

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 273/07

Case overview

1. Mr X is aged 23 and is a citizen of Afghanistan. He is of Hazara ethnicity and is a Shia Muslim. He said that he has made two attempts to locate his parents and siblings with the assistance of the Australian Red Cross, but was not successful.
2. Mr X arrived in Australia by boat in December 2000 when he was aged 16. He was detained under s 189(2) of the *Migration Act 1958* and placed at Woomera Immigration Reception and Processing Centre. In February 2002 he was transferred into Alternative Detention under foster care arrangements of the South Australian Department of Human Services.
3. The Department's (DIAC) decision to refuse Mr X's application for a Protection Visa (PV) in April 2001 was affirmed by the Refugee Review Tribunal (RRT) in July 2001. He unsuccessfully sought judicial review at the Federal Court and Full Federal Court. A s 48B request resulted in the Minister allowing Mr X a further PV application. The PV application was refused and he successfully sought merits review at the RRT (June 2005). On 1 August 2005 Mr X was granted a Temporary Protection Visa (TPV) and released from immigration detention.

Ombudsman consideration

4. DIAC's report to the Ombudsman under s 486N is dated 12 December 2005.
5. Ombudsman staff interviewed Mr X on 25 August 2006.

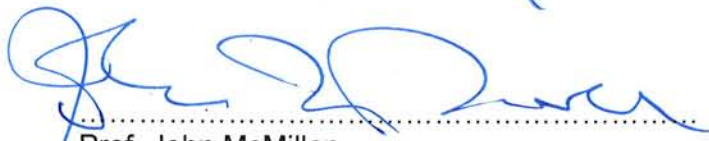
Key issues

Attitude to removal

6. Mr X stated that did not want to return to Afghanistan as he says he fears persecution from the Taliban and ethnic Pashtuns as a result of his Hazara ethnicity. He also fears persecution from the Hazara because he would be considered an infidel and a traitor as a result of having been to Australia and fleeing during the war. He was attending a Catholic school and believes that as a result of this and not maintaining his Muslim faith, the Mullahs in Afghanistan would consider him an apostate and he may be killed.

Ombudsman assessment/recommendation

7. The Ombudsman notes that Mr X is now the holder of a TPV and makes no recommendations in this report.


Prof. John McMillan
Commonwealth and Immigration Ombudsman


Date