

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 294/07

Case overview

1. Mr X is aged approximately 58 and is a citizen of Iraq. His wife and three children live in Australia and are also citizens of Iraq.
2. In March 2001 Mr X arrived in Australia by boat with his wife and children. He was detained under s 189(2) of the *Migration Act 1958* and placed in Port Hedland Immigration Reception and Processing Centre. In March 2003 he was transferred to Hakea prison and in June 2004 to Perth Immigration Detention Centre. In January 2005 he was placed in community detention.
3. The Department (DIAC) refused Mr X's application for a Protection Visa (PV) in April 2001. DIAC advises that the former Minister personally refused a PV visa because of a people-smuggling conviction. Mr X successfully sought judicial review of the decision in the Federal Court and on 4 November 2005 he was granted a Temporary Protection Visa (TPV).

Ombudsman consideration

4. The DIAC report to the Ombudsman under s 486N is dated 9 September 2005.
5. Ombudsman staff interviewed Mr X on 28 October 2005.

Key issues

Criminal history

6. DIAC advises that in March 2003 Mr X was convicted of people-smuggling. He was sentenced to two years and six months imprisonment and served 15 months before being released on a good behaviour bond. Mr X told Ombudsman staff that he was wrongly convicted of people-smuggling as he was only trying to help other asylum seekers in his group from Iraq. He had worked as an archaeologist and he claimed that as his English was better than others he was used to negotiate to get the group from Indonesia to Australia.

Health and welfare


7. Mr X was diagnosed with Post-traumatic Stress Disorder or Dissociation Identity Disorder. He was admitted to a psychiatric hospital after a self-harming incident.

Attitude to removal

8. Mr X told Ombudsman staff that he was born in Iraq but was forced to live in Iran for 20 years. When Iran began deporting Iraqis he decided to leave. He claims it is not possible for him to return to Iraq, as Iraqis believe it is a sin to have lived in Iran. He said that the last 30 years had been very difficult for his family and he wanted his children to remain in Australia.

Ombudsman assessment/recommendation

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


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Prof. John McMillan
Commonwealth and Immigration Ombudsman


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Date