



TWAN

*Annual Review Report
2007*

TAMIL WELFARE ASSOCIATION (NEWHAM) UK

தமிழர் நலன்புரி சங்கம் (நியூஹாம்) ஐ.ரா.

Sri Lankan & South Indian Cuisine

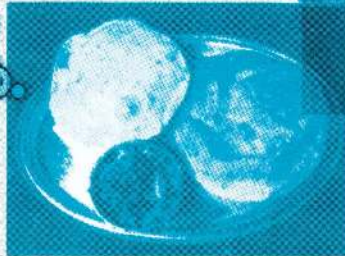
Yall Restaurant

உணவகம்
தீருமண உணவகங்கள்
பிறந்தநாள் விழா
கொண்டாட்டங்கள்
மற்றும்
மணிகளையுமள உணவகங்களுக்கும்
உணவகம், துறையான
உணவுவகங்களை
குறித்த நோக்கில்
செய்து தரப்படும்.

Opening Hours

Sun - Thurs 12 noon to midnight

Fri - Sat 12 noon - 1.00 am



10 பவுண்டுகளுக்கு மேல்
உணவு வாங்குபவர்களுக்கு
2 மைல் தூரத்துக்கு
இலவச விநியோகம்

அறுகவை குன்றாத இலங்கை தென்னிந்திய உணவு வகைகள்...
வாருங்கள் - வந்து சுவையுடன் உண்டு மகிழு....

40 இருக்கைகள் கொண்ட தமிழ் உணவகம்

யாழ் உணவகம்

404 BARKING, EAST HAM,
LONDON E6 2SA

TEL: 020 8471 6744, 020 8471 7319

TAMIL WELFARE ASSOCIATION (NEWHAM) UK.

தமிழர் நலன்புரி சங்கம் (நியூஹாம்) ஐ. ரா.

வாழ்த்து

வேர் விட்டு மிக நல் விழுது விட்டுப் பெரு
நல் ஆலமரமாய் வளர்ந்து வரும் நம்
தமிழர் நலன்புரி சங்கமதை
பார் போற்றும் நற் செயல் தீட்டம் வழங்க
சர்வதாரியின் வரவு சகலருக்கும்
இயல்க நலம் இயல்க

மொழியால் ஒன்றுபட்டு
தீர்வுக்காய் ஏங்கி நிற்கும்
புகலிட மாந்தர் நாம்
விடியலை நோக்கிய பயணத்தில்
விழுதுகளாய் நின்று
வேரனைக் காத்திடுவோம்

சுபம்

Annual Review Report - 2007

TAMIL WELFARE ASSOCIATION (NEWHAM) UK.

602 Romford Road, Manor Park,
London E12 5AF

Tel: 020 - 8478 0577 Fax: 020 - 8514 6790

e-mail : twan@twan.org.uk

www.twan.org.uk

Message from the Chairman



I am delighted to give this message to the magazine which is published at the annual New Year cultural night. Since 1986 the Tamil Welfare Association of Newham (TWNAN) has been providing the services most needed by the Tamil community in and around Newham. Mainly immigration, housing, employment and education, with other projects such as advisory, elderly, summer school and cultural projects. TWAN is helping all sectors of Tamil Community.

Our Organisation is successfully secured the resources to continue to provide these services years to come. Further actions are in place to expand our services to the community.

Finally on behalf of the Board of Directors I would like to thank the volunteers, staff, supporters, users and funders for their continued support and assistance without which we would not be able face the immensity of our task and hope that we can count on your support and maintain your confidence in our work in the coming years.

I wish the association every success in the future as we all work together to deliver our best to the community.

Happy New Year and I wish the conflict in Sri Lanka will end soon and have a peaceful solution for the Tamils.

R. Rajanavanathan

R Rajanavanathan

TRUSTEE'S REPORT

The Tamil Welfare Association (Newham) UK's Primary Objective is to provide a range of quality services to the Tamil community in the UK. We achieve this principally through the services, which we provide at our main offices on Romford Road - in particular, through our Legal Casework and Advice. Although Tamil-speakers throughout the UK are entitled to benefit from our services, the vast majority of our clients are Londoners.

TWAN was founded in 1986 with the broad mandate of promoting integration and improving the quality of life for the Tamil Community in the UK; we have since specialized in legal issues and formed as part of a legal body. Currently, the organisation delivers a host of legal services including Immigration, Welfare benefits, Housing, Employment, Debts and etc. The organisation also runs a number of events and activities that help to fulfill other needs of the Tamil community. TWAN has been able to strengthen its service delivery by improving efficiency and quality within the past five years.

Service Delivery

Our services can be obtained by drop-in session, appointment, telephone or outreach. Around 25 persons attend the office each day. An initial Advisory worker or Specialist Caseworker deals with most of their queries. Where appropriate, cases are passed on to other Service Providers. Drop-in sessions are available on weekdays between 9am and 1 pm. On Monday and Wednesday, it is available until 3 pm. Telephone advice is available on Tuesdays and Thursdays between 2pm and 4 pm. Approximately 40 people receive telephone advice per day. The ongoing legal casework matters are dealt by appointment. We open about 25 new casework files each month. Some cases - such as those involving immigrants detained by the Home Office - require us to conduct outreach work. On average, our staff conducts two outreach visits per month

Some services take place away from our Romford Road offices. TWAN runs a Day Center for elderly people at the Manor Park Community Center;

study skills and fine arts classes are held at the Little Ilford School. Finally, we run a Summer Holiday Project for school children Player's Club in East Ham.

Employees & Volunteers

The organisation is staffed by three full-time employees along with a number of volunteers. The Legal Service Commission, the London Council, the Comic Relief fund, and the Lloyd's and TSB Foundation fund the three full-time posts. Like any community organisation, it would be very difficult to run the organisation successfully for any length of time without the full commitment of the staff. Equally, the much-valued contribution of volunteers allows the Tamil community to obtain the maximum benefit from our organisation. Without these two groups of people, it would be extremely difficult to adequately meet the demands of the London Tamil Community. The users of TWAN's services vary widely, from vulnerable or destitute people at one extreme, to settled and employed people at the other. Over the past two decades, our reputation has grown, and people have come to expect a great deal of us. With limited resources, it is sometimes a challenge to meet the high expectations of people in the community.

Finance & Funding

TWAN is in a healthier financial position compared to previous years. Our records, as well as our auditing report, confirm this view. In 2007, the organisation's financial value was pegged at £158 000. We believe that the value of the organisation will increase as we accrue more funding aid to expand our range of services and serve a greater volume of clientele. The organisation raised approximately £140 000 in restricted funds, and around £13 000 in unrestricted funds.

Total expenditures for the year 2007 were £126 000, while total income was approximately £152 000. Our net surplus for the year was thus approximately £26 000. As usual, our greatest single expenditure - around £50 000 - was employee wages, while client disbursements was

our next-to-greatest expenditure at around £23 000. The majority of our income was provided by the Legal Services Commission for purpose of carrying out Legal Casework on Immigration. The London Council provided around £28 000 for various community welfare projects. BBC Children in Need grant of around £13 000 facilitated our Summer Holiday play scheme, while an additional £11 000 helped us to run a Senior Citizen's Day Center. The KPMG Foundation grant aided us in running education and extracurricular activities for younger members of the Community. Along with these grants, we also received funding from a number of sources to run particular projects and activities. As a charity serving a specific community, it would not be possible to carry out our services even on a small scale without this grant aid. Recently, we have made plans to launch a small, income-generating business (a "Social Enterprise Scheme") on the premises next door to our main offices. The profits from this business would be used to fund the organisation's charitable services. It may take some time to establish this scheme.

Management

The organisation is the ultimate responsibility of a ten-member Board of Directors, elected by TWAN's members at its Annual General Meeting. This year, The AGM was held on 10th June at the Manor Park Community Center. Out of a total of 212 official members, sixty-seven attended the meeting. Those present heard speeches by TWAN's Chair, Treasurer, General Secretary and Project Manager. In addition, they participated in the appointment of an Auditor/Accountant, elected an Annual General Meeting chairperson, and filled three vacancies on the Board of Directors.

At the first board meeting following the AGM - board meetings are usually held on the last Wednesday of each month - members allocate roles and responsibilities amongst themselves - Chair, Secretary, Treasurer, etc. Subsequent board meetings serve to monitor the organisation's progress and review service delivery plans. The Executive Director also attends the meeting in order to liaise between Staff and Management. The Executive Director is also responsible for implementing the board's decisions with respect to the Organisation's activities.

The Chairman of the Board facilitates board meetings, and, when necessary, may cast a tie-breaking vote in the event that a board is deadlocked on a decision. The Board's Secretary is responsible for the Company's financial records, and will ensure that the organisation is on schedule with respect to its plans. Financial matters are dealt with by the Treasurer. He or she is charged with ensuring that the company is on budget and in good financial health. Finally, the Public Relations Officer is responsible for marketing the Organisation's services, maintaining TWAN's public image, and for fostering a good relationship with local officials.

The Executive Director is responsible for the day-to-day running of the organisation, and for guiding TWAN to achieve its Strategic Plan.

Key achievements

The organisation was able to receive slightly increased funding for its ongoing projects by consequence of increased participation in all of our activities and schemes, and due to the continuing recognition by funding bodies that our services are of the highest quality. In addition, the purchase of additional office space over the past year has given us greater flexibility to host a wide range of activities and events - dance classes, arts classes etc. - that we would have previously prevented us from carrying out due to space constraints.

Our Legal Caseworkers had several notable achievements in 2007. One of our recent European Union law cases reached the House of Lords. The issue at hand was the correct interpretation of Regulation 8(2) of the European Economic Area Regulations 2006. In his judgment, Lord Buxton clarified the meaning of the term "dependent relatives" in the Regulation, and cleared up ambiguities where the Regulation might have been inconsistent with existing EU or UK Immigration Law. Another of our cases has been referred to the European Court of Human Rights, which will examine whether the UK's forced removal of failed asylum seekers is consistent with the 1950 European Convention on Human Rights. We are currently awaiting the commencement of proceedings in this case, and we have been informed that the outcome of a separate judgment - *NA vs. the United Kingdom* - may influence our prospects for success.

In 2007, we successfully identified and secured a new grant from Lloyd's & TSB Foundation for the next two years, to replace the previous Comic Relief funding program. Additionally, we secured funding from Awards for all, to replace the Bridge House Trust grant that had previously funded our Senior Citizens' Day Center project. Moreover, we received a Hilton Charitable Trust grant that will allow us to pay our volunteers a small stipend.

Since the ceasefire agreement between the LTTE and the Sri Lankan government had broken down at the end of 2006, and after violence towards those of Tamil ethnicity had resumed, our Legal Caseworkers had campaigned for Sri Lanka's removal from the "White list" – a list of countries whose asylum seekers have absolutely no right of appeal against unfavorable decisions. In 2007, our efforts spurred the UK government to review this issue, and at the beginning of the year, Sri Lanka was removed from this list. This development has allowed Tamil asylum seekers to exercise appeal rights, and has restricted the Home Office from removing failed asylum seekers from the UK.

Strategy for Development

In addition to our purchase of file storage space on 4th Avenue in Manor Park at the end of 2006, we intend to increase the storage capacity of the organisation by building a storage room at the rear of our Romford Road offices. We close approximately 360 case files per year. By law, we are required to store closed case files for six years; this storage space will allow us to meet this requirement, and will also provide space for financial and business records.

In 2007, the Landlord of our upstairs office announced that he would be undertaking a rent review, and would be likely increasing our monthly rent. TWAN has initiated plans to purchase the upstairs office should the rent be increased: we would be spending less per month in mortgage repayment costs than we would under the increased rent, and the purchase of additional freehold property would allow the organisation to increase its financial assets. Our unrestricted funding could be utilized as an investment, funding the down payment on the bank loan for the property. In the next year, we intend to negotiate separately with the bank and the Landlord in order to complete the purchase.

Our Strengths, Weaknesses, and Opportunities (SWOT) assessment at the end of last year suggested that we hire an additional full-time staff member in order to cater to the increased number of users of our services. We are seeking additional resources to recruit another member of staff to maintain the quality of our ongoing work. The SWOT assessment identified several areas for expansion of our services: securing Legal Services Commission contracts in Debt, Housing, and Benefits in addition to our current contracts, applying to a broader range of funding bodies to ensure sufficient monies are raised, directing our clientele toward increased work placement and employment opportunities that will stem from the 2012 Olympic Games, and developing a profitable Social Enterprise business in order to raise additional funds for the organisation.

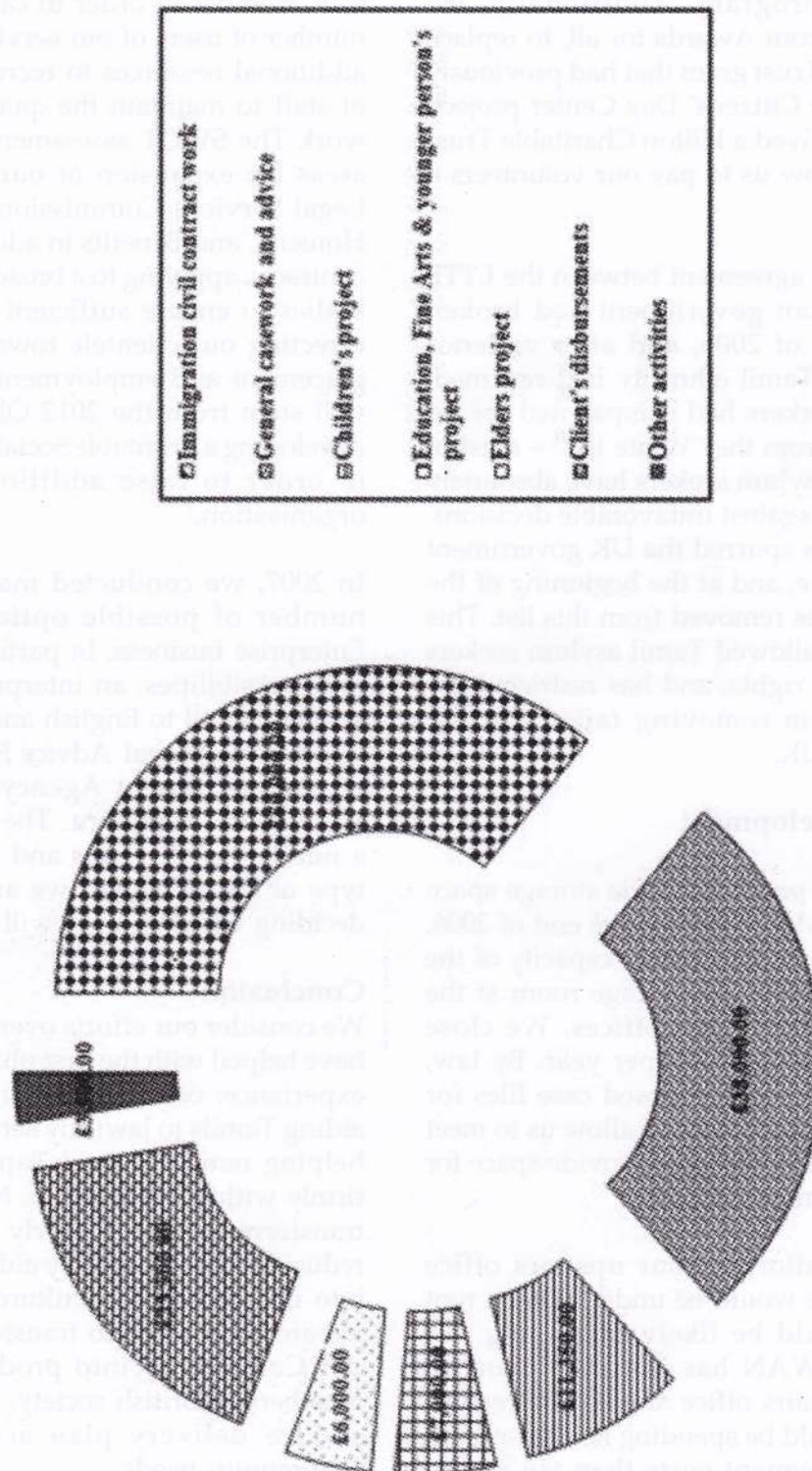
In 2007, we conducted market research on a number of possible options for our Social Enterprise business. In particular, we examined four possibilities: an interpretation/translation service (Tamil to English and English to Tamil), a fees-based Legal Advice Service, an Employment Recruitment Agency for Tamils, and a Vegetarian Restaurant. The research identified a number of strengths and weaknesses of each type of business, and we are in the process of deciding which one we will pursue.

Conclusion

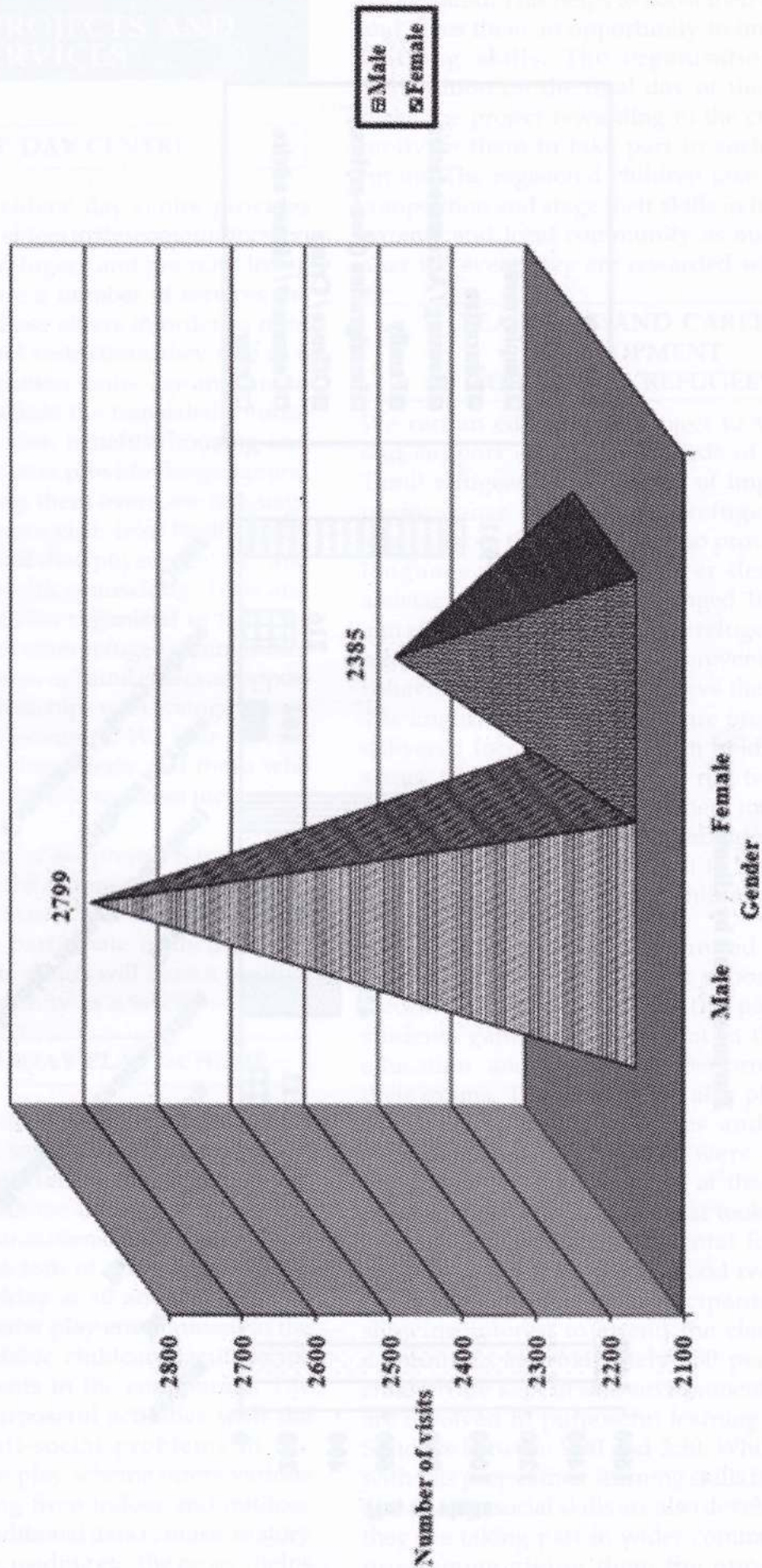
We consider our efforts over the past 21 years to have helped with the first phase of the immigrant experience: our work has mainly consisted of aiding Tamils to lawfully settle in the UK, and of helping newly arrived Tamils plant their feet firmly within this country. Now, we are keen to transform the life of newly settled migrants by reducing poverty, and by aiding their integration into mainstream UK culture. Most particularly, we are committed to transforming members of our Community into productive and valued members of British society. We will review our service delivery plan according to future Community needs.

Finally, we are grateful for the commitment of our Board of Directors and their family members to guide this Organisation to achieve its potential. We give respect and value the contribution and input of the users of our services. We owe additional thanks to our innumerable supporters and funders throughout Newham and London.

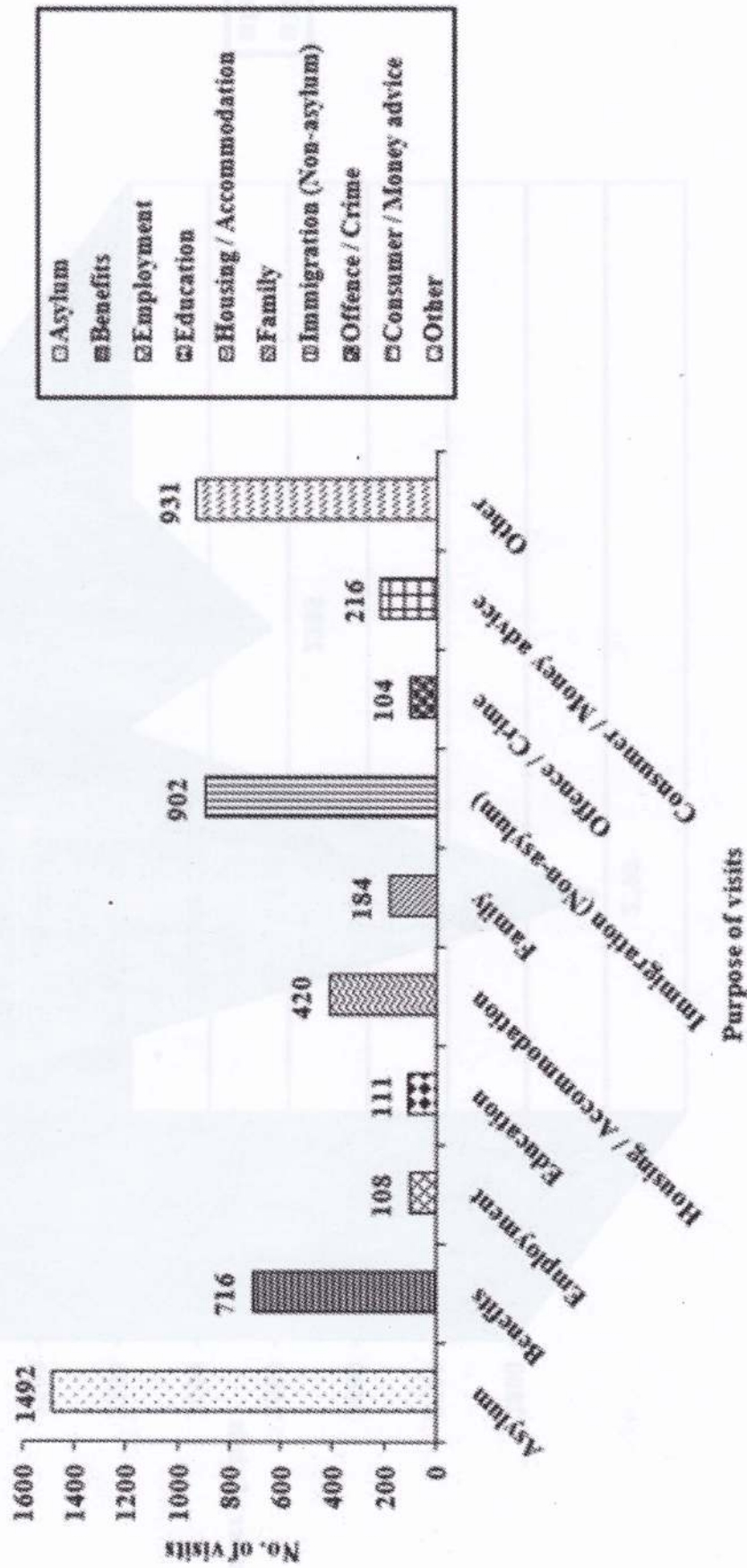
How the money was utilised in year 2007

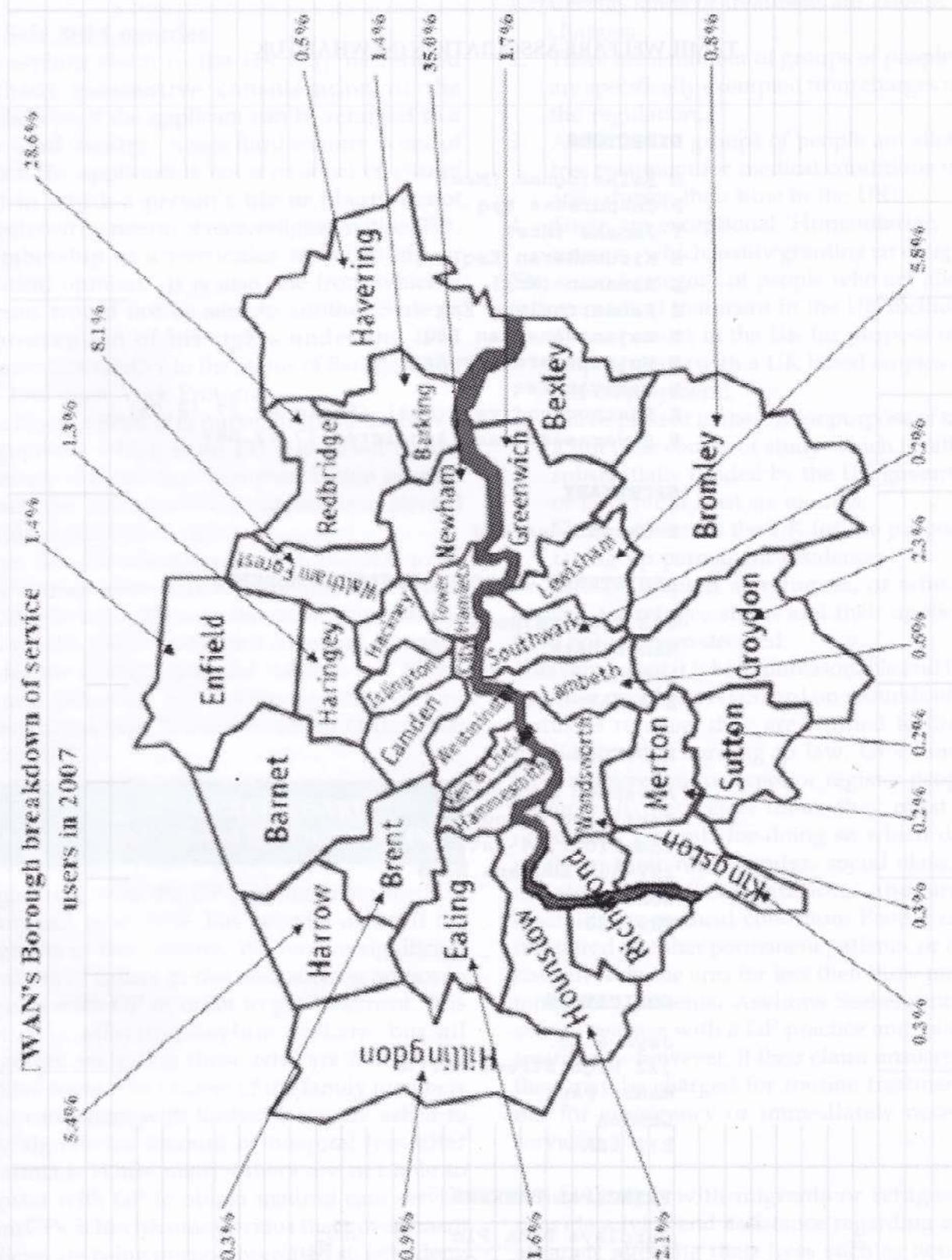


TWAN's Breakdown of Gender Group in 2007



Purpose of visit by clients in 2007





FINANCIAL STATEMENTS FOR THE YEAR ENDED 31ST DECEMBER 2007

TAMIL WELFARE ASSOCIATION (NEWHAM) UK

DIRECTORS

M Balasingham (Mrs)
P Chandradas Esq
T Janaka (Mrs)
S Kirubaharan Esq
S Ramanan (Mrs)
S Paneerchelvan Esq
R Rajanavanathan Esq
S Muthucumarasamy Esq
N Rakavan Esq
K Shamsugavadivel (Mrs) (Resigned 27.12.06)
P Sivaraseswaran (Appointed 27.12.06)

SECRETARY

P Chandradas Esq

REGISTERED OFFICE & BUSINESS ADDRESS

602 Romford Road
Manor Park
London
E12 5AF

AUDITORS

Advanced Accounting Practice
Certified Accountants
2nd Floor, 4 Watling Gate
297-303 Edgware Road
London
NW9 6NB

SOLICITORS

Jeya & Co
322 High Street North
Manor Park
London
E12 6SA

PRINCIPAL BANKERS

Barclays Bank Plc
Newham Business Centre
737 Barking Road
Plaistow
London E13 9PL

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 2007.

PRINCIPAL ACTIVITIES AND BUSINESS REVIEW

The Association is a registered charity and the company is limited by guarantee and not having a share capital.

The Association's principal activity is to provide advisory, legal casework and representative services for the Tamil speaking community in the United Kingdom, to foster and promote good race relations between such persons of all groups within the area of benefit.

DIVIDENDS

The directors recommended that £6,000 and £9,000 be transferred from the Restricted and Unrestricted funds respectively to the Building Fund account.

DIRECTORS AND THEIR INTERESTS

The directors do not have any interests in the capital or reserves of the company.

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 assume 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 1985.

AUDITORS

The auditors, Advanced Accounting Practice, are willing to be reappointed in accordance with section 383 of the Companies Act 1985.

By Order of the Board

P Chandradas

P Chandradas Esq
Secretary

Date: 22nd April 2008

TAMIL WELFARE ASSOCIATION (NEWHAM) U.KAUDITORS' REPORT TO THE MEMBERS OF
TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

We have audited the financial statements of the company for the year ended 31st December 2007 which comprise the Statement of Financial Activities, the Balance Sheet and related notes set out on pages 5 to 10. These financial statements have been prepared under the historical cost convention, and the accounting policies on page 6.

The report is made solely to the company's members, as a body in accordance with Section 235 of the Companies Act 1985. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

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.

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Companies Act 1985. We also report to you if, in our opinion, the Director's Annual Report is not consistent with the financial statements, if the charity has not kept proper accounting records, or if we have not received all the information and explanations we required for our audit, or if information specified by law regarding director's remuneration and transactions with the company is not disclosed.

We read other information contained in the Director's Annual Report and consider whether it is consistent with the audited financial statements. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements. Our responsibilities do not extend to any other information.

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.

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

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

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 2007 and of its incoming resources and application of resources, including its income and expenditure for the year then ended and have been properly prepared in accordance with the Companies Act 1985.

[Signature]
ADVANCED ACCOUNTING PRACTICE
Certified Accountants
Registered Auditors

2nd Floor, 4 Watling Gate
297-303 Edgware Road
London
NW9 6NR

Date: 22nd April 2008

Community
Legal Service



Quality Mark



602 Romford Road, Manor Park London E12 5AF

Charity No 1047487



Company No 2962857

Fine Arts Classes

Venue: Room A6 & A4, 1st Floor

Little Ilford School Browning Road, Manor Park, London E12

Every Sunday 9.30 AM to 2.30 PM

- ★ Miruthangam: Sri N. Somaskandtha Sharma
- ★ Tabla & Gitar: Sri Thayalan
- ★ Veena: Smt Seimani Sritharan
- ★ Bharatha Natiyam Smt R. Somasundaram
- ★ Violin: Kalaimamani M Nandini
- ★ Karnatic Vocal: Smt Suganthi Srinesa

Further Details please contact: **020 - 8478 0577** during the Office hours.

Tamil Welfare Association (Newham) UK

தமிழர் நலன்புரி சங்கம் (நியூஹாம்) ஐ.ரா

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

STATEMENT OF FINANCIAL ACTIVITIES FOR THE YEAR ENDED 31ST DECEMBER 2007

	Notes	Restricted Funds £	Unrestricted Funds £	Total 2007 £	2006 £
INCOMING RESOURCES FROM GENERATED FUNDS					
<u>Voluntary Income</u>					
Grants	2	139,181	-	139,181	144,061
Donations			699	699	
Membership subscriptions		-	741	741	1,035
<u>Income from generating funds</u>		-	10,735	10,735	5,895
<u>Interest receivable</u>	4	-	1,008	1,008	450
Total Incoming Resources		<u>139,181</u>	<u>13,183</u>	<u>152,364</u>	<u>178,391</u>

RESOURCES USED

Direct Charitable Expenditure		102,551	-	102,551	96,447
Governance costs	3	28,032	4,128	32,160	32,940
		<u>130,583</u>	<u>4,128</u>	<u>134,711</u>	<u>129,387</u>
NET INCOMING RESOURCES BEFORE TRANSFERS		(8,598)	9,055	17,653	22,054
Transfer to Designated funds		(16,000)	(9,000)	(15,000)	(20,000)
Net Movement in funds		<u>2,598</u>	<u>55</u>	<u>2,653</u>	<u>2,054</u>
Balance brought forward		<u>10,921</u>	<u>5,677</u>	<u>16,598</u>	<u>14,544</u>
Balances carried forward		<u>13,519</u>	<u>5,732</u>	<u>17,251</u>	<u>16,598</u>

The notes on pages 6 to 10 form part of these financial statements.

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K
BALANCE SHEET AT 31ST DECEMBER 2007

	Notes	£	2007 £	2006 £
FIXED ASSETS				
Tangible assets	7		157,821	158,082
CURRENT ASSETS				
Debtors	8	3,695		7,657
Cash at bank and in hand		41,761		15,376
		<u>45,456</u>		<u>23,033</u>
CREDITORS: Amounts falling due within one year	9	(22,927)		(15,852)
NET CURRENT ASSETS			<u>22,529</u>	<u>7,181</u>
TOTAL ASSETS LESS CURRENT LIABILITIES			180,350	165,263
CREDITORS: Amounts falling due after more than one year	10		(50,780)	(53,345)
			<u>129,570</u>	<u>111,918</u>
CAPITAL AND RESERVES				
Designated Funds			110,320	95,320
Profit and loss account	12		19,250	16,598
SHAREHOLDERS FUNDS			<u>129,570</u>	<u>111,918</u>

The financial statements were approved by the board on 22nd April 2008 and signed on its behalf by


S. Muthucumarasamy Esq.

Director

The notes on pages 6 to 10 form part of these financial statements.

TAMIL WELFARE ASSOCIATION (NEWHAM) U.KNOTES TO THE FINANCIAL STATEMENTS FOR THE year ENDED 31ST DECEMBER 2007**ACCOUNTING POLICIES****1 BASIS OF ACCOUNTING**

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

1.2 INCOMING RESOURCES

This includes grants received, membership fees, bank interest, donations received and rental income from subletting of tenanted premises.

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
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No depreciation is provided on freehold buildings as it is the company's policy to maintain these so as to extend their useful lives.

1.4 DEFERRED TAXATION

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

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K
NOTES TO THE FINANCIAL STATEMENTS FOR THE year ENDED 31ST DECEMBER 2007

2. GRANTS RECEIVED	2007 £	2006 £
Analysis by:-		
CPF/LTSB Grant	2,000	5,000
ALG Grant	28,000	28,000
Organisation and development	-	5,000
Legal Services Commission re: Legal work	73,202	58,137
Education Project	8,324	8,324
Childrens' Project	13,330	9,350
Age Concern Project	6,825	250
Comic Relief	7,500	10,000
Building Project	-	20,000
	<u>139,181</u>	<u>144,061</u>

The grant recieved from Association of London Government has been used for general advisory and legal services. Similarly grants recieved from LTSB, CPF and Legal Services Commission were also used for salaries for case workers and administrations costs of the Association. Where grants were provided for a specific purpose the Association has used them solely for those purposes.

3. NET INCOMING RESOURCES	2007 £	2006 £
The net incoming resources is stated after charging:		
Depreciation	1,456	1,502
Audit services	2,404	2,283
Operating lease rentals:		
Land and buildings	7,280	7,280
	<u>7,280</u>	<u>7,280</u>

4. INTEREST RECEIVABLE	2007 £	2006 £
Bank and other interest receivable	1,008	450
	<u>1,008</u>	<u>450</u>

5. INTEREST PAYABLE	2007 £	2006 £
On bank loans and overdrafts	4,483	4,161
	<u>4,483</u>	<u>4,161</u>

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

NOTES TO THE FINANCIAL STATEMENTS FOR THE year ENDED 31ST DECEMBER 2007

6. DIRECTORS AND EMPLOYEES	2007 £	2006 £
Staff costs:		
Wages and salaries	46,638	62,963
Social security costs	2,827	4,441
	<u>49,465</u>	<u>67,404</u>

7. TANGIBLE ASSETS	Land & buildings £	Fixtures & fittings £	Total £
Cost			
At 1st January 2007	49,571	36,644	86,215
Additions	-	1,194	1,194
	<u>149,571</u>	<u>37,838</u>	<u>187,409</u>
At 31st December 2007			
Depreciation			
At 1st January 2007	-	28,132	28,132
Charge for year	-	1,456	1,456
	<u>-</u>	<u>29,588</u>	<u>29,588</u>
At 31st December 2007			
Net book value at 31st December 2007	<u>149,571</u>	<u>8,250</u>	<u>157,821</u>
Net book value at 31st December 2006	<u>149,571</u>	<u>8,512</u>	<u>158,083</u>

	2007 £	2006 £
Analysis of net book value of land and buildings:		
Freehold	<u>149,571</u>	<u>149,571</u>

8. DEBTORS	2007 £	2006 £
Other debtors	42	1,093
Prepayments and accrued grant income	3,653	6,564
	<u>3,695</u>	<u>7,657</u>

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

NOTES TO THE FINANCIAL STATEMENTS FOR THE year ENDED 31ST DECEMBER 2007

9. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR	2007 £	2006 £
Bank loans and overdrafts	7,328	7,418
Taxes and social security costs	-	1,838
Other creditors	370	1,696
Accruals and grants recieved in advance	15,220	4,900
	<u>22,927</u>	<u>15,852</u>

10. CREDITORS: AMOUNTS FALLING DUE AFTER MORE THAN ONE YEAR	2007 £	2006 £
Loans	50,780	53,345
	<u>50,780</u>	<u>53,345</u>

11. BORROWINGS	2007 £	2006 £
<u>The company's borrowings are repayable as follows:</u>		
In one year, or less or on demand	7,328	7,418
Between one and two years	15,784	15,784
Between two and five years	23,675	23,675
In five years or more	11,321	13,868
	<u>58,108</u>	<u>60,745</u>

Details of security:

The bank loan is secured by way of a legal charge over the company's freehold property.

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

NOTES TO THE FINANCIAL STATEMENTS FOR THE year ENDED 31ST DECEMBER 2007

12. PROFIT AND LOSS ACCOUNT

	2007	2006
	£	£
Retained profits at 1st January 2007		
as restated	16,597	14,544
Profit for the financial year	17,653	22,054
Transfer to Designated funds	(15,000)	(20,000)
Retained profits at 31st December 2007	19,250	16,598

Designated Funds represent the surplus income that the Association generated from it's internal fund raising events and other income generated through its own ability. It also incorporates the surplus of restricted funds which, have been allocated towards the purchase and improvement of the Association's land and building.

13. 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	
	2007	2006	2007	2006
	£	£	£	£
Expiry date:				
Within one year	7,280	7,280	-	-
Between one and five years	29,088	29,088	-	-

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

**DETAILED INCOME & EXPENDITURE ACCOUNT
FOR THE year ENDED 31ST DECEMBER 2007**

	2007	2006
	£	£
Income		
Restricted Funds		
Grant received (Sch)	139,181	144,061
Less: Expenditure		
Client disbursements	23,510	-
Childrens' project	11,335	9,460
Education project	7,057	7,169
Age Concern project	5,929	2,956
Salaries and wages (incl N.I)	49,465	67,404
Volunteers and sessional workers	2,687	3,223
Staff recruitment and training	643	3,058
Rent, rates and insurance	9,303	9,695
Light and heat	1,488	1,270
Telephone and fax	2,189	2,561
Printing, postage and stationery	4,101	4,116
Office maintenance	2,732	3,517
Organisation & Development	944	1,010
Accountancy	2,404	2,283
Security costs	349	470
Travelling	981	2,167
Bank charges	983	837
	<u>126,100</u>	<u>121,196</u>
Net surplus.	<u>13,081</u>	<u>22,865</u>

Community
Legal Service



Quality Mark



TAMIL WELFARE ASSOCIATION (NEWHAM) UK.

602 Romford Road, Manor Park, London E12 5AF

Tel: 020 - 8478 0577 Fax: 020 - 8514 6790 e-mail: twan@twan.org.uk



We are recognised by the Legal Services Commission as a Quality Services Providers and awarded Specialist Quality Mark with Immigration Franchised contract.

1. அரசியல் தஞ்சம் (Asylum & Appeals) 2. குடிவரவு (Visa Extension, Entry Clearance, Work Permits, Citizenship, EU Residency Permit) 3. தடுப்புக் காவல் விடயங்கள் (Detention Matters.)
4. தஞ்சம் கோருவோருக்கான மானியங்கள் (NASS Application & Appeals) 5. சமூக நல மானியம் (Social Welfare Benefits) 6. தங்குமிட / வீடு வசதிகள் (Accommodation, Housing)
7. உடல் / மன நல விடயங்கள் (Healthcare) 8. வேலை/கல்வி வாய்ப்புக்கள் (Employment, Education)

இதுபோன்று நமது சமூகம் எதிர்நோக்கும் மேலும் பல விடயங்களில் உதவி வழங்கும் எமது தமிழர் நலன்புரி சங்கம் (TWAN) வார நாட்களில் திங்கள், புதன் கிழமைகளில் காலை 9:00-3:00 வரையிலும் செவ்வாய், வியாழன், வெள்ளிக்கிழமைகளில் காலை 9:00-1.00 மணிவரையும் நேரில் வருவோருக்கான சேவையினையும், மற்றும் தொலைபேசி ஆலோசனைகள் செவ்வாய், வியாழன் ஆகிய நாட்களில் பிற்பகல் 2:00-4:00 வரை நடைபெறும் என்பதையும் அறியத்தருக்கிறோம்.

DETAILED INCOME & EXPENDITURE ACCOUNT
FOR THE year ENDED 31ST DECEMBER 2007

Unrestricted Funds	2007 £	2006 £
<u>Income</u>		
Cultural activities collections	2,125	-
Membership fees received	741	1,035
Rent receivable	8,559	4,142
Donations and other income	750	1,753
	<u>12,175</u>	<u>6,930</u>
<u>Less: Expenditure</u>		
Cultural activities	1,080	877
Meeting expenses	255	297
Sundry expenses	91	282
Membership and subscriptions	1,246	1,073
Depreciation	1,456	1,502
	<u>4,128</u>	<u>4,030</u>
<u>Net Surplus</u>	<u>8,047</u>	<u>3,900</u>
Gross Incoming Resources before Interest and other income	21,128	25,765
<u>OTHER INCOME AND EXPENSES</u>		
Interest receivable:		
Bank deposit interest	1,008	450
	<u>1,008</u>	<u>450</u>
Interest payables:		
Bank interest	4,483	4,161
	<u>(4,483)</u>	<u>(4,161)</u>
<u>NET INCOMING RESOURCES</u>	<u>17,653</u>	<u>22,054</u>

TAMIL WELFARE ASSOCIATION (NEWHAM) U.K

DETAILED INCOME & EXPENDITURE ACCOUNT

FOR THE year ENDED 31ST DECEMBER 2007

Schedule - Grants received

	2007 £	2006 £
CVF/LTSB Grant	2,000	5,000
ALG Grant	28,000	28,000
Organisation and Development Grant	-	5,000
Legal Services Commission re: Legal work	73,202	58,137
Education Project	8,324	8,324
Childrens' Project	13,330	9,350
Age Concern Project	6,825	250
Comic Relief	7,500	10,000
Building Project	-	20,000
	<hr/>	<hr/>
	139,181	144,061

TAMIL WELFARE ASSOCIATION (NEWHAM) UK.

Community
Legal Service



Quality Mark

தமிழர் நலன்புரி சங்கம் (நியூஹாம்) ஐ.ரா.

602 Romford Road, Manor Park, London E12 5AF

Tel: 020 - 8478 0577 Fax: 020 - 8514 6790

e-mail: twan@twan.org.uk



Supplementary Classes

at

Room A6 & A4, 1st Floor

Little Ilford School Browning Road,

Manor Park, London E12

Every Sunday 9.30 AM to 2.30 PM

Maths, Science, English

(For School Age Children)

Further Details please contact 0208 478 0577 During Office Hours

PROJECT PROGRESS REPORT 2007

Introduction

In 2007, TWAN celebrated its 21st Anniversary. Over this period we have provided a range of services for Tamil Refugees who are settled and settling in this country. Initially, the organisation began their work to support the welfare of the refugees. However, as the legal skills of the organisation grew, we began to develop into a legal advisory body, providing legal assistance to the Tamil Community throughout the UK. As part of this development, we gained the Specialist Quality Mark Status and entitled to Legal Services Commission's funding contract to provide services for Immigration-and- Asylum related work. For various reasons, members of our community have been relying more and more on our services. In particular, Tamil asylum seekers are lacking options to obtain legal advice for their asylum claims due to the restrictions of funding bodies. Furthermore, migrant Tamils are also seeking our support in respect their legal rights from housing, welfare benefits, employment, healthcare, consumer rights and advice on debt and other community related issue that arise during their settlement process.

This year has seen steady progress without any significant new developments, but all ongoing activities are progressing well and the initiative we took to develop the organisation is also in progress. Our Legal Services Commission funding contract has been renewed until April 2009, while the funding provided by London Council for initial three years came to an end in the middle of 2007 (we are receiving a transitional funding award until April 2008). We anticipate that we will be able to get funding from London Councils for the near future to continue our Advice service and non-legally aided Immigration Casework.

On average, 25 persons attend our office per day to obtain services from us. Most of their problems have been dealt with by an issue-appropriate caseworker, while a few cases are sign-posted or referred to other service providers. Our record shows between January to September 2007, 295 new case files were opened under the Legal Services Commission funding (LSC) and 1,050 hours of immigration work were undertaken. Additionally, 14 files were opened and around 84 hours of recorded immigration work were completed under the London Council and the Comic Relief funding. Also, all housing, benefits, employment, and consumer related matters were dealt with under this funding.

The removal of failed asylum seekers and the human rights issues surrounding their return arouses concerns in our community, and creates important work for us to deal with the returnee removal and detention matters. The Sri Lankan Political situation and subsequent human rights violations have been worsening since 2005, and the evidence suggest that returnees are questioned and arrested by the Sri Lankan officials and often handed over to security forces. According to a report by an Official at the Canadian High Commission in Colombo, when the returnee arrives in Sri Lanka, he is being referred to Immigration for interviewing and then transfers to the Sri Lankan Police. The Chief Immigration Officer takes an account of the arrival of the passenger, and, after taking a statement, decides whether the returnee is able to return to Sri Lanka as a citizen. The officer of the State Intelligence Department (SIS) documents the arrival and takes a statement. Lastly, an Officer of the Criminal Investigation Department (CID) of the Sri Lanka Police documents the arrival, inspects whether there are

any outstanding warrants for the returnee, and takes a statement. The report states, *"If there are any outstanding warrants then the returnee may be arrested; otherwise, the returnee is free to go"*. The report published by an Australian non-governmental organisation (NGO) - the Hotham Missions Asylum Seeker Project (ASP) - states that returnees who have a previous report of being questioned or detained in the past, are likely to be targeted and *"may face further human rights violations, such as torture"* (Hotham Mission October 2006, 47).

There are a number of statistics that illustrate violations of human rights in Sri Lanka, including the high number of abductions and disappearances (11,000 between January and June 2006 as reported by New York-based Human Rights Watch. It has also been claimed that the government is assisting the Tamil Tigers splinter group Karuna, which uses children as soldiers and coerces adults into its ranks: *'...[I am] deep[ly] concern about their violations of the human rights and the humanitarian law, including the recruitment of children, forced recruitment and abductions of adults and political killings'*, as UNHCR head Louise Arbour highlighted in a press statement issued in Colombo. Split between the LTTE lead to more abuse on child recruitment and therefore the migrant's claim for asylum increased in year 2004.

Other areas of immigration problems are on an increase, in particular: European Community law, nationality issues, and variation of leave and entry visa related matters such as work permits and Highly Skilled Migrants. Almost 25 years of war in Sri Lanka has prompted many Tamil youths to flee from their country to seek protection in safer countries. This has resulted in families being scattered all over the world. Those who have settled in European countries have the opportunity to re-unite with their siblings and relatives, since European Community law allows freedom of movement within the European member states. However, the UK Home Office has made this process difficult due to its 'European Economic Area Directive Regulations 2006,' which restricts the family members of European Nationals in many ways. The domestic law gives another dimension for interpretation of European Community Law. The new directive is contrary to the EU law in many aspects, and the failure by Asylum and

Immigration Tribunal (AIT) Judges to respect the supremacy of EU law, restricting EU citizens 'family members' rights of free movement, is troubling

With respect to Nationality Law, many of our community members are entitled to become British Citizens through Naturalisation; a migrant's children may obtain their citizenship through child registration if either parent has settled status in the United Kingdom. Proving "Good Character" through the absence of any criminal record is causing problems for some of our clients. In addition, some of them struggle to obtain 'Life in the UK exam certificate,' due to lack of requisite English skills. Moreover, the need to advise and guide them through the citizenship ceremony process is becoming more important in our day- to- day work.

We are also involved in dealing with cases of entry clearance. These are for persons who are settled in the UK and wish to sponsor a family member or a their relatives for a visit visa or settlement visa. Other common types of entry visa include work permit visas and student visas.

We offer our clients thorough advice and legal casework within our office - for example, housing and homelessness casework, benefits entitlement, employee rights, consumer and debt advice, counselling service, crime and victim support related work. Although we are not specialised in these areas, which are still being, offered by us up to the initial stage in order to represent the Tamil community. Other services such as Supplementary Education and Fine Arts classes are progressing well with the support of KPMG Foundation funding, while 'Awards for all' funding is helping us to continue to run day centres for the elders. Also, the summer play scheme for children is funded by the 'BBC Children in Need'. These activities are well attended and have been tailored to meet the needs of the community.

At the beginning of this year we purchased file storage at the 153 and 153a Church Road, Manor Park, London E12 through our unrestricted fund - this will enable us to keep our clients files for the required period. Moreover, the initiative of establishing a social enterprise scheme is in gradual progress. We plan to run a business that will meet the aim of generating

additional income for our activities. This additional income may facilitate the organisation moving away from grant dependency in order to strengthen and expand our continuing services.

As part of our organisation's strategic plan we have completed the rear extension building work, which allows us to increase the activities in the offices. Furthermore the purchasing of the property next door will facilitate the development of the social enterprise scheme currently in progress. With the support of the Adventure Capital Fund we have completed the market research for the enterprise scheme, and we are in the process of setting up a separate company to run it. Our potential business models were identified as providing: a language translation and interpretation service, an employment recruitment agency, and a vegetarian restaurant.

With the growing needs of the different aspects in day-to-day life, our community is relying on us to help them overcome any barriers that may restrict them for fulfilling their potentials and establishing a successful life in the UK.

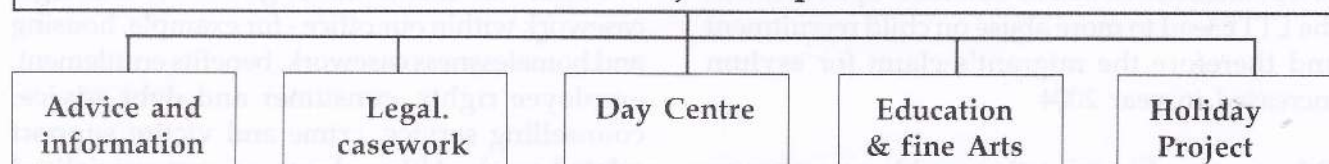
are actively seeking future funding for this project because Comic Relief funding ceases in October 2007 London Council transitional funding is coming to an end in April 2008. With a good fundraising track record, we are hoping to secure the required funding to continue this project.

The advisory worker along with the support of two volunteers, screen users for the purpose of their visit. If it is a minor matter it is dealt with straight away, however if it is an issue that requires detailed assessment over a period of time, then it is transferred internally to the appropriate caseworkers. In the event of an external referral, we will refer them to the appropriate local service provider.

ADVICE ON IMMIGRATION AND ASYLUM

Whenever users walk into our office, they are asked to take a seat in the waiting area, and when their turn arrives, they will be sent to see the advisor to determine the purpose of their visit. In our experience, some users approach us for additional advice on their immigration and

Structure of Project Report 2007



ADVISORY INFORMATION PROJECT

TWAN continuously provides quality advice on various issues our community faces in its day-to-day life. The organisation initiated the advisory project in the early 1980s and it remains our most popular service. Our records show that around 20 persons per day attend our office to receive advice on issues such as immigration and asylum, benefits, employment, education, housing, family, non-asylum immigration, crime money during the week days. On Mondays and Wednesdays we provide advice in person from 9:00-15:00 and on Tuesdays, Thursdays & Fridays, we provide advice between 9:00-13:00. Our telephone advice line is open on Tuesdays and Thursdays between 14:00-16:00. We provide online legal advice at an average of 2 emails per day. The general advice and information project is primarily funded by the London Council and supported by Comic Relief funding. However, we

asylum matter despite having their own legal representative. Additionally, we may receive calls from a relative of an imminent deportee seeking assistance to stop their loved-ones removal, or to help them to release from detention. However, the majority of the callers come to our office to obtain advice and assistance on nationality matters, variation of leave (visa extension), obtaining entry visas for their family or relatives, or obtaining a European Residency visa - all of which are common areas for our users. A user, who is not entitled to receive support under the means, merits and sufficient benefit criteria of the Legal Services Commission, is being dealt with by our Advisors or Caseworkers under the funding provided by the London Council funding.

Case Study 1

Mrs T.P (Ref: V89) entered in this country on a visit visa for a family visit to see her daughters

and sons who are settled in the UK. After few months of her visit her health condition deteriorated and her children decided to make a settlement visa application with advice of her GP to stay in the UK. She made the application in February 2007, at which point we took up this case and dealt with it under the London council funding. Due to her son's high income, Mrs. TP was not entitled to Legal Services Commission funding. Her Application for variation of leave was refused in April 2007 due to lack of evidence submitted with the application and her failure to complete the correct application form before entering the UK. We appealed against the decision. However, the immigration Judge dismissed the appeal by stating that despite Mrs. T.P. being 59 years old, 'she is not an old women,' therefore, she was not regarded as 'an "exceptional person" entitled to a visa under the Immigration Rule. We lodged further appeal to tribunal for review. The order for reconsideration has been granted and waiting for the re-hearing. It seems that the Judge did not properly consider the subjective and objective evidence when considering the compelling compassionate grounds.

Case Study 2

Miss NK arrived in the UK claiming asylum at her port of entry at the end of last year. She was taken to Oakington Reception Centre after the initial screening interview at the port. She obtained our number from the Administration of detention centre, and sought assistance from us in relation to her asylum and human rights claim and her detention. The case was taken by our internal caseworkers. Two weeks later she was released on temporary admission and on later stage her case was refused without appeal rights as certified under the Nationality and Immigration Act 2002. This decision is being challenged at the Administrative Court of Justice and currently on pending consideration.

Case Study 3

Mr UP arrived in this country as an asylum seeker on 24.07.00. He was then being granted the Right of residency as a family member of an EEA national. In July 2007 his Residency Permit was revoked, and he was issued removal order to Sri Lanka. We advised on his removal and reason for revocation of his EEA dependent

permit, and made further representation on these issues. However, the Home Office did not respond to our representation and they executed the removal proceedings. The lack of time prevented us from filing an injunction order against his removal.

ADVICE ON WELFARE BENEFITS

The Persons seeking advice on welfare benefits constitute the second most numerous segment of our clientele. Ever changing benefits schemes, combined with substantial lack of knowledge about benefits claims are the main reasons behind this. Also, the benefit agencies procedures and formalities make it more difficult for the beneficiaries to obtain their entitlement. Claimants have to fight for their rights in obtaining their support even if their applications are straight-forward. Additional queries that we received from our included those dealing with jobseekers allowances, income based tax credit allowance, pension credit, housing, sickness benefits, maternity benefits, council tax benefit and disability or incapacity benefit related issues and lack of basic skills to the extent of difficulty in completing a form. Within the last year, benefit agencies have relied heavily on form applications and extensive assessment over the phone, which had caused increased problems for our clients.

Jobseekers Allowance

Members of our community are struggling to overcome barriers which prevent them entering into the job market. Even upon securing employment, they are often substantially underpaid, and fail to reach their potential. Unemployment is generally high in Newham; other surrounding boroughs also lack opportunities. In March 1997 the unemployment rate in Newham was around 9.5%; in March 2007 it was 4.9%. Despite these figures, users of our organisation sometimes find it difficult to upgrade their skills according to the UK's demanding job market. Moreover, employers sometimes hold a negative attitude towards recently arrived migrant persons due to procedures required in carrying out checks with the Home Office with respect to their eligibility to work in the UK.

i) Contribution-based Jobseekers Allowance

Contribution-based Jobseekers Allowance is based upon based contributions to the National Insurance fund. It is taxable, it overlaps with other benefits, and it has no dependant additions. It is not means-tested but it does count in full as income for means-tested benefits.

Payable at:

16-17	£46.85 a week
18-24	£46.85 a week
25 or over	£59.15 a week

To get Jobseekers allowance, an applicant must sign on as available for work, and must show that he is actively seeking work. He will be required to sign a Jobseekers Agreement setting out your job search activities as a condition of getting the benefit.

Applicants are required to be immediately available for work and will normally be expected to be available for 40 hours per week. However, in exceptional circumstances - for example, if you are a carer or your capacity to work is limited by ill-health or disability - you are entitled to work for less than 40 hours a week.

You could lose benefits for the following periods if:

- You leave work voluntarily or through misconduct (up to 26 weeks);
- You fail to apply for a job or neglect a work option (up to 26 weeks);
- You fail to take part or lose your place on a Gateway to Work course (2 weeks);
- You are directed to undertake a job search activity, (e.g. contact employers to ask if there are vacancies) and you fail to do it (2 or 4 weeks)

Jobseekers Allowance should be claimed from the Job centre.

Case Study 4

Mr BP has lived and worked in this country for the last 15 years. He was made redundant at the end of 2006. He approached the local job centre to claim job seekers allowance for him and his family while he was looking for a job. However, his claim was refused by the benefit agency, which stated that he had not contributed enough to satisfy Class 1 of the National Insurance contribution. Therefore, he was not entitled to job seekers allowance. Mr. BP then approached

us for an advice. We lodged an appeal against the decision, leading to a review of his case by the benefit agency; they requested additional documentary evidence on the client's previous employment. The client submitted his previous P60 with other requested evidence. After the 3 months of struggle, the benefit agency finally agreed to pay his entitlement.

Case Study 5

Mr JB was living in this country and worked here for more than 10 years. When he lost his job, he made an application for job seekers allowance, but his benefit entitlement was denied because his wife had recently joined with him in UK. He was also unable to submit his passport to the benefit agency upon requested due to it being submitted to the Home Office for a Visa Extension Application. We explained this matter to the benefit agency, who refused to accept our reasons and evidence. They proceeded to close our client's job seekers allowance file without option. We lodge an appeal against the benefit officer's decision, stating that *"If the Application for Variation to leave submitted within time limit then the benefit applicant should be entitled for their benefit support"*. After the appeal the matter was reviewed and the benefit agency agreed to withdraw their decision before it was to be heard by the benefit tribunal.

ii) Income-based Jobseekers Allowance

This is available for application to a person who is working more than 16 hours but their earnings are not enough to meet their living cost. In our experience most of the European Nationals entering the UK and excising their treaty rights are initially relying on this benefit until they either secure a full-time job, or become able to earn a higher income. Many Tamils who flee Sri Lanka due to political unrest settle in different parts of the world. After they are settled in a country for some time, they often reunite with their family because of the "Free Movement of Persons in the Enlarged European Union".

For a person to receive Income-Based Job seekers allowance, he must satisfy certain conditions:

- You must be 18 years or over but under the pension age

- You must have less than £16,000 in capital or savings
- You must not be working on average 16 hours or more a week nor must your partner, if you have one, be working on an average 24 hours or more a week
- You must not study full-time at any level.
- You must be actively seeking work.

The weekly income-based Jobseekers Allowance is the amount the government assumes is sufficient for a person to live on each week.

A significant number of Tamil speaking European nationals living in the UK and working part-time in low-income jobs receive income-based Jobseekers allowance.

Case Study 6

Mr SS approached us in middle of last year due to the refusal of his application for income based job seekers allowance. His benefit was refused by the Job centre, which stated that he earned more than the benefit entitlement. Accordingly, he was no longer entitled to benefit support. We made representation to the benefit agency with respect to their conclusion. The Jobcentre was unable to provide any explanation to us, and instead requested our client to provide more documentary evidence about his wages and number of hours he worked. We provided the requested evidence on behalf of the client, and his benefit entitlement was finally reinstated.

INCOME SUPPORT

This is available to 1) those who are responsible for a child under the age of 16; 2) a person pursuing more than 12 hours a week of study at A level or below; 3) have been accepted as a refugee and have started an English course in the first year in the UK. Also, if you are a person from abroad with limited leave to remain in the UK and your funds from abroad are temporarily disrupted or you are a sponsor immigrant and your sponsor has died, you may be eligible for the benefit.

Most of our work relates to persons who have been granted refugee status, and are relying on benefit support until he or she has found a job. Even if they were previously employed in the UK and their income was not sufficient to make a

tax contribution, then those people are also given Income support by benefit agencies. Single mothers, as well as those who have succeeded in their asylum claims, also receive our guidance and support on this issue.

For a person to qualify for an income support he must meet the following criteria:

- You must be at least 16 years old and under 60 years
- You must have less than £16,000 in capital or savings
- You must not be working on average 16 hours or more a week nor must your partner, if you have one, be working on an average 24 hours or more a week
- You must not study full-time at any level.
- Anyone of these:

- You are a single parent and responsible for a child under 16 years
- A single person looking for a foster child under 16 years
- Responsible for a child when your partner is temporarily abroad
- Parents/unpaid parental leave
- You are pregnant from 11 weeks before the baby is due and for 15 weeks after
- The pregnancy ends
- Have any sickness
- Are a caretaker for an elderly person

Case Study 7

Mrs PS had been receiving income support for many years. She received a letter from Job Centre Plus on 12th of November 2007 stating that she would no longer receive further income support from 11th July onwards as her circumstances did not meet the conditions for entitlement. The letter did not specify the circumstances, nor did it suggest what action she should take. At this point we communicated with Jobcentre Plus and found out the reason for change of circumstances. We explained to Mrs PS that during her previous conversation with benefit agency she told them she was not on receipt of income support due to not being fit enough to work. Our client agreed that this conversation took place with Jobcentre Plus. We then advised our client on her entitlement for incapacity benefits. In accordance with our advice, she completed the Incapacity benefit questionnaire from the Job Centre Plus and resubmitted it. Shortly thereafter, Mrs. PS began

to receive money from Incapacity Benefit rather than the Income Support.

Case Study 8

Mrs SK had been receiving income support from the Jobcentre Plus for a long while. She utilized the benefit to offset the cost of her mortgage. Suddenly, she received a letter stating that her circumstances had changed, and that the centre could no longer pay the benefits to which she believed she was entitled.

She came to us and we spoke to one of the staffs in Jobcentre Plus, who explained to us that according to their records she was living with her husband. Our client challenged this contention, and we demanded that the Centre produce their evidence for their conclusion. The Job Centre plus was unable to give further explanation as to how they arrived at their assertion as to our client living with her husband. We requested for a further review as early as possible. The matter was reviewed by Jobcentre plus, who asked our client to submit written confirmation by stating that her husband is living in India. As a result of our submission her benefit entitlement has been reinstated.

PENSION CREDIT

A person who is over 60 is entitled for pension credit. The person should be in the UK, should satisfy the 'Habitual Residence Test,' and should not be subjected to Immigration control. A single person is entitled to £114 per week, and a couple receives £174.05, which is the minimum payment per week they are entitled. However those who qualify for occupational pensions or state pensions may be entitled more than the above basic rate. The actual amount of their entitlement may differ according to the individuals saving credits and their current saving credit.

Case Study 9

Mr and Mrs TK arrived in this country in February 1997 and claimed asylum. The National Asylum Support Service (NASS) had supported the couple. Later, the Asylum claim was rejected and the appeal rights were exhausted. However, they were unable to return to Sri Lanka due to ongoing war and human rights violations. They submitted fresh claim through their solicitors,

received support by local authority. Subsequently, they were granted Indefinite Leave to Remain. In May 2007, the couple lost their entitlement to receive local authority support, as they are no longer 'asylum seekers'. At this point, we were able to assist them in obtaining the Pension Credit to which they are entitled. Initially, we completed their pension credit form over the phone in our Newcastle office. Later, we helped them to submit all other necessary documents for their assessment and also to obtain the National Insurance Number. At the beginning of September, their application was accepted and they receive their entitlements with back dated claims.

Case Study 10

Mr AS is a British citizen who worked in this country for many years and later claimed his pension benefit with pension credit. In 2003, he returned to his native country and stayed there for 3 years. During this time, his pension entitlement was given through his bank while he was abroad.

However, after 2 years later his pension was no longer being paid to his bank by the Department for Work and Pension (DWP). His effort to reinstate his pension benefit from abroad was not successful; later, when he returned to UK, he approached us and asked us to help him to obtain his pension entitlement. We communicated with the relevant pension credit section and made representation on his behalf. After 3 months of effort, the DWP agreed to reinstate his Pension Benefit.

Case Study 11

Mrs P received a letter from the Department for Works and Pension stating that they had overpaid an amount of £607.75, and that she was required to refund it. However, our client believed that there had been no such overpayment. On her behalf, we inquired as to the reason for the overpayment. Also our client was receiving Incapacity Benefit, which meant she could not repay. We received a form to be filled, the Incapacity Work Questionnaire. Later she went for a review with Dr.Z. The doctor stated that even though her mental state was stable she was in stress because her elder son was under drugs and he had to look at the family

because her husband was not able to speak English. This case is still pending.

INCAPACITY BENEFIT

This benefit is for people who are not able to work due to their disability or illness. You will qualify only if you have paid the National Insurance contributions. It is taxable and is counted for the means-tested benefits. It is an 'overlapping benefit' which means we cannot receive two at any one time. To receive this benefit you should be 16 or over up to the pension age. Those who are incapable of work more than 28 weeks can receive this however those who are entitled for sick benefit are not entitled for the same.

The incapacity is assessed by 2 tests.

1. The 'own occupation test' looks at your ability to do your usual work.
2. The 'personal capability assessment' assesses your ability to do any work by focusing on a range of activities such as walking, standing and sitting, and includes an assessment for mental health where appropriate.

Generally persons who are severely disabled, those receiving disability living allowance, the terminally ill, blind people, or those with certain prescribed medical conditions are entitled to benefits.

Very few users in our experience succeed in this making this claim due to the high "disability" threshold expected of the own occupation test and personal capability assessment.

Case Study 12

Mrs PG wished to claim the incapacity for work benefit at the age of 53 due to her health condition. This was the first time she had intended to claim this benefit, and she approached TWAN in order to seek advice on claiming it. We obtained the relevant application from the Jobcentre Plus, and assisted her in filling out the relevant form. Her local GP corroborated her physical and mental issues. Based on the information and evidence from the GP, she obtained the benefit in due course.

Case Study 13

Mr KK had applied for a benefit for his incapacity. He specified in his application that he was not able to bend down, and that he had problems with sitting and standing. He also specified that he could not climb more than 12 steps. He submitted his application form on his own and it was rejected by the benefit agency on grounds that he did not satisfy the Personal Capability Assessment. Therefore, he did not gain the necessary points in this test to claim this benefit. He came up to us to seek help and we represented him. We specified clearly all difficulties he had in sitting, standing, walking, using stairs, raising from sitting on the ground, bending, kneeling, lifting and carrying. We lodged an appeal to the benefit agency, attaching a letter from his GP. Eventually, a tribunal overturned the benefit agency's decision, and he was able to receive his incapacity benefit entitlements.

Case Study 14

Our client Mr KP came to us for assistance to obtain advice and assistance in incapacity benefit. The Jobcentre Plus informed us that he was not eligible for the benefit, because he was receiving SSP (Statutory Sick Pay). We then made a second appeal with the completed incapacity benefit application after his SSP had ceased. Finally, our client received his incapacity entitlement.

DISABILITY BENEFIT

Disability benefits are paid to people with a physical or mental illness who need help with personal care or supervision and help with getting around outdoors.

There is no entitlement to assistance with mobility costs if you first apply after 65 years of age. If you are over 65 years of age you can get personal care needs by applying for Attendance Allowance. This is non-contributory and tax-free. This is a means-tested benefit. If you are terminally ill or you need care both day and night you will be paid £62.25 per week. If you need care either at the day or at night you will be paid £41.65 per week. If it were for part of the day it would be £16.50 per week.

This is a very common type of benefit that many of our users receive due to their age, fitness, or mental condition. Nevertheless, lack of knowledge and the inability to read and understand the benefit system spurs claimants to seek assistance from us on eligibility for this benefit. Moreover, convincing review boards with supportive evidence such as medical reports is beyond the capacity of most claimants. This is mainly because of the benefit agencies' sceptical attitudes, failure to give ample attention to the reports from the GP, and neglecting to give the option to the client to speak through an interpreter if the claimant so wishes to speak to one during a medical assessment.

The plan to introduce a tougher work test for disability may prevent more vulnerable people from receiving their entitlement. The UK government indicates that at the moment more than 60% of the people who apply for the incapacity benefit are successful, but only 50% of people who take the new test are likely to pass it.

Case Study 15

Mr KN came to us in order to procure his Disability living Allowance. We obtained the relevant form from the Jobcentre Plus and completed it on his behalf detailing all the following problems: seizures due to excessive alcohol consumption, difficulties with walking, dizziness, headaches, and severe sweating. He also required assistance washing his clothes, bathing, selecting his clothes, going to the toilet and was dependent on a person for all his basic needs. We helped him in stating all the above problems in his application form and submitted his application. The benefit responded to indicating their willingness to give our client his entitlements.

ATTENDANCE ALLOWANCE

This is paid to those who need help with personal care in order to avoid danger to themselves or others; this claim can only be lodged after the age of 65. Persons can also claim this benefit if they are 65 or over and terminally ill. The weekly pay for those who require day and night care is £62.25. For day OR night care, payment is £41.65. People who satisfy the residence conditions and those who are not under immigration control are eligible to claim this benefit.

In our experience, some of our clients are entitled to an attendance allowance, but they are unable to express their difficulties in carrying out bodily functions or using the toilet when questioned by local authorities. This leads to contradictions and inconsistencies in applications and assessments. Our duty is to establish this fact, and to remove this obstacle to claiming the benefit.

WORKING TAX CREDIT

Case Study 16

You could be entitled to claim Working Tax Credit if you are 16 years or over and working. If you or your partner is working for less than 16 hours a week at low income, or if you are a lone parent or a couple with a dependent child who is less than 16 years of age, then you are eligible for this claim. If you suffer from physical or mental disability, which does not allow you to get a job, then you can claim for this. If you do not fit any of the above categories, you can still claim this benefit if you are aged 25 and over, doing a minimum of 30 hours work, and receiving a low income. You must not be subject to immigration control to qualify this benefit.

In our experience, the working tax credit is claimed primarily by European nationals seeking to establish their life in UK. Most of our work involves giving advice on the working tax credit entitlement, and the amount they are eligible to claim; however, we often ended up dealing with overpayment disputes between the working tax credit sections and our clients.

CHILD BENEFIT

Case Study 17

Child benefit is paid to people who are responsible for a child or qualifying young person. It is paid for each child for whom a claimant is responsible. The benefit amounts to £17.45 per week for the eldest child, and £11.70 per week for each subsequent child. You need not be a parent to qualify for this benefit and you need not necessarily live with the child. It is also not necessary to have paid the National Contributions to qualify for the child benefit, and the entitlement is not affected by income or savings that you have.

You can claim this benefit if you have a child under the age of 16 or a young person between 16 and 20 who is receiving a non-advanced education or doing un-waged work based training. This is a tax-free benefit.

A substantial number of our users receive advice and assistance with respect to child benefits because their children may have migrated to this country recently, or may have been born recently.

Case Study 18

Mr SS had been receiving a child benefit for sometime; one day, he discovered that he had not been receiving it for the previous two months. He came to us requesting that we take up his case and represent him. We wrote a letter to the Child Benefit office asking them to check their client benefit payment record and to take appropriate action towards resolving the issue. The child benefit office requested our client to submit his children's birth certificates. Finally, the Child benefit office gave our client his entitlements.

HOUSING BENEFIT

If a person has less than £16,000 in savings or capital, he can apply for the housing benefit. If you are 16 or 17 and have been cared for by a local authority in England and Wales then you cannot claim for the Housing Benefit. There are some persons whom are exempt from claiming these benefits.

- A full time student
- Those with a lease of more than 21 years
- Paying rent to someone who you live with, and either 1) the arrangement is not commercial or 2) your landlord/lady is a close relative.

You can receive Housing Benefits only if you are not subject to immigration control. If anyone is sharing or living in the particular house then there will be a deduction towards his or her housing benefit entitlement.

There is no deduction for a non dependent if s/he is under 18, a full time student, under 25 on income support or income based job seekers allowance, on pension credit, in prison and in hospital for 52 weeks or more.

Many of our clients are entitled to receive both rent benefit and housing benefit because they are on low income and, and must pay high rent for their accommodation in and around the London area. However, the local authority's attitude is not correct - while they are processing the housing benefit application, they sometimes erroneously reduce their resident's rent benefit without reason, and without notifying the tenant. The local Authorities also calculate the applicants benefit entitlement incorrectly, and later try to reclaim the amount back from them. These are also some typical issues dealt with our caseworkers within the office.

Case Study 19

Mrs MJ received a letter stating that there had been an overpayment of housing benefits due to the council's calculation error, and that she would have to repay this amount. She came to us with the copy of the letter, claiming that she would not be able to pay £20 per week as was suggested by the council. However, she was willing to pay £20 per month. We then wrote a letter to the council stating her income and expenses. Later, the local council accepted her suggested mode of repayment, and asked her to pay £20 per month for duration of 12 years.

COUNCIL TAX BENEFIT

A person is eligible to claim Council Tax Benefit if s/he has a low income i.e. less than £16,000 in savings or capital. However, is another way to reduce the amount of council tax: through the second adult rebate council tax benefit scheme. In case of couples where one is not subject to immigration control, that person can claim the full benefit.

Persons not eligible for the council tax benefit:

- Under 18 or those over 18 receiving child benefit
- Student nurse and full time student
- Persons living in prisons, hospitals, or carers supervising someone at the highest rate of DLA care component or attendance allowance.
- Care workers who work for at least 24 hours a week, paid on more than £30 a week.

ADVICE ON CONSUMER RIGHTS AND MONEY

The majority of our community has migrated to UK within the last 20 years, and has sought to establish a right to live in this country. During this process many of them need advice and guidance on how to spend their money and solve their disputes with creditors. As a license holder from the Group Debt counselling from the Office of Fair Trading we have the right to provide any sort of counselling to the public. Our main aim upon receiving this license is to "Help people with their debt problems by taking over their debts and negotiating on behalf of them or advising them on how to discharge specific debts".

Managing money appropriately is a very important aspect of life. Most people get into debts because they fail to control and manage their finances properly. Getting into debt - and trying to cope with it - can put a person in a very stressful situation. Debts can be categorised according to their priority - there is a distinction between *priority* and *non-priority* debts. It is important to pay off priority debts first in order to ensure that the liabilities do not create more pressures. Priority debts could include council tax arrears, electricity and gas arrears, rent arrears, ground rent/service charge arrears, TV licence arrears, mortgage arrears, hire purchase and conditional sale agreements, magistrate's court fine etc. The non-priority debts could also include credit and store card bill, unsecured bank loan and overdraft, and moneylenders charge etc. For people who own their own home, mortgage errors are one of the most important debts because the loan (mortgage) is secured against their home, which they will lose if they fail to keep up with their repayments. If they are at least two months behind with the payment the lender may take action to take possession of the house, which can be very distressing. The anxiety and pressure of debts, in tandem with the distress of losing one's house - can lead to severe health problems, which is why it is very important to deal with debts wisely and pay off the ones that pressure the most.

If you are finding it difficult to keep up with debts and find yourself in financial problems, there are various steps that can be taken to reduce your debt level: increasing income, cutting down on

spending, and checking to see if the debts are miscalculated. Particularly cases of housing benefit and council tax errors, the council sometimes presses on people to pay back the benefits that they have received due to the council's own calculation error. In this case, you could discuss your situation with your council, and they will be able to reduce the weekly payments to help you to pay it off slowly. It is always better to negotiate with your creditor instead of ignoring your debts, because doing the latter might make you liable to be sued. For example when a person fails to pay his/her council tax, electricity/gas bill or water bill etc, the creditors will usually write to them on several occasions before taking any legal action. You could also run a check on your liability to pay certain debts. Generally, people are not responsible for their partners' debts unless it is an signed agreement from both of them, and a debt of a nature where both the partners share the benefits - for example, paying rents, council tax, electricity, gas and water bills are dual responsibilities if a couple are living in the same house. A rather general rule to note is that when someone dies, their outstanding debts will be paid off by the money invested in the estate left behind, but if there is no property held under their name their debts usually die with them.

In the case of a payment for unsecured loan, if there has been no contact for at least 6 years, the collection of the debt may be 'time-barred', but there are exceptions to this.

Dealing with debts

- Priority debts should be dealt with before non-priority debts and this is usually done by telephone and agreement being confirmed in writing.
- Non-priority debts are usually dealt with by writing to each creditor, enclosing a copy of the financial statement.

Priority Debts - Dealing with priority debts will ensure that the threat of homelessness, loss of goods or services or the threat of imprisonment is lifted. It is necessary that the adviser of the debtor identifies which debt is to be dealt with first thus, as stated in the meaning of its title. A typical example of this type of debt is a secured loan. This type of loan is secured against the debtor's home and non-payment of this may lead to possession action

by the lender. Other examples may include rent arrears, council tax, gas and electricity charges, fines, maintenance and compensation orders where non-payment may result in the magistrates issuing a compensation order to bailiff's in order to take possession over items up to the value of monies worth, seize the debtor's property or even lead up towards imprisonment.

Once the debt has been identified the advisers should contact the creditor regardless of the lack of information to negotiate the amount, manner and time of repayments. They must then advise the debtor to seek further help if necessary with regards to potential difficulties in arranging these repayments and then monitor the debtor's strategy. It is vital that emergency action is taken upon non-payment of priority debts to avoid the debtor's house from being re-possessed.

NON- PRIORITY DEBTS - Majority of debts are likely to be of this type. Non-priority debts are those where non-payment will not result in the loss of the debtor's home, liberty, essential goods or services. These debts are also known as credit debts for which can vary from unpaid bills for a mere few pounds to a loan of several thousand pounds. Examples of this type of debt are credit cards, unsecured personal loans, money owed to family, friends and money-lenders, credit sale agreements and charge credits.

Once the financial statement has been drawn up, we may assist clients in writing to each non-priority creditor to discuss the reasons for exempting payment for a temporary period due to problems in the relevant circumstances. This letter should include the offer being made and also mention to the creditor to freeze interest and charges.

If there is available income the creditors will use this financial statement to calculate the pro-rata distribution of interest so that offers made are proportional to the size of the non-priority debt. Thus, the larger the debt the larger the monthly offer of repayment.

This repayment can be through an administration order or an individual voluntary agreement. However, where there is no available income there are a number of different strategies.

This includes suspended payments to temporarily freeze interest charges, nominal offers, write offs, bankruptcy and offering a lump sum in full and final settlement. The write off may be appropriate if the client has no assets or money available and it is unlikely in his situation to change over a period of time.

The Limitation Act 1980 exempts to apply where there has been no contact between the creditor and the debtor for at least six years regarding an unsecured debt and also where there was been no contact between the creditor and the debtor for twelve years on a secured debt.

If however a home has been re-possessed and the mortgage remains a short fall after sale:

- The time limit for capital element of the previously secured debt is twelve years
 - The time limit for the interest element of the previously secured debt is six years.
- Thus, if a mortgage lender contacts a client about a shortfall for more than six years after the client defaulted the mortgage, then the client must be referred for specialist advice.

The Consumer Credit Act 1974 is a wide-ranging legislation that regulates almost all aspects of personal credit. It functions to protect individuals within a credit agreement situation.

Case Study 20

Mrs R was receiving telephone service from NTL. One day, she discovered that her house telephone was not working, so she called the NTL customer service to find out what was happening. The staff from NTL diverted her call to a charge-by-the-minute number without informing her. Mrs R's landline was reconnected three days later. A month after her call, she received a bill which was double the usual amount. Mrs R approached our offices at this point; we called NTL in order to negotiate a refund for her charged call. However, NTL failed follow through, and when we called them back they refused to say the previously stated refund and offered only a £4.00 refund, which Mrs R refused to accept. We then took appropriate action, finally securing her refund for the extra cost she occurred while calling NTL.

Case study 21

Mr K.P lost his job due to clinical depression. As a result of paying for his treatment for the disease, he had incurred some debts. He had then been claiming income support, but this and other benefits such as council tax and housing benefits were suspended due to his having failed to supply the Jobcentre with sick note from his doctor. He was issued warrant letter by solicitor (debt collection agency) for a debt of £1272.35, and he sought our advice. We wrote to the debt collector explaining his financial situation offering to pay in instalments, which the client could afford. The debt collector replied by saying that that were happy to accept the offer. The issue between Mr K.P and the debt was ultimately settled.

Case study 22

Mr K.T gave £1505 to a money transfer company in order to have funds sent to Sri Lanka. When Mr K.T decided that he wanted the money back, the company refused to refund him. He approached us to help him with this matter. After serving notice to the defendant, we were unable to recollect the money; we took the case to the county court. The country court gave judgement for Mr K.T, and ordered the transfer company to repay him in full. While attempting recollect the money, Mr K.T had accrued some debts; we helped him to settle these issues, as well. We contacted his creditors and arranged for him to pay in instalments, which he could afford.

ADVICE ON ACCOMMODATION AND HOUSING

The provision of housing and accommodation is a reasonably difficult and complex area for our users to deal with it, due to immigration restrictions on their status. We can divide our users in two categories who are regularly seeking our assistance with their housing and accommodation need. One type comprises UK citizens of this country, those with unlimited leave and not subject to immigration control, those with limited visas or those residing in the UK temporarily. The second category of people comprises asylum seekers or failed asylum seekers. The latter are generally not entitled for National Asylum Support Service (NASS). Still

others are unable to comply with the offer and conditions to accept NASS support. It is very difficult to find a shelter for these homeless people because most of the shelters are no longer able to provide accommodation for them. Therefore, these people rely heavily on their communities and religious shelters; if not for these accommodation providers, asylum seekers might face homelessness, starvation, and hardship, which might cause problems for public services such as hospitals, police, social service and park attendants.

BASIC RIGHTS OF HOMELESS PEOPLE

The relevant law is contained in the Housing Act 1996 (Part VII), which addresses the issue of homelessness and sets out the duties of local housing authorities with respect to homeless people. Specifically, this section of the Act sets out 5 tests that enable a local authority to determine the type of duty owed to towards a homeless person seeking assistance.

HOUSING AUTHORITY RESPONSIBILITIES

The housing authority has number of statutory duties towards applicants. In making an application, the best-placed person in the household is entitled to make the application. If the application fails, another member of household is entitled to make a fresh application on behalf of everyone else.

In view of the fact that the need for homelessness assistance may arise at any time, Housing Authorities have arrangement in place for 24-Hour emergency cover. As well, the police and other relevant services have details on how to access the services outside of normal office hours.

Within approximately 33 working days after submission of the application, an applicant is entitled to notification by the Authority as to the decision made and if unfavourable, reasons for the decision must be set out. The letter must inform the applicant of his/her right to request a review of the decision and of the 21-day time limit for doing so.

Upon being approached by an individual seeking homelessness assistance, an authority may have a duty to provide interim accommodation. Thus, if the authority have reason to believe that an

applicant may be homeless, eligible for assistance AND in priority need, then the authority shall secure that accommodation suitable for the applicant and anyone reasonably expected to reside with him/her pending a decision on the application.

If an applicant is subject to immigration control, and the household is found to be ineligible for homeless assistance pursuant to s213A Housing Act 1996, dependent children may be entitled to assistance though the s17 of the Children Act. Thus, upon a denial of assistance to the applicant, the housing authority is to 'refer the essential facts of the case to social services (with the applicant's consent) Further, there is a duty on the housing authority to provide assistance and advise to the social services authority if requested to do so.

Homelessness

The first test considers whether the applicant is believed to be homeless or threatened with homelessness. Pursuant to the s175 Housing Act, a person is deemed to be statutorily homeless if s/he has no accommodation available for his/her accommodation in the UK or *elsewhere*, which s/he is legally entitled to occupy. A person is deemed to be homeless if s/he has accommodation but cannot secure entry to it. It is important to note that a person shall not be treated as having accommodation unless it is accommodation that would be *reasonable* for him/her to continue to occupy. In assessing reasonableness, the authorities are bound to consider, "general circumstances prevailing in relation to housing." In particular, the factor an authority must consider includes overcrowding, physical unsafe or unsanitary conditions, and the probability of domestic violence. If these factors are present, it is likely that the accommodation would be considered unreasonable for continuous occupation and the person(s) treated as homeless.

Eligibility

The second test considers whether an applicant is believed to be eligible for assistance. An individual is eligible to apply for homelessness assistance if the person is a UK national or a person with a right of abode. Persons who are subject to immigration control (i.e. a person who requires leave to enter or remain in the UK) are

NOT eligible for homelessness assistance unless they fall into the categories of persons that are set out by the **Homelessness (England) Regulations 2000**. The categories are:

- A person who has been granted refugee status in the UK;
- A person with Exceptional Leave to Remain (ELR), or those granted Humanitarian Protection or Discretionary Leave to Remain;
- A person with indefinite leave to remain (also commonly referred to as settled status) *and* who is habitually resident in the Common Travel Area
- A person who made a claim of asylum at the port of entry before 3 April 2000 and a decision on the claim has not yet been made;
- An asylum-seeker who on the 4 February 1996 was awaiting decision on his/her application or on an appeal and who was entitled to housing benefit on that date;
- A person who is on income-based Jobseekers Allowance or in receipt of Income Support.

It is important to note that the following categories of people are NOT eligible for homelessness assistance:

- Asylum seekers;
- Those subject to immigration control within the meaning of the Asylum and Immigration Act 1996;
- Those barred from receiving housing benefit under s115 Immigration and Asylum Act 1999;
- Those who are not Habitually Resident;
- Persons with no recourse to public funds. For those whom this is a condition of entry into the UK, it should be emphasized that the act of applying for assistance constitutes a violation and could result in being subject to deportation or refusal to grant settled status.

Priority

Certain categories of persons have been recognized pursuant to s189 (1) Housing Act 1996 and in the new **Homelessness (Priority Need for Accommodation) (England) Order 2002**, as warranting a priority need for accommodation. Such persons include:

- A pregnant woman or a person with whom she resides or might reasonably be expected to reside;
- A person with whom dependent children reside or might reasonably be expected to reside
- A person who is vulnerable as a result of old age, mental illness or disability, physical disability or other special reason (including chronically sick people, people aged 18-25 at risk of sexual abuse or violence), or with whom such a person resides or might reasonably be expected to reside.
- A person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
- A person aged 16 or 17 (subject to certain exceptions)
- A person who is vulnerable as a result of having spent time in custody.
- A person who is vulnerable as a result of ceasing to occupy accommodation due to violence

Non-Priority Homeless Persons

If the authorities are satisfied that an applicant is homeless, eligible for assistance, not intentionally homeless but does NOT fall under a priority category, the Housing Authority shall provide them with any advice and such assistance as they consider appropriate.

Intentional Homelessness

The fourth test considers whether a person is intentionally homeless. If a person becomes homeless as a result of deliberately doing or failing to do anything in respect of their accommodation which is available for their occupation, a person may be considered to have intentionally caused their homelessness and therefore would be ineligible for assistance. For example, a person may be considered to be intentionally homeless if they:

- sold or gave up their home when there was no need for them to do so and you did not find other suitable accommodation; or
- did not pay your rent / mortgage when they could afford to do so; or
- ignored housing advice which would have prevented the loss of their home; or

- were evicted because of anti-social behaviour.

Local Connection

In making an application for assistance an individual must establish that they have a local connection with the district of a local housing authority. In determining local connection, the following factors would be considered:

- Whether the person was normally resident there, and that residence is or was of his/her own choice;
- The person is employed there;
- The person has family associations; or
- Because of special circumstances.

It should be noted that some asylum-seekers who are still eligible to apply as homeless are subject to special provisions under the Immigration & Asylum Act 1999. The provisions provide that asylum-seekers can be referred to another local authority if that authority agrees, regardless of whether the person has a local connection. As well, an authority can accommodate outside its own area if a written agreement with another authority to do so exists. The only exception applies to those who would be at risk of domestic violence if s/he were referred.

Basic rights of homeless people:

- Can apply to any local authority and to any department within the authority.
- Once an application has been made, the authority is entitled to have enquires made into the applicant's housing situation. The purpose of the enquiry is to establish which housing duty the local housing authority owes the applicant.

Duties owed by Local authority to homeless people (Contained in part VII of the Housing Act 1996)

Case Study 23

Mr. A.S is a British Citizen who worked and received pension in the UK. He returned to his native country in 2006 and he stayed for a year due to family issues. As he was away from the UK for over 3 months, he lost his housing, which had been provided by the local authority. However, he continued to be eligible for pension credits. At the beginning of 2007 he returned to

the UK, staying with friends. He eventually contacted TWAN for assistance in relation to his pension. After reinstating his pension credits, TWAN took the initiative to find suitable housing for Mr. A.S, as he was unable to continue living with his friends on a long-term basis. We made a representation to the homeless persons unit to provide urgent assistance for Mr. A.S. After the assessment, they provided interim accommodation at the hostel. However, the local authority decided to withdraw his support by stating that Mr. A.S was not homeless or threatened with homelessness under the terms of the Housing Act 1996. We challenged this decision on the basis that Mr. S was a vulnerable person in need of accommodation and that the authority erred in determining that he was not homeless. The Housing Authority agreed to review the application and subsequently withdrew their initial decision. Mr. A.S was provided the sheltered housing to which he was entitled.

Case Study 24

Mr. T.R. was unable to make his mortgage payments on his family home and it was subsequently repossessed. Mr. T.R, his wife and his two young children became homeless; they were unable to access their home as it was locked by the building society. Mr. T.R. approached TWAN with a notice that was placed on their door. We contacted the relevant building society to make arrangements toward obtaining access to the family's belongings. In addition, we referred this matter to the local homeless persons unit. They were initially refused accommodation without reason. They returned to our office in the evening of that same day. We contacted the after-hours social worker and explained the family's urgent need for housing for that night. Pursuant to the social worker's advice, we contacted the police and they made the arrangements for emergency accommodation. The next day, the family approached the homeless persons unit carrying an explanation letter that TWAN drafted and the unit reopened the matter and arranged interim accommodation.

Three months later, the family was threatened by the local authority due to non-payment of rent and subject to eviction. Once again we raised this issue with the housing officer, explaining the family's failure to complete their housing benefit application to obtain housing benefit in order to

pay their rental costs. The local authority initially refused to accept their responsibility, but TWAN pressed the point, ultimately convincing the authority to backdate the housing benefit application, which enabled Mr. T.R. to clear his debts. The family stayed for approximately 7 months in the hostel, eventually transferring to a house arranged by the authority. During this time, they received some lump sum of money through the sale of their house by the building society; once again, the council threatened to evict our clients by stating that they have enough money to find private accommodation. Again, we explained the family's outstanding debts and other financial issues. Our argument was accepted, and the family was allowed to stay in the housing provided by the authority.

Case Study 25

Mr P.T had been living in the UK for many years, receiving income support and housing benefit. In 2006 the housing benefit had not paid to his account by the council benefit section. Due to his inability to pay, he was soon issued a County Court Order for possession of property. At this stage, he approached us for help in negotiating with the court to extend the deadline for repossession of the property.

We also helped him negotiate with the local authority benefit section and we discovered that the reason his housing benefit had not been paid to his account was because he was on income support. However, he had previously received a confirmation letter stating that he was entitled of 100% benefit to cover his rental cost, irrespective of his receipt of other benefits. The benefit section reviewed the matter and accepted that they had made an error. The section agreed to transfer his benefit into his account. Finally, the local legal officer for housing agreed to withdraw their eviction decision. The court endorsed this order by cancelling the repossession order.

HOMELESSNESS AND ASYLUM SEEKERS

Accommodation for asylum seekers is greatly restricted by the immigration law. Support for asylum seekers is the responsibility of the National Asylum Support Service. If the person is destitute, then s/he will likely be offered

accommodation and support in a hostel anywhere in the country until the Home Office has determined their initial asylum claim.

If asylum seekers lodge appeals against the Home Office's decision within the time limit and their appeal is outstanding, then they may be able to obtain the support continuously until the court determines the status of their asylum claim. If they lose the appeal, the hostel owners will immediately evict them from the hostel. Should they want to continue receiving support from NASS then they may have to comply with the removal proceedings, where they will qualify for support under the section 4 of the Immigration and Asylum Act 1999.

Asylum seekers might make further overtures to the Home Office as a fresh asylum claim or human rights claim. Whilst the application is in progress they are entitled to stay in this country, but the NASS is not obliged to provide any support. It is for this reason that many failed asylum seekers have become homeless, consequently relying on their relatives, friends or people in their community. As they are not entitled to accommodation, they try to convince their relatives and friends to provide accommodation until they are settled. If space is not available, claimants might be forced to seek shelter at local religious centre such as a church or temple.

The Immigration Asylum Act 1999 excludes asylum seekers and other person subject to immigration control from entitlement to assistance as homeless persons. Those who claimed asylum in the UK from 3rd April 2000 are not entitled to assistance under the HA 1996 until a favourable decision is made on their application. There is only a limited exception to this, and the remedies available to asylum seekers faced with disrepair, insanitary housing and harassment are also considered.

The IAA 1999 also removes certain rights of an asylum seeker such as security, tenure, and protection from eviction where they are housed under the Act. The HA 1996 makes provision for securing accommodation rights for homeless people in part VII, and allocates long-term social housing benefits to people in part VI. It also places duties on local authorities to assess certain homeless applicants and to secure accommodation for those meeting qualifying criteria for

a limited period. Part VI of the act establishes a framework within which local authorities must allocate tenancies of their own housing stock and that of registered social landlords (including most Housing Associations).

While creating rights for people with homelessness, the HA 1999 contains a series of restrictions on the rights of persons from abroad, including asylum seekers. In effect, this means that the act aims to secure the housing rights of the UK citizens, making it difficult for non-residents to derive any rights from its terms. The Immigration and Asylum Act 1999 and Housing Act 1999 both serve to restrict asylum seekers' access to housing

ELIGIBILITY FOR HOUSING ASSISTANCE

Eligibility is restricted on the grounds of immigration status, and, in the case of asylum-seekers and their dependants, on the basis of accommodation available. Exceptions are granted to two groups of asylum-seekers (eligible):

- those given 'transitional protection' from the previous statutory scheme - a group that diminishes with time;
- those eligible because of their nationality.
- those who acquire eligibility through a favourable decision being made on their asylum application.

Qualifying persons

Housing authorities may only allocate accommodation to 'qualifying persons.' Most asylum seekers are not qualifying persons, and cannot be re-housed through the housing register unless they are granted refugee status or Exceptional Leave to Remain (ELR) in the UK. Persons subject to immigration control under the meaning of the AIA 1996 can only be qualifying persons if they come within a prescribed class. Persons who are not subject to immigration control may nonetheless be ineligible if they are subject to - and fail to satisfy - the habitual residence test.

The use of social housing for asylum seekers

Parts VI and VII of the Housing Act 1996 blocks access for social housing assistance for most

asylum seekers and people from abroad. However, the local authorities could use their own housing stock to accommodate such persons if they so wish.

The Nationality, Immigration and Asylum Act 2002

Part VI and sec 95 of the NIAA 2002 details the persons for whom support may be provided for homelessness. It states that the Secretary of State may provide, or arrange for the provision of, support for -

- (a) Asylum-seekers, or
- (b) Dependants of asylum-seekers,

who appear to the Secretary of State to be destitute or to be likely to become destitute within such period as may be prescribed. A person is destitute if he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or that he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs. Under the meaning of section 8 of the act a person is destitute if he does not have adequate accommodation, food, or other essential items. Section 96 of the National, Immigration and Asylum seekers Act 2002 lists the ways in which support may be provided to asylum seekers and their dependants.

Support may be provided under section 95 of the Act:

- (a) by providing accommodation appearing to the Secretary of State to be adequate for the needs of the supported person and his dependants (if any);
- (b) by providing what appear to the Secretary of State to be essential living needs of the supported person and his dependants (if any);
- (c) by providing the supported person and his dependants (if any) with food and other essential items;
- (d) to enable the supported person (if he is the asylum-seeker) to meet what appear to the Secretary of State to be expenses (other than legal expenses or other expenses of a prescribed description)

incurred in connection with his claim for asylum;

- (e) to enable the asylum-seeker and his dependents to attend bail proceedings in connection with his detention under the provision of the Immigration Acts; or
- (f) to enable the asylum-seeker and his dependents to attend bail proceedings in connection with the detention of a dependent of his under any such provision.

Provision of support by Local Authorities

A local authority [or Northern Ireland authority] may provide support for asylum seekers and their dependents (if any) in accordance with arrangements made by the Secretary of State under section 95 [or 98]. There are certain powers conferred to a local authority under the section 99 of the National, Immigration and Asylum Act 2002:

- (a) provide services outside their area;
- (b) provide services jointly with one or more [other bodies];
- (c) form a company for the purpose of providing services;
- (d) tender for contracts (whether alone or with any other person).

A duty arises where an application has been made to the housing authority, and the authority has reason to believe that s/he might be in threat of being homeless. If such is the case, the housing authority is required to make inquiries as to whether that person is eligible, homeless, in priority need, intentionally homeless or whether s/he has an existing local connection. Depending on the outcome of these inquiries the local authority may have a duty to provide shelter.

ELIGIBILITY - this is restricted upon the grounds of immigration status in the case of asylum seekers and their dependants, subject to accommodation available. These restrictions leave two types of asylum seekers eligible:

- Those given 'transitional protection' from a previous statutory scheme
- Those eligible because of their nationality.

The categories of eligibility shown categorised within the classes A- I within the Homelessness (England) Regulations 2000. However, a person who applies as homeless to the Local Authority may be entitled to temporary accommodation while the case is pending. If the authority is satisfied that an applicant is homeless, eligible, and in priority need, then a duty may arise to ensure that accommodation is available to the applicant.

INELIGIBILITY – a person is ineligible if s/he is from abroad unless s/he falls within one of the categories specifically accorded to eligibility (usually categories F, G and H). Those not subject to immigration control may nonetheless be ineligible if they do not satisfy the habitual test.

- (a) British citizen
- (b) Commonwealth citizens with right of abode
- (c) Citizens of the Republic of Ireland
- (d) Citizens of EEA-member states who are working, self-employed, or providing services, former workers and their family members.

Those who fall under categories a, b and c are ineligible unless they are 'habitually resident' in the common travel area (UK, Channel Islands, Isle of Man...) or they are receiving income support or income-based Job seekers assistance.

Asylum seekers who are homeless but ineligible under the provisions should seek assistance from the NASS, their local authority, social services dept or community care in order to obtain advice and assistance to secure accommodation. However, an ineligible applicant may apply for accommodation if there is another member or the household who is eligible to apply.

Case Study 26

Mr. K.J claimed asylum in September 1998 and his asylum claim was refused by the Home Office. His appeal rights were exhausted in year 2000. In November 2001 he lodged a human rights application to halt his removal, which he alleged to have been a breach of Article 3 of the European Convention on Human rights. While this application was in process, the Home Office withdrew his permission for work. Subsequently, he lost his accommodation due to an inability to

pay the friend with whom he had been living. He then became homeless and he approached for assistance. Our application to NASS on his behalf was accepted, and he was consequently given food and accommodation with conditions specified in regulation 3(2) of the Immigration and Asylum (Provision of Accommodation to Failed- Asylum Seekers) Regulations 2005. One condition was that he was required to be taking all reasonable steps to leave the United Kingdom. According to the condition he was forced to make an application to the International Organisation for Migration (IOM) for voluntary return to Sri Lanka. This was despite the fact that his human rights application was under consideration and the fact that the Sri Lankan Human Rights situation had worsened. Lacking any real choice, he made the application, which was approved in August 2007. He was removed in the middle of September under the auspices of Voluntary Return programme.

Case Study 27

Mr and Mrs S.S claimed asylum in 1997, and the claim was fully determined on April 2005. Later their solicitors made further representation to the Home Office claiming the couple should not be forced to return to Sri Lanka. While this application was under consideration the couple's permission to work was withdrawn. At this point the couple approached us for the support and we made the application for NASS. Initially, the application was refused. We then lodged an appeal and after the hearing the asylum support adjudicator dismissed the appeal. However, the adjudicator requested that the local authority consider the couple's need due to their age and health conditions. The local authority said that they were prepared to give assistance by providing accommodation and a food voucher under the National Assistance Act (1948). In October 2007 the couple was detained while they are complying with monthly reporting condition at the Beckett house immigration office at London Bridge, and were served with a removal order. We then lobbied against the order to the European Court of Human Rights. Soon thereafter, the Court suspended the removal under Rule 39 of the Rules of Court, the couple were released from detention but they lost their food and accommodation support. We negotiated with the local authority by asking them to provide support continuously until their

application to European Court of Human rights fully considered. Our request was accepted and the Local Authority agreed to re-instate food vouchers and render payment for their private accommodation.

Case Study 28

Mrs J.S claimed asylum with her two children in November 2006 due to her husband having been shot and killed by the Sri Lankan security forces. The Home Office refused her claim and the immigration judge dismissed her appeal. During this time her relatives were finding difficulty in providing accommodation on a continuous basis. Soon, she became homeless. We made the application to NASS for support but we did not receive a response. After 6 weeks, we referred her to the Migrant Help-line in the hope that they might be able to provide support. Our referral was accepted, and Mrs. J.S. was accommodated in Swansea. Now the asylum appeal to administrative court is under consideration.

ADVICE ON CRIME REDUCTION & VICTIM'S SUPPORT

The Tamil community in London is not unlike other immigrant groups who have faced issues related to law and order as part of the process of integrating into a new society. Indeed, as the histories of various ethnic groups within the UK indicate, there is a period of adjustment in which new immigrants struggle to become familiar with a wholly different set of law, legal processes and norms. There tends to be a general lack of awareness about the rights and obligations of British Society. As a result, newcomers may be prone to acting in a manner that is familiar to them and may be the norm in their country of origin but is against the law in the UK.

Tamil newcomers are especially at risk in this regard as many are fleeing a situation in which the rule of law is not respected and legal processes in general are viewed with a certain degree of scepticism. In Sri Lanka, it is not uncommon for individuals to take the law into their own hands and seek justice personally for wrongs that they perceive have been committed against them. Thus in the UK the seriousness of certain offences which would be otherwise be tolerated by the community and the relative strictness by which laws are enforced comes as

a surprise to some. Correspondingly, there is a startling unawareness' of ones rights and the means by which to pursue them. Thus many victims of crime within the community are unable to have their voices heard and continue to suffer in silence.

In view of these issues, TWAN is committed to raising awareness amongst the community of the rights and obligations in respect of the law. Aware that this issue is a critical component of a smooth integration, TWAN delivers a number of services to the Tamil community. Firstly, we provide initial advice and assistance to those who have been engaged by the legal process in some way. Typically, these include individuals who have come in contact with the police through questioning, a detainment or an arrest. As well, we assist those who have been served with court papers and explain the procedure and provide a referral if necessary. When language is an issue or the legal issue is complex or has the potential to involve further proceedings, TWAN makes representations to the appropriate authorities regarding our clients' position. For example, some community members are charged with traffic infractions, which may become serious offences if no action is taken. We assist in providing the necessary information and emphasize the importance of addressing the charge as soon as possible. When appropriate, we offer mediation and conflict resolution to members of the community who can have their grievances or conflicts resolved without engaging a formal legal process. In so doing, TWAN attempts to intervene in disputes at an early stage, offering a culturally sensitive forum in which community members can have their voices heard.

TWAN also works with the Metropolitan Police to implement initiatives to address some of the safety issues affecting the community. In particular, TWAN assists in projects aimed at reducing gang violence. As the organization is knowledgeable about the Tamil community, we are able to provide accurate information about the nature and extent of gang issues. We assist in finding alternate accommodation in London or elsewhere in the UK when gang members surrender themselves to the police and there is fear of retaliation. As well, we work with the Met Police to raise awareness amongst the community if a serious crime has been committed and urge witnesses or other victims to come

forward. Finally, we work with probation officers to support the integration of offenders into the community by assisting in finding suitable accommodation and employment.

Case Study 29

Mr. And Mrs. K, who had been contacted by their Council Accommodation Casework Officer, approached TWAN and informed us that they had received complaints that their son had been acting in an "anti-social" manner. They were asked to control their child or else face the possibility of eviction. We responded by inquiring as to what specifically the allegations were and asked for details regarding the incidents that gave rise to the complaints. TWAN also requested if there were any independent witnesses that would corroborate the evidence leading to the complaints. The Casework Officer eventually indicated that the complaints had arose out of a misunderstanding and decided not to pursue the matter.

Case Study 30

Mr T.G. was issued a penalty notice by the local authority stating that he parked his vehicle on a restricted area. Mr. T.G stated that he never committed such an offence and he confirmed that he parked vehicle on the allocated disabled parking bay at the time of the offence. He produced the evidence substantiating his claim but the local authority refused to recognize it and requested that he pay the 40 pound ticket within the time limit or else pay the penalty fare of 80 pounds. Confident that he never committed the offence, Mr. T.G. launched an appeal to Parking and Traffic Appeal Service with our assistance. The Service overturned the Council's decision.

Case Study 31

Miss T.K. received a penalty charge stating that she committed an offence by parking her car in a restricted area. However, she did not receive a penalty notice on the day of the incident. She maintained that she did not commit the offence and came to TWAN to seek assistance in appealing the charge. We advised her to take photographs of the road to prove that there were no markings or road signs indicating that she was prohibited from parking in that space. As well,

we requested photographic evidence from the Local Authority to prove their claim that Miss T.K. committed an offence. To date we have not received a response and assume that the Authority is not pursuing the matter further.

Criminal Injuries Compensation Board

TWAN assists victims of violent crime by making claims to the Criminal Injuries Compensation Board. In the UK persons who have suffered physical or mental injuries as a result of violent crime or persons who have lost a close relative to a violent crime are, under certain conditions, entitled to compensation. The claim must be made within two years of the incident, the incident must not have been provoked, and the injury must not be minor or arise from a traffic accident unless a vehicle was used deliberately to injure the applicant. If a claim is unsuccessful or the applicant is unsatisfied with the outcome, they have the right to request a review of the decision so long as the request is made within 90 days of receiving the decision. If the review is unsuccessful, an applicant can appeal and provide written evidence or proceed by way of an oral hearing.

Case Study 32

Mr P.V was asleep in his car when a group of 25 males approached the car and began to smash it up. Brandishing a number of weapons, including bats, swords, an axe and a cricket bat, they inflicted considerable damage on the car and severely injured Mr. P.V. He suffered cuts to his right hand, and both legs. As the attack was unprovoked and Mr. P.V. met the other conditions necessary to make a claim, we acted on his behalf in claiming compensation from the Criminal Injuries Compensation Authority. We were successful in doing so and Mr. P.V. received £3 318.75 for his injuries.

Case Study 33

We assisted Mr. N.K. in making an application to the Criminal Injuries Compensation Authority as he had sustained some injuries from an assault. He had been beaten with a metal bar by men unknown to him and had considerable large bruising over parts of his arm and wrist. However the claim was unsuccessful as the Authority concluded that Mr. N.K. had not co-

operated with the police and had failed to contact the investigating officer when requested to do so.

ADVICE ON ASYLUM SEEKERS BENEFIT SUPPORT

At the end of 2006 Sri Lanka was taken off of the list of countries designated for fast track, non-suspensive appeals. The Home Office determined that the recent escalation in violence had not "affected all parts of the country to the same degree," and was considering re-introducing a sub-national, regional fast-track system at a later date. This resulted in Tamil asylum claims no longer being considered for "fast-track" in asylum claims. While the Sri Lankan human rights situation deteriorated, claims of the Tamil asylum seekers rose; claimants are no longer kept in detention centres while making their claims for temporary admission.

As per the National Asylum Support Service (NASS), a division of the Home Office's Immigration and Nationality Directorate (IND), port-of-entry asylum applicants are entitled to receive financial support from NASS while awaiting the outcome of their claims, whereas in-country applicants are only entitled for NASS support if they claim as soon as practicably possible upon their arrival in the UK. Furthermore *failed* asylum seekers are only entitled to receive Section 4 of NASS support if they are destitute and cooperating with immigration authorities prior to deportation. In 2007 many new asylum seekers received our assistance in obtaining their NASS support.

While NASS' formal mandate is detailed below, it is often very difficult in practice to communicate with the office; decisions often take weeks or months to be decided, much to the consternation of those in dire need of financial support. Moreover, the office is frustratingly inconsistent in deciding which in-country applicants had made an effort to apply for asylum "on arrival."

Since 2000 NASS has been mandated with providing support for destitute UK entrants who had claimed asylum "on arrival," and who are either awaiting a decision or are in the process of appealing a failed claim. The Home Office is particularly stringent with respect to the meaning of "on arrival" - claims made three days

after entry into the UK are often refused. The organization is required to provide support if the claimant has dependent children and if the household is destitute. If the asylum seeker is under 18 s/he may obtain social services under section 20 of the Children Act of 1989. In the case of adult applicants, "destitute" is defined by the Immigration and Asylum Act of 1989 as having a lack of adequate accommodation or a failure to meet other "essential" living needs for him/herself and his/her dependents.

NASS is permitted to suspend or discontinue support if the failed asylum seeker has broken conditions of support, committed a criminal offence, made him/herself "intentionally destitute," left the authorized address, or has been away from the authorized address for longer than the permitted length of time.

Under the IAA, a claimant ceases to be an "asylum seeker" fourteen days after the Home Secretary notifies the claimant of the decision, or fourteen days after any appeal is disposed of. As per IAA 1999s102, if NASS support is withdrawn, claimants may appeal to the Asylum Support Adjudicator: a majority of appeals have involved a breach of conditions subject to which support is provided, leaving accommodation without "reasonable cause" (primarily in cases of racial harassment), a determination that the applicant was not eligible due to other "interim support entitlement," or a determination that the applicant was not "destitute" under NASS' definition of that term.

Case Study 34

Miss VS arrived in the UK in April 2007 by stowing away in a container ship, and was immediately taken to a private residence owned by her father's friend (a UK national). Three days later, she applied for asylum as an "in-country" applicant. As a consequence of torture by the Sri Lankan army in 2002-2003, Miss VS suffered from debilitating back and leg pain; she required painkillers to treat the symptoms of her condition. She approached TWAN seeking assistance with her initial asylum application. After her claim was approved, we aided her further in securing Asylum support. The Home Office accepted that she was "destitute," and was satisfied that she had made her support claim "as soon as possible" despite not applying at her initial port of entry,

and without any supporting documents to corroborate her stated date of entry.

Case Study 35

Mrs. RS arrived in the UK in October 2007 by coach at an unknown port and applied for asylum three days later at the NASS head office in Croydon. While awaiting a decision on her asylum claim, she applied for Asylum support funding, in large part to cover the cost of her antidepressant medication (her depression was re-diagnosed and confirmed by a UK physician). The Home Office refused to grant her support by consequence of not being satisfied that she had applied "as soon as reasonably practicable" upon her arrival in the UK. The Home Office supported its decision by noting she lacked supporting documents necessary to confirm her date of entry into the UK, and that she could not remember the airline she had travelled on prior to her coach journey, the colour of the cabin interior, or the language being spoken on the plane.

Case Study 36

Mr. SS arrived in the UK in February 2007 applying for asylum two days thereafter on the basis that he feared for his life due to his complicity in outing members of the LTTE ("Tamil Tigers") to Sri Lankan authorities. Mr. SS received help on his initial asylum claim from TWAN, but decided to make his own initial Asylum Support benefits claim. The Home Office declined his initial claim and because he was unable to gain work authorization, Mr. SS was forced to live off the charity of friends and relatives. In early 2008, TWAN elected to make a second support benefits claim, arguing that Mr. SS had not been properly informed of his rights, had been unaware of the proper procedures for making such a claim, and that his state of "destitution" was worsening due to his continued inability to work. TWAN is currently awaiting the outcome of this second NASS benefits claim.

Case Study 37

Mrs. JS came to the UK with her two-year old daughter on a visit visa following the shooting death of her husband by the Sri Lankan army. She was understandably frightened at the prospect of continuing to live in Sri Lanka. She

applied for a visit visa in order to reunite with her parents, who are both UK residents. However her asylum claim was refused by the Home Office and later by the immigration judge. TWAN made a further application for a statutory review to administrative court on her asylum claim. During this time, her sister became unable to continue providing accommodation and support, and she approached us for help in obtaining NASS assistance. We advised her on the difficulties of qualifying for NASS support for two reasons. Firstly she had not made the claim "immediately" after the arrival and secondly her asylum claim is determined by the immigration judge. However we also advised her that she might be entitled for NASS Section 4 support, which entails providing destitute claimants with accommodation and food. Our Section 4 application was accepted and she and her daughter were provided accommodation and support in Swansea, Wales until her claim had been fully determined.

Case Study 38

Fearing persecution in Sri Lanka on the basis that his home region - hitherto controlled by the LTTE - had been re-taken by the Sri Lankan government, Mr. MR applied for asylum. His claim was rejected by the Home Office, who claimed that he had not provided adequate evidence for his being in danger should he return to Sri Lanka. While appealing his rejection TWAN determined that he might be eligible for support under Section 4 of NASS as Mr. MR suffered from a wide array of health problems and clearly qualified as "destitute" as per NASS stipulations. His support request was approved by the Home Office. While awaiting transfer to his new, NASS-provided accommodation, Mr. MR passed away suddenly.

ADVICE ON VOLUNTARY RETURN AND REINTEGRATION PROGRAMME

The Home Office offers up £3000 to failed asylum seekers should they wish to forgo further appeals and return to their countries of origin. Under the Voluntary Assisted Return and Reintegration Programme (VARRP) - operated by the International Organization for Migration (IOM) - returnees are eligible for reimbursement of travel costs, as well as £1000 for the purpose of

easing reintegration to the society of their home countries. In 2006, IOM began offering an "enhanced" reintegration package of an additional £2000.

Due to recent escalation of violence and human rights abuses, failed Tamil asylum seekers do not wish to return voluntarily to Sri Lanka. In comparison to 2003, 2004, and 2005, there has been a sharp decrease in the number of Sri Lankan nationals taking advantage of this service, according to our reports. Moreover, sensitive information given to UK immigration officials is often shared with their Sri Lankan counterparts, resulting in returnees being questioned and arrested by the Sri Lankan security forces upon their arrival. Sri Lankan immigration services and the Sri Lankan police are informed in advance when a failed asylum seeker has boarded a flight bound for Colombo. Persons with outstanding warrants for their arrests may face arrest immediately upon their arrival. Even when the returnee has no fear for his/her personal safety, voluntary return may pose a significant risk. It is the responsibility of the Chief Immigration Officer to determine whether the returnee has the necessary documents to be granted entry as a Sri Lankan national. The recent state of emergency has vested enormous powers in the Sri Lankan police who are now able to detain suspects at international points of entry for up to 12 months without charge. Particularly vulnerable to harsh interrogation are Tamil returnees who have visible scars. According to a January 2005 United Nations High Commission for Refugees position paper, these entrants are likely to receive "ill-treatment" at the hands of Sri Lankan immigration officials, due to the preconception that the presence of scars reveals military training or LTTE affiliation.

Case Study 39

Mrs. KY is a failed asylum seeker. She was provided support under NAAS Section 4, and, as part of her support agreement, she wished to make an application through the International Organization for Migration (IOM) for voluntary return to Sri Lanka. Her application was considered and approved by the IOM at the beginning of 2007, but the country's situation deteriorated and consequently Mrs. KY decided that she did not want to return to Sri Lanka after

all. We withdrew her voluntary withdrawal application. Subsequently she made a fresh asylum claim to the Home Office by explaining her plight.

Case Study 40

Mr. KM entered the UK in September 2000 claiming asylum, but the Home Office rejected his application. In 2007, after determining that his personal safety would no longer be in jeopardy in the event that he return home to Sri Lanka, he approached TWAN for advice on obtaining financial assistance to cover the cost of his flight, and to aid his reintegration into Sri Lankan society. TWAN prepared his Voluntary Return and Reintegration Programme application, which was subsequently approved by the IOM. Mr. KM withdrew his appeal of the Home Office's rejection of his asylum claim and returned to Sri Lanka. Soon thereafter Mr. KM was permitted to immigrate to Canada as a Permanent Resident - the result of an application to Canada Customs and Immigration by Mr. KM's Canadian family members on his behalf.

ADVICE ON HEALTHCARE AND COUNSELLING

One of our primary areas of concern is ensuring that migrant peoples in this country obtain adequate healthcare. Newly arrived asylum seekers are often unable to register with GPs because of the unwillingness of physicians to take up new patients, in addition to the immigration restrictions preventing them from accepting asylum seekers as patients. Further to difficulties locating and obtaining suitable day-to-day care, migrants receiving hospital treatment often encounter additional frustration. People with Limited Leave visas have often been asked to pay many thousands of pounds by hospitals subsequent to their treatment.

Obtaining sound initial advice to asylum seekers for the purpose of registering with a GP and obtaining appropriate medical care is essential for victims of war, torture, or mental health issues. Further, it may be appropriate to do a full physical check-up to identify illnesses to which they may have been exposed in their countries of origin, so as to reduce the probability of transmitting disease to the general public. In the same vein, those scarred by war and torture often develop

debilitating conditions such as Post-traumatic Stress Disorder. Victims require a complete mental health assessment in order to ensure that they are not a danger to themselves or those around them

Even when asylum seekers manage to register with a GP, they sometimes find themselves shouldering the burden of prescription or other medication costs. The National Health Service provides a Low Income Scheme that provides for free medical care - fully subsidizing the cost of prescription medication, dental treatment, and eye care for those whose annual income is less than a certain amount. Asylum seekers may qualify for this scheme, but must first fill out the application form "HC1 - Claim for help with health costs" - in order to accrue the benefits of the programme. TWAN provides assistance in obtaining and completing the HC1 form.

Furthermore, we provide counselling services in the Tamil language for those suffering from mental health issues or illnesses. This service is not available anywhere else in the London Tamil community. We also provide mediation and counselling for recent migrants suffering from marital or familial disputes: international dislocation sometimes breeds tremendous stress in requiring migrants to adapt to a novel culture and leave behind traditional support networks, extended family and friends. Resultantly, there is often tremendous strain on the marriages of new members of the Tamil community, and TWAN seeks to remedy these problems by providing a weekly counselling service to this end.

Case Study 41

Mr. NN suffers from severe Post-traumatic Stress Disorder, in addition to depressive episodes coupled with psychotic symptoms. He began regular treatment by a consultant psychiatrist and his condition consequently improved between April and June 2006. In that month, however, a television programme about the Civil War in Sri Lanka triggered his symptoms anew, auditory and visual hallucinations, nightmares, insomnia, and severe depressions. Mr. NN's psychiatrist has recently referred him to TWAN for mental health counselling.

Case Study 42

Miss ME emigrated from Sri Lanka in the UK in 2006 as a result of threats on her life from LTTE militants. The Home Office rejected her initial asylum claim. Soon thereafter, she developed severe mental illness, whose features were characteristic of Post-traumatic Stress Disorder and depression: paranoia, suicidal ideations, severe insomnia, and weight loss. Miss ME's psychiatrist referred her to TWAN's weekly counselling service. TWAN also undertook to launch an appeal of her rejected asylum claim, securing the testimony of a noted anthropology professor who argued that the stigma attached to mental illness and single motherhood in Sri Lanka, in addition to the deteriorating political situation there, made her second asylum claim substantively different from her first.

Case Study 43

Mr. NT's mother fell ill while on a visit to the UK without health insurance. Upon her discharge from the hospital Mr. NT was presented with a bill totalling several thousand pounds. As he received only a modest income and was the sole provider for three children, Mr. NT was unable to pay the full amount. He approached TWAN hoping that we might be able to persuade the hospital to reduce this amount. He has not received any written or oral notification of outstanding payment from the hospital in several months, so we assume that his debt has been tacitly forgiven.

Case Study 44

Miss LR came to the UK as an asylum seeker in 2007, and had difficulty registering with her local hospital while her claim was under review. TWAN lobbied the hospital to take her on as a patient, explaining her legal status, and making clear that while she subsisted only on NASS support, her HC-2 Certificate fully covered the cost of any medical expenses incurred. The hospital relented, and allowed Miss LR to receive care.

LEGAL CASEWORK ON IMMIGRATION

Since April 2004, TWAN has possessed a civil legal aid contract by the Legal Service Commission to serve immigration legal casework to those who meet the legal aid criteria.

According to the contract specification, we must complete around 650 hours of non-asylum immigration work and around 450 hours of asylum casework. Whoever fails to meet the means or merits assessment criteria is most likely to be dealt with under the London Council Funding scheme. A recent reform by the Legal Service Commission has amended the contract provisions on civil legal aid. This replaced the Unified Contract Specifications (Solicitor and NfP) with a new single Civil Specification (applicable to all providers) since April 2007.

The new specification became active since 1st October 2007, which was then categorised in to two different parts. Part A consisted of the General Rules covering all providers, as well as the Category Specific Rules for each category of Law. Alternatively, Part B recognises payment Annex setting out the applicable fee schemes for Contract Work such as standard or graduated fees as outlined in the specification. As a standing NfP provider we have been subject to different specification provisions acquired through transitional arrangements that are set out in the 'NfP Unified Contract Transition Process.'

The Reforms on the Civil Contract of Legal Aid Funding

Following the changes in April and October 2007 to the legal aid funding scheme in the UK, further amendments followed in relation to the "tender" process with respect to unaccompanied asylum seeking children, detained clients or representation at the Asylum Screening Unit (ASU).

There were several significant alterations to rules relating to Transfers and Changes of the Supplier. Specific changes include requirements such as obtaining the previous solicitor's file in cases where a client wishes to change from one solicitor to another.

Further changes focus on distinguishing family re-union as a separate matter in asylum law. Moreover, there were changes to how "fresh" asylum claims fit into the legal aid cost structure.

Some legal casework is now excluded from the General Civil Contract - among them the New Asylum Model (NAM) dealt by the Home Office in Solihull as well as "fast track" cases. The *tender*

will be called to provide those two categories of cases. Whoever succeeds in the application to tender will provide the service from April 2008 onwards. However, if the counsel is a close family member of an existing client and has knowledge of family circumstances, and when s/he has completed five hours of work before this case is taken up by NAM at Solihull cases or fast track cases, clients may be allowed to continue with their existing legal representative. This exclusive contract is not applicable for the detention cases.

From October 2007, legal suppliers without exclusive contracts were forbidden from conducting NAM cases and fast track cases. For suppliers without exclusive contracts, casework of this kind must now be specifically referred to them by an exclusive supplier, or must be work on behalf of a close family member whose knowledge of the client's circumstances is substantive.

Interviews

It is now acceptable to attend a screening interview for a client of minor age and it is permissible to attend a substantive interview in which the client qualifies as one of the following: a minor; suffering from a mental incapacity; PACE interview; fast track case; and under several other conditions.

Costs and Claiming

New regulations for casework costing included a new "graduated fees" payment structure: the old "hourly rate" system will now apply when an asylum claim was made before 1st October 2007; when the claim was technically filed after 1st October 2007 but applies to a legal matter which arose before this date; non-asylum cases opened before 1st October 2007; for advice on the merits under ss103A, 103B or 103E Nationality Immigration and Asylum Act 2002; for bail applications; for advice pertaining solely to form-filling; for review and reconsideration applications; to applications for legal aid certificates and pre-action work before the issue of a certificate, including compliance with pre-action protocol; for advice prior to attendance at the ASU in cases that do not extend beyond its jurisdiction; for services provided to unaccompanied asylum-seeking children; and for cases when time at hourly rates is greater than three

Tamil Welfare Association (Newham) UK

Presents

"Sarva thari" Tamil New Year

Cultural night (04.05.2008) Programme

★ **Veena:** Student of TWAN Fine Arts Academy, Presented by **Smt. S. Sriharan**

Group1: Priyantha Pasgarathasan, Thurika Raveendran, Abinaya Gnanavadivel,
Abirami Gnanavadivel, Anjitha Aingaraligam

Group2: Sowmyan Kesavan, Harini Kesavan, Keerthana Vikneswarathasan,
Nerthika Paramsothy, Kalaivani Parameswaran

★ **Violin** Junior Student of TWAN Fine Arts Academy

Presented by **Kalaimamani Nandhini Muthuswamy**

Swarathmiha Janarthanan, Arththi Uthayakumaran, Mayura Uthayakumaran,
Sankeetha Shangar, Karthika Chellappa.

★ **Vinayagar Sthuthi:** Student of TWAN Fine Arts Academy

Presented by **Smt. R. Somasundaram**

Malaviga Gobalakrishnan, Sruthi Senthurchelvan, Jathavi Thirukumaran, Ramiya Rajalingam

★ **Murugan Dance:** Samiya Sivasuthan, Alysha Sivadasan,

Saranya Jeyaganesarajah, Asvina Vimaleswaran, Nivashiny Gopalakrishnan,
Vyshana Thaneswaran, Darshiha Balachandran, Thabaniya Sriharan.

★ **Welcome Dance:** Kavitha Karthibanathan, Souwmya Sivakumar, Kasika Kasinathan,
Sushmita Jayapal, Janany Jayarasah, Kannan Karthibanathan

★ **Vocal:** Junior Student of TWAN Fine Arts Academy

Presented by **Smt. Suganthi Srinasa**

Group 1: Vaishnavi Shanmugarajan, Jabitha Premathasan, Sivamuralitharan Pirapaharan,
Raagavi Mohan, Ramya Rajalingam, Ashmitha Thayaparan, Rajeevi Raguthas,
Shankeetha Sangar, Apirami Gnanavadivel, Apinaya Gnanavadivel, Harish Thayaparan,
Vaishnavie Vishnurajah, Geerthiya Shanmugaratnam, Priyantha Baskarathasan.

Group 2: Mayura Uthayakumaran, Gowsica Pushpanathan, Sruthi Senthurchelvan,
Kalaivani Parameswaran, Malaviga Gopalakrishnan, Arthi Uthayakumaran,
Shobana Pakyamaran, Kavitha Karthibanathan.

★ **Classical song by Sri.A.S.Murali (South India)**

● **Miruthangam :- Sri Somasundara Thesigar.** ● **Flute- Sri P. Gnanavarathan**

● **Thabela -Sri Thayalan** ● **Ganchira - Sri Somaskanthasarma**

● **Gadam: Sri Gananathan** ● **Violin - Miss.Thivya Kumaramoorthy**

● **Morsing- Mr.Easan Kumarasingam**

★ **Miruthangam**

Student of TWAN Fine Arts Academy

Presented by **Sri. A. N. Somaskantha Sarma**

Group1: Seetharam Seethamohan, Hariharan Sivaji, Harshan Ramachandran,
Harish Thayaparan, Nivejan Santhakumaran, Nilaksan Santhakumaran, Senthurkumaran,
Mithun Vijayarajah, Mayuran Sivakumaran, Matheeben Baskaranathan,
Kiruban Kamalarajan, Keeran Kamalarajan

Group2: Niresa Srinasa, Sayanthan Gunanathan, Lojan Sivaselvam, Rasmi Sivanathan,
Risanth Sivanathan, Kajanth Paskarathasan, Thiluxan Lingeswarathasan,
Prathees Vikneswarathasan, Sowmyan Kesavan

★ **Pushpangally:** Student of TWAN Fine Arts Academy
Presented by **Smt. R. Somasundaram**
Sharanya Mathi, Diantha Sivalingam, Saruja Senthamilselvan,
Banusha Bavaharan, Saranya Jeyaganesharajah, Vyshna Thaneswaran,
Jessica Thambiappah.

★ **Krishnan Dance:** Student of TWAN Fine Arts Academy
Presented by **Smt. R. Somasundaram**
Saranga Mathy, Priya Mohan, Vanicka Varatharajah, Hashini Sinniah,
Haripran Raguthas, Jashika Varatharajah, Lathusaha Sirajah,
Thushyanka Manisegaran, Vaisaly Gnanapandithan.

★ **Thillana Dance:** Student of TWAN Fine Arts Academy
Presented by **Smt. R. Somasundaram**
Swarathmiha Janarthanan, Pranavi Ramachandran, Keethana Vigneswarathasan,
Sangavi Sivarajah, Chuphangani Chandrakanthan, Luxsika Rajanayagam

★ **Peacock Dance:** Student of TWAN Fine Arts Academy
Presented by **Smt. R. Somasundaram**
Arthiga Vimalaswaran, Abhirami Vimalaswaran

★ **Violin:** Senior Student of TWAN Fine Arts Academy
Presented by **Kalaimamani Nanthini Muthuswamy**
Dhivya Kumaramoorthy

★ **Vocal:** Senior Student of TWAN Fine Arts Academy
Presented by **Smt. Suganthy Srinesa**

Group 3: Barathy Sivakumar, Kavitha Sivakumar, Keerthana Vignesvarathasan, Kannan
Karthipanathan, Pranavi Ramachandra, Ainjitha Aingaralingam,
Logini Sivaselvam, Nivetha Mathanachandran, Adshara Vimalanathan,
Aruyah Shanmuguaratnam, Chayan Shanmuguaratnam, Thugitha Premathasan.

★ **Veena** Senior Student of TWAN Fine Arts Academy
Presented by **Smt.S.Sritharan**
Sabarina Gunanathan, Gayathri |Thurairajah

★ **Folk dance (Kummi):** Participants of TWAN Elders Project
Presented by **Mrs.Senathirajah**
Mrs Sabaratnam, Mrs Ganesalingham, Mrs Ganesharatnam, Mrs Ponnuthurai,
Mrs Murukesu, Mrs Gunaratnam.

★ **Bollywood Dance: Presented by Emotions**
Miss Priya Sugumar, Miss Vithia Ramiah, Miss Rumya Sukumar Miss Jessica Singaram,
Miss Ponmalar Anbalakan, Mr Iniyan Anbalakan, Mr Venthan Seliyan Romain Murali,
Mr Kishan Saktivel, Mr Thanushan Krishnalingam

★ **Solo Dance: Member of Dance Lab** - Presented by **Kirusnaraja Selvaraja**

★ **Dance for Cinema melody:** Presented by TWAN Elders Project
Mrs Thiripurasundary Ganesaratnam, Mrs Sripathi Ambal Ponnuthurai,
Mrs Pathmathevi Ganesalingam, Mrs Saraswathy Murugesu

★ **Hollywood Dance: Members of Dance Lab** - Presented by **Mrs.Mars**
Miss Sumithra Chandran, Miss Biravinah Balasundaram, Miss Biruntha Balasundaram,
Miss Luxika Rajanayagam.

★ **Bollywood Dance:** Presented by Emotions
Miss Priya Sugumar, Miss Vithia Ramiah, Miss Rumya Sukumar,
Miss Jessica Singaram, Miss Ponmalar Anbalakan, Mr Iniyan Anbalakan,
Mr Venthan Seliyan Roman Murali,
Mr Kishan Saktivel, Mr Thanushan Krishnalingam

மலர்ந்துள்ள 'சர்வதாரி' தமிழ் புதுவருடத்தை முன்னிட்டு
தமிழர் நலன்புரி சங்கம் [நியூஹாம்] ஐ.ரா.

வழங்கும்
வல்கலை இரவு

04.05.2008

நிகழ்ச்சிகள்

★ **வீணை இசை:** தமிழர் நலன்புரி சங்க நுண்கலைக்கூட மாணவர்கள்
தொகுத்து வழங்குபவர்: **மீமதி. செ. சிறீதரன்**

பீர்வு 1: பிரியந்தா பாஸ்கரதாசன், தூரிகா ரவீந்திரன், அபிநயா ஞானவடிவேல்,
அபிராமி ஞானவடிவேல், அஞ்ஜிதா ஐங்கரலிங்கம்.

பீர்வு 2: செளமியன் கேசவன், ஹரிணி கேசவன், கீர்த்தனா விக்னேஸ்வரன்,
நேர்த்திகா பரஞ்சோதி, கலைவாணி பரமேஸ்வரன்.

★ **வயலின் இசை:** தமிழர் நலன்புரி சங்க நுண்கலைக்கூட மாணவர்கள்
தொகுத்து வழங்குபவர்: **கனலமாமணி நுந்தனி முத்துசுவாமி**

கீழ்ப்பீர்வு மாணவர்கள்: சுவராத்திகா ஜனார்த்தனன், ஆர்த்தி உதயகுமாரன், மயூரா உதயகுமாரன்,
சங்கீதா சங்கர், கார்த்திகா செல்லப்பா

★ **விநாயகர் ஸ்துதி நடனம்:** தமிழர் நலன்புரி சங்க நுண்கலைக்கூட மாணவர்கள்
தொகுத்து வழங்குபவர்: **மீமதி ரு. சோமசுந்தரம்**

மாளவிகா கோபாலகிருஷ்ணன், ஸ்ருதி செந்தூர்ச்செல்வன், ஜாதவி திருகுமாரன், ரம்யா ராஜலிங்கம்.

★ **முருகன் ஸ்துதி நடனம்:**

சம்யா சிவசுதன், அலிஷா சிவதாசன், சரணியா ஜெயகநேசராஜ், அஸ்வினா விமலேஸ்வரன்,
நிவாசினி கோபாலகிருஷ்ணன். விஷானா தனேஸ்வரன், டாஸ்ஷிகா பாலசந்திரன், தபனியா சிறீதரன்.

★ **வரவேற்பு நடனம்**

கவிதா கார்த்திபநாதன், செளமியா சிவகுமார், கசிகா காசிநாதன், சுஸ்மிதா ஜெயபால்,
ஜனனி ஜெயராசா, கண்ணன் கார்த்திபநாதன்

★ **வாய்பாட்டு:** தமிழர் நலன்புரி சங்க கீழ்ப்பிரிவு நுண்கலைக்கூட மாணவர்கள்
தொகுத்து வழங்குபவர்: **மீமதி சுசந்தி மீனேசா**

பீர்வு 1: வைஷ்ணவி சண்முகராஜன், ஜபித்தா பிரேமதாசன், சிவமுரளிதரன் பிரபாகரன்,
ராகவி மோகன், ரம்யா ராஜலிங்கம், அஸ்மிதா தயாபரன், ரஜீவ் ரகுதாஸ், சங்கீதா சங்கர்,
அபிராமி ஞானவடிவேல், அபினயா ஞானவடிவேல், கரிஷ் தயாபரன், வைஷ்ணவி விஷ்ணுராஜா,
கீர்த்தியா சண்முகரட்னம், பிரியந்தா பாஸ்கரதாசன்.

பீர்வு 2: மயூரா உதயகுமாரன், கௌசிகா புஸ்பநாதன், சுருதி செந்தூர்ச்செல்வன்,
கலைவாணி பரமேஸ்வரன், மாளவிகா கோபாலகிருஷ்ணன், ஆர்த்தி உதயகுமாரன்,
ஷோபனா பாக்கியமாறன், கவிதா கார்த்திபநாதன்

★ **சாஸ்திரிய சங்கீதப் பாடல்கள்:** தொகுத்து வழங்குபவர்: **மீ அ.ச. முரளி**
மிருதங்கம்: **மீ சோமசுந்தர சேஷிகர்**, புல்லாங்குழல்: **பிச்சையப்பா ஞானவரதன்**,
தபேலா: **மீ குயாளன்**, கெஞ்சீரா: **மீ சோமாஸ்கந்தரசர்மா**, கடம்: **மீகணநாதன்**,
மோர்சிங்: **திரு. ஈசன் குமாரசிங்கம்**.

★ **மிருதங்கம்:** தமிழர் நலன்புரி சங்க கீழ்ப்பிரிவு நுண்கலைக்கூட மாணவர்கள்
தொகுத்து வழங்குபவர்: **மீ அ. ரு. சோமாஸ்கந்த சர்மா**

பீர்வு 1: சீதாராம் சீதாமோகன், ஹரிகரன் சிவாஜி, கர்ஷன் ராமச்சந்திரன், கரிஸ் தயாபரன்,
நிவேஜன் சாந்தகுமாரன், நிலக்ஷன் சாந்தகுமாரன், செந்தூர்குமாரன், மிதுன் விஜயராஜா, மயூரன்
சிவகுமார், மதீபன் பாஸ்கரநாதன், கிருபன் கமலராஜன், கீரன் கமலராஜன்.

பீர்வு 2: நரேஷ் சிறீநேசா, சயந்தன் குணநாதன், லோஷன் சிவச்செல்வம், ரஸ்மிந் சிவநாதன்
ரிஸாந்த் சிவநாதன், கஜாந்த் பாஸ்கரதாசன், திலக்ஷன் லிங்கேஸ்வரதாசன்,
பிரதீஸ் விக்னேஷ்வரதாசன், செளமியன் கேசவன்.

★ **புஸ்பாஞ்சலி:** தமிழர் நலன்புரிசங்க நுண்கலைக்கூட மாணவர்கள்

தொகுத்து வழங்குபவர்: **ஸ்ரீமதி ரு. சீமாமசுந்தரம்**

சாரங்கா மதி, டயந்தா சிவலிங்கம், சாருஜா செந்தமிழ்ச்செல்வன், பானுஜா பவாகரன், சரண்யா ஜெயகணேசராஜா, வைவஸ்ஸா தனேஸ்வரன், ஜெசிக்கா தம்பியப்பா.

★ **கிருஷ்ணன் நடனம்:** தமிழர் நலன்புரி சங்க கீழ்ப்பிரிவு நுண்கலைக்கூட மாணவர்கள்

தொகுத்து வழங்குபவர்: **ஸ்ரீமதி ரு. சீமாமசுந்தரம்**

சாரங்கா மதி, பிரியா மோகன், வனிக்கா வரதராஜா, ஹாஷினி சின்னையா, ஹரிபிரன் ரகுதாஸ், ஜசிக்கா வரதராஜா, லதுஷிகா சிராஜ், துசியங்கா மணிசேகரம், வைஷாலி ஞானபண்டிதன்.

★ **தில்லானா நடனம்:** தமிழர் நலன்புரி சங்க கீழ்ப்பிரிவு நுண்கலைக்கூட மாணவர்கள்

தொகுத்து வழங்குபவர்: **ஸ்ரீமதி ரு. சீமாமசுந்தரம்**

ஸ்வராத்மிகா ஜனார்த்தனன், பிரணவி ராமச்சந்திரன், கீர்த்தனா விக்கினேஸ்வரன், சங்கவி சிவராஜா, சுபாங்கனி சந்திரகாந்தன், லக்ஷிகா ராஜநாயகம்.

★ **மயில் நடனம்:** தமிழர் நலன்புரி சங்க கீழ்ப்பிரிவு நுண்கலைக்கூட மாணவர்கள்

தொகுத்து வழங்குபவர்: **ஸ்ரீமதி ரு. சீமாமசுந்தரம்**

ஆர்த்திகா விமலேஸ்வரன், அபிராமி விமலேஸ்வரன்

★ **வயலின் இசை:** தமிழர் நலன்புரி சங்க மேற்பிரிவு நுண்கலைக்கூட மாணவர்கள்

தொகுத்து வழங்குபவர்: **கனகமாமணி ருந்துனி முத்துசுவாமி**

பீர்வு 3: செல்வி. திவ்வியா குமாரமுர்த்தி

★ **வாய்ப்பாட்டு:** தமிழர் நலன்புரி சங்க மேற்பிரிவு நுண்கலைக்கூட மாணவர்கள்

தொகுத்து வழங்குபவர்: **ஸ்ரீமதி. க. சீரீநேசா**

பீர்வு 3: பாரதி சிவகுமார், கவிதா சிவகுமார், கீர்த்தனா விக்கினேஸ்வரதாசன்,

கண்ணன் கார்த்திபநாதன், பிரணவி ராமச்சந்திரன், அஞ்சிதா ஜங்கரலிங்கம்,

லோஜினி சிவச்செல்வம், நிவேதா மதனச்சந்திரன்,

அட்சர விமலநாதன், அருஜா சண்முகரத்தினம்,

சயன் சண்முகரத்தினம், துகிதா பிரேமதாசன்.

★ **வீணை இசை:** தமிழர் நலன்புரி சங்க மேற்பிரிவு நுண்கலைக்கூட மாணவர்கள்

தொகுத்து வழங்குபவர்: **ஸ்ரீமதி. செ.சீரீதரன்**

பீர்வு 3: சபரினா குணநாதன், காயத்ரி துரைராஜா.

★ **கும்மி நடனம்:** தமிழர் நலன்புரி சங்க மூத்தோர் நிலையம்

தயாரித்து வழங்குபவர்: **தீருமதி.சீசனாதிராஜா**

திருமதி சபாரத்தினம், திருமதி கணேசலிங்கம், திருமதி கணேசரட்னம், திருமதி பொன்னுத்துரை,

திருமதி முருகேசு, திருமதி குணரட்னம்.

★ **பொலிவூட் நடனம்:** வழங்குபவர்கள்- எசுமாவன் நடனக் குழுவின்

பிரியா சுகுமார், வித்யா ராமையா, ரம்யா சுகுமார், ஜெசிக்கா சிங்காரம், பொன்மலர் அன்பழகன், இனியன் அன்பழகன், வேந்தன் செழியன், நோமன் முரளி, கிஷான் சக்திவேல், தனுஷன் கிருஷ்ணலிங்கம்.

★ **சோலோ நடனம்:** வழங்குபவர்- கிருஷ்ணராஜா செல்வராஜா

★ **திரை இசை நடனம்:** தமிழர் நலன்புரி சங்க மூத்தோர் நிலையம்

செல்வி திரிபுரசுந்தரி கணேசரட்னம், திருமதி ஸ்ரீபதிஅம்பாள் பொன்னுத்துரை,

திருமதி பத்மதேவி கணேசலிங்கம், திருமதி சரஸ்வதி முருகேசு.

★ **ஹொலிவூட் நடனம்:** வழங்குபவர்கள்- டான்ஸ் லப் நடனக் குழு

தயாரித்து வழங்குபவர்: **தீருமதி மஜீபா**

சுமித்திரா சந்திரன், பிரவிணா பாலசுந்தரம், பிருந்தா பாலசுந்தரம், லக்ஷிகா ராஜநாயகம்.

★ **பொலிவூட் நடனம்:** வழங்குபவர்கள்- எசுமாவன் நடனக் குழுவின்

பிரியா சுகுமார், வித்யா ராமையா, ரம்யா சுகுமார், ஜெசிக்கா சிங்காரம்,

பொன்மலர் அன்பழகன், இனியன் அன்பழகன்,

வேந்தன் செழியன், நோமன் முரளி, கிஷான் சக்திவேல்,

தனுஷன் கிருஷ்ணலிங்கம்

times the basic fee – “exceptional cases”. The new graduated fees structure, which applies to all other cases, entails a lump sum payment by the Legal Services Commission for each stage of casework.

Additional reimbursement for immigration attorneys includes hourly payment for bail applications (case preparation and advocacy) in cases where clients are in custody. Moreover, travel and waiting time are now paid on top of the graduated and hourly fee.

When clients require representation by counsel the solicitor will negotiate an hourly fee for counsel's services and reimbursable through an “additional fee” to be paid on top of the graduated fees structure. Any payment to the counsel aside from client advocacy – e.g. advice, conference etc. – comes out of the graduated fee, rather than out of a disbursement or additional fee.

For cases billable under the old “hourly rates” structure, the following are the new limits on costs and disbursement set by the Legal Services Commission.

Legal Help (initial stage):

Non-asylum: £500 plus £400 additional disbursements (extendable)

Asylum:

- Advice up to ASU only - £100 including disbursements (non-extendable)
- Asylum application - £800 costs plus £400 disbursements (extendable)

All cases

- Advice on representation and representation done on Legal Help - £100 including disbursements (non-extendable)

Controlled Legal Representation (appeals stage):

- Asylum: £1600 for costs, disbursements and counsel (extendable)
- Non-asylum: £1200 for costs, disbursements and counsel (extendable)
- Standalone bail - £500 for costs, disbursements, and counsel (extendable). For cases in which CLR funds are granted for

the appeals process, this counts toward the £1200/£1600

- All cases - £100 for consideration of the merits of R + R.
- Representation and representation done on legal help – no limits, reasonable costs subject to assessment

Excluded from costs limits:

- Attendance at interview (where allowed or authorized)

The LSC continues to assess the results of the casework that the firms benefiting from its funding take on; unchanged from last year is its requirement for a 35-40% success rate on all cases. If a beneficiary firm drops below this success threshold, the LSC typically encourages it to improve its accuracy in assessing the merits of a particular case, as well as its probable success, before devoting time and money toward it.

TWAN received some particularly good news with respect to LSC's funding structure in 2007: prior to that year, the application for CLR funds needed to be approved by the LSC *before* beginning any casework. In 2007, individual legal firms were given Devolved powers to assess the merits and means of a case and to grant or refuse funding for cases, with the understanding that the LSC would reimburse them afterwards. This eliminates a potentially cumbersome layer of bureaucracy in the legal aid funding structure, and allows TWAN to act on cases more quickly and efficiently than it had previously.

For “exceptional cases” – cases whose total cost at hourly rates amounts to over three times the basic “graduated fee,” legal suppliers are given the option of claiming it at hourly rates at any time after the Consolidated Matter Report Fund report has been submitted.

TWAN is less optimistic about payment rates themselves – CLR's hourly rate remain unchanged since 2001, and we fear that the fixed, “graduated” fees may often prove inadequate. On a brighter note, the LSC has recently relaxed the criteria for applications to qualify for the higher “asylum” rather than the fixed “immigration” fee. This has allowed TWAN more leeway in successfully carrying out “matter starts” – initiations of funding for cases.

Also new in 2007 were Key Performance Indicators. These financial and accounting criteria include requirements that we receive no more than 10% reductions on assessment of non-fixed fee controlled work costs claims, and that the value of fixed fee work reported does not deviate by a margin of more than 20% from the total sums of all fixed fees given out. As other legal suppliers have pointed out, this makes it difficult to know how we might assess cases with the aim of achieving these financial objectives without violating LSC's rule 2.44, which states that good cause for refusing to take on a case "does not include *any* considerations regarding the level of any Standard or Graduated Fee you may be entitled to receive under this Contract."

With respect to fees for helping clients fill out immigration forms, the LSC has confirmed under its new regulations that we are not entitled to claim compensation at hourly rates if a) we advised the client that they were filling out the wrong form, or that they were ineligible to fill out the form, or b) we accepted instructions to submit and pursue the application on the client's behalf. This may cause complications with respect to our form-filling billing. National Asylum Support Service (NASS) issues are not claimable under "immigration" LSC funding - rather, they are reimbursed under the community care, welfare benefits, housing, or tolerance categories.

Obtaining Controlled Legal Representation (CLR) Funding Approval from Legal Services Commission (LSC)

Sometimes, we must win the case for funding from the Legal Services Commission (LSC) before we are able to win a favourable outcome in court for our clients. This often entails preparing a miniature version of the immigration case to present to LSC for funding purposes. TWAN typically completes a Means and Merits assessment of clients' suitability for Controlled Legal Representation (CLR) funding in order to submit an application to the LSC. This application may be accepted or rejected by the LSC. In the case of a rejection, we will appeal to the LSC adjudicator for reconsideration of the application. We are often successful in convincing the LSC to overturn its initial decision. Appeals of funding refusal must be launched within fourteen days of the initial rejection. The appeals

process usually involves providing evidence that disproves CLR's stated reason for refusing funding: that the client had not provided sufficient evidence detailing how they planned to deal with the issues raised in their Home Office refusal letter, that their initial case was not backed up by adequate evidence, that the probability of receiving a favourable judgment is low, etc.

Case Study 45

Mr. EM came to the UK claiming asylum in July 2002. Although his asylum claim was unsuccessful, he was unable to return to Sri Lanka due to fear for his personal safety. In 2007, he elected to make a fresh claim; His brother Mr. MM also fled from Sri Lanka long time ago and successfully sought asylum in Germany. Subsequently, his brother was granted German Citizenship. In June 2005, Mr. MM migrated to the UK as an EEA national and reunited with his brother. While he was in Germany,

Mr. MM had sent money and had taken financial care of his brother in the UK when his brother's permission to work being withdrawn by the Home Office; as a result, Mr. MM reasoned that he could claim Mr. EM as a "dependent" under EEA Immigration Regulations. Mr. MM made an application for Residency Certificate to the Home Office, and he included his brother as non-EEA national dependent who living part of his household. Mr. MM's Residency

Application was approved while his brother's was refused on the basis that he had not come from Germany with his brother on the basis of narrow interpretation of some provisions of EEA Regulations 2006. On this basis, the Home Office determined that he was not a dependent of Mr. MM. Mr. EM wished to appeal the decision, and we assessed the merits and made CLR (FUNDING) application to Legal Services Commission in order to carry out this appeal before an Immigration judge. However, this CLR application was refused by the LSC, and stated that the case had a "poor chance of success." However the Adjudicator at the LSC heard the appeal against the LSC's decision, and our client's funding application was approved. Now this appeal has moved onto the Asylum and Immigration Tribunal, and we wait for the outcome.

Case Study 46

In 2007, Mr. KK's application for a Student Visa extension was turned down by the Home Office on the basis that he had not provided sufficient documentary evidence of his enrolment for UK University Course. He had been successfully granted extensions to his student visa in 2002, 2003, 2004, and 2005, but his 2006 application for extension was refused after the Home Office determined that his course load was not sufficient for him to qualify as a full-time student. However, he sought to launch an appeal on the basis that his reduced course load was for a single semester only, that the diminished load was the result of his having to look for academic-related work placement, and that he was enrolled in an additional Diploma programme in Computer Science at a technical college; hence, his combined academic load was "full-time." TWAN lobbied the LSC for CLR funding in order to launch his appeal, which, in our assessment, had a moderate to good chance of success. The LSC refused our application, claiming that Mr. KK's appeal had a low likelihood of success. When TWAN, contrary to LSC's prediction, was successful in appealing Mr. KK's visa extension refusal, we applied for reimbursement. Once again, LSC did not turn from their original refusal to grant funding.

Case Study 47

Mr. JK arrived from Sri Lanka in 2000 seeking asylum. His claim was successful, and he was eventually granted Indefinite Leave to Remain; he lobbied the British High Commission in Colombo to grant entry clearances for his wife and child, who had remained in Sri Lanka when he had fled. TWAN undertook his case, initiating his sponsorship of his wife and child under "Family Reunion" visa as per the Immigration Rules HC 395. The British High Commission initially rejected the applications for both his wife and child, asserting that it was not satisfied that all relevant documents submitted in support of the application were genuine, nor was it satisfied that Mr. JK's wife was lawfully married to him. Our application for CLR funding to pursue Mr. JK's appeal was rejected by LSC under the rationale that it had a "low chance of success." Yet again, TWAN achieved a favourable outcome in court after obtaining other sources of funding. The LSC again rejected our reimbursement requests.

NATIONALITY

Part of the settlement process of our community involves is the achievement of UK Citizenship. We provide advice, assistance, and representation in this area of law. Tamil immigrants typically obtain British national status in one of two principal ways: adult applicants usually obtain their nationality through the Naturalization process, while applicants under the age of eighteen obtain their citizenship through child Registration. Apart from these two categories, some prospective migrants make applications as British Overseas Citizens. Also if either parent has settled status then the newborn child automatically gets citizenship by birth.

Under the British Nationality Act of 1981, persons born in the UK before 1st January 1983 are British citizens, while those born after this date are citizens only if either the mother (or father if married) is settled in the UK at the time of birth. Citizenship can be claimed by descent for people born outside the UK prior to 1st January 1983 if their father was or is a citizen, and those born after 1st January 1983 can claim citizenship if their mother (or father if married) was or is a citizen. Children born in the UK before 10 February 2006 to at least one EEA national parent are automatically British citizens if the parent was exercising a treaty right at the time of the birth; a child born between this date and April 2006 is a British citizen if the EEA national parent had indefinite leave to remain in the UK; and children born after 30 April 2006 are entitled to British citizenship if the parent had been in the UK exercising treaty rights for more than five years, or had Indefinite Leave to Remain at the time of birth.

Citizenship can also be acquired through Registration: Children under 18 born in the UK to non-citizen or non-settled parents may register for British citizenship. If one or both parents are in the process of filing a citizenship application, a child will typically be considered as well. Children born abroad and out of wedlock after July 1st 2006 may register for citizenship by descent from their fathers, contingent upon sufficient evidence of paternity.

Finally, UK residents may acquire citizenship by naturalization if they have 1) have been granted indefinite leave to remain AND 2a) have been

lawfully resident in the UK for five years OR 2b) have been resident for three years and have been married, or engaged in a civil partnership with, a British citizen. Additionally, applicants must be of full mental capacity; must be of good character (no serious criminal convictions or otherwise unlawful activity); must have sufficient knowledge of English, Welsh, or Scottish Gaelic (applicants for whom one of these languages is not the mother tongue must pass a language test from one of several independent testing boards, and must demonstrate to immigration officers at their naturalization ceremony that they comprehend their citizenship oath. One applicant who had his citizenship acceptance revoked at his oath ceremony due to his inability to communicate fluently with Home Office officials or recite his oath); as of 2 April 2007, must pass the Life in the UK test (new in 2007, whose successful completion exempts applicants from having to provide any additional evidence of language competency) or the English for Speakers of Other Languages test, which includes citizenship materials; must have been absent from the UK during the qualifying period no more than 450 days (90 days in the final 12 months); and must acquire letters of reference from two British citizens. The Home Office often grants testing exemptions to those over 65 lacking the long-term physical or mental capacity to learn English or be tested on knowledge of life in the UK.

Since the introduction of the Life in the UK test over the past year, prospective citizens have encountered difficulties attending the classes necessary to pass this test, due to their being unavailable or full. British law recognizes dual citizenship, so becoming a UK citizen will only affect an applicant's prior nationality if the law of the other country dictates as such. Apart from full British Citizen (BC) status, there are five other categories of British nationality: British Overseas Territories citizen (BOTC); British Overseas citizen (BOC); British National (Overseas) (BN(O)); British Protected Person (BPP); and British Subject (BS). While these categories do not confer all of the benefits of BC status, there are a number of important advantages held by British Nationals without the right of abode as compared to other foreign nationals: firstly, people in this category are exempt from the "returning residents" rule, which requires those with indefinite leave to remain to return within two years. Second, British nationals without right

of abode may obtain entry to the UK without an entry clearance even if they intend to stay in the UK for more than six months; they do not require an entry clearance to come to the UK for work-permit employment, under the TWES scheme, or under the Science and Engineering Graduates Scheme.

There were a number of relevant changes to UK nationality law in 2006. The addition of Section 40 (2) to the 1981 and 2002 Nationality and Immigration acts widens the grounds for deprivation of a British national's citizenship to include "anything seriously prejudicial to the vital interests of the United Kingdom or a British overseas territory." This has subsequently been widened further, and now states that the Secretary of State may deprive anyone of citizenship status if doing so would be "conducive to the public good." Secondly, a minor over the age of ten years must now be deemed "of good character" if he is to be registered as a British citizen or a British overseas territories citizen. This provision was enacted in response to the successful lobby for British citizenship by an Australian inmate of Guantanamo Bay, on the basis that he had a British mother. If his application were filed now, it would likely be turned down for failing to meet the "good character" criterion.

TWAN also provides help to applicants seeking British Overseas Citizenship. Because the UK's relationship with its overseas colonies is a long and complicated one, there are often confusing and contradictory rules dictating who is eligible for BOC status. A colony gaining formal independence was typically followed with a corresponding Independence Act in the UK, which delineated who would lose their BOC status and who would remain a BOC. Moreover, since BOC status does not constitute full British Citizenship, applicants from countries that do not recognize dual citizenship often wonder whether acquisition of BOC will deprive them of their former nationality.

Case Study 48

Ms. UM was born in Malacca - a former British colonial possession that subsequently became part of an independent Malaysia - in 1951. In 1963, the UK government removed eligibility for BOC status from all citizens of the newly

independent Malaysia except for those who had been born in the formerly British-controlled provinces of Penang and Malacca. On this basis, Ms. UM assumed that she was eligible for BOC status. She approached TWAN for help in upgrading her temporary work visa to a BOC passport. However, difficulties soon arose because of the Malaysian government's refusal to recognize dual citizenship. Since it is the policy of the Malaysian government to deprive any person who adopts the nationality of another country of Malaysian citizenship, the UK Home Office reasoned that Ms. UM must have already relinquished her BOC citizenship status if she were legitimately in possession of a Malaysian passport. However, a Malaysian court had previously ruled that BOC status did not count as a full "second" nationality, and that Malaysian citizens were entitled to possess a BOC passport and a Malaysian passport at the same time. Despite our protestations to this effect, the Home Office ruled that she was not eligible for BOC status.

Case Study 49

Mr. PM and Ms. RM had emigrated from Sri Lanka prior to the birth of their children. Mr. PM had been granted indefinite leave to remain, and while Mrs. RM did not possess ILR status, she had been legally resident in the UK for more than 5 years and was thus eligible to apply for British Citizenship. The couple approached TWAN for advice on registering their children, Miss AM and Master GM, as British Citizens. The Home Office initially refused the application on the grounds that the couple had allegedly failed to provide a birth certificate for Master GM. TWAN appealed the decision, and the matter is currently ongoing.

Case Study 50

Miss SV came to the UK in 2001 claiming asylum from Sri Lanka. Her application was successful, and after being resident in the UK for five years, she elected to apply for British Citizenship by naturalization. We assisted Miss SV in obtaining and preparing the relevant documents for her application, including language qualification certificates. Her application was successful.

Case Study 51

Mr. PC claimed asylum at the Home Office in 1999. In 2007, he applied for British Citizenship

by Naturalization, after having been granted indefinite leave to remain in 2002. TWAN advised him on the relevant law as well as his prospects of success in his application. After helping him submit the necessary documents, Mr. PC's Nationality application was accepted, and he is currently awaiting his oath ceremony.

Case Study 52

Mr. KL claimed asylum in 1999, and was granted Indefinite Leave to Remain in 2003. In 2006, he became eligible for citizenship by Naturalization. The Home Office was satisfied that he met all the criteria for citizenship except for one: language. In its response to his application, the Office did not mandate that Mr. KL attend English language classes, but it did require that he obtain a letter from a qualified solicitor confirming his English fluency. Subsequently Mr. KL obtained the letter, and prepared to participate his citizenship oath ceremony. At the ceremony, the Home Office official charged with issuing his citizenship certificate was not satisfied that Mr. KL fully understood his oath, nor was he convinced that Mr. KL was adequately fluent in English. The official refused to grant Mr. KL citizenship, despite his having cleared all formal hurdles in the naturalization process. As a result, neither Mr. KL nor his teenaged son were able to become naturalized citizens. TWAN was deeply concerned with the seemingly arbitrary nature of the officer's refusal at the ceremony, and thinks that this raises serious questions about the fairness, consistency, and objectivity of naturalization.

Case Study 53

Mr. MK was granted limited leave to remain in the UK in 1998, and obtained indefinite leave to remain in 2005. In 2007, he approached TWAN for help with his naturalization application. Mr. MK was informed that he needed to include proof of his English language competency in his supporting documents, as well as evidence of his having passed the Knowledge of Life in the UK test. Since he had already completed the English for Speakers of Other Languages (ESOL) test in 2003 and 2005, this was no obstacle. However, Mr. MK had not yet passed the Knowledge of Life in the UK test. Upon submitting his application, he was unable to find an available date on which to take his test within a timeframe

suitable for the Home Office. The Office reminded him that the test exemption only applied to those applicants over the age of 65, and, since Mr. MK was only 61 years of age, it could not give him any leeway or waive this requirement. He was forced to withdraw his citizenship application.

ASYLUM CLAIMS

At the beginning of 2007, there was an alarming increase in human rights violations by the Sri Lankan Government. Due to this deteriorating Political situation, Tamil Refugees claims for asylum also began to increase. Despite the severe border restrictions, few of them managed to reach the UK clandestinely with the assistance of an agent in order to claim asylum; many of them are displaced to South India and other countries. Also, at the end of 2006, Sri Lanka was removed from the "designated country" list that forbids refugees from making an appeal against a Home Office decision prior to deportation. Sri Lankan claimants are now free to lodge appeals of unfavourable decisions to higher tribunals and courts. In addition, the Home Office has recently stepped up its enforcement of forced removals of failed asylum seekers back to Sri Lanka. This practice was suspended due to a successful application to the European Court of Human Rights in mid-2007. The Court wrote to the UK Government requesting that the UK cease removals of Tamils back to Colombo, due to an increasing load of these cases appearing before it originating in the UK; it expressed its wish to avoid having to grant Rule 39 applications requiring removals to be stayed in individual cases.

The Home Office desires to keep numbers of accepted asylum claims to a minimum, partly for political reasons. Britain is one of several countries in the world that accrue a tremendous share of the worldwide refugee burden. A more effective and humane way to deal with asylum seekers fleeing persecution might be to set up a transactional refugee settlement framework, analogous to the close cooperation of European Union members on economic and political matters. In this way, asylum seekers might be instructed to seek refuge in a specifically designated country should they be refused at their initial destination. This would solve two problems at once: the large burden on a handful of countries - such as the UK, Canada, and the

United States - to accept and integrate an overwhelming number of asylum seekers, as well as the problem of asylum seekers being refused at an initial destination without anywhere else to turn.

The definition of a "refugee" under international law is found in article 1 (a) of the 1951 UN Convention Relating to the Status of Refugees. An asylum applicant must have a "well-founded" fear of persecution throughout their country of origin. "Persecution" constitutes victimhood of "malignancy or injurious action" "for reasons of" some of the following: political opinion, social group, or an unchangeable characteristic of importance such as trade unionism, race, religion, or nationality. Recent case law has played a large part in shaping the definition of "persecution." In *Ravichandran v Secretary of State* (1995), the Court of Appeal held that the rounding up of Tamil youths by police in Colombo did not amount to "persecution," since their deprivation of liberty was only temporary, and since Colombo police acted on an ostensibly well-grounded fear of terrorism. Moreover, the judge held that immigration adjudicators assessing appeals of rejected asylum claims were now allowed to look at fresh evidence of the likelihood of persecution since the original asylum claim, rather than relying on the original assessment of evidence at the time of the first asylum application. Other cases have broadened grounds for alleging "persecution": In *R (Sivakumar) v Secretary of State* (2003), the Judge ruled that the immigration adjudicator was wrong to have closed his mind to the possibility that the applicant had been tortured "for reasons of" his race or perceived political opinions while being detained for a terrorism investigation. The Court ruled that there might be more than one motive or purpose to persecution.

In terms of state protection, the key case is *Horvath v Secretary of State* (1999). In this case, a three-judge panel rejected the appeal of a Slovakian gypsy who claimed to have a "well-founded" fear of persecution by skinheads because of the Slovakian police "did not care about Gypsies." The case established the principle that if a non-state actor is the one doing the persecuting, then even a minimal criminal justice framework is sufficient for the fear of persecution to fail the test of being "well-grounded."

The definition of each the reasons for claiming persecution has also received attention in UK case law. According to *Secretary of State v Savchenkou* (1995), a "social group" need not be cultural or religious; it may arise from activity connected to the persecution itself - for example, those who refuse to join the Russian Mafia may constitute a "social group." *Viraj Mendis* (1989) held that "political opinion" could be either perceived or imputed political opinion, and does not necessarily have to be explicitly expressed by the claimant. In *Shah and Islam* (1999), it was determined that women may - under certain circumstances - constitute a "social group."

Relevant case law from 2007 includes *LP v Secretary of State*, which held that being of Tamil ethnicity does not by itself constitute a "well-founded" fear of harm by immigration authorities at the Colombo airport. However, additional risk factors, including previous involvement with the LTTE, visible scarring, or insufficient travel documentation, may combine to constitute grounds for "humanitarian protection" or acceptance of a previously denied asylum claim. In order to qualify for humanitarian protection, an applicant must proffer evidence that he will be at serious risk of harm in the area of the country to which he will be deported.

Recently, the UK government has begun to jail asylum seekers who arrive in the country without travel documents, despite the obvious difficulties and pitfalls involved in obtaining them. An example of legislation whose purpose is to deter asylum seekers from attempting the journey to the UK is the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. Article 2(1) and 2(2) of this Act make it a criminal offence to enter the UK or attend an immigration interview without a travel document that satisfactorily establishes the identity of the claimant. Additionally, the claimant is required to show travel documents for any children that are travelling with him. Although this Act does allow for defences under Article 2(4) and 2(5) for not having such travel documents, there are ambiguities in the definitions of these defences, which the authority may easily interpret contrary to the wishes of the person claiming asylum. Asylum seekers are required to provide a "reasonable" excuse in the eyes of the authorities for travelling without a relevant travel document.

As per article 3(2) and 3(3) of the Act, any evidence of forgery of travel document is punishable by criminal conviction. This seems unreasonable in light of the fact that many Refugees or asylum seekers have no choice but to travel with either no documents or forged documents, having been forced to leave their country under an assumed identity.

Even when an asylum claim fails on the basis that travel documents were forged, financial and accommodation support is immediately withdrawn upon rejection of the application. While the Secretary of State has discretion to provide accommodation for the failed asylum seeker until he or she leaves or appeals, such support is often difficult to obtain in practice.

Article 8 of the 2004 Act lays down - According to commentators in the journal *Immigration, Asylum, and Nationality Law* - an "agenda of disbelief" it relies on a set of assumptions about the proper and legitimate behaviour and demeanour of asylum seekers. TWAN regards this agenda as overly restrictive; it does not allow sufficient flexibility for the individual circumstances of each case. Regulations currently in place are too restrictive, and often place asylum seekers in an unnecessarily negative light.

In 2007, the Immigration, Asylum and Nationality Act 2006 was brought into full force. This Act made it more difficult for those fleeing persecution to make successful asylum claims. One important change is that successful asylum applicants are no longer automatically granted Indefinite Leave to Remain (ILR); instead, successful claimants may be given temporary five-year or three-year leaves to remain, and must endure a fresh assessment of the worth of their refugee status after their temporary leave has ended subject to providing life in the UK pass certificate.

Successful application for discretionary leave has also been made very difficult. If a claimant is unable to demonstrate his eligibility for humanitarian protection under Article 3 of the European Convention on Human Rights at the end of his temporary leave status, he may be deported to his country of origin after consideration of his appeal rights.

In 2003, the European Court issued a Reception Directive to its member states establishing minimum standards for the reception and treatment of International Refugees. It contains a number of provisions granting basic rights to asylum seekers, among them freedom of movement, the maintenance of family unity, schooling and education of minors, employment and vocational training, health care, and provisions for persons with special needs. In 2007, the dictates of the Directive continued to be implemented in UK courts. It is hoped that the Directive is the first in a series of steps leading to a possible Common European Asylum System.

Detention and Fast Track Claims

Since 2000, a number of asylum applicants have been processed in accordance with the "detained fast track" process. If the Secretary of State determines that an applicant's claim can be processed "relatively quickly," then it may either instruct the applicant to report, or may physically transport the applicant, to one of the Oakingwood, Harmondsworth, or Yarl's Wood detention centres for "fast-tracking." In this process, an applicant's claim is considered and a judgment rendered on site in just a few days, while the applicant remains confined to the detention centre. This practice has been challenged on grounds that it violates the 1951 European Convention on Human Rights, but courts have vetted its legality. In the Harmondsworth and Yarl's Wood centres, the appeals process also "fast-tracked".

In all cases, applicants' access to legal counsel is limited and carefully regulated. One of TWAN's primary objections to the fast-track process is the practical difficulty of gaining suitable access to our clients, and obtaining permission to visit or speak with them while in detention. In addition, the process is so rushed that it is often difficult to obtain key pieces of evidence upon which the applicant's claim may stand or fall. Finally, many fewer appeals are allowed to go forward in the "fast-track" process. Between 2003 and 2006, less than 1% of appeals at the three detention facilities were permitted to proceed, as opposed to roughly 25% of non-fast-track appeals.

Case Study 54

Ms. SA arrived in the UK in 2000 on a two-year spousal visa sponsored by her husband, who

was settled in the UK. She and her husband separated in 2005 amid allegations of domestic violence and abuse. In 2006, she applied for a routine extension of her spousal visa, but was refused because the Home Office denied accepting that she and her husband were living as man and wife. In 2007, her husband committed suicide at Isleworth crown court upon being pronounced guilty of the murder of his child. Ms. SA's extension application was refused. She decided to claim asylum, alleging that she had a well-founded fear of persecution in her home country of Sri Lanka. She asserted that she had been arrested and detained by the Sri Lankan army in 1996 and 2001, each time for a period of several weeks, and each time suffering physical and sexual abuse. She also claimed that her status as a widower and a victim of abuse would make her an outcast in Sri Lankan society. Furthermore, the Sri Lankan army had made numerous visits to her home, and she was understandably worried about identification as a trained LTTE militant. Ms. SA was instructed to report to Yarl's Wood detention facility in order to have her claim expedited. TWAN explained to Yarl's Wood immigration officials that she was on antidepressant medication, and that arrangements would have to be made to refill her prescription while in the detention centre. Her health condition worsened as she remained locked in Yarl's Wood, and she was allowed out of the detention centre after considering her five years Refugee status. Her claim was successful, and she was granted leave to remain in the UK.

Case Study 55

In November 2006, Mr. JA arrived in the UK claiming asylum. He had been involved with the LTTE in various capacities since his youth, and had been tortured and detained by the Sri Lankan army as a result. In September 2006, the Sri Lankan army had arrested Mr. JA during a roundup, and had taken him to an internment camp where he was beaten with a lead pipe, branded with an iron stick, and burned with cigarettes. On another occasion, Mr. JA was detained in his own house by the army; the house was subsequently attacked by the LTTE, forcing Mr. JA to escape to a neighbouring village. He was told to report to the Oakingwood detention facility for fast track processing of his claim. TWAN successfully lobbied to have him taken

out of the fast-track process, citing the need to obtain medical evidence and corroboration of his torture at the hands of the Sri Lankan army. The evidence was obtained, and the application was processed through the regular Home Office channels. At the time of this report, Mr. JA had still not received a decision from the Home Office, fully one and a half years after his claim made.

Case Study 56

Mr. TS claimed asylum in December 2006, citing a well-founded fear of persecution due to involvement with the LTTE - carrying out electrical work in creating a bomb that killed eighteen Sri Lankan naval officers. He had left Sri Lanka on a false passport and applied for asylum as an in-country applicant approximately twenty-four hours after his arrival. The Home Office initially rejected his appeal for asylum on credibility grounds, pointing to his false passport and delay in applying. TWAN launched an appeal of the decision. While an immigration judge ruled that Mr. TS's clear terrorist involvement precluded him from admitting in the UK on refugee grounds Article 3 of the European Convention on Human Rights dictated that he be granted discretionary leave to remain in the UK as he would be exposed to violent reprisal by the Sri Lankan authorities upon his return.

Refusal of Asylum claims

Some common grounds for refusal by the Secretary of State:

1. No real risk of serious harm '**well-founded fear of being persecuted**' as required by the convention

The phrase "fear of persecution" has been interpreted in different ways; in practice, claimants must demonstrate a high level of risk in their home countries, despite the case law of *Sivakumaran [1988] Imm AR 147* suggesting that the standard of proof should be low.

Evidence establishing a 'well-founded fear of being persecuted' is understandably difficult to obtain in practice. Even when it is obtained, the Home Office often doubts its veracity: if claimants submit photocopies of documents rather than originals, the Office will sometimes refuse to grant asylum, reasoning that "these cannot be verified as genuine."

2. The country is safe for them if relocated (have not shown substantial grounds for believing that the claimant will face a real risk of suffering serious harm on return from the UK)

Most Tamil asylum seekers originate from the north and east of Sri Lanka, with limited knowledge of the Sinhalese language. It is therefore unreasonable to expect them to stay in other part of Sri Lanka as there are settlement restrictions for Tamils from the north and east. Tamils must obtain permission from the police before they can move to the other parts of the country, which is no easy task. The freedom of movement for Sri Lankans from the north and east is also restricted because there are no road services. The British Home Office, in their 'Country of Origin Information Report 8 February 2008' for Sri Lanka, has also acknowledged that "Tamils [from the North or East] who are able to reach Colombo could be vulnerable to the arbitrary arrests, detention and other forms of human rights abuse Tamils have faced there. It may be noted that Tamil originating from the North and East, in particular from LTTE - controlled areas, are perceived by the authorities as potential LTTE members or supporters, and are more likely to be subject to arrests, detention, abduction or even killings." (UNHCR Position on the International Protection Needs of asylum-seekers from Sri Lanka, December 2006) [6b] (Paragraph 34 (a) iv)

3. No sufficient evidence to show there are threats from Sri Lankan Authority or any other organisation.

The armed conflict in Sri Lanka is unpredictable and fierce. Since January 2006, this situation has deteriorated with a marked increase in hostilities. There is evidence of increased violence and human rights violations. In a Home Office report, it was noted that Tamils in Colombo are at a heightened risk of security checks, arbitrary personal and house-to-house searches, harassment, restrictions on freedom of movement and other forms of abuse since the imposition of new security regulations in April and December 2006.

4. Giving false/misleading information to immigration officer on arrival to the UK

There exists a common perception that some refugees provide false or misleading information in order to take advantage of the asylum and immigration process. However, considering that the furnishing of false information is fatal to a claim, it is important to understand the underlying reasons compelling a claimant to do so.

There has been a disturbing trend in the recent amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act that have the effect of criminalizing asylum seekers. As a result, prospective claimants are likely to provide false information in the hopes that their claim would be considered seriously to avoid attracting criminal sanctions. While the provision is intended to deter false claims, the consequences and stigma associated with criminal sanctions has the opposite effect.

A significant expression of the criminalizing effect is in regard to travel documents. It is an offence for a person to enter the United Kingdom without travel documents that is in force and satisfactorily establishes his identity nationality or citizenship. In order to avoid persecution, many Sri Lankan asylum seekers leave the country under assumed identities and forged travel documents. In virtually every case, they enlist the aid of an "agent," who provides the necessary documents and arranges all aspects of their exit- from providing safe houses to arranging air travel. Furthermore, an asylum seeker becomes dependant on the agent and continues to follow the advice of "agents" in the UK through out the determination process, regardless of whether it conforms to the law.

There is a critical inability to recognize and account for the means by which asylum seekers are forced to leave Sri Lanka.

5. Providing contradictory information on the application and interviews

Another common yet misunderstood reason for refusal of asylum claims is a "lack of credibility" arising from contradicting accounts provided at various stages of the process. It is believed that the presence of a subsequent contradicting account exposes an attempt by the applicant to manufacture a story for the purposes of securing asylum diminishing the overall veracity of the

claim. However, it is important to note that contradicting accounts tend to arise as a result of the process itself and not due to intentional deception or dishonesty on the part of the claimant.

For example, a recurring issue arises in the context of cultural difference during interviews. While the interviewer may endeavour to use techniques aimed at eliciting the full range of information necessary, due to cultural reasons many claimants are not comfortable discussing their backgrounds in detail. This is particularly true of individuals who are survivors of torture. As well, since there is no legal representative present during the initial port interview, the claimant is unaware of his or her legal position and is unable to determine what aspects of his or her background to emphasize. However, after receiving proper legal advice and emotional assistance, claimants overcome their inhibitions and providing much fuller accounts in subsequent interviews that may contradict their initial statements.

Another issue that arises in the context of cultural difference are the terms used by claimants during an initial interview which then change in subsequent interviews when they become better versed in the appropriate terms used in the UK. For example, in Sri Lanka, it is common for Tamils to refer to a first cousin as a cousin-brother or simply as a brother. Thus, when a claimant states that his brother made travel arrangements but later changes his statement to his cousin made travel arrangements, the overall credibility of the claim may be diminished.

6. Evidence of the claims being fabricated to facilitate stay in the UK

While many asylum seekers may have legitimate claims, government officials are reluctant to believe their stories without documentary evidence. In order to substantiate their claims, asylum seekers in the UK often seek to obtain evidence from Sri Lanka with the assistance of their friends or family. The authenticity of these documents is difficult to verify particularly because the source is difficult to identify. Officials may use this against the appellant to find new faults, thus weaken the chances of a successful claim. TWAN believes that the appellant should not be penalised for not being aware of the

validity of evidence since it is very difficult to produce evidence of torture and unfair treatment by the related authorities.

7. Evidence of support available within the country; internal assistance must be sought before the international

Yet another common reason for the refusal of claims is on the grounds that claimants have not exhausted options for internal assistance within Sri Lanka. However, it is clear that finding internal assistance is not always possible for asylum seekers as they are trying to flee from persecution at the hands of government authorities that tend to have a presence throughout the country.

Movement from the north and east borders of Sri Lanka has been restricted and carefully monitored by the government forces; there is therefore little opportunity to escape or find alternative routes to migrate. Thus, while the Home Office may maintain that freedom of movement exists in Sri Lanka where this is simply not the reality. Firstly, the A-9 road, the main artery for vehicular traffic from Jaffna has been closed at a number of points by military blockades. As well, various news sources have verified that there are a number of checkpoints and roadblocks in Colombo, the main transportation hub aimed at preventing further LTTE alerts. As a result, all Tamils are at risk of security checks, arbitrary personal and house-to-house searches, harassment, restrictions on freedom of movement and other abuses.

Despite these dangers many claimants do relocate internally but simply cannot shake the fear of persecution by the authorities. Only as an ultimate resort do they make the choice to claim asylum in the UK.

8. Family and financial support available (evidence of potential employability within the country)

The Home Office sometimes refuses claimants on the basis that they have the option of seeking family and financial support in Sri Lanka. They arrive at this conclusion under the mistaken assumption that asylum seekers are merely attempting to enter UK to find better economic prospects. TWAN opposes this assumption.

Indeed, it has been the case that many individuals who have a relatively comfortable standard of living have given it up as a result of a fear of persecution. TWAN believes that merits of an asylum claim should focus on the fear or persecution and not the material status or access to resources of the claimant. Moreover, it is TWAN's position that the family and financial support available to Tamils is related to the issue of mobility that has been discussed above. The Home Office has exaggerated the ease of movement necessary to access such support. For example, supposing the claimant can escape to another area remaining unidentified s/he will almost certainly be a target on trying to find employment because of an inability to speak Sinhala and the necessary documents to cross borders will have all the relevant details to identify that person to the Police Officials.

9. No evidence to suggest adverse interest by the receiving authority upon return.

In Sri Lanka, all failed asylum seekers are screened upon arrival and questioned on the temporary travel document that is issued by the UK government. Based on this, the authorities can easily identify that person as an asylum seeker from the north/east coast of Sri Lanka. On these grounds, the authorities can arrest the individual for a breach of Sri Lankan immigration law by travelling without a passport - the authorities would subsequently intervene to either detain or imprison. The returnee would be subject to detailed questioning during which the authorities would gather all the information to check against their national database to find background information of the returnee.

This checking procedure will make it easier for the security officials to find whether there have been any connections with the LTTE. This long haul procedure will identify whether that person can be subject and charged under the Prevention of Terrorism Act, under which they will be arrested and imprisoned. Due to the poor detention conditions, the returnee will experience inhumane/degrading treatment and will be scrutinized to a severe degree upon retaliation from the security forces.

Tamils are not at risk of harm by the Sri Lankan authorities purely by virtue of their Tamil ethnicity. However, there various factors that

may increase the risk. These include previous records of suspected, actual or family ties to the LTTE, having an outstanding arrest warrant, escaping custody or jumping bail, illegal departure from Sri Lanka, having claimed asylum abroad, and the presence of visible scarring. When there is evidence that a claimant successfully cleared passport control at Colombo airport without hindrance from authorities, the Home Office often uses this as evidence for refusal on this basis.

10. No Family life in the UK for the purposes of Article 3 and 8 of the European Convention on Human Rights

Article 3: "No-one should be subjected to torture or to inhuman or degrading treatment or punishment"

This European Convention on Human Rights article is an absolute right, from which there can be no derogation. Previous cases have confirmed that mental suffering is sufficient to fall within the scope of article 3, as is rape, which constitutes torture.

For a person to be at risk under Article 3, the risk of ill- treatment by the authorities should be genuine and specific: a general situation of violence in the receiving state is not enough to entail violation of Article 3 in the event of deportation.

In relation to Article 8, this would be accepted on the grounds that the asylum seeker has formed the right to private life and family life and to disregard this factor will result in abolishing their Humanitarian Protection.

It is clear that Immigration officials take time in deciding a matter to find a fault in the claim in order to deport the person seeking an asylum. However, many claimants wait years for a hearing, starting new lives in the UK. Deporting people after they have established a rich family life in the UK may amount to a violation of this right.

11 Acts committed in country of origin in violation of paragraph 339C and D of the Immigration Rules

i) Article 1F of the Geneva Convention

Even when the credibility of a claimant's story is accepted, paragraph 339C of the Immigration Rules states that the Home Office may refuse to grant asylum when there are serious reasons for believing that a claimant has committed a crime contrary to the purposes and principles of the United Nations. Because asylum claims are considered under the 1951 UN Convention on Human Rights, it is reasoned that providing claimants who have committed gross violations of the rights contained in this convention would be contrary to its spirit. Crimes of this nature include crimes against humanity, genocide, terrorism, or war crimes. Article 1F of the Geneva Convention excludes those from protection who have committed such crimes. However, if the claimant can show that they had been coerced into such a crime, committed the crime under duress, or committed the act under self-defence, their asylum claim may still be accepted.

Claimants do not necessarily have to have actively carried out the alleged crimes in order to be excluded from protection under paragraph 1F. Involvement in the planning of a crime may itself be a serious crime under Convention rules. In The case of *Gurung* (LAT 2002), it was determined that voluntary membership in an extremist organization that commits such crimes may amount to complicity, and may also be grounds for exclusion from asylum protection under Article 1F.

There are several crimes that have been determined to fall under the ambit of article 1F. A "crime against the peace" has been defined as the planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances.

A "war crime" constitutes the violation of international humanitarian law or the laws of armed conflict. Such violations may include murder or ill treatment of civilian populations or of prisoners of war, the killing of hostages, or wanton destruction of cities, towns or villages, or devastation that is not justified by military necessity.

"Crimes against humanity" can be committed at any time, as opposed to war crimes, which can only take place in times of conflict. The term refers to crimes such as murder, or rape

committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Acts of this kind may be grounded in political, racial, religious or other prejudice. Acts meeting these criteria include murder, enslavement, torture, deportation, or forcible transfer of populations and enforced disappearance of persons.

The 1F exclusion clause also applies to those who have committed acts of terrorism. Because the clause specifically states that claimants may be excluded from consideration because they have committed acts "contrary to the purposes and principles of the United Nations," two recent UN Security Council rulings give UK immigration officials the mandate to deny leave to those who have committed acts of terrorism, or to those who justify or glorify terrorist acts.

In the past few decades, many Tamils have claimed asylum because of their political participation in LTTE activities. In the past, an LTTE connection by the appellant was not considered to be a war crime or crime against humanity. However, one year ago, the LTTE was designated a terrorist organization by a number of Western governments, including the UK. Since that time, most LTTE participants have been automatically excluded from asylum consideration. While the UK Immigration Authorities and other European countries toward ordinary asylum seekers have enforced this exclusion, the LTTE's high-profile leaders have been allowed to visit European countries and to participate in peace negotiations under the initiative of the Norwegian government. If the LTTE participants are terrorists, or have committed crimes against humanity, then why are the LTTE leaders and high-ranking members allowed to come and go as they wish, with their participation in peace negotiations suggesting that they are a legitimate military? Similarly, the government of Sri Lanka has labelled the LTTE as a terrorist organization, and yet they have sent government helicopters to transport senior LTTE officials to Colombo for peace talks. In our view, if the asylum-seeker has not been proven by any court to be guilty of the alleged war crime or crime against humanity, he should not automatically be excluded from consideration based on the mere opinion of a Home Office adjudicator or Immigration Judge. If, on the other hand, he or she has been tried and convicted of such a crime,

then we think this would be a sufficient reason to deny asylum consideration to the applicant.

If the claimant can show that they had been coerced into a crime within the scope of article 1F, committed the crime under duress, or committed the act under self-defence, then they will not be automatically excluded from asylum consideration. It is difficult in practice to demonstrate to the UK immigration authorities that an applicant was coerced into committing an act that they would not otherwise commit, and we think it is unreasonable to expect LTTE soldiers to be aware of the fact that the so-called "Nuremburg defense" - arguing against complicity in war crimes on the basis that the defendant was following the orders of the commanding officer - is unacceptable in international law. But even more problematic is the precedent set by *Gurung* (LAT 2002) that anyone with voluntary membership in an "extremist" organization may bear responsibility for any and all acts committed by that organization. This causes particular difficulties for applicants from the North and East of Sri Lanka, as the LTTE dominates all facets of life; it would be very difficult to live a normal life in these regions without some involvement in or tacit support of some wing of the LTTE. However, this does not mean that all claimants who have aided or belonged to the LTTE in some way support all of the acts committed by that organization. One Tamil claimant was denied asylum by a UK immigration judge because he had volunteered his motorcycle to local LTTE officials; later, and without his knowledge, this motorcycle was used to carry out a bomb attack. The judge reasoned that because he had "supported" the LTTE in one way, he must have tacitly supported the bomb attack. In our view, judges should take a more nuance view with respect to what constitutes "support" for a terrorist organization.

ii) Danger to the Security of the Country

Additionally, the Home Office may refuse to grant asylum when there are reasons to think that the claimant would pose a danger to the community or to the security of the United Kingdom. Article 33(2) of the 1951 UN Convention grants nations the right to refuse entry to a claimant for whom there are "reasonable grounds for regarding as a danger to the

country. Section 72 of the Nationality, Immigration and Asylum Act 2002 states: "A person shall be presumed to have been convicted by a final judgment of a particularly serious crime and to constitute a danger to the community of the United Kingdom if he is - a) convicted in the United Kingdom of an offence, and b) sentenced to a period of imprisonment of at least two years." If a claimant wishes to argue against this presumption, the burden of proof lies with them.

Many of the same problems discussed in the previous section - determining coercion, support, etc. - also arise here. But there are additional factors to consider here: since there is no record of any LTTE terrorism in the UK or anywhere in Europe, TWAN regards it as unreasonable to argue that involvement in LTTE paramilitary activities by itself constitutes a "danger to the country." The LTTE has articulated its aims and objectives, and the group poses very little danger to anyone outside of Sri Lanka. The conflict between the LTTE and the ethnic Sinhalese government in Sri Lanka has the character of a civil war; the danger to UK citizens posed by participants in a Sri Lanka's civil war is, quite obviously, low. Moreover, because asylum claimants have left the country and seek permanent residence in the UK, we view this as a sign that they have also abandoned their LTTE support, and wish to simply start a new life away from the conflict in Sri Lanka. Had they wished to continue their involvement in LTTE activities, claimants likely would have remained in Sri Lanka. This constitutes another reason why past LTTE involvement should not, on its face, be considered a "danger to the country."

Case Study 57

Mr. SJ arrived in Sri Lanka claiming asylum on the basis that he feared persecution by Sri Lankan authorities due to his involvement with the LTTE. He had given a motorcycle to a local LTTE wing, which had been subsequently used, allegedly without Mr. SJ's knowledge or consent, to carry out a bomb attack in which several Sri Lankan police officers had been killed. The Home Office initially refused his claim, contending that his fear of persecution was not well founded enough or supported with enough evidence. Mr. SJ appealed this decision; at his appeal hearing, the IJ sided with Mr. SJ in agreeing that he did have a well-founded fear of persecution, but also

considered whether he should be excluded from asylum consideration due to his apparent complicity in "crimes against humanity." In the judge's opinion, the applicant *had* in fact been aware that his motorbike was to be used in a bomb attack; therefore, his asylum claim was dismissed on the basis that he had knowingly aided or abetted terrorist acts. However, the judge determined that deporting Mr. SJ back to Sri Lanka would be a breach of Article 3 of the European Convention on Human Rights, due to his admittedly "well-founded" fear of persecution; therefore, he was granted one-year limited leave to remain in the UK. TWAN has appealed his case again, as it is our view that the immigration judge did not afford Mr. SJ the refugee status to which he was entitled under the 1951 convention, and had determined Mr. SJ to have "knowingly" abetted terrorism. The case has moved to the reconsideration stage.

Case Study 58

Mrs. JS's husband was killed by the Sri Lankan army. When Ms. JS's father, a UK resident, returned to Sri Lanka to attend the funeral of his son in law, he took his daughter to Colombo to obtain a UK visitors' visa. In April 2007, five months after she had arrived in the UK as a visitor, she claimed asylum. Mrs. JS stated that she feared for her life due to her husband's death as he was a supporter to the LTTE, and that she had experienced harassment at the hands of the Colombo Police and the State armed forces in her native place. Her initial asylum claim refused by the Home Office reasoning that she would not have been released after questioning by the Sri Lankan Police if the army had any interest in her; moreover, the Office noted that in her interview with the Entry Clearance Officer to obtain her original visitors' visa, she had made misleading statements - asserting that her purpose for coming to the United Kingdom was to visit her parents, neither of whom, she claimed, had attended her husband's funeral. This cast doubt on the veracity of her claim in the Home Office's eyes. TWAN appealed the decision, claiming that the Home Office had not adequately considered all UN Refugee Convention and ECHR implications with respect to their decision to forcibly remove Ms. SJ back to Sri Lanka. Her appeal for reconsideration was also refused; while the immigration judge conceded that hostilities between the LTTE and

Sri Lankan army had increased markedly since December 2006, he was not convinced Ms. JS's case met the threshold of proof necessary for a determination of a "well-grounded" fear of persecution. The appeal for reconsideration was not successful, and the case has now pending consideration with the Administrative Court of Justice for statutory review.

Case Study 59

Mr. TS arrived at Heathrow airport clandestinely without a passport in November 2006, and was immediately charged with a breach of immigration law; he was convicted, and was given a three-month sentence, suspended for twelve months. He claimed asylum, alleging that he was at risk of persecution by the Sri Lankan army due to his mistaken implication in a bomb attack by an LTTE splinter group; he had been detained and tortured by the Sri Lankan army following the blast. His asylum claim then considered by the Home Office. The Office refused to grant him refugee status, citing lack of evidence. When new evidence was located and procured, TWAN decided to launch an appeal of the decision. Among the documents necessary for a successful appeal was a medical report detailing the physical evidence of his torture at the hands of the Sri Lankan army. However, the immigration authorities refused to delay Mr. TS' appeal hearing to allow for the completion of the medical report. Had the medical report been entered into evidence, the judge would have been faced with objective corroboration of Mr. TS' account of his injuries, including scarring, beating, cigarette burns, etc. Without this evidence, the judge refused to grant asylum, arguing that Mr. TS' account of his involvement with an LTTE splinter group was "garbled and inconsistent." The judge also determined that there was no "well-founded" risk of persecution upon his return to Sri Lanka, since he had been able to pass through Colombo exit control on his own passport without hindrance or interest by the authorities. Upon receipt of the final medical report, TWAN helped Mr. TS to make a fresh asylum claim.

Case Study 60

Mr. SM arrived in the UK in July 2007 claiming asylum due to a fear of persecution by Sri Lankan authorities. His sister had been an LTTE

operative, and had been killed in a battle with Sri Lankan authorities in 1995. Subsequent to her death, Mr. SM was questioned, detained, beaten, and tortured by Sri Lankan police on a number of occasions, purportedly due to his late sister's involvement with the LTTE. The Home Office rejected his original claim, stating that he had not produced sufficient evidence for determining that his fear of persecution was "reasonably well-founded," and alleged that he had fabricated evidence pursuant to his asylum claim. On appeal, the immigration judge overturned the determination of the Home Office on some matters of fact - accepting as true claims that the Home Office had dismissed as unsubstantiated or uncorroborated - but agreed with the Home Office that Mr. SM had fabricated elements of the story he had presented to immigration officials. Furthermore, the judge asserted that the claimant's credibility was damaged by the fact that he had not claimed asylum in Bahrain - where he had stayed for several days before continuing on to the UK - nor had he claimed asylum upon his arrival at Heathrow Airport. Finally, the judge determined that, under the risk "checklist" provided by the LP case, the claimant was not entitled to protection under Article 3 of the ECHR, because his risk of persecution upon arrival at Colombo airport was not great enough.

Case Study 61

Ms. SJ's husband had been a member of the Tamil National Alliance, a political party representing Tamil Community in the Sri Lankan Parliament. She alleged that both she and her husband had received threatening phone calls by splinter groups who are sympathetic to the Sinhalese Parliamentary Majority. She also claimed that members of these groups had carried out attacks on her home. Citing a fear of persecution in Sri Lanka, she claimed asylum after her arrival in the UK. The Home Office refused her initial asylum application, claiming she had not provided substantial evidence. The NAM Case Owner from the Home Office said that the appellant lacked credibility on the basis that if she had been actively sought by the Karuna group (who previously threatened to kill her husband) then she would not have managed to spend seven months after the July attacks without problem. Additionally they held that the attacks on her uncle's home was not plausible and

neither was her account of being followed from the temple believable. Thus suggesting that she was not the primary target but her husband. The Immigration judge allowed the appeal on both asylum grounds and Human Rights grounds based on well documented evidence supporting the attacks on the claimant's husband whilst accepting that hostility does exist between the Karuna group and the TNA MP's. The asylum claim was accepted due to the worsened security situation in Sri Lanka, that if the appellant were returned she would be perceived as having connections to the LTTE through holding the same political views as her husband. Judge further accepted that the appellant was a victim of the Karuna group attack (received threatening calls) and there was a real risk that she will face treatment contrary to Article 3 if she and her children return to Sri Lanka. Despite of long refusal and strong arguments made by the home office the appeal was allowed and the determination was not challenged by the Home Office.

UK ENTRY CLERANCE VISAS

The government continuously seeks to adopt strict border controls as part of the entry visa system. Indeed during the 2007, the Foreign and Common Wealth Office changed their fees and forms associated with obtaining Visas. Thus, prospective migrants may have to go through this obscure procedure and almost on every occasion they will lose a significant amount of money for the fees payable for making an application. While the process of this application has restricted appeal rights, the applicant may have to wait approximately ten months (on average) to have their case heard by the Asylum and Immigration Tribunal.

There are approximately 120,000 Tamils living in and around Greater London that have successfully settled in the UK and want to help their family members or friends to obtain a specific visa to visit the UK. Most of these UK residents approach us as a sponsor of potential migrants. Our nature of work includes advising and assisting those sponsors to obtain the relevant visa allowing their relatives, friends and families to visit or migrate to the UK. If a claim fails, then we appeal against the decision and represent the matter at the Immigration Appeal Tribunal subject to the merits of the case.

The entry clearance regime aims to divide visa nationals from non- visa nationals into separate categories to undermine citizens who fall within Appendix 1 to the Immigration Rules. Visa nationals must obtain visa from the British Embassy, or, alternatively, the High Commission abroad if they wish to visit the UK. The reason for entering the UK will be clearly specified on the visa and then stamped. However, non- visa nationals are not required to obtain any prior approval for a temporary stay in the UK, and are only required to present an entry certificate if they come to the country with the aim of gaining permanent residence.

Those who receive limited leave to enter include students, visitors and working holiday- makers. Visitors may be further sub-categorised into business visitors who can only transact rather than engage in full-time business. Visitors can only remain for a short term up to 6 months therefore having the intention to leave the country and not involve in seeking work or study and finally a visitor must show that they have the ability to maintain and accommodate themselves without the recourse of public funds. Student visitor could seek advice on his/ her further studies while he is in the UK as a student visitor on less than 6 months leave.

Apart from being a national of one of the countries listed in the Visa and Direct Airside Transit, a visa is necessary for those who do not have a nationality status or do not hold any travel documents stating this information. This may also include passports, which are issued by an authority that is not recognised by the UK.

After completing an application for a visa as a non- visa national, the Entry Clearance Officer will decide the application whilst considering all the necessary supporting evidence provided.

A settled person will mostly be the sponsoring person who is allowed to live in the UK permanently without any time limit on their stay. However, "present and settled" means that the person concerned is settled in the UK at the time that the application is being considered under Immigration Rules or they will later come to the UK to join or plan to live in the UK if their application is successful.

If there has been a refusal to issue a visa, the failed applicant can get information and will be given appeal forms about appeals and guidance from the Home Office website. Alternatively, the Entry Clearance Officer will have to inform the applicant whether they have the right of appeal and provide them with the necessary forms. Applicants wishing to extend their stay in the UK may be allowed to remain temporarily depending on certain circumstances, which may include entering the UK to marry or enter into a civil partnership.

In making an application the person acquiring a visa must select the relevant form for their reason for visiting or seeking permanent settlement. The VAF1 form applies to visitors who intend a short-term stay. However, under Immigration Rules HC395 this form does not allow stay for any person beyond 6 months. Types of visitors include family, business, student, tourist and medical. This form also applies to visitors in transit, academics or those seeking marriage.

VAF1 - This is the standard visit visa application form, which entitles the claimant to stay in the UK for a specified period of up to six months with the conditions without work or recourse to public funds. Anyone who wishes to visit the UK for a short-term period must obtain this visa before travelling. During the application process, the applicant may be fingerprinted or eye-printed. The conditions attached to this visa include: leaving the UK the end of the period of visit; abstaining from taking employment in the United Kingdom; not producing or selling goods while in the United Kingdom; not studying; and having access to accommodation and funds. There are seven classes of visitors who must complete VAF1: student, business, medical, transit, marriage, academic and family. Each category has its own unique requirements, and visitors must fill out the section of VAF1 corresponding to their visitor class. For example, the "student" section of the form requires applicants to provide details of their course of study, and the "medical" section requires applicants to specify the nature of their medical treatment as well as the name of their doctor or consultant.

Case Study 62

Mr KM wanted to sponsor his mother to the UK to visit his family. KM approached us regarding

this matter and we advised him that he could sponsor his mother and bring her on a visit visa for 6 months. KM was working and staying in a rented house, so he could demonstrate that he could accommodate and maintain the applicant financially while here in the UK and also that he had sufficient resources to support himself, his family and the mother. With all the necessary documents we lodged an VAF1 application to the British High Commission in Sri Lanka, and his mother's application was accepted and granted a 6 months visit visa in order to visit her son's family in the UK.

Case Study 63

Mr S wanted to sponsor his mother in law on a visit visa in order to come and support his family while his wife was pregnant. He had a one-year-old child and it was difficult for his wife to look after a child in her pregnant state. Mr S had a three-bedroom house and had sufficient earnings, and that could satisfy the Entry Clearance Officer that he is able to accommodate and support the applicant financially. He approached us regarding this matter and we lodged a VAF1 application having checked and collecting all the necessary documents. The applicant was granted a 6-month visit visa in that circumstance to provide some physical and emotional support to her daughter's family in time of her delivery.

VAF2 - Employment (fewer applications received) - There are three categories of applicants who must apply for a visa using form VAF2 - Work Permit Holders, Working Holidaymakers, and Highly Skilled Migrants. A work permit applicant must furnish proof of evidence having been offered a job by a UK employer. To apply as a working holidaymaker, applicants must be between the ages of 17 and 30, and must be a national of a specified list of commonwealth countries, and intends to take employment incidental to a holiday (with "incidental" typically defined as working for less than 50% of the holiday.) Highly Skilled Migrant applicants do not need a job offer prior to making their application, but must satisfy the Home Office that they have the qualifications and training necessary to obtain employment quickly and contribute to the economic life of the country. Qualified person who applied under the Scheme of HSMP must have earned 75 points to become eligible. In all three categories, an employment

visa will only be valid for twelve months. Employees on work permit or Highly Skilled Migrant visas will need to reapply for extensions after this time. After three successful extensions, migrants may apply for Indefinite Leave to Remain in the UK.

Case Study 64

Mr D applied for a working holidaymaker visa but the Entry Clearance Officer refused it. The sponsor approached us to appeal against the decision. We took full instructions from the sponsor and then drafted the grounds for appeal and explained the procedures to the sponsor. Advised the sponsor to inform the applicant as to the steps in the procedures including the need for other supportive documentary evidence. The application was refused on the grounds that the applicant failed to satisfy the Entry Clearance Officer that the applicant would leave the UK at the end of the Working Holiday Visa. The other reasons were that the applicant failed to demonstrate how she will be using her time in the UK and also prove that she will be on two years holiday on current work, as she works in India as a Senior Customers Executive. After analysing the situation and the grounds for refusal we drafted the grounds for appeal the applicants case shows that all the relevant criteria are met as we tried to argue that and also that the applicant has family and relatives in the UK who she wants to visit and spend her time with. After lodging the appeal the appellant is given a notice of hearing on April 2008. The appeal is pending and we are waiting for a result on behalf of the appellant.

Case Study 65

Mr R wanted to apply for HSMP visa under the Highly Skilled Migrants Programme and he contacted us via telephone to get assistance with making HSMP application. After lodging the HSMP Application the Home Office Sheffield section wrote to us asking for more information and documents. The applicant was qualified under the highly skilled migrant scheme because he held a Masters in Business Administration (MBA) and working as an Administration and Finance Assistant with United Nations in Sri Lanka to be eligible for past earnings, which must be more than 7500 pounds. He was also earning in Sri Lankan Rupees, which was equivalent to

10,567.40 pounds. After checking all the necessary documents and assessing his points, i.e. qualifications, wages slips etc we lodged the application in December 2007 to the Home Office with the appropriate fees. Home Office refused the applicant to approve under the same scheme as not satisfied on documents, which were not stamped originally from the Director of UNHCR. We then advised Mr R to obtain confirmation and stamped documents and wage slips to confirm the same. However the Home Office requirement is that when we request them to reconsider we cannot furnish further evidence to reconsider the same application. Therefore the applicant lodged a new application with entire requested evidence and appropriate fees and waiting to receive decision from the home office for initial approval. Once it is approved MR R must complete VAF 2 form for entry clearance process.

VAF 3 is the application for a student visa for those who intend to pursue a course of study longer than six months. This form requires the applicant to provide information on their course of study and the institution in greater detail. This also requires applicants to provide evidence that they have the necessary funds to cover the cost of their studies and accommodation. The student making the application must be able to show evidence of acceptance from the institution.

Case Study 66

Miss SR who was residing in the UK on a student visa, applied for a student visa for her brother, but the application was refused. Miss SR visited us to get assistance with her brother's immigration matter and wanted to appeal against the decision of the Entry Clearance Officer. We gathered information from the refusal letter and also received instructions from the client's sister and gave advice on student entry visa. We asked for further documents and tested the means and merits of the appeal. VAF3 form was completed and submitted to the high commission with required documentation. But the application was refused for the second time because the Entry clearance officer was not satisfied that that the applicant was a genuine student after discovering that the offer had been withdrawn as the applicant's mother had informed the institution that the applicant had accepted an offer elsewhere. The applicant did

not want to appeal so eventually the case was closed.

Case Study 67

VAF4 - Settlement - This form is for applicants who wish to be reunited with family members living in the UK as settled residents. Acceptable categories of family included spouses, civil partners, fiancés, unmarried partners, children, adopted children, and elderly dependents. Applicants must be able to demonstrate that their sponsoring family members are legally resident in the UK, are employed and are able to financially support their sponsored family members.

For spouses, the Home Office must be satisfied that the marriage is not polygamous, that each party to the marriage intends to live with the other permanently. VAF4 visas are typically granted for 12- 24 months, at which time migrants must apply for an extension of leave with the Home Office. For each category of family member, there are different criteria for eligibility for applying for permanent leave to Remain. Spouses of settled persons may apply for limited leave to remain after two years. In order to gain a successful extension of a spousal visa, applicants must demonstrate that the marriage is stable and subsisting, except in cases where the marriage broke down due to domestic violence; in these cases, the sponsored spouse may be given Indefinite Leave to Remain on compassionate grounds in rare cases.

In the case of children, the sponsor must demonstrate that they and the child's other parent are resident in the UK, or that the child's other parent is applying for leave to enter the UK at the same time as the child, or that the child's other parent is dead, or that there are exceptional circumstances for believing that the child's other parent is unable to care adequately for him or her. In addition, the child must be under the age of 18, must be unmarried, and must not be living an independent life. Children are typically granted indefinite leave to remain, rather than the limited leave granted to spouses. For elderly dependents, sponsored applicants must be 65 years of age or over (or, at least one must be over the age of 65 if they are husband and wife), must be wholly or mostly financially dependent on the sponsoring child, and must have no other close relatives in their country of

origin to whom they can turn for assistance. In the most exceptional compassionate circumstances, parents or grandparents under the age of 65 may be granted leave if they can demonstrate that they are dependent financially on relatives settled in the United Kingdom.

Case Study 68

Mrs S sought assistance from us to join her husband as a spouse of a British Citizen and was granted 2 years probationary period in the UK after completing VAF4 form and forwarded relevant documents in support of her application.. Having had a continuing relationship and two children with the husband, Mrs S wanted to apply to remain in the United Kingdom following her marriage. She approached us to help her with the application and taking the instructions we lodged SET (M) application to the Home Office. However the applicant was not having life in the UK exam certificate to be eligible for ILR. Her application was approved allowing her for 2 further years, subject to an extension for ILR at the end of two-year period.

Case Study 69

Mrs. G made an application to the British High Commission Colombo to bring her parents to the UK on a settlement visa using VAF 4 form and relevant documents. She is a British Citizen, currently living in the UK and self-employed in the UK. She owned a three-bedroom house and was earning sufficient income, which demonstrated that she was capable of supporting her parents financially. Her application was refused by the immigration authorities for the reasons that they were not satisfied that her parents were fully dependent on Mrs. G as they were living with Mrs. G's siblings in Sri Lanka. Visa officers satisfied that Mrs. G's parents did not meet the criteria that they were not living alone and financial or other supports were not provided by their daughter. Mrs G approached us to appeal against this decision.

After going through the refusal letter, advised the sponsor to make a fresh application ads she did not disclose relevant evidence in relation to continuous financial support

Case Study 70

Ms. S made an application for settlement visa in the United Kingdom as a spouse of a person

present and settled in the United Kingdom. Her application was refused because the Entry Clearance Officer was not satisfied that the appellant met the requirements of paragraph 281 of HC 395 and also 320 of HC 395. The grounds of refusal were that the evidence of her identity-her birth certificate- was found to be not genuine. As a result, the Entry Clearance Officer was not satisfied that the applicant was married to a person who was present and settled in the UK. The applicant's husband approached us regarding this matter and we lodged an appeal on behalf of the applicant. The appeal was heard before an immigration judge. After hearing the case and looking into the details of the case the judge came to the conclusion that there was no dispute as to the fact that the marriage was genuine and the applicant had also a son. It was also found by the court that there is no dispute about the appellant's husband being a person present and settled in the United Kingdom. The fact that the Entry Clearance Officer found the identify birth certificate not to be genuine could have been verified if an interview was conducted of the appellant but there was no such interview taken from the appellant. There was not enough evidence satisfying the ECO's claim for the birth certificate to be forged in the courts view, therefore the court was satisfied that the appellant was married to the sponsor who is a person present and settled in the UK.

On the other evidence the court was also satisfied that the sponsor has adequate accommodation and earnings to support his wife and son if they are granted the settlement visa. Finally, the court was satisfied that all the requirements of paragraph 281 had been met in this appeal, therefore, it held to grant the visa to Ms S and her son allowing the appeal.

VAF5 - EEA Family Permit - In cases where an EEA or Swiss national is exercising a treaty rights in working or otherwise residing in the UK, non-EEA members are permitted to join them provided they satisfy as a family member of a person who is exercising treaty rights. Family members with an automatic right of settlement include spouses, civil partners, and children under 21, adopted children under 21, and dependent parents or grandparents. Extended family members such as siblings or cousins do not have an automatic right to live in the UK as part of a house of an EEA national; but the Home

Office will consider and exercise discretion in dealing with applications for family members of this type. Permit holders do not need permission to work in the UK.

Case Study 71

Mrs P made an application for settlement as a spouse of an EEA national to British High Commission Colombo. The family permit was granted initially in order to enter into UK. Mrs P's husband has been exercising his treaty rights as a worker under EC law; Mrs P was a non-EEA resident. However, Mrs P's husband had been granted Registration certificate before she entered into the UK; After applying for the permanent residence, the Home Office required the applicant to provide further documents such as evidence of travel and employment e.g. payslips. Following the submission of further documents, the application was accepted by the Home Office, and she was soon granted a Residency card in the UK.

Case Study 72

Miss RA was an unmarried partner of an EEA national successfully entered the UK by showing the prior two years relationship with full evidence. After joining her partner she lived as same household. Miss RA then applied for residence card in the UK. EEA National owned a three-bedroom house in UK, and earned sufficient income to support both of them without recourse to public funds. The sponsor approached us to make this application in January 2008. The Home Office is still processing the application, and we wait for a decision.

VAF6 - Direct Airside Transit (very rare) - This visa category is for people who are using UK airports as intermediate points of transfer between two other foreign countries, and who intend to travel outside of the restricted zones of their UK ports.

VAF7 - Right of Abode (very rare) - the Right of Abode is an unrestricted visa of indefinite length for those who fall into one of several categories: Commonwealth citizens born before 1983 whose mother was a British citizen, or women married prior to 1983 to a man who had the right of abode.

VAF8 - Overseas Territories (very rare) - This is a supplementary visa form for those seeking entry

to one of several British Overseas Territories (e.g. the Falkland Islands, Gibraltar, Pitcairn Islands); applicants may need to contact the specific overseas territory to which they seek entry in order to ensure full compliance with immigration regulations.

Since 2000, the conditions and duration for all visas and entry certificates have been printed directly on the clearance form issued at the Embassy or High Commission in the country of departure.

Even if a passenger is in possession of an entry clearance, the leave can be cancelled and refused on grounds of:

- False representation
- Change of circumstances since the entry clearance was issued
- Medical grounds, criminal record, existence of a deportation order or presence not conducive to the public good.
- Seeking entry for a purpose other than that for which the clearance was granted.

EUROPEAN COMMUNITY LAW

European Economic Area & Freedom of Movement for Qualified Persons and their Family

The countries of the developed world are currently engaged in adopting increasingly stringent measures to seal their borders and restrict the movement of persons, including the criminalizing of activities undertaken by asylum seekers to escape persecution. This trend is particularly distressing in the face of the increasing rhetoric of a supposed universal commitment to fundamental human rights. A unique exception to this trend has been the European Union, which in its aim to create a single European market has guaranteed the free movement of persons within the member States. Indeed, pursuant to the European Parliament and Council Directive 2004/38/EC ("Citizens Directive") of 29 April 2004, citizens of the EU and their family members are, subject to certain regulations, free to move and reside within the territory of the Member States. The Citizens Directive came into effect in the

United Kingdom on 30 April 2006. This directive is of interest to TWAN as it has a direct impact on our client community.

Over the the last 23 years, the civil strife in Sri Lanka has produced a large number of Tamil refugees who have sought asylum in a number of European countries. While successful asylum seekers are able to flee persecution, the emotional cost is tremendous as many families are split with members remaining where their claims are successful or returning to Sri Lanka after having their claims denied. While successful asylum seekers usually go on to make a home and eventually secure citizenship, many are unable to reunite with their family members due to restrictions regarding mobility and sponsorship.

However, through the exercise of rights set out in the Citizens Directive, family reunification is a realistic possibility for many but remains problematic due to variations in the interpretation and implementation of the directive by member states. In the United Kingdom, an EU citizen and their family *regardless of citizenship* have the right of residency if they can establish that they are "qualified person" under the regulation of the Citizens Directive. Qualified persons include economically active persons, students and economically self-sufficient persons. Qualified persons and their families have the right to continue to reside in the UK for as long as they have the status of a qualified person. Qualified persons have the right to permanent residence after 5 years. Family members are defined as spouse, children up to the age of 21 years (and older if still dependant), parents and parents in law and other in the ascending line (the next generation up) and descending line (a generation younger).

In the UK, the interpretation and application of the Citizens Directive has had an adverse effect on the rights of EEA nationals and their dependents. Prior to the implementation of the Directive many European Tamils were able to reunite with their families in the UK under the terms of the Maastricht treaty. The interpretation of Directive by the Home Office restrained the eligibility of non-EEA nationals who are dependants of EEA nationals to reunite. This had a particularly dramatic effect on fai-

led asylum seekers who qualified as dependants of EEA nationals. Indeed, since April 2006, many applications by non-European dependants have been rejected by the Home Office due to a unique interpretation of the Directive. The Home Office has taken the position that the non-EEA dependant must come from the Member State where the EEA national lived. This has greatly limited the opportunity for families to reunite as family members who have resided in places other than the member state or in a different member state from where the EEA national lived are barred from residency *despite* the fact they were dependant on the EEA national for financial support.

It should be noted that the interpretation of the Directive by the UK is diverging from rulings by the European Court of Justice on related issues. *Jia* concerned the dependent Chinese mother-in-law of a German citizen exercising Treaty rights in Sweden. Mrs. Jia had gained lawful entry to Sweden as a visitor and now sought to remain as a family member of a Union citizen. The ECJ found that in order to benefit from a right of residence as a third country national family member of a Union citizen in cases where the application has been made from within the Member State, Community law does not require prior residence within the EU.

Perhaps more significantly, in *MRAX v. Belgian State* (Case C-459/99, 25 July 2002, the ECJ held that a third country national family member (in this case, a spouse) qualifies for residency even when the person has unlawfully entered a Member State. MRAX, an anti-racist campaign group, complained to the ECJ about Belgian regulations requiring the family members of EU nationals to be in possession of the Belgian equivalent of an EEA family permit when they apply for residence documents inside the country. MRAX argued that this would deprive significant numbers of people of the papers they need for practical reasons when living in the country.

The Court essentially agreed with MRAX on this issue. In its judgement it ruled that:

A Member State may neither refuse to issue a residence permit to a third country national who is married to a national of a Member State and entered the territory of that Member State lawfully, nor issue an order expelling him from the territory, on the sole

ground that his visa expired before he applied for a residence permit.

It is encouraging that the European Union, an organization of states unified to promote mutual economic growth, has recognized the economic advantages of having migration and free movement of people despite the common misperception that immigrants reduce wealth or place an undue burden on social services. Indeed, while TWAN supports the general policy of the European Union to allow freedom of movement, we remain critical of the means by which such policies are articulated and implemented. We believe that freedom of movement and family reunification is a fundamental human right and should not be restricted by border controls or unduly harsh immigration policies. While we will continue to advocate for the rights of immigrants and asylum seekers, we recognize that any strategy directed at "securing borders" is ultimately futile unless there is positive action on the part of the developed countries to address the root causes of poverty and civil strife.

However, the United Kingdom has still attempted to narrow the directive and the interpretation of the community law. The Directive 2004/38/EC was implemented by the UK in 2006 by means of the Immigration EEA Regulation 2006. The regulation takes a narrow view of the directive and restricts the eligibility of the non-EEA family members by requiring non EEA family members are required to live with the EEA citizens for 5 years in order to qualify under its provisions. The British Home Office takes Article 3.2 (a) of Directive 2004/38/EEA's clause "any other members" to be those who "in the country from which they have come, are dependants or members of the household of the Union citizen having the primary rights of residence." Some judges have taken the view of the Home Office, as in the case of *Rajmohan*, in which the Immigration Judge O'Flynn held that staying in the last or current EEA members state with the EEA national for five years is sufficient for a Non EEA citizen who is dependant on the EEA citizen. In the other case of *KG (Srilanka) & AK (Srilanka) v SSHD [2008] EWCA Civ 13*, Judge Buxton took the view that Article 3.2's "any country..." was not limited to the Member States of the European Union or the EEA. It was decided that if the non-EEA citizen resided outside the EEA or EU with the EEA resident as their dependants, then this

would qualify the dependents to settle in another EEA nation as dependants. But the claim of KG and AK failed, in his judgement, because he interpreted "*members of the household of the Union citizen*" to mean the **same** household as the one in which the Union citizen had lived.

EEA 1 Claim

EEA 1 claim – EEA nationals and EEA national's family members wishing to apply for a Registration Certificate while exercising treaty rights in the UK

Case Study 73

Mr N moved to UK with his family in order to exercise treaty rights as a worker from Germany. Mr N sought advice and assistance from us in applying for Registration Certificate for himself and his family. We collected all the relevant documents on behalf of him and his family members, and gathered further information about their entitlement. We then lodged an application for Mr N, his children and wife in order to obtain Registration Certificate. Mr N was granted Registration certificate as an EEA worker. Due to the EEA1 claim main applicant was a German National his family members were granted residence cards as an EEA citizen's family members under the Citizen's Directive of 2004/38/EEA and the EEA Regulation 2006 by using EEA 2 form. Mr. N's wife was a non-EEA citizen. However, she was permitted to take advantage of Article 3.2 of the Directive, as she resided with her husband in Germany who was a German national (EEA). Therefore, she qualified as a dependant family member of EEA national.

Case study 74

Mr RK claimed asylum in the UK in 1999. His father had fled from Sri Lanka several years ago, and had claimed asylum in Germany. The father's claim was accepted, allowing him to exercise treaty rights in the United Kingdom. However, his son's claim was refused by the Secretary of State for the home department. Once his appeal rights had been exhausted, and his permission to work had been withdrawn by the Home Office, the Home Office relented, and allowed to stay in the UK on temporary admission because his removal to Sri Lanka would

not have been practicable or safe. During this time, he received financial and moral support from his father in Germany. Mr. RK made a fresh claim on human rights grounds under Para 353 of the HC 395 Immigration Rules in October 2005.

Both father and son approached us to make a residency application. In February 2006, the father was granted Registration certificate, while his son's dependency application was refused on the grounds that the son did not come from the EEA nation of which the father was a national – in this case, Germany. Mr RK then appealed against this decision. At the appeal, we argued that 3 (1) and (2) were to be interpreted widely, with the beneficiaries of the Directive as "all union citizens who move to or reside in an Member State other than that of which they are a national, and to their family as defined in point 2 of Article 2 "who accompany or join them". This argument was rejected, with the AIT holding that "dependent" meant dependants residing *with* the EEA citizen only. We lodged further appeal and it is now under consideration at the Court of Appeal.

EEA 2 Claim

EEA 2 – Non EEA national family members of an EEA national wishing to apply for a residence document and who are residing in the UK

Case Study 75

Mr R came to the United Kingdom in 1999 and claimed asylum. His claim was refused. He then appealed against the decision of the Secretary of State, who refused his claim. Mr R then claimed a breach of his ECHR rights; this was also refused. After failing on all appeals, Mr R submitted an application for a residence card as confirmation of a right of residence under European Community Law as his cousin is an EEA national (German) exercising Treaty rights in the UK. This application as a EEA national's family member was also refused on the grounds that he has not submitted sufficient evidence to support that he was financially dependant on the EEA national. We lodged appeal for him; the Asylum and Immigration Tribunal finally held that the appellant was financially dependant on the sponsor, and that he was living in the same state

as the sponsor. The Secretary of State did not challenge the decision of the Immigration Judge.

EEA 3 Claim

EEA 3 claim - EEA national and EEA national's family members wishing to apply for permanent residence and who are residing in the UK

Case Study 76

Mr TR first came into the UK in December 2000 as a worker exercising his Treaty rights as an EEA national from Germany. He then applied for Registration Certificate and was granted until 3rd of January 2007. He was working and earning around 105 pounds net per week. Mr TR then married a Sri Lankan citizen, and obtained a spouse visa for his wife in British High Commission Colombo. His wife then applied for residence card, which was granted until 3rd of January 2007. In December 2006, his wife sought our assistance in applying for a permanent residency in the UK. After collecting all the necessary documents, we lodged an application on 21st December 2006 on behalf of Mr T.R's wife for a permanent Residency Certificate. The application was refused because Mr T.R's (EEA national's) P60 for last 5 years had not been provided, which was important in assessing if Mr T.R was actually working in the UK. Again we made reconsideration application to the home office explaining that his P 60 certificates were lost. The Home Office did not consider this. We appealed against the decision. The appeal was heard and dismissed by the Judge. The application for reconsideration is currently pending consideration.

Case Study 77

Mr K.G came to this country and claimed asylum in 2000, living with one of his relatives while he awaited the outcome. His asylum claim and appeal was refused, so he approached us to make an application for a residency card, exercising his rights as a extended family member of an EEA national. We then collected the relevant documents from the claimant and lodged an EEA2 application. The application was refused on the grounds that the claimant had never resided with the EEA national in the member state of which his sponsor was a citizen.

We then appealed against this decision; the Asylum and Immigration Tribunal (AIT) judge allowed the appeal, taking the clause *"in the country which they have come, are dependant or members of the household of the Union citizen having the primary rights of residence"* to mean any country, not limited to the European Union or the EEA. The Home Office then challenged the decision of the AIT Judge - in that appeal, Mr K.G lost. The permission to appeal to the Court of appeal was allowed. However the appeal was dismissed by the Court of appeal panel. Amongst the funding restrictions the counsel and the QC challenge the decision of the Court of appeal at the House of Lords. Currently the petition has been filed at the house of lords and waiting to hear from the HL.

VARIATION OF LEAVE

People who have been granted a visa with limited leave and who wish to remain in the UK for a longer period of time must extend their visas via the appropriate application form with specified application fees before their visas are due to expire. There are various categories of leave to remain - in some cases people with limited leave to remain may be allowed to switch one category of visa to another. In other cases, they may have to return to their native country in order to make the new entry clearance application to come back and stay in the UK. If the person fails to renew their visa within the time limit, then the person will become an overstayer, and face the possibility of deportation.

Many people living in the UK with limited leave visa approach us to advise and represent them in extending their visas in the UK, and sometimes to change the categories of variation of leave. An application for variation of leave must be made on one of the mandatory application forms. Forms beginning with the prefix **FLR** are for those seeking a temporary extension of their current leave to remain, and forms beginning with the **SET** prefix are for those seeking indefinite leave to remain. The Home Office has substantially raised the mandatory fees for applying for variation of leave: for most FLR forms, there is a fee of £395 for application made by post and £595 for applications made in person at the Home Office's Public Enquiry Offices. Children under the age of 18 may be included for no additional fee if they are applying as dependants. For SET

forms, the fee is £750 (postal applications) and £950 (in person at the Home Office's Public Enquiry Offices). The primary forms are:

(10 FLR (M)) - This form is for married or unmarried partner applications. Applicants must specify their relationship to their sponsor - spouse, civil partner, unmarried partner, or same-sex partner.

Case Study 78

Mrs. KM married to a person settled in the UK, and entered the country in December 2005 on that basis. Anticipating the expiry of her entry visa, she wished to make an FLR (M) application in order to obtain limited leave to remain in the country. TWAN helped her to make the application and advised her to bring bank statements, birth certificates, passports, marriage certificates, and utility bills in order to demonstrate that her marriage was subsisting, and that she required no recourse to public funds. Her application was promptly approved, and she was able to remain in the UK.

(2) FLR (S) - This form is for students. The student is required to specify the type of studies he or she is undertaking - for example, whether s/he is enrolled in a taught programme, a student undertaking examination resist, a postgraduate student writing a thesis, a student nurse, a prospective student, or a sabbatical officer. Fees for this form slightly less than they are for others in the FLR category: £295 for applications made by post, or £500 for applications made in person.

Case Study 79

Ms. NM arrived in the UK on a student visa to study for a course at the School of Oriental and African Studies. Upon completion of her course, she was selected by TWAN for a position of full-time employment as an artist at its Academy of Fine Arts. TWAN submitted an application on her behalf for variation of leave on form FLR (O), asserting that she qualified for additional leave as a result of her status as an "artist" as detailed on the form. The Home Office refused this application, stating that her initial immigration status as a student precluded her from obtaining an "extension" of leave as an artist. She was instructed to return to India, and to obtain a second entry visa as an artist. Her university aided her in obtaining the visa, and she was soon able to re-enter the United Kingdom.

Case Study 80

In 2007, Mr. KK's initial application for a leave extension was turned down by the Home Office on the basis that he had not provided sufficient documentary evidence of his enrolment in a UK University course. He had been successfully granted extensions to his student visa in 2002, 2003, 2004, and 2005, but his 2006 application for extension under form FLR (S) was refused after the Home Office determined that his course load was not sufficient for him to qualify as a full-time student. However, he sought to launch an appeal on the basis that his reduced course load was for a single semester only, that the diminished load was the result of his having to look for academic-related work placement, and that he was enrolled in an additional Diploma programme in computer science at a technical college; hence, his combined academic load was "full-time." TWAN was successful in convincing the immigration judge that Mr. KK was a full-time student, and he was granted the relevant leave extension.

Case Study 81

Miss SS arrived in the UK in 2006 on a student visa in order to study at sixth form level. She subsequently finished a one-year university course in business studies. In 2007, she elected to enroll in the same college to obtain further qualifications in business. She approached TWAN for help in submitting her application for extension of leave under form FLR (S). We obtained relevant letters and certificates of enrollment, satisfying the Home Office that Miss SS intended to continue her studies in the UK. Her application was ultimately successful, and she was granted extension of leave.

(3) FLR (IED) - for people issued with work permits or recognized as highly skilled migrants

(4) FLR (O) - for a variety of other applicants seeking a temporary extension of leave, including artists, postgraduate doctors or dentists, those seeking private medical treatment, or overseas qualified nurses or midwives.

Case Study 82

Mr. KG arrived in the UK on an entry clearance visa that had been set to expire in April 2007. He wished to apply for further leave to remain under

the religious ministry section of form FLR (O). TWAN procured letters from his Hindu temple confirming that they employed him. The Home Office accepted his application, and he was granted leave to remain for an additional period of one year.

(5) SET (M) - This form is for married or unmarried partner applications. Applicants must specify their relationship to their sponsor - spouse, civil partner, unmarried partner, or same-sex partner.

Case Study 83

Mrs. SS had entered the UK on a marriage visa sponsored by her husband, a full British citizen. Several months after her arrival, the couple had a child. Upon completing her two-year probationary period in 2007, Mrs. SS sought to change her temporary leave to remain status to indefinite leave to remain, and approached TWAN for help in this matter. Upon submission of the application and the support materials, the Home Office requested further financial details and bank statements to support the contention that Mrs. SK was wholly or mostly dependent on her sponsor husband, and that their marriage had been subsisting in that they had been residing at the same address. The initial SET (M) application was refused: even though she had furnished evidence of utility bills addressed to she and her husband jointly, the Home Office was not satisfied that Mrs. SS was living at the same address as her husband. TWAN launched an appeal of the refusal. At the Immigration Tribunal, the Home Office withdrew its original refusal; the Office had reassessed the evidence provided with the original application, and determined that it had a very weak case for refusal of the SET (M) application. TWAN considers this case to be illustrative of the need to appeal Home Office refusals that have little or no basis in law or fact: forcing the Home Office to reassess its original refusal may result in its overturning its decision even without a ruling by an Immigration Judge.

Case Study 84

Mrs. SK entered the UK in 2005 by way of a visa sponsored by her husband, a British citizen. Having completed her two-year probationary period, she wished to apply for indefinite leave

to remain. TWAN helped her submit her application using leave variation form SET (M). Evidence was gathered to show that the marriage was subsisting, and that the couple intended to live together permanently as husband and wife. Also included in the application was the birth certificate of the couple's child. The Home Office assessed the evidence, and granted Mrs SK with Indefinite Leave to Remain.

(6) SET (F) - for dependant relatives

Case Study 85

Mrs. TP, a widow, sought TWAN's assistance to make a SET (F) application as a dependant of her son, a British citizen. Her son owned a three-bedroom house and a grocery shop, which was strong evidence that he could support his mother so she would not have to seek recourse to public funds. Additionally, Mrs. T.P's other two children and her two siblings were living in the UK. Mrs. T.P suffered from high blood pressure, cholesterol and asthma. As a result of her medical condition, her right arm was not fully functional and she needed assistance with day-to-day activities. Her home in the village of Kytes had been destroyed and she would not be able to live on her own was she to return. Mrs. TP's application was refused. The Home Office stated that there was not enough evidence that her home had been destroyed in Kytes and that her son had provided her with 100 pounds a month since 1998. Also, it was reasoned out that Mrs. TP was not wholly financially dependant on her son. TWAN appealed the decision. However, the original decision was upheld on appeal and the judge remained unconvinced that Mrs. TP was solely dependant on her son. He was particularly critical of the fact that Mrs. TP had entered the UK as a visitor but had no intention on returning to Sri Lanka. He also noted that her medical condition did not establish a basis for the right to remain. We have finally advised her to make settlement application from British High Commission Colombo.

Case Study 86

TWAN assisted Mrs. TT to make a SET (F) application as a dependant of her son, a British citizen settled in the UK. Her son owned a three-bedroom home and employed in two jobs and had a monthly income of 1230 pounds per month.

Consequently, he was able to provide assurances that he could accommodate his mother and support her so that she would not have to seek recourse to public funds. As well, Mrs. TT's other children were living in the UK and she was suffering from asthma. Due to her medical condition she required assistance to manage day-to-day activities. Unfortunately, Mrs TT's application was refused. TWAN intends to appeal the decision.

(7) **SET (O)** - this form covers applicants seeking indefinite leave to remain not covered by the other forms listed here, including those applying for leave on the basis of long residence in the UK, UK ancestry, bereaved partner, or skills in writing, composition, or artistry.

(8) **SET (M)** - for indefinite leave to remain as a spouse or civil partner, unmarried or same sex partner present and settled in the UK.

Case Study 87

TWAN acted on behalf of Mrs. SP, a British Overseas Citizen who intended to settle in the UK. Mrs. SP had lived in the UK for more than 5 years. She was 63 years old and had been suffering from a number of illnesses. She was also a stateless person, as neither the Sri Lankan nor Malaysian High Commission recognized her as a citizen. Her settlement visa application was not accepted, and she exercised her appeal rights at administrative court. On appeal, the Home Office confirmed that they would be willing to reconsider her application. She is awaiting a decision from the Home Office.

Case Study 88

Ms. UM was born in Malacca - a former British colonial possession that subsequently became part of an independent Malaysia - in 1951. In 1963, the UK government removed eligibility for BOC status from all citizens of the newly independent Malaysia except for those who had been born in the formerly British-controlled provinces of Penang and Malacca. On this basis, Ms. UM assumed that she was eligible for BOC status. She approached TWAN for help in upgrading her temporary visa to a BOC passport. However, difficulties soon arose because of the Malaysian government's refusal to recognize dual citizenship. Since it is the policy of the Malaysian

government to deprive any person who adopts the nationality of another country of Malaysian citizenship, the UK Home Office reasoned that Ms. UM must have already relinquished her BOC citizenship status if she were legitimately in possession of a Malaysian passport. However, a Malaysian court had previously ruled that BOC status did not count as a full "second" nationality, and that Malaysian citizens were entitled to possess a BOC passport and a Malaysian passport at the same time. Despite our protestations to this effect, the Home Office ruled that she was not eligible for BOC status.

(9) **BUS** - for businesspeople

(10) **SET (DV)** - for indefinite leave to remain in the UK as a victim of domestic violence. The applicant must provide evidence that their relationship broke down as a result of domestic violence. Acceptable evidence includes relevant court convictions, police cautions, medical reports, police reports, letter from a social services department, or letter from a women's refuge. If an applicant qualifies as "destitute" at the time of their application on this form, they may be exempted from paying the otherwise mandatory £750 fee.

Case Study 89

Ms. SA arrived as a spouse of settled person on July 1 2006, along with her three children. In November 2007, her husband physically assaulted her; this incident was reported by the local police authority as an act of domestic violence. Soon after, she separated from her husband, and wished to make an application for indefinite leave to remain on the basis of domestic violence victimhood; TWAN aided her in preparing form SET (DV) to submit to the Home Office for this purpose. We obtained documentary evidence of the domestic incident from the Metropolitan Police. The Home Office wrote to us requesting further photographs and documents relevant to the application. We complied with the Office's request, and the application remains under consideration.

(11) **NTLOC** - application for a no time limit (NTL) or transfer of conditions (TOC) stamp by someone who already has indefinite or limited leave to remain in the UK. Form NTLTOC is to

be used if the applicant already has indefinite or limited leave to enter or remain in the UK as confirmed by a stamp fixed on a passport or other document issued to them, and they now want that stamp fixed on another passport or document - normally a new or replacement passport. For this form, there is a fee of £160 for applications made by post, or £500 for applications made in person.

(12) HPDL -for applicants who had been previously denied asylum status, but granted temporary leave on the basis of Humanitarian Protection or Discretionary Leave, and who now wish to extend their leave to remain status.

Case Study 90

Upon his arrival in the UK several years ago, Mr. KR was granted Humanitarian Protection, although he was denied refugee status (and the indefinite leave to remain that came part and parcel with it at that time). In 2006, TWAN submitted an application for extension of this leave in accordance with form HPDL. The Home Office requested that Mr. KR be interviewed at HO Headquarters in Croydon with respect to his visa extension. We lobbied to have this request withdrawn, providing evidence that Mr. KR was completely deaf and unable to be interviewed. The Home Office accepted that Mr. KR was unfit for interview, and they agreed to consider his application on the basis of the paper evidence alone. Eventually, his HPDL application was approved, and he was granted indefinite leave to remain.

(13) TD112 - for those lacking travel documents or passports and are either unwilling or unable to approach the embassies of their home countries in the UK to obtain them, or have been unreasonably refused travel documents by their home embassies. Applicants who have been refused travel documents by their national governments because they have failed to complete military service, did not provide sufficient evidence of their identity, or because they had a criminal record in their home country will not normally be granted travel documents by the Home Office. Applicants with refugee status may obtain a red UN convention travel document for a fee of £66. Those with indefinite or limited leave to remain (but not refugee status) may obtain a brown certificate of identity for £210.

Case Study 91

Mr. SJ arrived in the UK as an asylum seeker in May 1992. His claim was refused and the Independent Adjudicator dismissed an appeal in 1996. He launched an application on the basis of his human rights allegation, but did not receive a response by the Home Office. During the 14 years Mr. SJ resided in the UK, he had been working and contributing to National Insurance. With TWAN's assistance he sought leave to remain in the UK as he met the 14-year residency requirement pursuant to paragraph 276B of HC 395. Mr. SJ's application was successful, and he soon received a long-term residency visa.

(14) COA - Certificate of approval for marriage or civil partnership in the United Kingdom. Those under immigration control and who wish to marry while in the UK, and who did not obtain an entry visa for this purpose, must present form COA to the marriage registrar. While Home Office rules had stipulated that only those with leave to remain for six months or more were eligible for this form, a Court of Appeal judgment on 23 May 2007 determined this rule to be contrary to UK law - now, those with leave to remain of any duration may apply on the form. The fee for an application made on this form is £295.

Case Study 92

Mr. SS met his fiancé in June 2004, claiming asylum from Sri Lanka. In August 2006, while his asylum application was still pending, the couple decided to marry. Mr. SS' fiancé had been granted limited leave to remain until June 2008. Subsequent to their engagement and religious ceremony, they had been living together at the same address. Mr SS approached TWAN for help in lodging form COA (Certificate of Approval for marriage) to the Home Office. The Office wrote back, requesting sworn affidavits detailing the circumstances under which he and his wife had met, when they had decided to marry, where they intended to live, if they planned to hold a religious ceremony, and if they had booked a wedding reception or celebration. The evidence was obtained, and Mr. SS was granted his Certificate of Approval for marriage. Meanwhile, he was forced to endure a frustrating and drawn-out asylum claims process: the original Asylum

and Immigration Tribunal judge had accepted that he was entitled to humanitarian protection under Article 8 of the ECHR, but, on appeal by the Home Office, another judge determined that he was not entitled to protection. TWAN is currently in the process of making a fresh asylum claim on behalf of Mr. SS, and plans to use his Certificate of Approval for Marriage in order to strengthen his case.

There was no set form for those applying for extension of leave granted as Humanitarian Protection and Discretionary leave under Article 3 & 8 of the ECHR. The Home Office is very stringent in requiring applicants to use the correct form. Each year, numerous variations to leave applications are rejected as invalid because the Office has determined that an applicant used an incorrect form. Moreover, applicants must check the Home Office website before proceeding with their applications, because the Home Office often changes or amends forms without notice; any application completed on a non-current version of a form were denied.

Should the Home Office decide to reject an in-time application as invalid, they must do so within 21 days of the submission of the application, and must give the applicant a further 28 days to re-apply, regardless of the expiry date of their visa. If this new time limit is met, the application will be in-time.

When a variation of leave application is made 'in-time,' the applicant will automatically be granted leave to remain in the UK while their application is pending. If the Home Office decides to reject the application, applicants will be granted an additional ten working days leave in order for them to launch an appeal. Leave will also be granted for the duration of the appeal.

If, during the application process, a person requests that his passport be returned for the purpose of travel outside of the UK, the application for variation of leave will be treated as withdrawn.

HUMAN RIGHTS CLAIMS AND FRESH CLAIMS

Legal Framework on Fresh Claims

Applicants may make a "fresh claim" if new evidence comes to light or if circumstances in their

home countries have changed for the worse. Rule 353 of the HC 395 states:

"When a human rights or asylum claim has been refused and any appeal relating to that claim is no longer pending, the decision-maker will consider any further submissions, and, if rejected, will then determine whether they amount to a fresh claim."

The submission will only be considered as "fresh" if the evidence submitted makes the claim "significantly different" from that which had been considered previously. The new submission must meet two criteria in order for such a designation to be made:

- 1) The evidence had not been considered in any prior hearing
- 2) Taken together with the previously considered material, had created a realistic prospect of success, notwithstanding its rejection.

The second judgment involves estimating both the reliability of the new material and the outcome of any tribunal proceedings based on that material. The SSHD can, in making this determination, weigh an adverse credibility finding made by a previous tribunal against the prospects of future success.

Courts take a standard civil approach to newly submitted material. This requires, as stated in *Ladd v. Marshall*, that the material only be admitted where it could not, with reasonable diligence, have been entered into evidence at a previous hearing. Thus, in addition to new evidence, applicants making a fresh claim must be prepared to explain why they could not have submitted the evidence before.

In practice, fresh evidence usually amounts to one of the following (not an exhaustive list):

- 1) New evidence of the risk a claimant would face if removed
- 2) New evidence to show that the initial determination or appeal contains errors in law or in fact
- 3) New evidence with respect to a claimant having developed a life in the UK
- 4) Evidence of the situation in the client's country of origin having changed

- 5) Where knowledge of their country of origin has improved or the situation reinterpreted
- 6) Where the law has changed

Effect on Tamil Community

Fresh claim applications have been on the increase in recent years primarily because of the effects of the fast-track decision-making process. The Tamil community has also pursued a greater number of fresh claims because all original claims between 2003-2006 had been handed down without a right to in-country appeal; at the beginning of 2007, Sri Lanka was removed from the "white list" – countries whose citizens' asylum claims would be presumed by the Home Office to be "wholly unfounded," and whose nationals would have no recourse to appeal. This prompted many Sri Lankan asylum seekers to challenge the Home Office decision by making a fresh claim based upon new evidence. In addition, many asylum claims were denied by the Asylum and Immigration Tribunal based on a purported ceasefire agreement in Sri Lanka between 2003-2007: this agreement was interpreted by many immigration judges as evidence that it was safe for claimants to return to Sri Lanka; in reality, there were human rights abuses being committed by both the Sri Lankan army and the LTTE throughout this time period. Since the ceasefire deteriorated in early 2007, many claimants have pursued a fresh claim on the basis of changing circumstances in the country.

Case Study 93

Ms. MK began to assist the LTTE in 1993, and joined as a full fighting member in 2003. The Sri Lankan army arrested her twice in July and November 2000, during which time she was beaten and raped. She entered into a romantic relationship with a member of an enemy paramilitary group. When she discovered that she was pregnant, she became fearful that she would be a target of the LTTE for her involvement with enemy group member. She fled the country, and arrived in the UK on 31 October 2006. Since Sri Lanka was, at that point, on the "white list" of countries designated for fast-track claims, she was transported to the Yarl's Wood Detention Facility so that her claim could be expedited. She was refused asylum, and was informed in her refusal letter that she had no right of appeal by consequence of Sri Lanka's presence on the

"white list." However, TWAN applied for judicial review of the determination, based on our estimation that the refusal letter was replete with inaccuracies and outdated information pertaining to the security and human rights situations in Sri Lanka. While the judicial review was ongoing, Sri Lanka was removed from the "white list" due to a recognition that the ceasefire agreement between the LTTE and the Sri Lankan government had broken down. As a result, the Home Office has pledged to reconsider the merits of Ms. MK's case

Case Study 94

Mrs. JB arrived in the UK in July 2001 and claimed asylum on arrival. Both the original claim and the subsequent appeal were refused in 2001 and 2002, respectively. In 2006, she pursued a fresh claim based on 1) new evidence that her husband was being persecuted by Sri Lankan authorities, making her at greater risk than before; and 2) evidence of the marked deterioration in the human rights situation throughout Sri Lanka generally. With respect to 2, TWAN submitted two recent reports, one by the United Nations High Commissioner for Refugees, the other by the Immigration and Refugee Board of Canada, in support of the contention that the applicant would be much more likely to be subject to cruel or degrading treatment upon her arrival in Colombo than she would have been at the time of her original asylum claim. In addition, the applicant submitted to the effect that her husband had been implicated and detained in connection to the assassination of a Chief of Staff in the Sri Lankan army. The fresh claim was allowed, and Mrs. JB was granted indefinite leave to remain as a refugee.

Case Study 95

Mr. RJ arrived in the UK on 29 January 2002, claiming asylum on the basis of persecution at the hands of the Sri Lankan government. He claimed to have been beaten, burned, and electrocuted as a result of his suspected involvement with the LTTE. The Home Office refused his claim, as did the immigration adjudicator at an appeal hearing in April 2003. The adjudicator asserted that Mr. RJ did not have a well-founded fear of persecution upon his

return. His evidence for this determination was, in large part, dependent on the ceasefire agreement between the LTTE and the Sri Lankan government that had been in force from early 2003. Mr. RJ decided to pursue his appeal further, to the Immigration Appeal Tribunal. The IAT sided with the adjudicator, conceding that while Mr. RJ's torture was "horrific," the improved political and security situation in the country meant that he was at no substantial risk of harm were he to return to Sri Lanka. In 2006, TWAN lodged a fresh claim with the Home Office, proving evidence that: an individual who was detained in 1998 under circumstances similar to Mr. RJ's had recently been deliberately killed by the authorities; that Mr. RJ had been actively sought by the PLOTE; and that Mr. RJ suffered from major depressive illness for which no treatment is available in Sri Lanka. The Home Office responded by refusing to consider the fresh claim, positing that the additional evidence did not push the claim over the threshold of "realistic prospect of success." TWAN sought judicial review of this decision. At the Judicial review hearing, the justice found that the Home Office had irrationally dismissed the new evidence, and had failed to consider that the evidence did, in fact, give Mr. RJ's fresh claim a "realistic prospect of success." He accepted that the new evidence constituted a fresh claim, and ordered an oral hearing of the application for October 2007. The decision is pending.

Legal Framework on Human Rights Applications

Individuals facing deportation, or who have had their asylum claim rejected on appeal, may lobby the Home Office to allow them to stay in the country on Human Rights grounds if they believe that their removal would be a breach of Article three or eight of the European Convention on Human Rights (ECHR).

Article 3:

As per the case law established in *Chahal v United Kingdom* (1996), deportation may violate Article 3 of the ECHR where "substantial grounds have been shown for believing that the person in question, if expelled, would face a real risk of being subjected to treatment [torture; inhuman or degrading treatment] contrary to Article 3." This is an absolute right, which is not subject to

derogation. Rape can constitute torture, as was determined in *Aydin* (1998). Treatment is "degrading" if it arouses feelings of fear, anguish, or inferiority capable of humiliating or debasing the victim, or breaking his physical or mental resistance *Ireland v United Kingdom* (1978). If a claim is accepted on Article 3 grounds, leave is typically granted for three years, after which time a further determination is made.

Article 8:

Article 8 constitutes a right to respect for private and family life. Courts typically ask four questions in determining whether there has been a breach of Article 8's obligation:

- 1) Has private or family life been established?
- 2) Has there been an interference with the right to respect for such family or private life?
- 3) Is any such interference in accordance with the law?
- 4) Is any such interference necessary in a democratic society as being in the interests of one of the legitimate aims set out in Article 8's second paragraph, and are the means chosen proportionate to the ends sought?

If a claimant's family life is primarily in his country of origin, then courts will consider whether the circumstances in that country amount to a "flagrant breach" of the provisions in Article 8. If the claimant has been resident in the UK for an extended period of time, and has established family life here, then deportation from the UK may create interference with right. Ironically, the longer a claimant has been pursuing appeals or awaiting the outcome of an asylum claim, the better his prospects of success in pursuing an Article 8 claim becomes.

Case Study 96

Mrs. SV arrived in the UK in October 2000. She sought asylum, but was refused several weeks later. Later, she lodged an appeal against that refusal, but was denied again. An application was made for permission to appeal to the Tribunal in 2002, but was once again refused. She then decided to launch a claim on human rights grounds, but leave was refused on this basis as well. Submitting a fresh claim in 2007, she was ultimately denied asylum again. Between her first and second claims, she married a person settled

in the UK, and gave birth to two children by him. Although her husband was physically well at the time of marriage, he soon developed serious health problems, including brain lesions, renal failure, and heart disease. His condition deteriorated to the extent that he could no longer take adequate care of himself, and relied on his wife for day-to-day needs. In 2007, an immigration judge determined that previous courts had not sufficiently considered the health of Mrs. SV's husband in determining whether removing her would constitute a breach of Article 8 of the ECHR; the judge reasoned that since removing Mrs. SV and her two boys to Sri Lanka would preclude her husband from having any physical contact with her, owing to his health problems and his consequent inability to travel, deporting her would amount to a breach of her right to family life. She was granted temporary leave on human rights grounds.

DETENTION AND REMOVAL

Despite the removal of Sri Lanka from the designated country list at the beginning of 2007, many failed Tamil asylum-seekers faced removal from the UK. Particularly, between March and July 2007; a number of Tamil asylum seekers were removed without having been given an opportunity to challenge the Home Office's decision to remove them. In our experience, once the travel document arrangement for the particular failed asylum seeker is completed, then the particular person will be detained the next time they report to police (reporting conditions are monthly, weekly, or daily) even while their human rights claim or fresh asylum claim is under consideration by the Home Office. When legal representatives make queries as to the reasons for detention, the Home Office often states that the detainee's removal is imminent. Moreover, the Home Office sometimes purposely faxes the reasons for refusal of the particular asylum seeker's fresh claim mere hours before the removal time, which leaves legal representatives very little time to challenge its decision. It is unrealistic to expect representatives to be able to lodge an application to court against the refusal letter or take an injunction against the removal in a very short time. When a judicial review application is lodged with less than excellent merits, administrative courts will often fine the legal representative for "wasting time." However, since August 2007, the European

Court of Human Rights has shown interest in failed Tamil asylum seekers due to the fact that those facing removal in detention centres have made a number of applications to the Court. Due to this development, the Home Office has expedited the removal of a greater number of failed Tamil asylum seekers than before. In our experience, detainees lack communication with the outside world, and many of the detainees are unable to find the suitable legal representation to deal with their removal. In addition, restrictions on visiting time and phoning facilities keep the detainee in isolation. Each year, we learn of a number of suicides of Tamil migrants in detention. There are also rumors in our community that the death of a number of detainees is the result of foul play.

Reason for detention and powers

Those who are liable to be detained (either in local prisons or in specific immigration detention facilities) include illegal entrants, port cases, administrative removal cases, crews of ships and aircraft, asylum-seekers with leave, and those recommended for deportation. Until 2000, detention was typically reserved for those were deemed unlikely to comply with immigration control, those who had repeatedly breached immigration control, and those whose forced deportation was imminent. In 2000, the Home Office introduced the "fast-track" claims-processing system; here, an asylum-seeker may be placed in minimum-security detention facility if his claim can be decided "quickly." The Office has announced plans to expand this programme, and to increase the number of asylum-seekers being detained for the purpose of processing claims expediently. If the head of a family or household is placed in detention, the government must take pains to ensure that it has not breached Article 8 of the ECHR – the right to family and private life. Those under the age of 18 are only ever detained in the most exceptional circumstances, and only for a single night. Persons suffering from disabilities or health problems are typically deemed "unsuitable" for IS detention.

The High Court decision of *Hardial Singh* established that, where legislation permits the Home Office to detain those subject to immigration control, lawyers and judges should

interpret the text of the legislation in the narrowest possible sense, giving deference to a person's freedom of movement rather than the government's powers. In addition, Article 5 of the ECHR, which asserts that immigration detention can only be carried out for the purposes of preventing a person from effecting an unauthorized entry into the country or where "action is being taken with a view to [the person's] deportation or extradition," places stringent limits on the Home Office's powers of detention.

Bail and other Remedies

'Temporary admission,' 'temporary release' and admission under a 'restriction order' are three different ways of allowing people liable to be detained to remain "at large."

- 1) Temporary admission - granted to those who are awaiting examination concerning their right to enter the UK; those who are awaiting a decision about whether they should be granted entry; or those awaiting a decision as to whether they should be removed as a violator of immigration restrictions.
- 2) Temporary release - release to those who have actually been detained
- 3) Restriction orders - granted by the Secretary of State to those subject to imminent deportation.

If temporary admission is granted, it will sometimes be contingent upon the detainee's meeting certain conditions. These may include, inter alia, residence at a specified address, a prohibition on taking employment, reporting to a port, immigration center, or local police station, or electronic monitoring. Electronic monitoring can include a stipulation to report via telephone to a computer armed with voice recognition capabilities, a requirement that the detainee wear a tag bracelet or anklet, or GPS tracking.

Another alternative to detention is release on bail. In the case of those subject to immigration control, authorities may accept bail from individuals acting on *behalf* of the claimant ("sureties"). Bail is typically set at between 2000 and 5000 pounds; in cases where the applicant has a strong financial incentive to remain in the UK, authorities may accept property such as houses, businesses, or cars as collateral.

A detainee can, under certain circumstances, apply for bail before the Asylum and Immigration Tribunal, and there is normally a presumption in favour of granting bail similar to the "right to bail" in criminal law. The burden of proof is on the Home Office to furnish reasons why an applicant should not be granted bail. Reasons given typically include 1) the applicant has previously breached conditions of bail 2) the applicant is likely to cause an offense or pose a danger to public health if released 3) the applicant is suffering from a mental disorder, which makes detention necessary for his own and others' safety 4) the applicant is under 17, and no alternative care arrangements can be made.

Difference between Removal and Detention

There are different procedures that can be used in order for border control in the UK. These are Port Removal, Administrative Removal, and Deportation. These are some of the many weapons the immigration authorities have in enforcing immigration control. Port removal applies to people who are denied entry when they arrive in the UK. Administrative removal applies to people who have overstayed their leave in the UK.

Port Removal and Administrative Removal may negatively affect a person's future immigration prospects, while Deportation prevents a person's return to the UK completely (until the deportation order is revoked).

Case Study 97

Mrs I.S. came to the UK with her daughter on a six months visiting visa on the 10th of September 2006. Mrs I's entry clearance on visitor's visa was refused at first - she was granted a visa only after appealing against the decision. Her husband had also obtained a visit visa at the same time as her and her daughter. He did not accompany them to the UK because of work commitments, but planned to come 2 months later, in order to accompany them back to Sri Lanka after the visit. Mrs I was then informed by her father that her husband had been detained by the LTTE. She feared being questioned about her husband on her return to the Sri Lanka, and was frightened of being ill-treated or tortured if refused to answer the questions of the authorities. Mrs I.S. then

claimed asylum on 6th February 2007 on the grounds that her husband was detained by LTTE - she was concerned that if she returned with her daughter their lives will be in danger. She was screened and interviewed for the asylum claim. Mrs I.S's application for refugee status was refused on the grounds that Mrs I's husband was not thought to be highly involved with LTTE because she herself on the appeal admitted that her husband was only a low level member of the LTTE; it was considered implausible that Mrs I.S and her father would be aware of her husband's activities if he were so heavily involved in the LTTE as claimed by them. There was also no evidence provided that her husband was detained.

Mrs I.S was then given removal direction. She was detained with her daughter as a result of her not complying with the direction. Mrs I.S. received funding by the Legal services Commission - we have been representing Mrs I.S since her arrival in the UK. We wrote to the UK Immigration Services regarding her arrest and detention, believing it to be unlawful. She had been detained without any justification. We argued that Mrs I.S had an appeal right. While the appeal was being decided we managed to bail Mrs I.S and her daughter out of detention. Currently they have been reporting at the Immigration.

Case Study 98

Mr R.W arrived in the UK on the 11th of June 2006 and claimed asylum shortly thereafter. The Secretary of the State for the Home Department refused the asylum application. His appeal was heard by the AIT, who subsequently dismissed it. In July 2006, while the client was staying in the UK on temporary admission, his situation changed and he obtained new evidence in support of his asylum claim. At the end of September 2006 we made a fresh claim for him with the new evidence. In October our client was detained and served with removal order while the fresh application was under consideration. At the beginning of November, just two days before his removal, his fresh claim was refused. We sought opinion from counsel to challenge the Home Office's decision to refuse Mr R.W's fresh claim. The counsel confirmed us that it was available to Mr. R.W to proceed with a Judicial Review of the decision of the Home Office in

regard to his fresh claim for asylum status. The funding for the claim was granted by the LSC to make a Judicial Review application, which we submitted to the High Court to grant the permission to carry out Judicial Review. Subsequently, we made the bail application, and our client was released from the detention by the court. Later, in February 2007, the application for Judicial Review was refused, and we were asked to pay the defendant's cost sum of £500. Fortunately, the application was made under the legal aid scheme and the cost was reviewed by the court and waived the charge of £500.

Case study 99

Mr J.R entered the UK on 28th December 2000 and claimed for Asylum upon entry. In 2001, his claim was refused, and the adjudicator dismissed an appeal against the decision. On the 28th February 2004, an appeal for leave to the Tribunal was also refused - all his appeal rights had been exhausted. In 2006, we applied for Judicial Review of the decision, but the permission was refused by the judge at the High Court, which held that 'the claim was unarguable'. Meanwhile M. J.R had applied for residence card as the family member of an EEA national in April 2006. Thus applying for residence card as the family member of an EEA national Mr J.R did not rely on the Immigration (EEA) council directive 2006 because it was identified by the representative that he could not succeed in the claim, since he never lived with his relative in another EEA state. Mr J.R instead relied on his fear of the authorities in the light of the current situation in Sri Lanka, and thereby argued that he had become a refugee and seeks to establish a claim for asylum or under article 3 of the European Convention on Human Rights. The claim was refused, and the appeal was subsequently dismissed on the grounds that it was not shown that Mr J.R would be at risk from the Sri Lankan authorities. The court also held that he had not established a case in relation to either asylum, Article 3, or for humanitarian protection. Mr J.R then applied to the High Court for permission of judicial review of the Home Office's decision. The court refused permission, and he faced detention.

Mr J.R subsequently approached us to help him with this matter; we took the case to the European Court of Human Rights. The court accepted

the case and ordered the UK Home Office to release him on temporary admission from the detention. Mr J.R was released and his case will now be heard by the European Court of Human Rights.

HOME OFFICE POLICY & SETTLEMENT

(1) ILR Family Amnesty (One Off)

The Family Indefinite Leave to Remain (ILR) was introduced on 24, October 2003, as a one off attempt to reduce the approximately 15000 asylum seeking family cases. Under the amnesty, the Home Office may grant ILR to families who meet the following criteria:

- Made an initial claim for asylum before 2 October 2000
- Had at least one dependant aged under 18 (other than a spouse) in the UK on 2 October 2000 or 24 October 2004. This includes families who were joined by a child between those two dates.

As well, the following criteria regarding the asylum application must also be met:

- The asylum application is still awaiting an initial decision from the office; or
- The asylum application has been refused and is subject an appeal hearing; or
- The asylum application has been refused and there is no further avenue of appeal but the applicant has not been removed.
- Families where the main applicant's asylum claim was refused but she/he was granted limited leave to remain will be considered.

Families must also meet the dependency criteria and furnish evidence to demonstrate the dependency relationship. A dependant is defined as a child of the applicant or a child of the applicant's spouse who was under 18 years of age on 2 October 2000 or 24 October 2003, or who was financially and emotionally dependant on the main applicant. The Home Office will consider whether the dependant:

- Is related as claimant to the main applicant, and
- Formed part of the family unit in the UK on 2 October 2000 or 24 October 2003

The applicant must demonstrate the dependency relationship by providing the following evidence:

- The dependant has been listed on the asylum case file before the 24 October 2003
- UK birth certificate if the dependant was born in the UK and is not listed on the asylum file
- Strong evidence demonstrating the dependency relationship to the main asylum applicant, and strong evidence that they resided in the UK on 2 October 2000 and/or 24 October 2003, where a dependent may not be listed on the asylum nor born in the UK.

It should be noted that the policy does not apply to a family where the main applicant or any of the dependants:

- Have a criminal conviction (NB: the Home Office accepts in principle that people who have 'points convictions' on their driving license should not be excluded from the amnesty)
- Have or have had an anti-social behavior order or sex offender order;
- Families where the youngest child turned 18 before 2 October 2000 (NB: a legal challenge is currently underway examining whether the Home Secretary is right to do so)
- Have made or tried to make an application for asylum in the UK under more than one identity
- Should have their asylum claim considered by another country (for example they are subject to removal to a "safe third country")
- Present a serious risk to national security
- Have committed crimes against humanity or against the purpose of the United Nations as outlined in Article 1F of the 1951 Refugee Convention
- Whose presence in the UK is otherwise not conducive to the public good
- Unaccompanied minors (NB: a legal challenge is examining whether unaccompanied minors should have been excluded from the amnesty)

Case Study 100

Mrs. S.S. was a failed asylum seeker who had been residing in the UK for 5 years. Mrs. S.S. made a fresh application on asylum and ECHR grounds based on new medical evidence. However, while she awaited a response, she

became eligible under the ILR amnesty. She had three dependants- her spouse, and two children under 18 who were born in the UK. With TWAN's assistance, she applied for a grant of indefinite leave to remain. Because of the strength of her connections in the United Kingdom, length of residence in the United Kingdom, domestic and compassionate circumstances, she was successful in her application and was granted leave to remain.

Case Study 101

Mrs M.M. arrived in the UK in July of 2001. She claimed asylum and was granted exceptional leave to remain in late July 2001. In December of 2002, she married to Mr. K, and gave birth to a child in December of 2003. Mrs. M.M. worked in a local supermarket, and had adapted to UK life style and established a network of friends. In December of 2004, with TWAN's assistance, Mrs. M.M. made an application for ILR family amnesty. However, the Home Office refused her application on the grounds that she did not have at least one dependant aged under 18 (other than a spouse) in the UK on 2 October 2000 or 24 October 2003 who was living in the UK on 24 October 2003. Thus, she did not qualify under the terms of the ILR family amnesty.

(2) Legacy Casework

In response to the backlog of asylum cases yet to be cleared, the Home Office has established the "legacy directorate" with the aim of processing these cases by 2011. A legacy case is any case where all of the following apply:

- There has been a claim for asylum, humanitarian protection or discretionary leave
- The Home Office records indicate that the case has not been concluded
- The Case is not being dealt with by the New Asylum Model (NAM)

While specific information regarding legacy cases remains unclear, it appears that legacy cases will include:

- Case where the asylum claim remains outstanding
- Cases where there is an outstanding appeal
- Cases where asylum has been refused and any appeal dismissed, but the individual remains in the UK

- Cases where a fresh claim for asylum has been made
- Case where the individual has been granted some form of leave to enter or remain, but this is limited and may need to be renewed (eg. Unaccompanied child granted discretionary leave; a person granted discretionary leave for medical reasons)
- Case where the individual has been granted 5 years refugee leave or humanitarian protection and may apply for indefinite leave to remain at the end of that period
- Cases where the individual has left the UK but the Home Office records have not been updated

In response to applications for further leave to remain from individuals who fall within the legacy casework category, the Home Office has been sending standard letters, which simply state that the individual's case will be concluded by July 2011. When the Legacy Directorate selects a legacy case, they send a questionnaire to the individual. This means the case is being actively dealt with by a caseworker, and will be processed through to a conclusion. It should be noted that the legacy questionnaire is not an "amnesty" exercise for granting indefinite leave to remain to people in order to clear their backlog.

The Home Office have identified for criteria of cases, which they will prioritize:

- Cases of individuals who may pose a risk to the public
- Cases of individuals who may easily be removed
- Cases of individuals receiving support
- Cases of individuals who may be granted leave to remain

It may be possible to ask the Home Office to treat a case as a priority, but legal advice should be sought before making such a request as there is a risk that the person could be removed from the UK.

(3) Seven Year Concession - Policy named as 'DP5/96'

Families with children who have lived in the United Kingdom continuously for 7 years or more may be exempt from deportation or removal. The application of the policy is limited

to families where the child or children is under the age of 18 at the time the case is considered. It should be noted that there might be exceptional cases where this policy would not be applied, for example, if one parent has been convicted of a serious criminal offence,

(4) 10 year Concession Rule

An individual can apply for indefinite leave to remain in the UK on the ground of long residency. In order to succeed in a claim for long residency or to fall under the 10-year concession rule, which is provided by Section 276 of the Immigration Rule, the claimant must show that his or her residency is lawful and continuous. There are certain factors that will be taken in account as well as the length of residency and these are:

- The age of the individual
- His/her strength/connection to the UK
- His/her personal history such as character, conduct, associations and employment record,
- His/her domestic circumstances
- Whether s/he has previous criminal record, and there is one, what nature of record (for instance, whether the individual has been convicted)
- His/her compassionate grounds, and
- Any representations received on his/her behalf

Thus, all the factors listed above are generally taken in consideration when making a decision to grant the indefinite leave to remain on the basis of long residency but each case are decided and based upon its own individual merits.

Case Study 102

Mr. SM arrived in the UK in October of 1993 and made an unsuccessful application for asylum. On April 1st 1998, an IS 96 was granted stating that there were no restrictions on his taking employment in the United Kingdom. He began working as a waiter at a restaurant in South East London and received a wage of £150.00 per week. In his spare time, he volunteered at his local temple. TWAN assisted Mr. S.M. in making a long-term residence application based on the length of residence in the UK. A decision has yet to be rendered by the Home Office.

(5) 14 year Rule

Individuals who have remained in the UK for at least 14 years of continuous residence, excluding any period spend in the United Kingdom following service of notice of liability of removal or notice of a decision to remove or of a notice of intention to deport him from the United Kingdom, may be eligible for indefinite leave. The same factors will be taken into consideration as for the 10-year rule in order to assess the eligibility of such a claim.

Case Study 103

Mr. S.J. claimed asylum in May of 1992. His asylum claim was refused in 1994 and an adjudicator turned down his appeal in 1996. A fresh application based on new evidence was made on May 1996, and there was no response from the Home Office regarding the claim. As Mr. S.J. had been lawfully residing in the United Kingdom for 14 years, he sought our assistance in requesting an ILR in accordance with the immigration rules. Mr. S.J. was successful in his application and received indefinite leave to remain on the basis of his length of residence in the United Kingdom.

Case Study 104

Mr. S.P. arrived to the UK on 19/05/1993 with his mother and claimed asylum as her dependant who was 15 years old at that time. His mother's asylum application was refused on 27/09/1994, but she was granted discretionary leave. Apparently, Mr. S.P was granted discretionary leave as well, but the Home Office never issued a status document. In January of 1994, Mr. S.P's father came to the UK and declared himself as a dependant of Mr. S.P's mother. Mr. S.P's father was subsequently granted indefinite leave to remain in the UK. Mr. S.P made a submission based on the 10-year rule category, but has yet to receive any word from the Home Office. Mr. S.P was a full time student at a university in London, graduating with a Bsc. Eng in Computer Systems Engineering, and has been working for a number of years in his field earning approximately 1800 pounds a month. He also owns a three-bedroom house. Moreover, Mr. S.P's immediate family resides in the UK, and there is no family for him in Sri Lanka. Based on these circumstances, TWAN assisted Mr. S.P in making an application for indefinite leave to remain

pursuant to the 14-year residency rule. A determination on Mr. S.P's application has yet to be made.

(6) Safe 3rd Countries

An asylum claim in the UK may be refused without substantive consideration of the application if the applicant can be returned to a safe third country. A safe third country is one of which the applicant is not a national or citizen and in which a person's life or liberty is not threatened by reason of race, religion, nationality, membership of a particular social group or political opinion. It is also one from which a person would not be sent to another State in contravention of his rights under the 1951 Convention relative to the Status of Refugees and the 1967 New York Protocol.

The Home Office acts pursuant to the Dublin II Regulation, which is an EU law based on the principle that the first European Union country which the asylum seeker entered into should decide their asylum claim.

Some non-EU countries are also deemed to be safe in the sense that it is assumed they will decide asylum claims in the same way that the UK would. Lists of safe third countries are made under the Immigration and Asylum Act 1999 s 12 and delegated legislation, e.g. the Asylum (Designated Safe Third Countries) Order 2000 SI 2000/2245

PRIMARY HEALTH CARE AND MENTAL HEALTH COUNSELLING

Registering with the GP and obtaining medical treatment from NHS has become difficult for migrants in this country. We receive significant numbers of callers in this area seeking advice to register with GP in order to get treatment. It is not only affecting asylum seekers, but all migrants, including those who are living with limited leave. The visitors of the family members who came here with limited leave are asked to pay significant amount of hospital fees after treatment. While many others are not able to register with GP to obtain medical care service from GPs, it has become obvious that government policies are being purposely crafted so as to deny free NHS services to migrants and asylum seekers. The policies related to this issues are not transparent, and it is difficult to advise our clients as to their specific entitlements.

National Health Services Regulations 1989

Under this Regulation, there are four categories designated for free medical (NHS and GP) treatment:

1. Certain kinds of treatment are exempt from charges;
2. There are a number of groups of people who are specifically exempted from charges under the regulation;
3. A number of groups of people are allowed free treatment for medical conditions which arise during their time in the UK;
4. There are exceptional 'Humanitarian reasons', which justify granting an exception.

The second category of people who are allowed to free medical treatment in the UK include:

- Those present in the UK for purpose of employment (with a UK based employer) or self employment;
- Those present in the UK for purpose of taking a full time course of study which is either substantially funded by the UK government or lasts for at least six months;
- Those present in the UK for the purpose of taking up permanent residence;
- Those accepted as refugees, or who have applied for refugee status and their application have not yet been decided;

This shows that it is both unreasonable and illegal to refuse people an NHS card on grounds of their status as refugee: they are entitled to the free medical care according to law. GPs Practices have a discretion to accept or register people as patients. If they reject them, they must have reasonable grounds for doing so which do not relate to their race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition. People can be registered as either permanent patients, or if they have lived in the area for less than three months, temporary patients. Asylum Seekers must be able to register with a GP practice and gain free treatment - however, if their claim unsuccessful, they may be charged for routine treatment but not for emergency or immediately necessary services.

When dealing with migrants or refugees, we provide advice and assistance regarding almost all areas affecting their lives such as housing/ accommodation, health, benefits and social services etc. Accordingly, we provide basic information about the health system, eating habits, and issues affecting their health. Particularly at risk are asylum seekers or refugees people suff-

ering from mental health problems as a result of the difficulties they face.

We also provide interpretation services for our clients in GP surgeries or hospitals. A number of our users are victims of torture or war, and, consequently, their mental health has been considerably affected. Family disputes, alcohol abuse, and lack of opportunities all contribute to new migrants' likelihood of developing mental illness. We provide mental health counselling for people through the support of qualified volunteer counsellors. Unfortunately, there are no local Tamil counselling services available from the NHS. As a result, our service is very important and much needed for these people.

The children from this particular group may also face confusion as to what extent they wish to keep their cultural tradition or to adapt to their current surrounding and new culture. These problems can lead to increased strain and tension on the relationship within a family. Parents may face false accusation from social services made by their children if the relationship break down. Likewise, if parents are not taking appropriate action for their child's behaviour or anti-social problems, they may face criticisms from their neighbours, schools, the council or the community. In some cases, it had been reported that youths have been involved in violence or gang activity.

As a community organisation, we do not have the expert knowledge required to handle this matter, but we have to deal with it to some extent as there are no other organisations facilitating services for such problems. As a community service, we provide mediation and discussion to resolve disputes in the family. We also provide information to those who may have specific problems such as depression, addiction, and help the families work through these problems together. However due to lack of funding we are unable to cater to all of our clients needs. We must give help according to the priorities and severity of their needs. As an advisory charity it becomes more difficult to fund our services. For this reason, these areas require urgent assistance by funding bodies.

Case Study 105

Mr T.S was a victim of torture in Sri Lanka. He had been detained by the army following a bomb blast next to his T.V and radio repair shop. He

suffered from various form of torture and sustained grievous injuries and scars. Mr T.S came to the UK and claimed asylum in 2006, but the Home Office his refused his claim. His appeal was heard in 2007, and was also subsequently turned down by the Asylum and Immigration Tribunal. Due to his torture by the security forces, he wanted to obtain treatment and counselling service. He faced difficulties registering with a local GP. We referred him to a medical foundation for assistance with his registration, and we obtained medical report for him to support his asylum; we also offered him counselling services in our office until he received a proper referral from his GP.

Case Study 106

Miss S.S came to this country and claimed asylum. She went to see local Tamil speaking GP to register herself with the GP. The GP asked her for a passport, which she was unable to produce because she never had a passport on her own. Her explanation was not accepted, and the GP refused to register her. When we phoned the GP to discuss this matter, he explained to us that asylum seekers are not lawfully resident. Therefore, he claimed to be unable to register her. He also believed that if he referred Miss S.S. to a hospital, she would receive an invoice for her treatment. After being informed of the relevant law, the GP agreed to review this matter to take up this patient.

Case Study 107

Mrs. N.T came to this country to visit her daughter on a visit visa. While she was here, she had a heart attack and received emergency treatment at the hospital. Mrs N.T was then invoiced £3,542 for the treatment she was provided. Mrs N.T did not have travel insurance; therefore, the money was to be either paid by herself or with the help of her daughter. However, Mrs N.T is unable to pay this amount. Her daughter was also unable to pay, as she was relying on tax credit, and was in possession of an NHS Tax exemption certificate. Mrs N.T's daughter then approached us for help in this matter. We assisted her in writing to NHS services, explaining their financial situation, and requesting that they reduce the amount. The NHS gave consideration to their circumstances, accepted the request, and deducted the total amount help them pay it off.

OTHER PROJECTS AND SERVICES

ELDERS' DAY CENTRE

The organisation's elders' day centre provides services to the Tamil elders in the community who came to the UK as refugees and are now living in isolation. There are a number of services the centre provides to those elders in order to minimise the barriers and restrictions they face as a result of their immigration status, age and language. The services include the translated information about health, diet, benefits, housing and education. The day centre provides language and reading classes to help them overcome language barriers. It also organises visits from health professionals to speak about diet, physical health, and to provide mental health counselling. Trips and cultural outings are also organised to help the elderly people to visit other refugee communities around London. This gives Tamil elders an opportunity to develop friendships with younger members of the Tamil community. We also provide transport services to the elderly and those who would not otherwise be able to access the project.

One of the main aims of the project is to increase the skills of elders in the community by providing information and advice. It also aims to improve their confidence to participate in their community and family life, which will have a positive impact on the community as a whole.

SUMMER HOLIDAY PLAY SCHEME

The organisation delivers a summer holiday play scheme during the school vacation period for Tamil speaking children in and around East London Borough with the funding from various charity-funding organisations. The scheme is run from 23rd of July to 16th of August every year from Monday to Friday at 10 am to 3 pm. The scheme provides a safer play environment to the children and affordable childcare facilities for disadvantaged parents in the community. The project provides purposeful activities with the aim to combat anti-social problems in the neighbourhood. The play scheme offers various fun activities ranging from indoor and outdoor games, involving traditional dance, music to story telling, face printing, reading etc. the project helps children to befriend children of similar

background. This helps to boost their confidence, and gives them an opportunity to improve their learning skills. The organisation holds a competition on the final day of the scheme to make the project rewarding to the children and motivate them to take part in such project in future. The registered children take part in the competition and stage their skills in front of their parents and local community as audience and after the event they are rewarded with prizes.

LEARNING AND CAREER DEVELOPMENT FOR YOUNG REFUGEES

We run an educational project to supplement and support educational needs of the young Tamil refugees, with the aim of improving the performance of the young refugees in their school. From the project we also provide English language classes with career development assistance for young refugee aged 16 to 30. The aim of the scheme is to improve refugee children's schoolwork and confidence, prevent anti-social behaviour and help them achieve their potential. The English language classes are predominantly delivered focusing on children holding refugee status: there are ESOL classes run twice a week for 4 hours designed to help them improve their English language skills. This provides not only a great opportunity for children to learn but also to meet and mix with other children.

In 2007, the project was funded by KPMG Foundation and the project report for July-December 2007 shows that the participating students gained improvement in their school education, and, as a result, performed well in their exams. The parents are also pleased with the children's performances and in school attendance. The children were given the opportunity to take an exam at the end of the scheme and the candidates that took part in the exam conducted by the Oriental Examination Board London have shown good results. There are a high number of participants regularly showing interest to attend the class and that amounts to approximately 230 per day. The children are kept in safe environment while they are involved in purposeful learning activity on Sundays between 9:30 and 2:30. While engaging with this project their learning skills is improving and also the social skills are also developing, since they are taking part in wider community based programme giving them the opportunity to interact with other people. The project serves the

disadvantaged children in the society and providing them extra curricular activities towards unlocking their potential to achieve their objectives.

The main objective of the project is to give the young Tamil refugee people an opportunity to improve their current educational skills and enhance their extracurricular abilities and, at the same time, help them adapt to the educational system in the UK. It basically helps the young refugees whose families are in low income and those with unaccompanied minors giving them the chance to improve their social life.

SUPPLEMENTARY EDUCATION AND FINE ARTS PROJECT

This project is held at the Little Ilford Premises on Sunday during the school term from 9.30 am to 2.30 pm. The project is designed to help children to improve their performance at school. The experienced teachers, with the help of volunteer tutors, help refugee children in their schoolwork and provide additional support to improve their understanding of the subjects such as English, Maths and Science. Around 68 children took regular advantage of this endeavour.

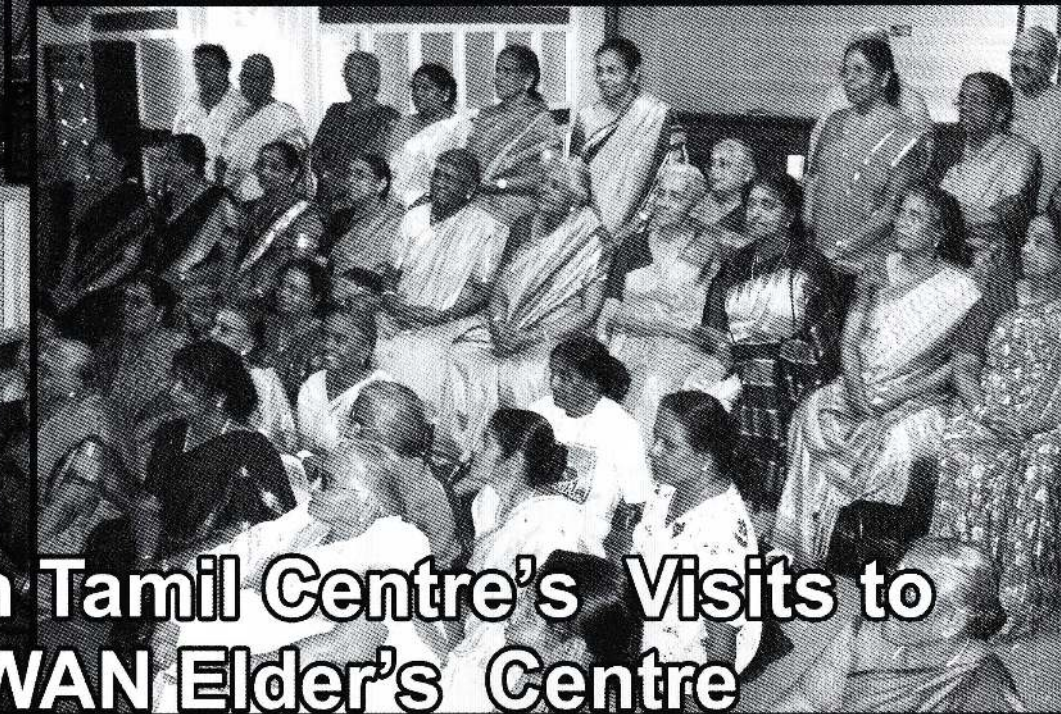
The classroom rent at the Little Ilford premises is subsidised by the Education Department, London Borough of Newham, at a cost of £3 per hour per classroom. We are currently using three classrooms every Sunday except during school term. The experienced volunteer teachers are paid 10.00 per day to conduct the classes.

The fine arts classes provide an opportunity to learn culturally appropriate extra curricular activities for younger members of the community, which function to improve their learning skills and personal confidence. Currently, Miruthangam, Veena, Bharathanatyam, Violin, Karnatic Vocal, Tabla and Bollywood dance classes are provided on Sunday at the same venue between 9.30 am and 2.30 pm. The children who participate in the project undertake

exams for fine art provided by Oriental Examination Board London (OEBL). The children also perform in cultural programmes in front of an audience to show their talent. It is inevitable that performing in front of audience will help participating children identify their talents, and will make them more assertive in presenting themselves before a group.

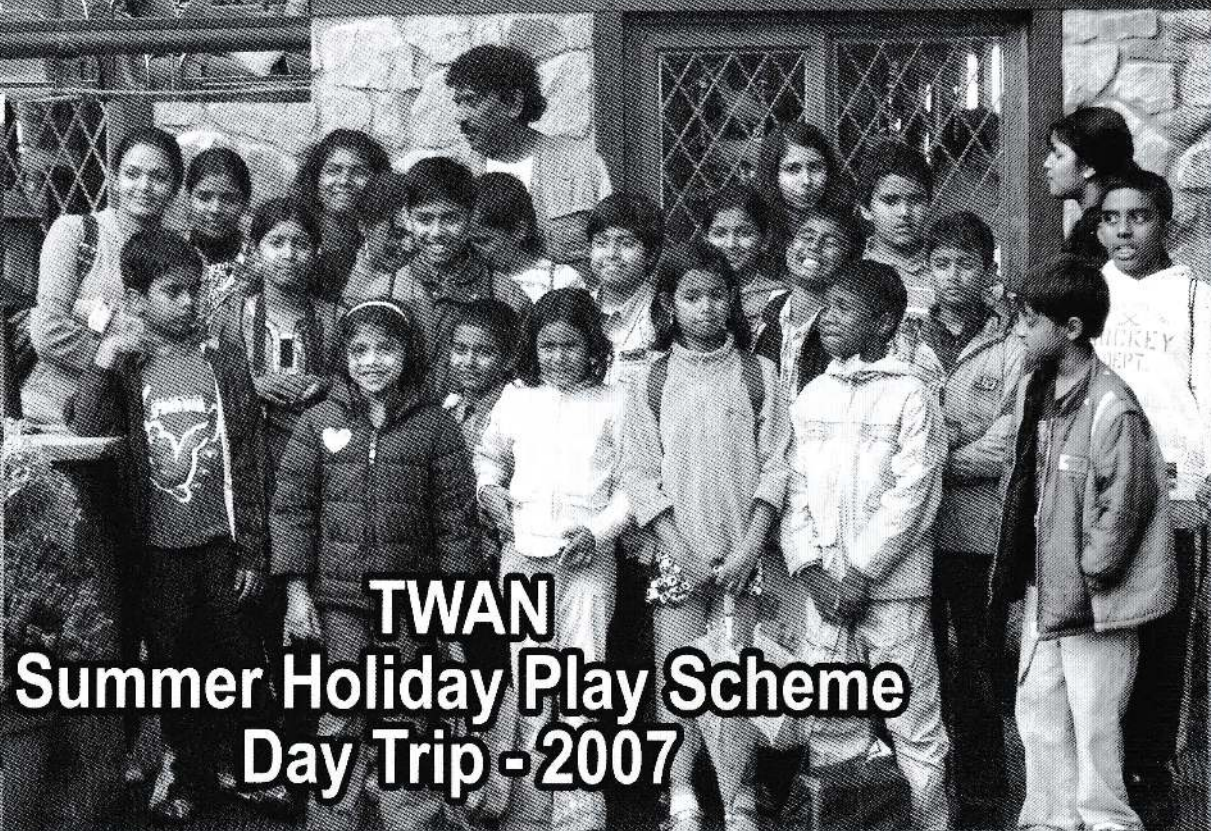
ACTIVITIES FOR SENIOR CITIZENS

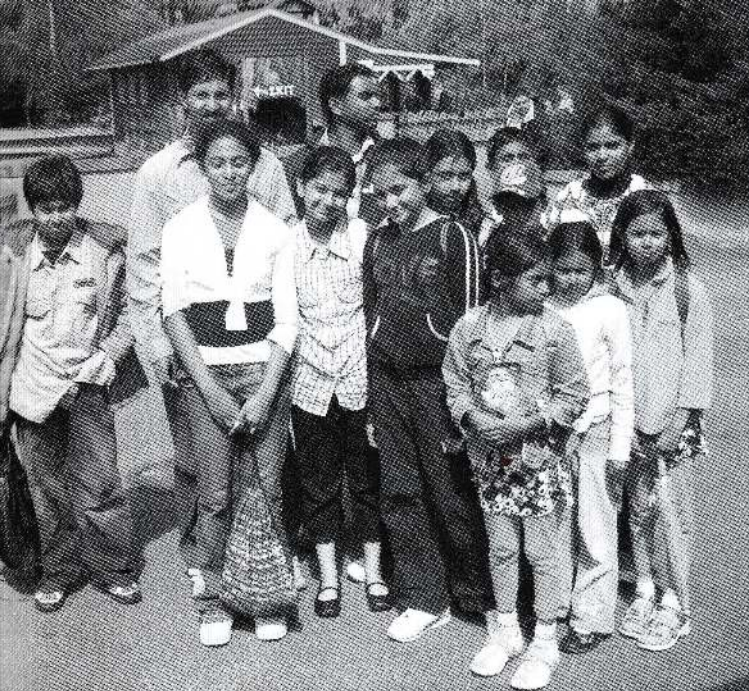
The number of senior citizens in our community is on the rise; their needs and difficulties vary from our general service. We are specifically addressing these needs by running day centre activities on Thursday from 10 am to 3 pm at the Manor Park Community Centre. On average 60 to 70 elderly members of the community gather on that day and participate in various activities. One of the main aims of the project is to increase the life skills of the elderly by providing them with the information and advice to adequately support themselves. It also gives them the confidence to participate in their community and family life, which has a positive impact on the community as a whole. Elderly people often find it difficult adjusting in a new country, especially when it comes to developing language skills. The language classes run by our organisation help elders improve their English. Elderly people also lack the knowledge and information on how to take care of their health; our advice scheme on diet and health will help senior citizens in the Tamil community to improve their quality of life. Our volunteers help elderly people attend their doctors' appointments, and also aid in communicating particular health issues and concerns with doctors. Other services we provide to elderly citizens include providing Tamil translations of essential health, diet, benefits and housing information, organising visits from health professionals to speak about diet, physical, and mental health; organising day trips and cultural outings including visits to other refugee community groups around London, running language and reading classes; running volunteer opportunities to help Tamil seniors befriend younger members of the Tamil Community. Last year 'Awards for All Grant' funded this project.



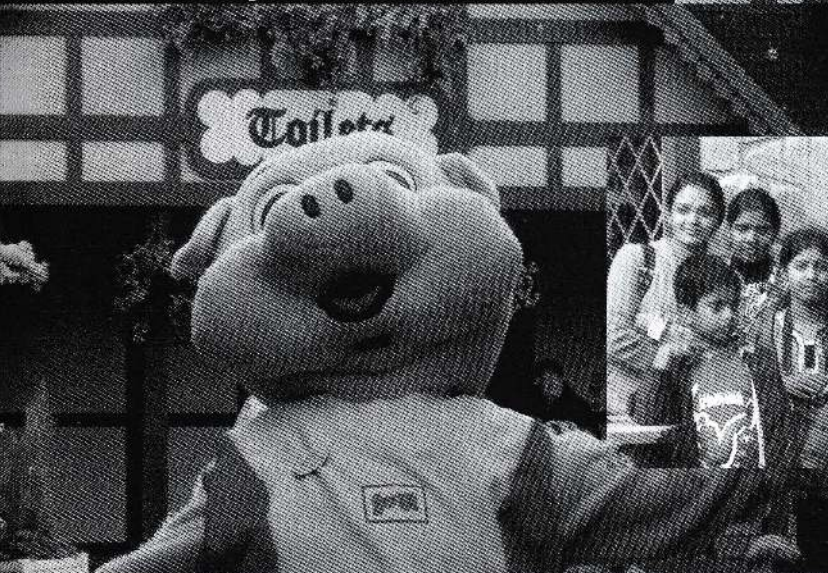
London Tamil Centre's Visits to TWAN Elder's Centre





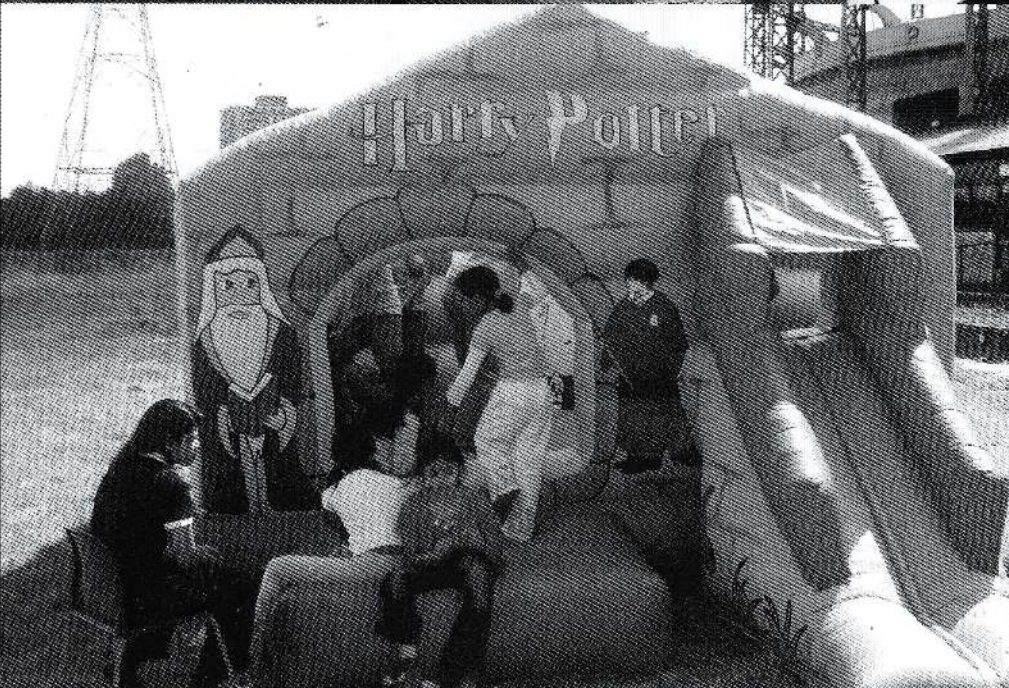
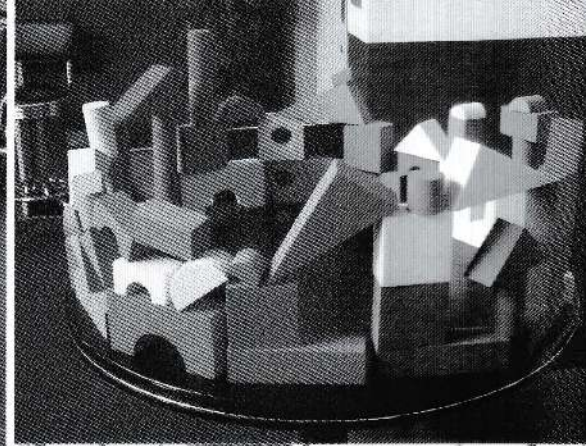


TWAN
Summer Holiday Play Scheme
Day Trip - 2007





TWAN
Summer Holiday Play Scheme
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*Particularly our entire guest of honorable invitees
for having graced the occasion by your presence this evening.
Also sincere thanks to staff, volunteers, members, clients and well wishes.*

*Mr. Stephen Timms MP, Civil Ambassador – Councilor Pearson Shillingford
Mr. Unmesh Desai, Mr. Clieve Furness & Local councilors.*

*Legal Services Commission, London Council,
BBC Children's in Need, KPMG Foundation, Lloyds & TSB Foundation,
Awards for All, Hilton Trust, Comic Relief.*

*OISC, Counsels, Medical Foundation, Professional Doctors,
Health Advocacy Services & GP's and Pan London Tamil Group*

*Networking Organisation Advice UK, BAN Consortium,
MODA, London refugee Voice, Ramfel, NCVO, Newham Voluntary Sector Consortium,
North East London Network, British Refugee Council, JCWI, LASA, ILPA, BID & CLT.*

*Glory Community Accountancy Project,
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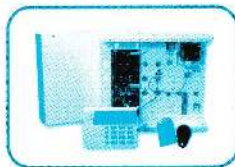
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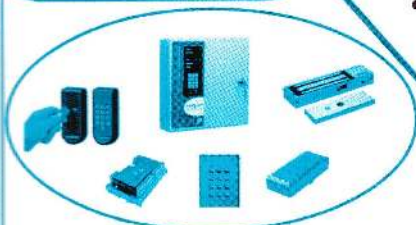
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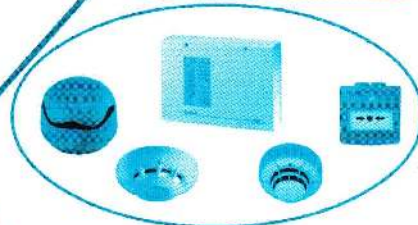
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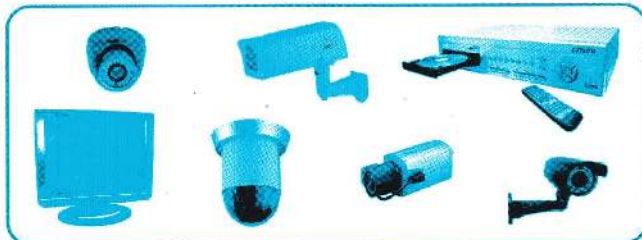


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