

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 309/07

Case overview

1. Mr X is aged 29 and is a citizen of Sri Lanka of Tamil ethnicity. His mother and two sisters reside in Sri Lanka and he claims his father and brother disappeared in 1989 and 1995 respectively.
2. Mr X arrived in Australia as an unauthorised air arrival in January 2002. He was detained under s 189(1) of the *Migration Act 1958* and placed at Perth Immigration Detention Centre (IDC). He was later transferred to Port Hedland Immigration Reception and Processing Centre and then Baxter IDC. In August 2005 Mr X was granted a Removal Pending Bridging Visa and released from detention.
3. The Department's (DIAC) decision in April 2002 to refuse Mr X's application for a Protection Visa (PV) was affirmed by the Refugee Review Tribunal in June 2002. He unsuccessfully sought judicial review at the Federal Magistrates Court, Full Federal Court and High Court. A request under s 48B resulted in the Minister allowing Mr X to lodge another PV application, and on 11 August 2006 he was granted a Temporary Protection Visa (TPV).

Ombudsman consideration

4. DIAC's report to the Ombudsman under s 486N is dated 24 November 2005.
5. Ombudsman staff interviewed Mr X on 7 March 2006.
6. Ombudsman staff sighted a psychiatric report from Prof Y from the Department of Psychiatry at the Royal Adelaide Hospital dated 28 September 2005 and more than 50 letters of support and character references.

Key issues

Health and welfare

7. Prof Y's psychiatric report noted that Mr X was diagnosed with a Major Depressive Disorder and Post-traumatic Stress Disorder, with the causal factors being the loss of his father and his war experiences in Sri Lanka. The report further noted that Mr X's experiences in detention '*played a primary role in reactivating prior traumatic memories and emotions*'.

Community support

8. More than 50 letters of support have been provided to the Ombudsman's office. The recurring narrative describes Mr X as a friendly, helpful and intelligent man who is viewed as a hard worker.

Ombudsman assessment/recommendation

9. 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