

**REPORT FOR TABLING IN PARLIAMENT BY
THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN**

Under s 486O of the Migration Act 1958

Personal identifier: 089/06

Principal facts

Personal details

1. Mr X is aged approximately 25 years. He is a Shi'a Muslim of Hazara ethnicity and a citizen of Afghanistan. His family continue to reside in Afghanistan.

Detention history

2. Mr X arrived in Australia in January 2001 as an unauthorised boat arrival. He was detained under section 189(2) of the *Migration Act 1958* at the Woomera Immigration Reception & Processing Centre (IRPC). In March 2002, Mr X escaped from the Woomera IRPC, was recaptured and returned the same day. Mr X was transferred to the Port Hedland IRPC in April 2002, transferred back to the Woomera IRPC in May 2002 then to Baxter Immigration Detention Facility (IDF) in April 2003.

Visa applications

3. Applied for a Protection Visa (PV) (February 2001); refused by DIMA (May 2001); refusal affirmed by Refugee Review Tribunal (RRT) (August 2001); application to the Federal Court (FC) dismissed (February 2002); a further application to FC, seeking orders that he was unlawfully detained and a writ of habeas corpus dismissed (December 2003); Full Federal Court appeal dismissed (August 2004).
4. Requests under s 417 and s 48B were lodged with the Minister in July 2004 but deemed inappropriate to consider in August 2004. DIMA reported that five further s 417 requests were lodged between April 2004 and July 2005.

Current immigration status

5. DIMA advises that Mr X was granted a global humanitarian visa on 13 October 2005 and released from detention, after his claim to be an Afghan national was accepted. He now resides lawfully in the community.

Removal details

6. Mr X accepted the Afghan Reintegration Package in June 2002, later withdrawing his acceptance. Mr X twice applied for an Afghan passport (June 2002 and March 2003) and was interviewed on two occasions by officials from the Embassy of the Islamic Republic of Afghanistan (June 2002 and November 2003).
7. Mr X lodged a second passport application in March 2003, was interviewed by Embassy staff in November 2003, provided written consent for release of his fingerprints and photographs to Afghan authorities in January 2004 and was positively identified as an Afghan national in August 2005.

Ombudsman consideration

8. The DIMA report to the Ombudsman under s 486N is dated 30 August 2005.
9. Mr X was interviewed by Ombudsman staff at Baxter IDF on 9 September 2005.
10. The Ombudsman has considered several documents, including: a medical summary report from International Health and Medical Service (IHMS), dated September 2005; and Professional Support Services (PSS) dated 12 September 2005; and two submissions from Ms Y dated 2 August 2005 and 4 November 2005.