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Iraqi
refugees

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SUBHEADLINE: Refugees from Iraq find themselves on the wrong side of Thailand's immigration authorities _ and the road ahead looks bleak indeed

BYLINE: WANPHEN SRESHTHAPUTRA

Jamal had been waiting to see his family for what seemed like ages _ five days can indeed seem like eternity behind the thick bars of a prison cell, especially in the sweltering heat of a monsoon climate.

Jamal Fatah Hussein, a Kurdish refugee from Iraq, has been detained in Bangkok's Immigration Detention Centre for the past 10 months, and was being visited by his wife Dashny, 23, and their two sons, Hardi, who is three, and Harem, a year-and-a-half.

The family reunion was not quite as intimate as it could have been, given the situation. Through an opening of some 40 centimetres in height, located at chest level, the young couple manage to kiss despite the bars and the lack of privacy, eyeing each other covetously.

The children smother their father's forearm, which hangs out of the opening in the detention room, with kisses, outdoing each other to hold on to his hands. They cry, laugh, smile, comfort, but quickly, as if in a speeded-up film, because they are waiting for the bell to ring to mark the end of visiting hours _ some 30 short minutes later.

``Everything will be fine. You shouldn't worry,'' Jamal whispers to Dashny in tears. Their stolen kisses and fleeting moments of tenderness are a reprieve from a long nightmare.

The family's outlook is certainly not as Jamal tries so hard to depict it _ fine and promising. Kurds from the Kurdish-controlled regions of northern Iraq, the young couple decided to flee their home back in 1995, just three

months after their marriage. Since the 1985 murder of Jamal's father _ a chief electrical engineer living in Kirkuk_ at the hands of Iraqi soldiers, the family was faced with no end to trouble and had to resign themselves to leaving.

They swelled the ranks of the hundreds of thousands of other Kurdish refugees fleeing the insecurity of northern Iraq and the long history of persecution under the Baghdad regime, including the biological and chemical bombing of villages sheltering Kurdish resisters as part of the systematic ``Anfal Plan'' launched by Saddam Hussein in 1988, not to mention Kurdish factional infighting.

One by one, the six children of the Khoshnow family _ five sons and one daughter _ along with their widowed mother Nemat Khoshnow, removed themselves to safer ground.

``When at 16 years old, I married Jamal, we only stayed in Iraq for a period of three months _ we were facing so much trouble we had no choice but to move,'' Dashny says.

She says her own father died when she was 10 after their family was displaced by Arab authorities.

She continues: ``Jamal's family was scattered, one brother left for Iran, another for Turkey ... In our turn, we moved from one village to the next until we reached the northern border with Turkey. There we purchased Iraqi passports and entered Turkey.''

But with the passing of years, the dispersed family managed to unite again and lead a life free from the fear of persecution and unceasing displacement, in an adopted motherland thousands of kilometres further east _ Australia.

During the past 10 years, the various members of the Khoshnow extended family migrated to this new country, where 40 or so are now gainfully employed and building productive lives in suburban Sydney.

Yet fate decided that the life of Jamal, Nemat's second son, would take a different course.

From Turkey, the newly-married couple tried to join the rest of the family in Australia, but in vain. Between 1995 and 1999, their applications were

rejected three times by the Australian Embassy in Ankara. In 1998, the couple also applied to the United Nations High Commission for Refugees (UNHCR) in Turkey but by April 2000, having not heard from the commission, they decided to try their luck with another scheme _ Thailand.

``We stayed in Turkey altogether for five years. As we could not speak Eng-lish at that time _ Sorani Kurdish being our first language, Arabic our second _ we had requested help from an English teacher to fill in the application forms for our visas at the Australian Embassy. They were not properly filled in, our request was rejected,'' recalls Dashny.

The two other requests which were to follow were also rejected on the grounds that the family had to submit their case to the UNHCR office.

Having worked as a cameraman in Iraq, owning a small studio and shooting weddings and other family events, Jamal made do with odd jobs in Turkey _ tailoring, laundering, and such _ in order to sustain his expanding family. Jamal's rather wealthy family background, as well as Dashny's dowry, allowed the couple to live free of financial worry.

Money being no hindrance, the prospect offered by underground travel agents of being able to purchase travel documents in Bangkok in order to rejoin their family in Sydney became increasingly attractive.

``Our departure was finalised when I was about seven months pregnant with Harem, my second boy. The day before our planned departure, I was rushed to hospital,'' Dashny remembers.

`` I had been crying almost every day during our stay in Turkey _ oppressed by the countless difficulties we were facing and by fear for our future. Obviously, it affected my baby and Harem was born two months prematurely. He was only 750 grammes at birth. Doctors said he might die within three hours or pull through. Thank God he made it.''

Jamal, Dashny, Hardi and Harem finally made it to Thailand. They landed on Thai soil, with genuine Iraqi passports, on May 2, 2000.

Within a week of their arrival, they were approached by a Somali national, who carried both British and Kenyan passports and who lived in Bangkok, and whose name the family wishes be withheld for fear of retaliation.

He offered them new documents and safe passage to Sydney via Shanghai where they would meet with one of his associates to be escorted to another flight, for a sum of \$17,000 (748,000 baht) _ \$12,000 (528,000 baht) to be paid before their departure and \$5,000 (220,000 baht) to be paid once they arrived.

Jamal and Dashny didn't get the chance to pay off the second half of that bill as they never reached their final destination.

Their dream of a peaceful life below Australia's Tropic of Capricorn went to pieces on June 2 of last year as the family was preparing to board a Kuwait Airlines flight to Shanghai.

The immigration police officer at Don Muang noticed that the white-skinned ``South African'', under whose identity Jamal was travelling, was reported to have blue eyes, whereas, unfortunately, his fake passport photo clearly showed his dark brown eyes.

Too bad also, ``South African'' Mrs Peggy Emilie _ Dashny _ accompanied by her two children, didn't seem as short as her passport said she was.

Too bad again, the police officer asked more questions than they could possibly answer given their poor knowledge of English _ the few basic questions and answers they had fearfully rehearsed with the broker were buried in a sea of other inquiries.

``The broker had told us: `I'll set up something very good for you. You will be able to reach Sydney within five days,' ' Dashny recalls bitterly.

The worst was still to come.

Asked to get in touch with the South African embassy in Bangkok to fix the mistakes on the passports, the young family wound up at Sathon Road's Immigration Detention Centre, where Jamal is still detained.

``We were taken to the Immigration Bureau to extend our visas which were expiring the day of our planned departure. I tried to get in touch with the broker or his wife so they could go back to the hotel and bring some powdered milk for Harem, who was around two months old at that time. I ran out of milk and Harem cried so much because of hunger over those two days _ he had to be taken to hospital,' ' Dashny said.

The couple soon discovered the man they had dealt with was well-known to police and regularly preyed on Iraqi refugees arriving in Thailand seeking asylum in other countries.

Jamal came across three other Iraqi men in the detention centre who had also resorted to his questionable services.

The broker was reportedly arrested by Thai police late last year, but released after paying 500,000 baht.

For Jamal, Dashny and their children, the future is spoken of in terms of prisons, detention centres, waiting, resignation, heartbreak, separation ...

Hope lags far behind.

Unable to go back to their native country for fear of persecution, the family has no choice but to serve their jail sentences for forgery under Thai law, and abide by the indefinitely long process of refugee status determination procedures and resettlement to a third country as handled by the United Nations High Commission for Refugees, UNHCR (see sidebar on Page 1).

From the crowded cells of Bangkok's Immigration Detention Centre on Sathon Road, where some 900 foreigners are detained, 29-year-old Jamal emerges like a lotus from a muddy pond _ white as snow, his handsome face and perfect rows of teeth cleanly lined up under a short haircut and close shave.

``How are you?'' he kindly asks with a large smile by way of introduction.

When asked the same, he says he is fine.

Yet he adds, ``It is very difficult. I am staying here with detainees of all sorts. Some are criminals who have murdered people. There are constant quarrels, arguments and fights. When I am released, I don't know how this experience will have changed me.''

He looks lovingly at his family, congregated on the other side of the bars.

``This is all I want _ my wife and my kids and a place to live peacefully.''

But however terrible and traumatising his experience, the family has no doubt that it is better than their earlier life in Iraq.

``Being sent back there would be like a death sentence,' ' Jamal says.
``I
prefer staying in this terrible detention centre, which is even worse
than a
prison, than going back to Iraq.' '

His wife Dashny seems to be calling on superhuman strength, driven by
this
same conviction. Whereas Jamal has completed his sentence for forgery
and
could be soon deported to another country, Dashny, because of her
duties as
a mother of young children, has had a more difficult time.

Sentenced to 18 months of imprisonment for document forgery, she was
freed
on bail _ paying 150,000 baht _ after serving one month in prison.

Dashny is waiting for permission to appeal her case to the Supreme
Court. If
granted permission to file the appeal, it could be many months before
the
case is heard and decided.

In any event, it's fairly certain she will serve more time, and once
finished serving her prison sentence, will be transferred to the
detention
centre to wait out the rest of the process.

Sheltered for the time being at the NGO-operated Hospitality House in
the
Saphan Mai area, together with her kids, she is about to lodge that
final
appeal.

``I was glad when I left Turkey because although I was scared, I had
hopes
that we were finished with all our problems. But here we are now in
Thailand, facing even more troubles than ever before,' ' Dashny said,
her
head covered with a dark scarf and her pretty face expressing only
sorrow.

Holding her kids, speaking the English she just learned from a South
African
woman during her one-month stay in Lat Yao's women's prison: ``I am
tired,
so tired. I want all these worries to come to an end ...' '

And who would want this nightmare to end more than Harem and Hardi,
who
appear terrorised whenever their mother is out of sight, who burst
into
tears and shout ``mummy, don't go to jail!' ' whenever she meets a
stranger.

Nabbah, 13, a Kurdish Iraqi asylum seeker, who with her parents is
awaiting
extradition to Denmark at Hospitality House, comments: ``When Dashny
was in

prison, I talked to her a few times by phone. She would only cry and speak about her children. But the other day during the court hearing, the judges didn't say a single word about the kids _ they never mentioned anything about them, what would happen to them while their mother is detained.''

She continues, her eyes full of tears: ``When the policeman escorted Dashny to prison, Hardi started crying and he tried to follow his mother. He cried so much _ I have never seen a child crying so loudly. He cried from the bottom of his heart, not like he did sometimes when his mother scolded him. When Dashny goes to prison again for a longer period of time, Hardi will be crazy.''

Nemat Khoshnow, 63, Dashny's widowed mother-in-law, based in Australia, seems the most inconsolable. She came to Bangkok for a month to try and help her son and daughter-in-law join the rest of the family in Australia.

``I had too much hope when I came here. I thought I could be of some help. But no one would listen to me. I have no words to explain how awful I feel. It is like I am being engulfed in an ocean, drowning in it. I feel that now, no one _ absolutely no one _ can help them.''

What others say

Legal expert from a humanitarian organisation who wishes to remain anonymous

``Thailand has not ratified the 1951 UN Convention relating to the Status of Refugees, which has a provision of leniency for people using improper documents in order to run away from persecution. Consequently, their seeking asylum is not taken into account, and they have to abide by Thai law.

``After they have been arrested, sentenced and once they have completed their sentence, they are kept in detention at the Immigration Detention Centre until a third country is willing to grant them political asylum.

``This might take a lot of time, though there is a lot of cooperation in this field and people are working hard at every level to relieve the plight of such refugees.

``Thailand is dealing with many similar cases, although Jamal and Dashny's story is particularly dramatic. Thailand is indeed a rather freely accessible country, with visas being granted quite easily _ thus too many people try their luck via Thailand. Meanwhile there are numerous people working underground producing fake passports.''

INDRIKA RATWATTE

UNHCR Senior Regional Liaison Officer

After the couple applied to the Bangkok office of the UNHCR, the UNHCR requested, on humanitarian grounds that relatives in Australia be allowed to welcome the two children (then both under the age of two). The Australian embassy refused.

``There are over 200,000 refugees in Thailand, with the vast majority being from Burma. These people have de facto found shelter here although Thailand has not signed the 1951 Convention. We are trying to fill the gap and as much as possible resettle them in a third country, knowing each country has different criteria for accepting refugees, with quotas varying from year to year as well.

``At the moment, the UNHCR Bangkok branch office is dealing with more than 300 cases.

``One needs to highlight that some of these migrants are forced into illegal channels because they have no alternatives and are driven by well-grounded fears of persecution. They should not be looked down upon, as though they were criminals. They should be given a chance.''

CHORB THONGDEANG

Attorney at Law, Soratharm Law Office

``Jamal and Dashny's cases have been put before different judges. The decision is left to the discretion of each, and while Jamal's sentence was reduced to six months, the judges in Dashny's case haven't reduced her sentence.

``It is now up to the director-general of the Public Prosecution Department to accept Dashny's decision to appeal to the Supreme court.''

LANCE WOODRUFF

Volunteer at the National Catholic Commission on Migration

``Historically a lot of help has been provided by the Thai government to refugees from various countries. But compare this case with the verdict reached for alleged paedophile and fugitive Eric Rosser on charges of counterfeiting documents and using fake passports. Rosser was sentenced to eight months in jail, commuted to four months because he confessed last month to using three fake passports to enter Thailand eight times. Dashny was sentenced to 18 months!

``I think it is a miscarriage of justice not to let them go to Australia in the first place to join their families. Is there anything illegal in the fact that their mother loves them and wants them with her? I know immigration is a problem in Australia at the moment. But I think it'd be a racist decision not to allow families to reunite.''