



DEPARTMENT OF IMMIGRATION AND MULTICULTURAL  
AND INDIGENOUS AFFAIRS

Secretary

Ref: File Number N99/31243

Mr John Lynch  
Registrar  
Refugee Review Tribunal  
Locked Bag A3  
Sydney South NSW 1235

Dear Mr Lynch

I refer to letters of 17 July 2002 and 30 August 2002 from the Deputy Registrar, Sydney Registry, inviting the Department to place a submission before the Tribunal to be taken into consideration in the review of the case of Ms Khawar.

Pursuant to section 423(2) of the *Migration Act 1958*, I provide at Attachment A written argument (the submission) relating to the issues arising in relation to the decision under review. I would be grateful if you would ensure that this submission is put before the Tribunal as constituted to consider the review of the decision in the relevant case.

The submission focuses on the comments of the High Court in *Khawar* (Gleeson CJ @ 25-26) and provides that in the case of non-Convention harm by a non-State agent, failure of a State to provide protection against the harm cannot establish the persecution to be on Convention grounds except where the failure occurs for a Convention ground.

As requested, the submission discusses among other matters the information available on the current situation in Pakistan.



Any queries on the attached submission can be directed to Robert Illingworth, Assistant Secretary, Onshore Protection Branch on 02 264 4677.

Thank you for your co-operation in this matter.

Yours sincerely

W J Farmer

December 2002