

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

*Under s 486O of the Migration Act 1958*

*Personal identifier: 310/07*

## Case overview

1. Mr X is aged 26 and is a citizen of Sri Lanka of Tamil ethnicity. His parents and three sisters reside in Sri Lanka, but he claims not to have seen them since their family home was destroyed by the Sri Lankan Air Force in 1995.
2. Mr X arrived in Australia in January 2002 as an unauthorised air arrival, 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. On 14 July 2005 Mr X was granted a Removal Pending Bridging Visa and released from detention.
3. The Department's (DIAC) decision in May 2002 to refuse Mr X's application for a Protection Visa was affirmed by the Refugee Review Tribunal in June 2002. He unsuccessfully sought judicial review at the Federal Magistrates Court and Full Federal Court. A request under s 48B resulted in the Minister allowing Mr X to lodge another PV application, and on 24 August 2006 he was granted a Temporary Protection Visa (TPV).

## Ombudsman consideration

4. DIAC's report to the Ombudsman under s 486N is dated 20 October 2005.
5. Ombudsman staff interviewed Mr X on 6 March 2006.

## Key issues

### *Attitude to removal*

6. At interview Mr X stated that he feared returning to Sri Lanka, as he believed that as a young Tamil male he would be targeted for recruitment by the Liberation Tigers of Tamil Eelam (LTTE) and would also be suspected of LTTE involvement by the Sri Lankan Army. He claimed that he was twice held and tortured by the Sri Lankan Army prior to fleeing Sri Lanka.

## 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