fortunately Mr. V was asked to attend another interview at Liverpool on 20th February 2001 again he approached the Asylum Support Project Team at Glasgow for travel assistance for some reason they were unable to give travel voucher so he could not attend the interview at the Liverpool. Such an act was explained to the Liverpool booking unit though, but we are not sure if this person will be given a third chance to attend the interview.

Further some of our clients who are dispersed in Newcastle, Glasgow, Liverpool are asked to change their legal representatives in Local area against our client's wishes. In the mean time we

received calls from Liverpool and New Castle area, from some of the asylum seekers who were dispersed in these areas. The firm of solicitors initially took their cases. Middle of their case, those firms abandoned their cases and told the clients that they were unable to represent them continuously and asked them to seek for new legal representatives. Also we got the complaints from Tamil asylum seekers that there are not enough interpreters available in those areas and the standard of Tamil was very low as far as the interpreters were concerned. Many of them complete their Statement Of Evidence form on their own without the legal advice or translator's help to meet the 14 days dead line and they are forced to complete the asylum application with little English knowledge or through their known people or friends. We are very concerned about their asylum claims, we received many calls from those areas to help them but we are unable to provide them a service because we do not have any resources to provide services in those areas. On the other hand, local authorities or NASS refuses to give the Travel assistance to allow them to come to London and get our services. Apart from the asylum claim, Tamil asylum seekers are struggling to cope with their other needs, example to obtain registration with GP, primary help like food and shelter, to get admission in the schools, to lodge any complains to police and other such needs. All these are taking place because of the interpreter's minimal knowledge of the language and the culture. We have noticed that in the past 6 months, the asylum seekers are running away from the dispersed areas because the main reason being - they do not want to sabotage their asylum claims, which will put them in the risk of deportation. The second reason is that there are very little support and help available in the present territories. The third reason is that there is no assurance of a bright future due to the conditions in those areas.

MAKING AN APPLICATION TO THE NASS SUPPORT SYSTEM

Since the 3rd of April 2000, the voucher system come onto force with full effect and the government since then has been seeking the help of voluntary organization's to fulfil the needs and provide effective services to the refugee community. Initially Home Office identified the few agencies and gave them the right to deliver the services, which are Refugee Action, British Refugee Council, Migrant Help Line, Refugee Arrival Project, Scottish Refugee Council, Wales Refugee Coun-

cil, North England Refugee Services. These agencies can deliver the services directly or with the help of other charity or community organizations. Under this scheme British Refugee Council has asked the refugee community to go through a pilot scheme, which was named 'reception Assistance Service'. The organisations those who are meeting the criteria will be given funding around £ 35,000 per year as a consistent salary and running costs. As a frontline refugee community organisation, our organisation also continues to offer services to the Tamil refugee community. We have made the application for such help from the government, however our funding application was not accepted by the British Refugee Council. The given reason was dissatisfaction. However we have managed to continue the service with the help of volunteers and other members.

Under the new Asylum Support System, we established the working relationship with National Assistance Support Service Home Office, Croydon. With this established system we have been receiving applications from the NASS and have filled these forms on behalf of the clients according to their request to get the support under the new arrangements. There are two types of assistance available -

SUBSISTENCE WITH ACCOMMODATION HELP

The asylum seekers who have no accommodation to live in can make the application for accommodation with subsistence help. Once their application processes (if they are eligible) then they will be given accommodation in any part of this country. They cannot choose while they are seeking accommodation help. The government pays the rent for these and the asylum seekers are not allowed to pay on their own. The greatest disadvantage is that they cannot choose their own accommodation. Once the application is processed, they will be dispersed in hostels or other residential accommodations in different areas where they can get one stop service. This means all their needs will be looked after by the Area Asylum Support agencies. Many clients are reluctant to go to these areas away from London for many reasons.

SUBSISTENCE ONLY

Under this system, asylum seekers can choose if they want the accommodation for free through their friends or relatives, and can seek 'subsistence

only' assistance. Since 8 months we have noticed that most of our clients are making 'Subsistence only' application. Even if they are uncertain about their accommodation, they are prepared to take the risk and are ready to live in and around London area. Between October and January, we have made around 30-35 applications on behalf of the asylum seekers, amongst who 3 of them requested subsistence with accommodation help. This application may take four to six weeks to process. During this time if their asylum applications are refused, then they won't be entitled for NASS support service. Those, whose Asylum Support Service applications have been rejected wrongfully, can make an appeal to the Asylum Support adjudicators through notice of appeal within two days time limit. It is thought that this limited time is insufficient. At least a span of seven working days must be given for effective applications. In the past few months we have had about three applications that were submitted to the asylum support adjudicators, towards the appeal allowed and the benefits were reinstated. However around fourteen of them were refused. Asylum support applications were reviewed and reinstated by the officers without an asylum support adjudicator's involvement. These clients mainly were refused because their asylum applications were refused wrongfully as a non-complaint refusal (Statement of Evidence form not returned on time). However when we made the appeal against the non-complaint refusal along with the proof of royal mail special delivery records stating that the asylum application form (SEF) were delivered on time, then the non-complaint refusal were withdrawn by the Home Office, as a result of this the asylum seekers were entitled to their support from NASS. Another type of NASS application refusal is based on their decisions about their asylum applications in the form of a letter (ICD.1029) stating- "application has been carefully considered and a decision has now been taken that you do not qualify for asylum within the terms of 1951 convention, the implication of this decision for your immigration status within the UK are being considered separately within the immigration and nationality directorate. When that process is complete, you will receive further letter ". However this is not the refusal determination letter about the applicant's asylum. Until the asylum seekers receive the final refusal letter, they are entitled to receive assistance through NASS.

Case study1:

Ms. S arrived in this country on 10th October

2000 and she claimed her asylum on arrival. She was asked to return completed SEF from before 24th of October 2000, which she did accordingly. She also made the application to the NASS for a subsistence only assistance on 31st of October. When NASS application was refused on 10th of January 2001 under the section 95 of the Immigration and Asylum Act, she was given 2 days time limit to appeal against the decision. But she is not in a position to make the appeal within the time limit with evidences to support her NASS appeal. Her asylum application was refused under the non-complaint grounds (not received within time limit).

Few days later we managed to get the confirmation from Royal mail stating that the SEF from was delivered on time. Once this document was forwarded with the asylum appeal, the Home Office withdrew her asylum refusal in the second week of January. Then immediately we made the appeal to NASS about her benefit assistance. Her appeal was heard on 24th January 2001 and was allowed and her benefit assistance reinstated.

Case study 2:

Ms T arrived in UK on 7th of September 2000, on her arrival she was given SEF and asked to complete it and send back with in the time limit based on her asylum application (SEF). Her asylum application was refused on 11th of October 2000 through a letter (ICD 1029). However her final asylum refusal letter has not served until now. Based on the refusal NASS turned down her benefit assistance stating that her asylum application was refused and hence did not qualify for the assistance from NASS. We made the appeal stating that the Home Office did not issue refusal letter about her immigration status. And now she is entitled for benefit based on the appeal.

Case Study 3:

Ms. S landed in UK on 28th of June 2000, on her arrival she was given asylum application (SEF) to be completed and sent to the Immigration Office. In the meantime she was placed in an emergency accommodation. On 18th July her accommodation was transferred to Birmingham by the NASS, which she refused to agree. She then made a second application requesting NASS for 'subsistence only' assistance so that she could choose her own accommodation on 10th August through us. This application was turned down and her was appeal also turned down because she had taken our help leaving behind NASS.

WELFARE BENEFITS

Only small percentages of asylum seekers are at present claiming Social Security Benefits. Those who had claimed asylum on their arrival and made their Social Security Benefit claim before 3rd of April 200 (if their application is still under consideration), then they people will get Social Security Benefit until their asylum applications are determined. These asylum seekers will be given income support through order book wherein a single adult will get 90% of the allocated benefit. For instance a British citizen would receive an entitlement of £ 52.20 per week, but an asylum seeker will only get 90% of this amount (approximately £ 47). For such family's child benefits or working family credit are not given. At these circumstances our welfare benefit related works are mainly related to the settled persons in this country. Those who are granted refugee status (ILR) or Exceptionally to remain (ELR) are entitled for Jobseekers allowances. In this area we are providing advice and assistances continuously. Also these refugees or settled people are coming to us to get help on their Housing Benefit Council Tax payment and Disability benefits. Since April 2000, because of the changes in these benefits, it has tightened the entitlement that prevents some of our disadvantaged people to live below poverty line. In particular those who are receiving disability related benefit reviewed after April 2000, many benefits that they were entitled to earlier and these were either fully stopped or were reduced. Some of the cases were appealed to the Social Security Tribunal represented by us. Only two of the appeals were overturned. Further some who are granted refugee status have brought their immediate family members (spouse and children) under the Family Reunion Act. On their arrival the entry clearance officers have wrongfully denied their entitlements by stamping out the passport or endorsing VISA with public fund restrictions. Consequentially Social Security Office treats these people as sponsored and denies their benefits. When we took this matter to Home Office, public funds restrictions were withdrawn and their benefits entitlement were reinstated.

HOUSING AND HEALTH

Due to the new benefit system and the Government dispersal in different areas, a number of people seeking accommodation help through us have relatively come down. But those who are run-

ning away from these dispersed areas are posing problems for us. Without adequate knowledge new arrivals are running away from their provided accommodation and seeking help from us. Sometimes they may receive help from relatives or friends, but after a few days time the asylum seeker's friends or relatives usually are unable to continue giving them accommodation. As a result of this asylum seekers are approaching us. In order to help them with proper accommodation, we have to contact NASS and this takes roughly about two to four weeks. The asylum seekers then do not have a proper accommodation and hence spend their nights sleeping at desolated areas and fenlands. Sometimes we manage to get them a place to sleep at churches, community centres, temples or night shelters. This is not always possible though. Further NASS will accept the application of the applicants who arrived after April 3rd or those whose asylum applications were refused after that date. In case a person had come before April 3rd, and if his asylum application is still under consideration, but becomes homeless then responsibility comes over local authority under the National Assistant Care Act. But many local authorities have refused to provide shelter except families and usually ask them to approach NASS and NASS may be reluctant to take them under their care based on their failure to come under the criteria mentioned in the Immigration and Asylum Act 99.

In this situation asylum seekers are left in limbo. We have managed to give emergency assistance to about 22 people last year with the help of Groundswell Foundation Grant, which is a charity institution that provides small grants for the homeless. Further deduction of the housing benefits and low-income families and asylum seekers who receive housing benefit assistance find it difficult to get their accommodation locally. Many landlords are reluctant to give accommodation to the people who receive Housing Benefit Assistance. This is causing shortage of accommodation and disadvantages for people who live below the poverty line. Another area in which we face problem is housing benefits, i.e., they are assessed and paid in time, long delays without any assurance of paying the rent benefits prevents the landlord to give houses for people who are helped with housing benefits. In many occasions local authorities are releasing their rent benefit to their landlords then suddenly they deduct the money from the landlords account. This provokes the landlord to take action against the asylum seeker. Result of

this poor management by the local authorities of the Housing Benefit officers, low-income families and asylum seekers are made homeless.

Poor housing has resulted in poor health. Mainly asylum seekers who come from tropical weather are adversely affected by cold and do not have proper clothes to keep themselves warm. Only the port asylum seekers have the opportunity to undergo proper medical screening, while the rest are left without proper medical care initially and hence suffer physically due to ailments. Further people who suffer from mental illness as a result of torture of war experience from the past suffer more after leaving their home country. On not having proper shelter and food, such conditions aggregate and he/she may develop some serious mental disorders. Added to this is the loss of Close family members in the war or being away from the family members. The Tamil speaking GP's are usually teemed with too many patients and hence will not be in a position to take the new refugees as their patients. On account of this, the Tamils have to get themselves registered with some other GP who may not understand their language. When a patient cannot clearly explain their problems to the doctor, the doctor in no way can diagnose suitably. This leads to frustration and damages the health badly. Also in certain cases wrong diagnosis have been administered which has had a great sway on the patient's health. The refugees have to take appointments if they have to meet the consultants or the specialists, which normally takes a long time. Hence it may be advisable that all the refugees under go proper medical screening in their due time. It may be appropriate and well appreciated if the Government can take steps to do so to support the helpless refugees. One of the reasons why people move away from the dispersed areas is because they are unable to find Tamil speaking GP's or Consultants in the Hospital and proper interpreters.

EDUCATION AND EMPLOYMENT

Due to the dispersal policy, education becomes less important for asylum seekers and their children. The refugee children do not even get a proper school admission because as the school authorities think that they will be in this country for a short period and hence no need for school admission. Without adequate knowledge about the asylum claiming process they think that the refugee children should not be given the priority for admissions. Further lack of English knowledge

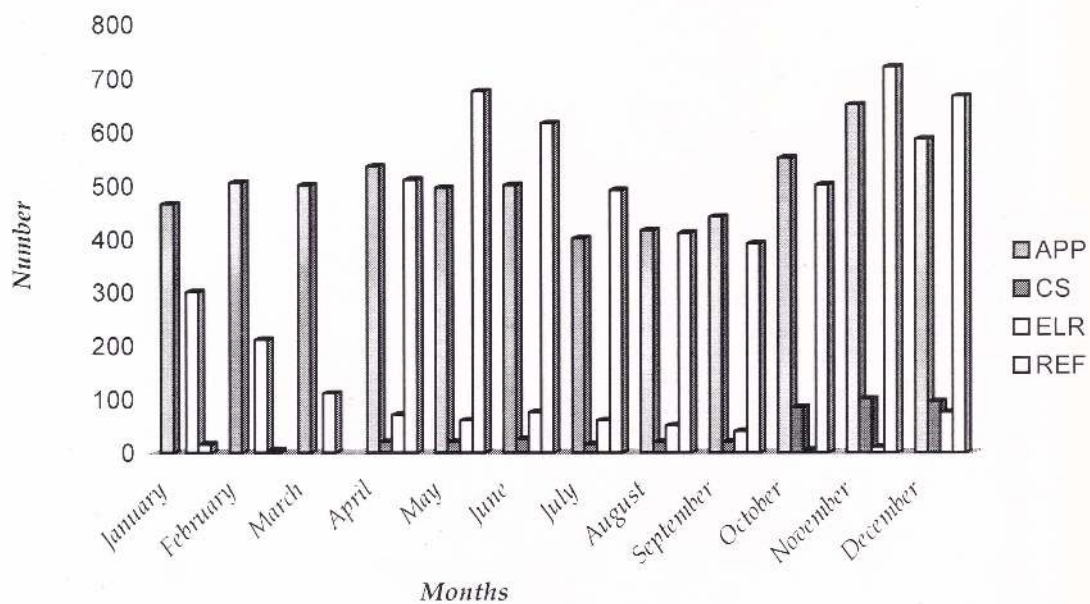
and the cultural differences discourages the school head teachers or head masters to give admission to the refugee children. Some teachers and head teachers opine that giving admission to the refugee children may put their schools to well below League table. They are unwilling to take the risk but in London area, community relationships are well developed and due to the strong multi-cultural system, refugee children are getting admitted without much difficulty. Further the Voluntary community groups are working hard specifically targeting these areas. They are running supplementary educations for the refugee children to fulfil this and also other extra curricular activities are provided by these community groups encouraging the refugee children to build their confidence. They arrange for plenty of opportunities for adults to learn English and other subjects like computers in London area. However the people who have arrived after the 3rd of April 2000 and are supported by NASS, no longer are eligible for Government funded training scheme, even those who obtain permission to work from Home office and stay in this country, more than a year. The new guidelines circulated to the training providers, which may prevent the asylum seekers to get into the appropriate training. The Universities and Colleges are reluctant to give admission to the asylum seekers who receive help under the National Assistance Care Act. Government training scheme and voluntary sector that provide education and employment related services to the refu-

gee community in U.K have also come to an end since the introduction of new law. This gives rise to hazardous results such as the asylum seekers being forced to stay home without any education and this in turn results in mental disorders. The thought that he/she is not fit to live in the society may in itself elude this. Also at a later stage when they get an opportunity to continue their education, they may not be able to catch up and would have lost a great deal of time and confidence to pursue their education. The asylum seekers can obtain permission to work after six months, if their asylum application is not determined negatively by the Secretary of State through this system. Many asylum seekers were benefited to seek employment and stopped their Government support and have started to contribute to the society where they are living. But since 3rd April 2000, those whose asylum applications were initially rejected by the Secretary of State and made the appeal against the refusal and waiting for hearing have ceased to take employment by the Home Office. The Government on April 3rd announced that so-called employment concession that allows asylum claimants to take paid work while waiting for a decision on their case would be stopped. The Government is intending to stop any asylum seeker employment and education related rights all the way. Such actions taken by the Government are highly inhumane and the Government should take some appropriate steps to stop this at once and restore the laws that were operating earlier.

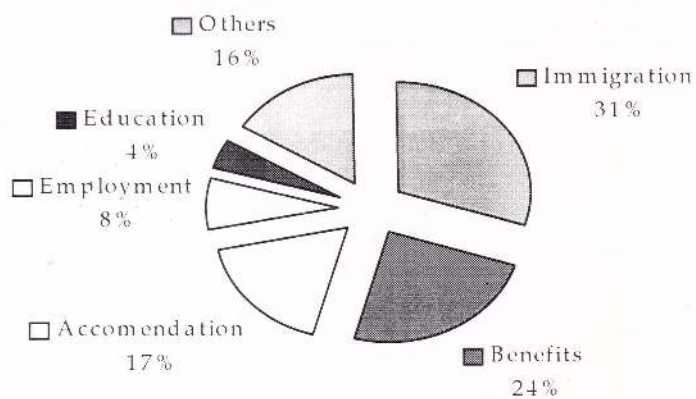


Cultural Evening 2000 - TWAN Officials with Guests

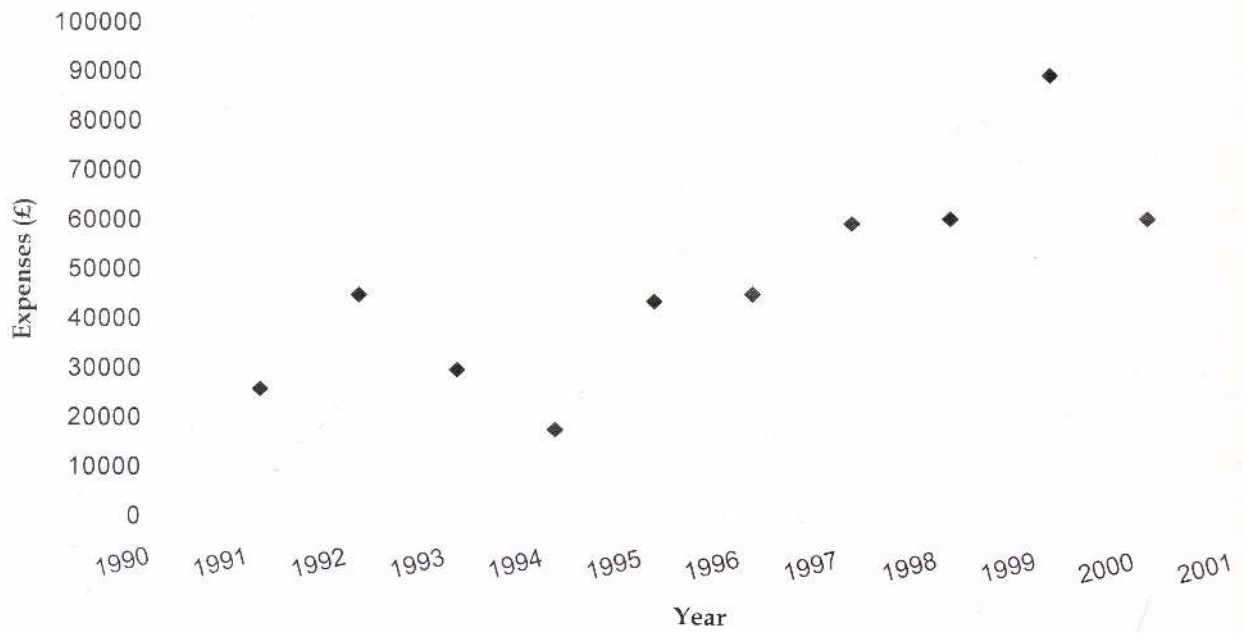
Asylum Applications and Decisions - 2000



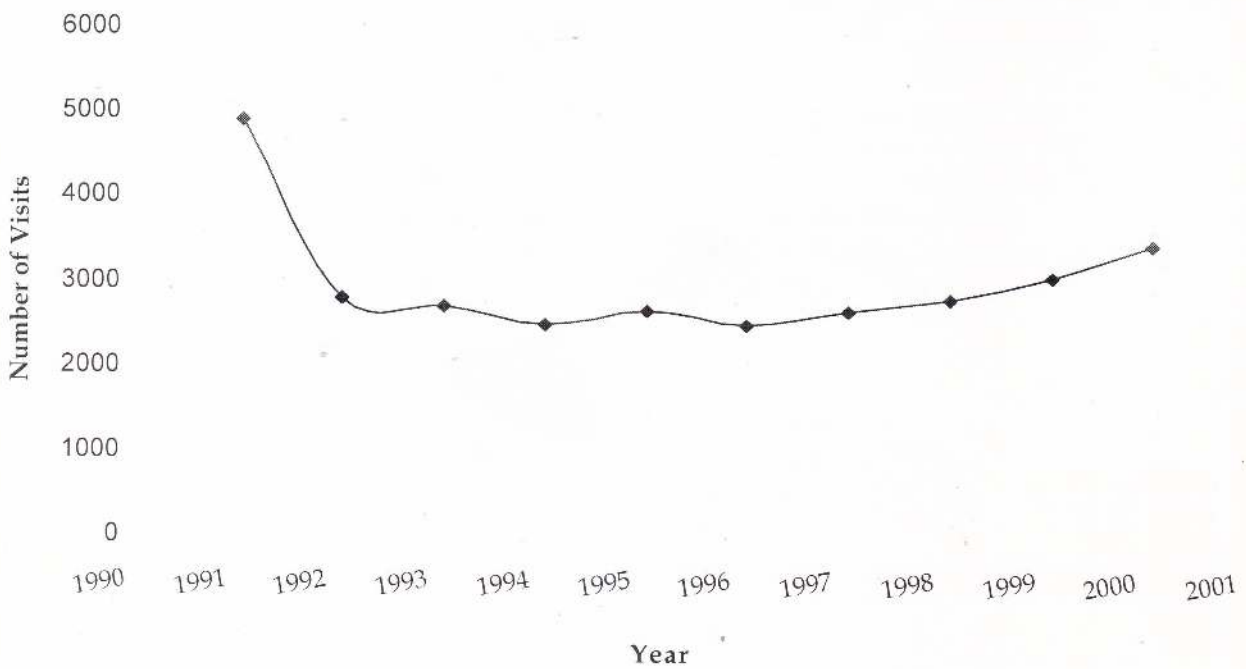
Analysis of Services Provided by TWAN - 2000



Yearly Expenses - 2000



People Received Services From TWAN - 2000



TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

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P Chandradas Esq
S Gajendrakumaran Esq
T Janaka (Mrs)
S Kirubaharan Esq
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TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

REPORT OF THE DIRECTORS

The directors present their report and audited financial statements for the year ended 31st December 2000 .

PRINCIPAL ACTIVITIES AND BUSINESS REVIEW

The association is a registered charity and the company is limited by guarantee.

The association's principal activity is the providing of advisory and representation services of the Tamil Refugees in the United Kingdom, to foster and promote good race relations between such persons of all groups within the area of benefit.

YEAR 2000 ISSUE

The association had taken all necessary action to ensure that the Year 2000 problem does not affect the operations of the organistaion.

DIVIDENDS

The directors do not recommend payment of a dividend.

DIRECTORS AND THEIR INTERESTS

The directors at the balance sheet date and their interests in the company at that date and at the beginning of the year (or on appointment if later), were as follows:

| | | <u>Number of shares</u> | |
|-----------------------|-------------------------|-------------------------|-------------|
| | | <u>2000</u> | <u>1999</u> |
| | <u>Class of share</u> | | |
| M Balasingham (Mrs) | Ordinary shares class 1 | - | - |
| K Balasundram Esq | Ordinary shares class 1 | - | - |
| P Chandradas Esq | Ordinary shares class 1 | - | - |
| S Gajendrakumaran Esq | Ordinary shares class 1 | - | - |
| T Janaka (Mrs) | Ordinary shares class 1 | - | - |
| S Kirubaharan Esq | Ordinary shares class 1 | - | - |
| K Mohanakumar Esq | Ordinary shares class 1 | - | - |
| S Paneerchelvan | Ordinary shares class 1 | - | - |
| R Rajanavanathan Esq | Ordinary shares class 1 | - | - |
| R Ramachanthiran Esq | Ordinary shares class 1 | - | - |

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

REPORT OF THE DIRECTORS (Continued)

DIRECTORS' RESPONSIBILITIES

Company law requires the directors to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing those financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the company and to enable them to ensure that the financial statements comply with the Companies Act 1985. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

CLOSE COMPANY

The company is a close company as defined by the Income and Corporation Taxes Act 1988.

AUDITORS

The auditors, Advanced Advanced Practice, are willing to be reappointed in accordance with section 385 of the Companies Act 1985.

Date: 14th March 2001

By Order of the Board
P Chandradas
P Chandradas Esq
Secretary

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

AUDITORS' REPORT TO THE SHAREHOLDERS OF
TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

We have audited the financial statements on pages 4 to 8 which have been prepared under the historical cost convention and the accounting policies set out in note 1 to the financial statements.

Respective responsibilities of the directors and auditors

As described in the Directors' Report the company's directors are responsible for the preparation of financial statements. It is our responsibility to form an independent opinion, based on our audit, on those statements and to report our opinion to you.


Basis of opinion

We conducted our audit in accordance with Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion the financial statements give a true and fair view of the state of affairs of the company as at 31st December 2000 and of its loss for the year then ended and have been properly prepared in accordance with the Companies Act 1985.


ADVANCED ACCOUNTING PRACTICE
Certified Accountants
Registered Auditors

1st Floor, 54-58 High Street
Edgware
Middlesex
HA8 7EJ

Date: 14th March 2001

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 31ST DECEMBER 2000

| | Notes | 2000 £ | 1999 £ |
|--|-------|-----------|-----------|
| TURNOVER | 2 | 77,414 | 89,784 |
| Administrative expenses | | (82,303) | (88,267) |
| OPERATING LOSS | 3 | (4,889) | 1,517 |
| Interest receivable | 4 | 473 | 352 |
| LOSS ON ORDINARY ACTIVITIES BEFORE TAXATION | | (4,416) | 1,869 |
| Tax on loss on ordinary activities | | - | - |
| LOSS FOR THE FINANCIAL YEAR | 10 | (4,416) | 1,869 |

None of the company's activities were acquired or discontinued during the above two financial years.

The company has no recognised gains or losses other than those dealt with in the profit and loss account.

The notes on pages 6 to 8 form part of these financial statements.

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

BALANCE SHEET AT 31ST DECEMBER 2000

| | Notes | £ | 2000 £ | £ | 1999 £ |
|--|-------|---------------|---------------|---------------|---------------|
| FIXED ASSETS | | | | | |
| Tangible assets | 6 | | 8,433 | | 8,972 |
| CURRENT ASSETS | | | | | |
| Debtors | 7 | 17,420 | | 11,639 | |
| Cash at bank and in hand | | 22,043 | | 38,802 | |
| | | <u>39,463</u> | | <u>50,441</u> | |
| CREDITORS: Amounts falling due within one year | 8 | (7,523) | | (14,625) | |
| NET CURRENT ASSETS | | | <u>31,940</u> | | <u>35,816</u> |
| TOTAL ASSETS LESS CURRENT LIABILITIES | | | <u>40,373</u> | | <u>44,788</u> |
| CAPITAL AND RESERVES | | | | | |
| Ristricted Funds- Building Fund | 9 | | 35,063 | | 35,063 |
| Profit and loss account | 10 | | 5,310 | | 9,725 |
| SHAREHOLDERS FUNDS | | | <u>40,373</u> | | <u>44,788</u> |

The financial statements were approved
by the board on 14th March 2001
and signed on its behalf by

S. Gajendrakumaran
S Gajendrakumaran Esq

Director

The notes on pages 6 to 8 form part of these financial statements.

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31ST DECEMBER 2000

1. ACCOUNTING POLICIES

1.1 BASIS OF ACCOUNTING

The financial statements have been prepared under the historical cost convention.

1.2 TURNOVER

Turnover represents the total invoice value, excluding value added tax, of goods sold and services rendered during the year.

1.3 DEPRECIATION

Depreciation is provided using the following rates and bases to reduce by annual instalments the cost, less estimated residual value, of the tangible assets over their estimated useful lives:-

Fixtures and fittings 15% Reducing balance

1.4 DEFERRED TAXATION

Deferred taxation is provided where there is a reasonable probability of the amount becoming payable in the foreseeable future.

1.5 LEASING AND HIRE PURCHASE

Rentals payable under operating leases are taken to the profit and loss account on a straight line basis over the lease term.

2. TURNOVER

| | 2000 £ | 1999 £ |
|--------------------------|---------------|---------------|
| <u>Analysis by:-</u> | | |
| Grants received | 72,400 | 76,572 |
| Membership fees | 513 | 579 |
| Local Authority receipts | 2,743 | 6,008 |
| Rental Income | 1,758 | 6,419 |
| Donations received | - | 206 |
| | <u>77,414</u> | <u>89,784</u> |

3. OPERATING LOSS

| | 2000 £ | 1999 £ |
|--|--------------|--------------|
| The operating loss is stated after charging: | | |
| Depreciation | 1,488 | 1,584 |
| Operating lease rentals: | | |
| Land and buildings | <u>9,604</u> | <u>5,287</u> |

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31ST DECEMBER 2000

| | | | |
|----|---|---------------|-----------------------------|
| 4. | INTEREST RECEIVABLE | 2000 £ | 1999 £ |
| | Bank and other interest receivable | 473 | 352 |
| | | <u>473</u> | <u>352</u> |
| 5. | DIRECTORS AND EMPLOYEES | 2000 £ | 1999 £ |
| | Staff costs: | | |
| | Wages and salaries | 34,573 | 27,879 |
| | Social security costs | 3,639 | 2,656 |
| | | <u>38,212</u> | <u>30,535</u> |
| 6. | TANGIBLE ASSETS | | Fixtures & fittings £ |
| | <u>Cost</u> | | |
| | At 1st January 2000 | | 25,520 |
| | Additions | | 949 |
| | At 31st December 2000 | | <u>26,469</u> |
| | <u>Depreciation</u> | | |
| | At 1st January 2000 | | 16,548 |
| | Charge for year | | 1,488 |
| | At 31st December 2000 | | <u>18,036</u> |
| | <u>Net book value at</u> <u>31st December 2000</u> | | <u>8,433</u> |
| | <u>Net book value at</u> <u>31st December 1999</u> | | <u>8,972</u> |
| 7. | DEBTORS | 2000 £ | 1999 £ |
| | Other debtors | 4,428 | 3,400 |
| | Prepayments and accrued income | 12,992 | 8,239 |
| | | <u>17,420</u> | <u>11,639</u> |

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31ST DECEMBER 2000

| | | | |
|----|---|--------------|---------------|
| 8. | CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR | 2000 £ | 1999 £ |
| | Payments received on account | - | 11,570 |
| | Accruals and deferred income | 7,523 | 3,055 |
| | | <u>7,523</u> | <u>14,625</u> |

| | | | |
|----|-------------------------------|---------------|---------------|
| 9. | RESTRICTED FUNDS | 2000 £ | 1999 £ |
| | Building Fund | 35,063 | 35,063 |
| | N.L.C.B Project Fund | - | - |
| | Balance at 31st December 2000 | <u>35,063</u> | <u>35,063</u> |

| | | | |
|-----|--|--------------|--------------|
| 10. | PROFIT AND LOSS ACCOUNT | 2000 £ | 1999 £ |
| | Retained profits at 1st January 2000 | 9,726 | 7,856 |
| | Loss for the financial year | (4,416) | 1,869 |
| | Retained profits at 31st December 2000 | <u>5,310</u> | <u>9,725</u> |

11. REVENUE COMMITMENTS

The amounts payable in the next year in respect of operating leases are shown below, analysed according to the expiry date of the leases.

| | Land and buildings | | Other | |
|-------------------------------|--------------------|---------------|----------|----------|
| | 2000 | 1999 | 2000 | 1999 |
| | £ | £ | £ | £ |
| Expiry date: | | | | |
| Within one year | 12,630 | 4,680 | - | - |
| Between one and five years | <u>23,850</u> | <u>14,040</u> | <u>-</u> | <u>-</u> |

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

DETAILED TRADING AND PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 31ST DECEMBER 2000

| | 2000 | 1999 |
|---|----------------|---------------|
| | £ | £ |
| <u>Income</u> | | |
| <u>Restricted Funds - N.L.C.B Project</u> | | |
| Grant received | 59,622 | 47,081 |
| <u>Less: Expenditure</u> | | |
| Salaries and wages (incl N.I) | 38,212 | 30,535 |
| Rent, rates and insurance | 10,102 | 5,829 |
| Light and heat | 717 | 599 |
| Repairs, renewals and maintenance | 621 | 820 |
| Security costs | 311 | 329 |
| Printing, postage and stationery | 2,000 | 500 |
| Telephone and fax | 2,345 | 2,061 |
| Accountancy | 1,378 | 1,087 |
| Computer costs | 296 | - |
| Staff recruitment and training | 2,145 | 3,273 |
| Travelling | 1,500 | 1,000 |
| Volunteers and sessional workers | 1,500 | 2,000 |
| | <u>61,127</u> | <u>48,033</u> |
| Net defeciciency | <u>(1,505)</u> | <u>(952)</u> |

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

DETAILED TRADING AND PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 31ST DECEMBER 2000

| <u>General Funds</u> | | <u>2000</u> | <u>1999</u> |
|----------------------------------|-------|-------------|-------------|
| | | <u>£</u> | <u>£</u> |
| <u>Income</u> | | | |
| Grants received | (Sch) | 12,778 | 29,491 |
| Membership fees received | | 513 | 579 |
| Local Authority receipts | | 2,743 | 6,008 |
| Rent receivable | | 1,758 | 6,419 |
| Donations | | - | 206 |
| | | <hr/> | <hr/> |
| | | 17,792 | 42,703 |
| <u>Less: Expenditure</u> | | | |
| Volunteers and sessional workers | 4,890 | 2,557 | |
| Cultural activities | 895 | 652 | |
| Childrens' project | 2,093 | 3,383 | |
| Age Concern project | 2,600 | 2,857 | |
| Family outings | 102 | (314) | |
| Education project | 1,660 | 1,577 | |
| Youth activities | - | 302 | |
| Printing, postage, stationery | 2,581 | 765 | |
| Travelling | 2,512 | 671 | |
| Meeting expenses | 310 | 341 | |
| Bank charges | 487 | 307 | |
| Sundry expenses | 1,243 | 98 | |
| Membership and subscriptions | 315 | 454 | |
| Depreciation | 1,488 | 1,584 | |
| Transfer to Building Fund | - | 25,000 | |
| | <hr/> | <hr/> | <hr/> |
| | | 21,176 | 40,234 |
| Net Surplus/(Deficiency) | | <hr/> | <hr/> |
| | | (3,384) | 2,469 |
| Gross Profit/(Loss) | | <hr/> | <hr/> |
| | | (4,889) | 1,517 |

OTHER INCOME AND EXPENSES

| | | | |
|-----------------------|-------|---------|-------|
| Interest receivable: | | | |
| Bank deposit interest | 473 | 352 | |
| | <hr/> | <hr/> | |
| | 473 | 352 | |
| NET LOSS FOR THE YEAR | | <hr/> | <hr/> |
| | | (4,416) | 1,869 |

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

General Funds - Grants received

FOR THE YEAR ENDED 31ST DECEMBER 2000

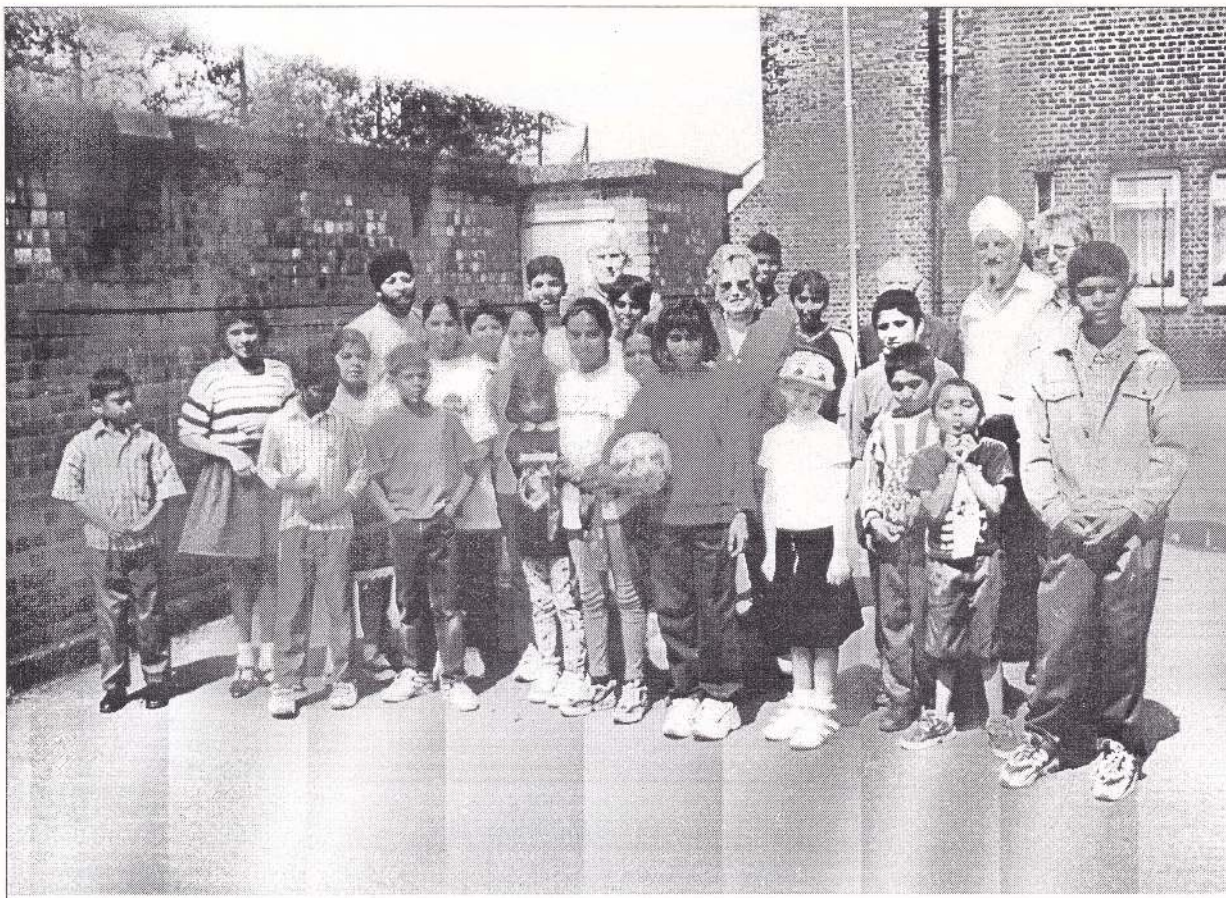
Schedule for General Funds - Grants received

| | | |
|-------------------------------------|---------------|---------------|
| Technical Aid Fund (L.B.N) | 4,413 | 1,216 |
| Computer and Equipment Grant | - | 5,160 |
| Homeless Emergency Assistance Grant | - | 500 |
| Education Project | 2,000 | 2,745 |
| Elderly Project | - | 2,500 |
| Childrens' Project | 2,837 | 3,892 |
| Age Concern Project | 3,528 | 13,478 |
| | <u>12,778</u> | <u>29,491</u> |



Cultural Evening 2000





Summer Play Scheme



ACKNOWLEDGEMENTS

We Thank

All our distinguished guests
For having graced the occasion
By your presence this evening

TWAN Members, Volunteers & Well-wishers
Stephen Timms MP
National Lottery Charities Board
Age Concern
The Tudor Trust
Camelot Foundation
National Homeless Alliance

London Borough of Newham's Leisure Services Department,
Environment and Planning Department, Education Department and
Community Education Services

Little Ilford School, Kinsington Primary School and
Manor Park Community Centre

Refugee Council, Joint Council for Welfare of Immigrants
Confederation of Indian Organisations, LASA, Refugee Working Party
Tamil Information Centre
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