



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/01596/2015

THE IMMIGRATION ACTS

Heard at Field House
On 21st October 2015 and
23rd February 2016

Decision & Reasons Promulgated
On 29 March 2016

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

A R
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Benfield (Counsel instructed by Vasuki, Solicitors)
For the Respondent: Ms A Everett (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an application to the Upper Tribunal by the Appellant against a judgment of the First-tier Tribunal, Judge Britton, promulgated on 30th June 2015 in which he

dismissed the Appellant's appeal against the Secretary of State's decision to refuse his asylum claim and return him to Sri Lanka.

2. This matter first came before me in the Upper Tribunal on 21st September 2015. On that occasion I heard submissions from both sides as to whether the First-tier Tribunal had made an error of law. On that occasion the Appellant was represented by Miss Physsas of Counsel and the Secretary of State by Mr Kotas. Miss Physsas' principle submission was that the Judge had not made clear findings on the core issues in the case such as the Appellant's LTTE involvement. He gave inadequate reasons as to the significance of the length of the Appellant's detention, whether the army had in fact searched for the Appellant or whether the Appellant's profile in Sri Lanka or in the UK would mean he was at risk. I found that the Judge had erred in law in making inadequate findings as to the Appellant's profile and those inadequate findings were insufficient to justify a conclusion that the Appellant would not be perceived as a threat on return and therefore at risk of persecution.
3. I directed the matter remain in the Upper Tribunal and be listed for a full rehearing.
4. Thus the matter came before me on 23rd February 2016.
5. I had the Respondent's original bundle, the Appellant's bundle and some original colour photographs of the Appellant's activities in the United Kingdom which were handed to me at the start of the hearing.
6. I also had a medical report prepared by Professor Lingham dated 13th March 2015.
7. The Appellant attended and gave evidence through a Tamil interpreter who, having checked at the beginning of the hearing, I was satisfied he understood and that there were no interpretation difficulties.
8. The Appellant is a Tamil from Sri Lanka born on the 18th September 1989. His claim is set out in the Secretary of State's refusal and is as follows.
9. The Appellant is unmarried and has no children. Although not himself a member of the LTTE he did support them through his family links. He had an uncle who was a member of the LTTE and in 2005 he asked the Appellant to help him, which he did by setting up a stage and putting up banners for a Tamil festival in Jaffna. Later in 2006 he helped his uncle by purchasing medical supplies from pharmacies on his behalf. He also hid weapons in his home, putting pistols, rifles and grenades in the shed outside the house.
10. In October 2009 a distant relative was released from an LTTE prison camp and the Appellant helped her to obtain a passport and visa for India. He then assisted three other LTTE members to obtain passports and visas for India.
11. On 9th December 2009 a letter was left at the Appellant's home by the Sri Lankan Police requesting him to attend the police headquarters in Colombo. This frightened

the Appellant and he did not report; rather he stayed at his aunt's house, in hiding, until June 2010.

12. On 15th June 2010 the Appellant was arrested at his home by four members of the Terrorist Investigation Department and accused of assisting terrorists to leave the country. The Appellant was taken to the police station in Colombo where he was detained for three weeks during which time he was interrogated and beaten. He was then transferred to Velikadai Prison where the interrogation and beating continued. He was burned with cigarettes and sexually abused by the guards. He was forced to sign a document confessing that he had helped the LTTE and helped to plant bombs. After fifty days in detention, on 25th August 2010, the Appellant was released upon payment of a bribe.
13. The agent who had organised his release helped him to obtain a false passport in order to pass through checkpoints on the way to the airport. He left Sri Lanka on 8th October 2010 using his genuine Sri Lankan passport which had been issued in September 2009 with a valid Tier 4 Student Visa.
14. On the 9th October 2012 the Army attended the Appellant's home in Sri Lanka with an arrest warrant and told his mother that he was wanted for escaping from prison.
15. Having arrived in the United Kingdom on 7th October 2010 with a student visa he thereafter applied for an extension of that visa on 21st May 2012. That was refused without a right of appeal on 18th October 2012. Then on 16th November 2012 the Appellant claimed asylum. He attended a screening interview on that date and a substantive interview on the 7th December 2012. The Secretary of State rejected his claim in a decision dated 13th January 2015.
16. In the refusal letter the Secretary of State set out her reasons for disbelieving that the Appellant is at risk on return. In particular the Secretary of State said that the background information indicated that LTTE supporters suspected of assisting members to escape the country had been held in prison for substantial extended periods of time and quoted from the 2012 COIS which indicated that suspects could be detained for up to eighteen months without trial under emergency anti-terrorism regulations in force since 2006. Those had been used to detain perceived enemies of the government including political opponents, critical journalists, members of civil society and Tamil civilians suspected of supporting the LTTE. Those emergency regulations lapsed in August 2011 but the Government then authorised the expansion of law enforcement powers under the Prevention of Terrorism Act meaning that several thousand remained in detention without charge at the end of 2012.
17. There is then reference to a report that some people had been in prison under emergency regulations for more than twelve years. On that basis the Secretary of State said it was not consistent with what was known about the Sri Lankan authorities that the Appellant would be released after only fifty days if he was

genuinely suspected of the actions he claimed, particularly if he had signed a confession confirming his involvement in terrorist activities.

18. The Secretary of State noted the Appellant's claim to require a false passport in order to travel freely which was contradicted by the fact that he had a valid passport issued in September 2009 and had obtained a UK visa.
19. The Secretary of State considered various documents the Appellant had submitted in support of his claim, one of which was a letter from the Sri Lankan police. This however was a photocopy and the original had not been provided and the Appellant had not provided a translation. He claimed that it was a request from the police to attend the police building in Colombo but as the letter was untranslated and considered to be self-serving the Secretary of State placed no weight upon it.
20. The Appellant had submitted photographs which he said confirmed that he had been tortured as they showed cigarette burns. As they were not accompanied by an independent medical report in accordance with the Istanbul Protocol the Secretary of State attached no weight to those and rejected his claim to have been tortured. The Secretary of State thus did not accept that he had been arrested and tortured by the authorities in June 2010 for assisting LTTE members escape the country. It was not accepted that he had signed a confession or that he had travelled using fake documents obtained by an agent.
21. The Secretary of State also attached weight, in accordance with Section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 to the fact that the Appellant only claimed asylum, after his application to remain as a student was rejected. The Secretary of State then considered the Country Guidance Case of GJ and Others (Post-Civil-War: Returnees) Sri Lanka CG [2013] UKUT 319 (IAC) and the risk factors identified therein and found that the Appellant would not face a real risk of persecution. The Secretary of State considered Article 8 of the ECHR and found his removal proportionate given the length of time he had been in the UK and the lack of family life.
22. In response to that refusal the Appellant filed a witness statement which he adopted as his evidence in the hearing. That witness statement is dated 13th May 2015.
23. The Appellant indicated that although he had not been a member of the LTTE his uncles were. One was killed in 1992 while fighting for the LTTE. The uncle that he assisted would often talk about the uncle that had died.
24. He talked about getting a shopping list from his uncle over the telephone for various minor pharmaceutical products which he would buy and also food, batteries and wires, all of which were delivered to his uncle. Because he made those deliveries secretly he never had any problems. His uncle was his only contact within the LTTE although his uncle did live with three other members. With regard to his assistance to the LTTE and also helping to hide weapons the Appellant said that his parents knew nothing about this. His uncle would only come to the house if his parents were not at home.

25. The Appellant then referred to the relative he had helped to leave the country. Her brother was married to his cousin and her parents were well known to him. Her parents were in India and asked the Appellant to help their daughter. Once she was released from prison in Vavuniya on payment of a bribe she was still at risk because she had been an LTTE fighter which was why the Appellant assisted her to leave Sri Lanka. He took her to Colombo where they obtained a passport and visa which the Appellant collected for her. He also took her to the airport. He later performed a similar service for two others.
26. During his time in detention in 2010 the Appellant was asked about his relative and the other men that he had helped to leave the country.
27. The Appellant described his time in the prison saying that he was detained in solitary confinement and was beaten frequently by hand and batons and burned with cigarettes. He also suffered sexual abuse.
28. His escape was facilitated by payment of a bribe by his family to an agent who made the arrangements. His release took place in August 2010 and he was blindfolded and taken to a vehicle. His release was illegal.
29. The Appellant says that it was the agent that used his passport to get the Appellant a visa and he also said that his agent had contacts at the airport which is how he was able to leave without difficulties.
30. With regard to the letter from the police, he said that the original had been lost but he had in fact submitted a translation to the Secretary of State but she had not considered it. He said that his agent had advised him not to claim asylum on arrival as he would be sent back. He did not do so, he continued therefore with his studies. His student friends also told him he should study and not apply for asylum as he would be sent back.
31. The Appellant said the police went to his house looking for him in December 2010 and in October 2012. They did not believe that his mother did not know his whereabouts and threatened to shoot his father if she did not tell them the truth.
32. The Appellant then described how he has attended various events in the United Kingdom and become involved with the Transnational Government of Tamil Eelam since May 2014 as an activist. He has attended meetings, demonstrations and helped issue leaflets and collected signatures and generally assisted in raising awareness amongst the general public. He has also attended heroes' day events in November 2012, 2013 and 2014.
33. He says that he has been told by his mother that the CID went to the house again in November 2013 looking for information and they showed his mother a photograph of him from a website and said that he had been working against the government with the LTTE in the UK. His mother told them she could tell them nothing about him. They apparently visited his mother again in June 2014 and November 2014

telling her that they knew that he was in the UK and working against the government and that he was a wanted person.

34. The authorities again threatened the family that they would be punished if they were hiding anything.
35. In his oral evidence the Appellant confirmed the photographs of him taken at various occasions in the United Kingdom and pointed himself out in each of the photographs. He also adopted his most recent statement which was dated the 4th January 2016. In that statement he gave more details about his activities in the UK with the TGTE. He spoke about the photographs including one which showed him collecting signatures in Downing Street in May 2015. He referred to a web article which had been submitted of an event that he attended in November 2013 and he could be seen on that document holding a banner. He produced other news articles about events that he had attended. He confirmed that he was still actively involved in Tamil Diaspora protests and demonstrations and also with the TGTE.
36. In his oral evidence he had nothing to update with regard to the events described in the various statements. He explained that when he first came to the UK he did not participate in any organisations here but rather would talk to people about what had happened to him. He eventually decided to join an organisation and chose the TGTE because it is his belief that Tamils need their own state and that is something which the TGTE works towards.
37. In cross-examination he was asked what his role was in the TGTE and he said that the group tried to bring the genocide to light. He was asked what he had to do to join and whether he had to complete any forms and he said that he had to meet them and to explain his situation and asked to join. He does not have an ID card or membership card. He just has a letter from the MP which he has submitted. He confirmed that the TGTE hold elections and the last one was about three years ago when they elected a Prime Minister and five Ministers. He described the people who had been elected in the UK. He was asked given that he was a volunteer, whether he was accountable to anyone in the organisation and he said that he worked mainly for "Nimalan" and "Meethirajah" who arrange meetings. He said that he had not asked anyone to come and give evidence on his behalf because they had given him a letter to say that he is with the organisation. He agreed that he had only become active after his student extension had been refused and when asked why he had not joined before his claim was rejected he said that he had participated in events and protests but not with any particular organisation before then. It was put to him that he was not named in any of the articles he had submitted. He agreed but said that his photo was clearly visible. He said that he attended public protests as part of the TGTE five or six times and a total of about ten since he came to the UK. He said that if there was an election within the TGTE now he would be able to vote. When asked how he was eligible and whether he was on a register, he said that as a Tamil he would have to complete an application and they would then allow him to vote. He had not yet done that because there was no election and therefore no need to make an application.

38. He said that the last occasion when the authorities in Sri Lanka had visited his mother was in December 2015. When asked what they had said to her he said it was the same as usual asking about his whereabouts and they told her that if he came back she was to inform them immediately otherwise his father would be in trouble. He was asked if they knew he was in the UK and he said that he did not know although in 2013 they had said that they did. They had shown her an article from a website containing his picture and said that they knew he was living in London and participating in protests.
39. He said he believed there was an outstanding arrest warrant in Sri Lanka because his mother had told him in October 2012. He did not know whether his mother had employed a lawyer in Sri Lanka to get more information about the arrest warrant and had not asked her about it.
40. With regard to the student visa he obtained in Sri Lanka he confirmed that he took the IELTS exam in Colombo. He said he decided that it would be a good idea to take the test because he was planning to study at the International School in Sri Lanka.
41. He was asked again why he had not claimed asylum upon arrival and said that it was because that was what the agent had told him to do. He said that if he believed the authorities were no longer looking for him in Sri Lanka he would return.
42. At the conclusion of the evidence I heard submissions on behalf of the Secretary of State. Ms Everett relied on the refusal letter. She also submitted the Appellant was not credible for a number of reasons. She referred to his delay in his claiming asylum with no plausible explanation and the coincidental timing of his claim being after his claim for an extension of his student visa was refused.
43. She relied upon a Wikipedia article about the TGTE whilst acknowledging the various criticisms that had been made of Wikipedia. However, from the information contained it seemed that the Appellant did not have a great deal of knowledge of the organisation that he claimed to be a member of. She submitted that clearly he is not an official member as he has completed no application form, is not on a register, has not voted and has no official role. She suggested that the authorities in Sri Lanka would not know of his involvement with TGTE and would not perceive him as a threat.
44. She pointed out that despite the articles that had been submitted the Appellant was not named in any of them and no one from the organisation had given evidence on his behalf. She argued that his face at demonstrations would not be enough to put him at risk on return. She also indicated that it was not credible that if the authorities visited his mother in 2013 saying they were aware he was in the UK and involved with the TGTE that they would then keep going back to ask for his whereabouts when they knew where he was. She noted there was no further evidence regarding the arrest warrant and no statement from the Appellant's mother and no discussion about or proposal to obtain assistance from a lawyer in Sri Lanka.

45. She stated that it was not credible that given his claim to have been in hiding that he would then take the IELTS exam and obtain a student visa. She submitted that taking it at its highest the Appellant is only a supporter of the TGTE and not a member and is not named in any public documents. At no time has the Appellant claimed that he would campaign in Sri Lanka and he is therefore not in a risk category as identified in the Country Guidance Case, GJ. She argued that the Sri Lankan intelligence was sophisticated enough to be aware of those who are a threat and those who are not and this Appellant is not. There is no reason to believe that he would be stopped at the airport and no reason to believe that he would conduct his life in Sri Lanka in a way to attract the attention of the authorities.
46. Ms Benfield opened her submissions by relying upon the skeleton argument submitted by Ms Physsas on the previous occasion. She accepted that the activities claimed by the Appellant in Sri Lanka between 2006 and 2010 may well not put him amongst the risk categories identified in GJ. She said however, that his claim was relevant to his overall credibility and the detailed account that he has given throughout suggests that he has established general credibility. With regard to his relatively early release after fifty days in 2010 the Secretary of State failed to consider Paragraph 275 of GJ which contradicted the Secretary of State's statement. Although many were detained for long periods it was still possible to be released earlier on payment of a bribe.
47. With regard to the Secretary of State's argument that he was able to leave Sri Lanka safely using his own passport and move throughout Sri Lanka she pointed out the Appellant's claim was that he had used a false passport to move around within Sri Lanka, only using his own passport to leave the country. She also relied on Paragraphs 170, 275 and 276 of GJ where the Upper Tribunal found that it was possible to leave Sri Lanka even when actively being sought by the authorities.
48. With regard to the claimed torture Miss Benfield relied on the medical report which indicated that the scars were strongly corroborative of torture as claimed. She submitted that while there were features which detracted from credibility the Medico Legal report should be given significant weight as it demonstrated the clear evidence that he had been the victim of torture. In his report the doctor, as he is required to do, considered the possibility of it being self-inflicted by proxy and concluded at Paragraph 18 of the report that was not likely. She submitted that his account was entirely in line with what is known about Sri Lanka at the relevant time and he should be accepted as credible. With regard to the risk factors described in GJ she said those described at "a", "b" and "d" applied to him. He had helped others to escape and had signed a confession. He had been detained post conflict which indicates he remains of interest and therefore at risk. His claim was that the authorities knew he was involved in the Diaspora which again put him at risk. She referred to the letter from the TGTE pointing out that the author of that letter is named in the objective evidence as a member of the TGTE and argued that if it is accepted that he is involved with the TGTE and an activist for that organisation it is likely that he will have been identified because as a proscribed organisation it is one

that the authorities in Sri Lanka are interested in. He has been photographed and therefore will have come to the attention of the authorities.

49. She submitted that the question for the Tribunal is bearing in mind the extent of his activities, whether he is likely to be recognised by the Sri Lankan authorities and she argued that he would and the fact that the organisation that he is active for is a banned organisation would mean he would be of even greater interest. Not only does he attend public events but he volunteers at their offices and attends meetings. She argued that it is highly likely that those offices would be monitored.
50. Ms Benfield also argued that his Article 3 claim should be considered outside the asylum claim on the basis that on return he is likely to be detained and questioned and likely to be detained in a facility outside of the airport where there would be a high risk of abuse which would cross the Article 3 threshold.

Findings

51. The current Country Guidance Case in relation to Sri Lanka is GJ and Others referred to above. In that case the Tribunal held that:
- (i) The determination replaced all existing Country Guidance on Sri Lanka;
 - (ii) The focus of the Sri Lankan Government's concern has changed since the civil war ended in May 2009. The LTTE in Sri Lanka itself is a spent force and there have been no terrorist incidents since the end of the civil war;
 - (iii) The government's present objective is to identify Tamil activists in the Diaspora who are working for Tamil separatism and to destabilise the unitary Sri Lankan state enshrined in amendment 6(1) to the Sri Lankan constitution in 1983, which prohibits the "violation of territorial integrity" of Sri Lanka. Its focus is preventing both (a) the resurgence of the LTTE or any similar Tamil Separatist organisation and (b) the revival of the civil war in Sri Lanka.
 - (iv) If a person is detained by the Sri Lankan security services there remains a real risk of ill-treatment or harm requiring international protection;
 - (v) Internal relocation is not an option within Sri Lanka for a person at real risk from the Sri Lankan authorities since the government now controls the whole of Sri Lanka and the Tamils are required to return to a named address after passing through the airport;
 - (vi) There are no detention facilities at the airport. Only those whose names appear on a "stop" list will be detained from the airport. Any risk for those in whom the Sri Lankan authorities are or become interested in exists not at the airport but after arrival, in their home area where there arrival will be verified by the CID or police within a few days;

- (vii) The current categories of persons at real risk of persecution of serious harm on return to Sri Lanka, whether in detention or otherwise, are:
- (a) Individuals who are, or are perceived to be, a threat to the integrity of Sri Lanka as a single state because they are, or are perceived to have a significant role in relation to post conflict Tamil separatism in the Diaspora and/or a renewal of hostilities within Sri Lanka.
 - (b) Journalists whether in print or other media or human rights activists, who, in either case, have criticised the Sri Lankan government, in particular its human rights record, or who are associated with publications critical of the Sri Lankan government;
 - (c) Individuals who have given evidence to the Lessons Learned and Reconciliation Commission implicating the Sri Lankan security forces, armed forces or the Sri Lankan authorities in alleged war crimes. Among those who may have witnessed war crimes during the conflict, particularly in the no-fire zones in May 2009, only those who have already identified themselves by giving such evidence would be known to the Sri Lankan authorities and therefore only they are at real risk of adverse attention or persecution on return as potential or actual war crimes witnesses;
 - (d) A person who appears on a computerised “stop” list accessible at the airport, comprising a list of those against whom there is an extant court order or arrest warrant. Individuals whose name appears on a “stop” list will be stopped at the airport and handed over to the appropriate Sri Lankan authorities, in pursuance of such order or warrant.
- (viii) The Sri Lankan authorities’ approach is based on sophisticated intelligence both as to activities within Sri Lanka and in the Diaspora. The Sri Lankan authorities know that many Sri Lankan Tamils have travelled abroad as economic migrants and also that everyone in the Northern Province had some level of involvement with the LTTE during the civil war. In post conflict Sri Lanka, an individual’s past history will be relevant only to the extent that it is perceived by the Sri Lankan authorities as indicating a present risk to the unitary Sri Lankan state or the Sri Lankan government.
- (ix) The authorities maintain a computerised intelligence led “watch” list. A person whose name appears on a “watch” list is not reasonably likely to be detained at the airport but will be monitored by the security services after his or her return. If that monitoring does not conclude that such person is a Tamil activist working to destabilise the unitary Sri Lankan state or revive the internal armed conflict, the individual in question is not, in general, reasonably likely to be detained by the security forces. That

would be a question of fact in each case, dependent on any Diaspora activities carried out by such an individual.

52. It was realistically accepted on the Appellant's behalf that his activities in Sri Lanka prior to his leaving would not themselves place him at risk today. However, the credibility of his claims, it is argued, should impact on the credibility findings in relation to his claims overall and in particular with his activities in the United Kingdom.
53. His credibility is adversely affected by the fact that he claims at the age of sixteen to have acted to assist an uncle on the LTTE's behalf without the knowledge of his parents. At the age of sixteen he was living with his parents and his relationship with them would be far closer than that to his uncle. I do not find it credible that he would act behind his parent's back to assist his uncle in what would have been a risky way. I find this even less likely with regard to his claim to have stored weapons on behalf of the LTTE just outside the family home, again without his families' knowledge.
54. He claims then in 2010 to have helped a distant relative and two others who were not related to have escaped Sri Lanka by helping them to obtain passports and visas to India. Nothing is said as to what particularly qualified him as a young man to do this. There is no suggestion that the passports and visas obtained were not genuine and if that were the case there is no reason why the persons could not have obtained them for themselves.
55. He then claims to have been detained because the authorities believed that he had assisted terrorists and that he was made to sign a confession indicating that he had assisted terrorist activities by planting bombs. If that were true then he would have been considered a very dangerous individual and even with the recorded possibility of persons being released on payment of bribes, for someone who is a self-confessed terrorist, I find this extremely unlikely to have happened.
56. He claims to have been tortured and that is supported by a medical report. Again, if he had been involved in terrorist activities by planting bombs as he suggests then given what is known about the security forces at the time and the torture that is practised against detainees, this Appellant seems to have got away very lightly. The only evidence today of any torture are various small scars which the medical expert says are typical of cigarette burns. However, despite the doctor claiming that cigarette burns caused by torture are usually in groups, the photographs do not bear this out. The expert rules out that they were self inflicted or self inflicted by proxy without giving any explanation as to why this is the case. I note that there is only one very small scar which is visible on the Appellant's back. Whilst the doctor expresses some concern over the Appellant's mental state there is no other evidence concerning that and indeed it is contradicted by the fact that the Appellant has been studying in the United Kingdom and there is no evidence that he is receiving any form of psychiatric treatment.

57. It may be that as a young Tamil from the north he was detained and mistreated at some time during the war, but not in the way he now claims.
58. The Appellant claims that the authorities have repeatedly visited his family home and made threats against the family. Again if the Appellant were in truth a terrorist, it is not credible that despite all these threats no action would have been taken against the family. Furthermore, it is claimed that the authorities know that he is in the UK. That being the case it is not credible that they would continue to visit the family. If the authorities already know where the Appellant is, nothing is to be gained by visiting the family.
59. The Appellant's credibility is further damaged by his claim to have been in hiding in Colombo and yet at the same time feeling able to emerge from hiding in order to take the IELTS test. That was necessary for him to obtain a student visa.
60. On the basis that he was granted a student visa I do not accept that the passport and visa were obtained on his behalf.
61. The credibility of his claim is further damaged by the timing of his asylum application, namely very shortly after his application to extend his student visa was rejected. The Appellant claims not to have known the process for claiming asylum and to have been advised by the agent and friends that he would be returned if he claimed asylum. I reject that explanation. This is clearly an intelligent young man embedded in Tamil society in the UK. It is not credible that he would not have known about the asylum process and if he in truth was in fear of his life he would have claimed immediately upon arrival.
62. Furthermore, medical evidence would have been more readily and usefully obtained at that time than several years later.
63. I reject as incredible the Appellant's claims to have been involved at any significant level with the LTTE in Sri Lanka or to have been detained and tortured as a result. Nor do I accept as credible that he is of continued interest to the authorities there.
64. The Appellant relied on his activities within the United Kingdom as evidence that he is of continuing interest and he also claims the authorities are aware of his activities in the UK.
65. His activities within the UK commenced only in 2014. Again I do not accept the explanation for that. If the Appellant is indeed a committed Tamil separatist then I do not believe that he would have waited until 2014 to do something about it. It seems clear that the Appellant, having been refused further leave to remain and launched an asylum claim he would also be aware that this would be assisted by activities in the United Kingdom, in the same way as many other economic migrants do so, not only from Sri Lanka but also from Zimbabwe.

66. That said, case law has now made clear that the motives of a person carrying out surveillance activities are irrelevant if those activities would in fact place them at risk upon return. That therefore is what I need to assess.
67. The Appellant has put forward a number of documents and photographs concerning the group with which he has aligned himself, the TGTE. I have been provided with evidence that it is a proscribed organisation in Sri Lanka and I am prepared to accept that being a member of any note or activist in that organisation would put a person at risk in Sri Lanka. However, despite numerous photographs and articles submitted the Appellant is not named in any. The organisation itself has a number of high profile persons who have been elected including the author of the letter submitted on the Appellant's behalf. I have no doubt those persons would be at risk if they were to be returned. That organisation is clearly an organised organisation with a well publicised leadership. The Appellant claims that there is no register of members and that he has no ID or membership card and that his name is not on any list. If he were a member of that organisation I do not believe that would be the case. He was very vague in his evidence as to his entitlement to vote in the organisation suggesting that it was only at the time of an election where he would have to complete a form. All that would suggest that he is not currently a member.
68. He has put forward a letter from an MP in that organisation and that letter confirms that the Appellant is "an activist working with TGTE projects in the past year exposing the Tamil genocide by Sri Lanka to the public. He does this by distributing leaflets, attending meetings, demonstrations, etc".
69. Despite the contents of that letter no person came to give evidence on the Appellant's behalf from that organisation and Mr Seevaratnam, the author of the letter could have done so. I bear in mind the guidance of TK (Burundi) [2009] EWCA Civ 40 where the Court of Appeal said that where there were circumstances in which evidence corroborating the Appellant's evidence was easily obtainable, the lack of such evidence must affect the assessment of the Appellant's credibility. In this case, if the Appellant is indeed a serious member and activist for the organisation I would have expected someone in authority from that organisation to have come to the Tribunal to give evidence on his behalf and to volunteer themselves for cross-examination as to the precise role and involvement of the Appellant. In that regard I raise a similarity with persons who claim to have converted to Christianity in the UK are expected to be supported by a pastor or a vicar from the relevant church (Dorodian 01/TH01537).
70. The Appellant claims that the authorities in Sri Lanka are aware of his activities in the UK. However, I have not found it credible that the authorities continue to visit his family. There is no evidence from his family and given that he is not named in any of the articles I find it highly unlikely that the authorities would view him of someone of interest for his Diaspora activities even if, which I do not believe they could, have identified him.

71. I take particular note of what is said in GJ that the intelligence services are sophisticated and well aware of economic migrants making claims to be at risk of persecution when in reality they are of no interest to the authorities.
72. For all of the above reasons I find that this Appellant would not be at risk on return to Sri Lanka. He does not fall into any of the risk categories identified in GJ and his activities in the UK fall far below those which would place him at risk of persecution on return.
73. In light of the nature of what is claimed by the Appellant I make an anonymity order in this case.

Notice of Decision

The appeal is dismissed.

Signed

Date 11th March 2016

Upper Tribunal Judge Martin

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 11th March 2016

Upper Tribunal Judge Martin