

Huyen & Isabella
RAC - Vic
5 August 2019

- HR4A focuses on long term detained and complex case asylum seekers
- Which is a bit concerning because in this case, of Huyen and Isabella, it means that they are both long term detained and complex cases
- What is concerning about this is that they are a first time mother and a baby who has only known life inside of a detention environment

- I'd like to take you through the process of detention of Huyen and Isabella, but first some background

- Huyen is a Vietnamese asylum seeker
- Now, many people would assume, mainly because Vietnam is an Australian holiday destination, that there are no longer any Vietnamese boat people or asylum seekers.
- Indeed, my father's partner is a Vietnamese boat person, and she was astounded that there are still Vietnamese seeking asylum.
- However, if you are an active Catholic, particularly in the rural areas, then it is possible that your situation meets the definition of a refugee

- So, Huyen, as a young and not very worldly woman came to Australia via boat to seek asylum
- Of course, on arrival, she is detained, and after a period of time
- She is housed with a number of other young Vietnamese asylum seekers in community detention
- One day, Huyen returned to her accommodation to discover that the Australian Government, without warning, had deported a number of her friends back to VN
- Over and above seeking asylum for being Catholic, Vietnam has a well documented habit of imprisoning, and either perpetrating or allowing the perpetration of, severe abuse and harm in prison – to the point where people who have been returned by the Australian Government have ended up unable to walk and with severe brain injuries
- So, Huyen, perhaps understandably, freaks out
- She leaves the accommodation and lives off grid for a while

- During this time, she meets Paul and they become pregnant
- Not understanding the law, Huyen applies for asylum (September 2017)
- Now, in Australia, as a boat person, you must be invited to apply for asylum, you can't just submit an application
- Some people wait for over 5 years to be invited to apply

- And here is where the detention process starts

- 1. Someone within the Department of Home Affairs would have had to make a decision that Huyen's case was sufficiently "severe" or "dangerous" or however else they justified this decision, that as a young, pregnant woman, she should be detained and take up one of the detention centre spots, which are, of course limited when you look at the number of visa overstayers who are perhaps, not brown and seeking asylum
 - You can probably tell from my language here that I believe that Australia's detention regime is indirectly discriminatory to various groups of people, but that is a whole other talk
- So, Huyen is detained
- 2. On being detained, a person must have noticed that Huyen was pregnant, and decided that they should not recommend she be released into community detention, which could include a range of conditions relating to checking in as to her location, etc
- So Huyen stays in detention, continues with her pregnancy and develops gestational diabetes
- 3. Again, as health considerations can be used for a recommendation for a BVE or community detention placement, a person must have decided that Huyen should stay in detention, despite the very obvious adverse impact of the detention centre environment and resulting stress on unborn Isabella
- 4. In January 2018, when Huyen was 7 months pregnant, with severe gestational diabetes, a person within the Department made the decision to start the deportation process for Huyen. And, worryingly, a doctor must have signed off on this deportation.
- 5. Now, I won't go into the deportation attempt, except to say thank you to whoever it was on the plane, and I suspect that person was a midwife, who decided that Huyen was not fit to fly.
- This is the only step where someone with any authority with the Australian Government stepped in to protect Huyen's rights
- 6. So, Huyen is returned to detention and is about to give birth
- 7. The week before Huyen is due to give birth, a person within the Department must have decided that instead of releasing Huyen and her newborn, they should be asked to sign a "consent form" allowing Isabella to stay in detention with Huyen as a "guest"
- My mind boggles that someone came up with this idea...
 - And what, you may ask, is with the "guest" status
 - The Australian Government argues that Isabella, as a baby and toddler can leave detention at any time. It's just that her mother can't leave with her
 - And, by being classified as a guest, Isabella and another child are not included in the Government's statistics on children in detention
 - This enables the Government to massage the statistics of children in detention
- So, we now have a mother and her new born in detention
- 8. So, to highlight to the Government that having children in detention is a breach of a whole range of human rights under the ICCPR and the UDHR, in addition to the CRC, we submit a complaint to the UN WGAD

- At the same time we submit the complaint to the UN, we send it to the Australian Government as a bit of a heads up
- And the Australian Government, understanding that they are about to be exposed internationally for detaining children, instead of someone saying this has gone too far, decides to fight the submission
- 10. Meanwhile, numerous ministerial intervention requests are sent to Minister Dutton
- Again a bureaucrat decides that [it does not meet guidelines], meaning that Isabella and Huyen stay in detention
- 11. I then respond to the Australian Government submissions to the UN, pointing out some of the more obvious issues with their interpretation of international human rights law
- Again, a bureaucrat determines that Huyen and Isabella should stay detained
- 12. The UN WGAD issues a public opinion, sent to the Government a week prior to its release to the public, giving them a last chance to release Isabella and Huyen. Again, a bureaucrat makes the decision not to release them
- 13. The UN WGAD is publicly released. There is media, and pressure on the Government, and nothing...
- 14. Now, Isabella is experiencing periods of illness, resulting in chronic problems, and eventually, hospitalisation. They stay detained
- What I have tried to illustrate by going through the above steps, over and above the monthly detention reviews, is that there were more than 14 events in which a Departmental officer or the Minister could have made a decision to release Huyen and Isabella. No one did
- We must move away from the thinking that the Department is a faceless opaque bureaucracy – instead, we must recognise that there are specific individuals making active decisions to keep babies in detention, and everyone else in the Department is going along with it, including contracted doctors
- As a parallel example of how quickly someone can get out of detention, when certain buttons are pressed, I have a client, I can't reveal the name, gender or nationality of this client. But, this client had a particular profile which matched that of Dutton's supporters and background. Also, and this is important, this person was not a baby. After this person was beaten up on several occasions in detention, I sent one of my shitagrams, which I get great joy out of sending, to the Department, saying that unless this person was released by the following day, I would go public with what I know
- Within three hours, the person was released
- We are fighting a system which is discriminatory, based on propaganda and which is run by Ministers with a particular ideology – they are not pursuing policies in the public interest, they are pursuing their own vision of Australia

- And Huyen and Isabella are collateral damage to that vision
- Unless we do something, whether through education, protesting, or otherwise, the Government will merely wait until Isabella is old enough that Huyen and Paul are forced to make a decision that she leave detention or be deported with her mother
- This may be years – but the Government will wait this time out
- As soon as Isabella leaves detention, Huyen will be deported
- We cannot allow this to happen.
- This case is no longer merely about the treatment of asylum seekers. It is about the treatment of a mother and her child – it does not matter why Huyen came here anymore, it matters what we as a society say should happen now

- Prior to leaving, just read what the UN said about this situation
 - WGAD extracts.