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Mohammed and Juliet - A Modern Tragedy

Just over a week ago, the NSW Coroner released his report on a Thai woman who had been smuggled into Australia, exploited in the sex industry and who subsequently died in immigration detention. In his report, the Coroner expressed concern over the healthcare of detainees and added that management at the Villawood Detention Centre in Sydney gave detention too high a priority over health. But this wasn't the first time an asylum seeker had died while held in mandatory detention. Tonight Sophie McNeill investigates an earlier case in Western Australia.



REPORTER: Sophie McNeill

Two years ago, this man died in hospital in Perth without family or friends beside him. The event would have passed unnoticed except he was the first asylum seeker to die under the system of mandatory detention. His name was Mohammed Saleh. He was born a refugee and at 41 died seeking asylum in Australia. His death on June 23, 2001 from complications arising from an operation to remove a tumour, prompted a controversial coronial inquiry. For most of his time in this country, Mohammed Saleh was held here at the Port Hedland detention centre in Western Australia. Within the compound was an accommodation block that although since closed down, is still notorious in the memories of detainees for its harsh conditions - J Block, or Juliet. It's the question of what happened to Mohammad Saleh while he was held in Juliet Block that's causing serious concern about our system of mandatory detention of asylum seekers.

PHILIP RUDDOCK, IMMIGRATION MINISTER ('Meet the Press'): Let me make it very clear, there are people out there who are intent on demonising the system itself and seek to portray it as being inhumane, as if we're involved in breaching people's fundamental human rights.

Mohammed Saleh was born and raised in the al-Yarmouk refugee camp in Syria. His family was forced to flee its village in Palestine in 1948. But Syria was no safe haven. When Mohammed was only young, his father was murdered, having been accused of joining a radical Palestinian organisation. Mohammed worked in the building trade and was not politically active. In 1998, after returning from a work contract in Libya, Mohammed Saleh was detained and tortured for six months by Syrian authorities - an experience he detailed in his application for asylum in Australia.

ACTOR'S VOICE FOR MOHAMMED: I was arrested and taken to the Political Security Branch in Aleppo and accused of working with the Arabic Front. I was detained for six months during which I was subjected to daily torture and beatings in order to get a confession out of me.

After his torture, Mohammed and his wife Hadijah decided they had to get out of Syria. Mohammed could only borrow enough money to pay the people smugglers for his passage to Australia. Leaving his wife and their three small children behind was painful and risky, but they expected to be reunited in a few months. On October 11, 2000, Mohammed Saleh arrived on a small boat in northern Australian waters. Like these asylum seekers, Mr Saleh entered Australia without documentation or a visa and was detained immediately upon arrival.

ACTOR'S VOICE FOR MOHAMMED: I did not expect to be imprisoned. That prison I escaped from under the Arab regimes. But in Australia it's the same thing - just a different prison.

Mohammed was taken to the Port Hedland detention centre run by Australasian Correctional Management - ACM. He became detainee number EME19 - his only possessions one pen and a single photograph of his family.

ACTOR'S VOICE FOR MOHAMMED: From Darwin, I realised that I was in a prison despite the fact that I did not commit a crime. I couldn't believe what's happening to me, as if it's a dream.

Despite Mohammed Saleh's history of persecution, his application for a protection visa was refused on 12 January 2001. His friends say he didn't let the bad news get him down. But the events that followed, they say, left him a shattered man.

SBS NEWS ARCHIVE (21 January, 2001): Chanting freedom up to 180 detainees went on a rampage at the Port Hedland centre. Charges are expected to be laid over the 40 minute clash.

On the evening of 21 January that year, a riot broke out in the Port Hedland detention centre. Mohammed Saleh, along with 22 others were accused of active participation in the disturbance. In a joint operation between the Western Australian riot police and ACM staff, the so-called ringleaders were handcuffed and taken to Juliet Block. In ACM terminology, they were separated for behavioural management purposes. These pictures of a later riot at Port Hedland give a flavour of the level of security in the detention centre. Detainees who saw the unrest on 21 January 2001, gave their version of events in evidence tendered at Mohammed Saleh's coronial inquest.

ACTOR'S VOICEOVER: When the ACM officer came to take us, they forced me to lie on the ground and put their feet on me. I saw this happen to Mr Saleh and his hands were pulled behind his back and he was handcuffed. They took people they believed to be troublemakers to Juliet Block.

Mohammed and his co-accused were kept in Juliet for 13 days. But records of his time there are not available. So details of how many to a cell, how long Mohammed may have been in solitary and his mental and physical health are unknown.

Charandev Singh is a human rights advocate at a community legal centre in Melbourne. With only a shoestring budget, he pursued Mohammed Saleh's case from his home and the local photocopy store.

CHARANDEV SINGH, HUMAN RIGHTS ADVOCATE: The asylum seekers themselves within the camp were very active in documenting their accounts of what had happened to Mohammed Saleh, both in Juliet and after Juliet, and what Mohammed Saleh was like before he went to Juliet.

Witness statements for the inquest were collected as evidence from Mohammed Saleh's friends and from men who had been in Juliet Block with him.

ACTOR'S VOICEOVER OF DETAINEES' WITNESS STATEMENTS: The deceased was one of the first people who were handcuffed and bashed up and intimidated by prison guards. They put him in an awful cell that even animals would not stay in.

He told me that they were badly treated by the guards.

Mr Saleh told me that in the first few days after the riot they were not even taken outside for any exercise or fresh air.

He said that when we wanted to go to the toilet sometimes, they make us wait too long. Sometimes we have to do it in our rooms.

He came back a totally different person. After Juliet he was damaged psychologically.

CHANRANDEV SINGH: I received them, I read them and you know, I felt that my hair had turned white just in the process of reading them.

ELIZABETH LACEY, INSTRUCTING SOLICITOR: And I remember getting them late by fax, late on a Friday night, probably about well 6:30 or something and taking them home to read them, and just being absolutely stunned that this stuff could possibly be happening in Australia. And thinking well, we just have to take this case. We have to do this, we have to look at what happened to this man in Port Hedland and why he died.

Elizabeth Lacey worked on Mohammed Saleh's case as the instructing solicitor.

HIGH SCHOOL TEACHER: Elizabeth is going to talk to us about what we've been looking at which is treatment of different people under Australian law, and in particular - refugees.

Ms Lacey has been talking about her involvement in the case at high schools around Melbourne.

ELIZABETH LACEY (AT SCHOOL): I want to talk to you today about this man whose name is Mohammed Saleh. I'm just going to hand this around so that you've got a picture of who I'm talking about while I do it. And the reason I want to give you the picture is because it's his story that I'm going to be telling to you today. The first thing I want to

ask you is, if I told you that Mohammed Saleh had been kept in a small cell, 2m x 2m, where the windows had been blacked out, with two other men for 13 days, and that he hadn't been convicted by any court of a crime, or sentenced to any kind of term in prison, he had to ask a guard if he could go to the toilet. So they were forced to go to the toilet in their cells. What country do you think I might be talking about that happening in?

STUDENT #1: Iraq.

ELIZABETH LACEY: Yeah, good guess.

STUDENT #2: Afghanistan.

ELIZABETH LACEY: Yeah, another good guess.

STUDENT #3: Anywhere in the Middle East.

ELIZABETH LACEY: Yeah. OK. So the recurring theme we're hearing here is that it's probably somewhere in the Middle East that something like that would happen. The reason I really want to tell you this story today is because that's what happened to Mohammed Saleh in Australia. Here.

Under Western Australian law, people held under immigration detention are not classified as people technically held in care. Therefore, when the coroner investigated Mohammed's death, he was not obliged to comment on the circumstances of Mohammed's detention. Because of those restrictions, Mohammed Saleh's family feel that the allegations surrounding his treatment in detention have yet to be fully examined. It's these allegations that form the basis for an official complaint being prepared for the Australian Human Rights Commission.

Charandev Singh is on his way to gather a witness testimony from an ex-detainee to use as evidence for the complaint. Ahmad, not his real name, was in Juliet Block with Mohammed Saleh in January 2001 for those 13 days.

'AHMED': Yeah, yeah, this is Juliet Block. Yeah, I knew him, yeah, I knew him very well. I know him.

CHARANDEV SINGH: Do you remember where Mohammed Saleh was? On the top?

'AHMAD': Yeah. Mohammed Saleh was in the - about three or two cells to the end. I tell you one thing about Juliet Block because Juliet Block is for punishment and humiliation - designed for this, for humiliation. For the first 24 hours they don't give you any blanket or pillow. Rooms is very cold and wet and stink and dirty. I tried to walk in the room, yeah...

Ahmad is showing how small the rooms in Juliet Block were.

'AHMAD': And I come back one, two, three, four and I again come back, one, two, three, four. Sometime four, five, days, six weeks, they didn't take you to the fresh air, because officers is not happy. Not happy to take you. They are busy. They say "We are busy, we don't have time." No fresh air. One time they didn't take me for six days, seven days for fresh air. You feel this is the end of the world, you know, when they send you to the cell. You feel this is the end of the road. No-one can help you, except God, no-one can help, no-one can hear you.

ACTOR'S VOICEOVER OF DETAINEES' WITNESS STATEMENTS: On the second day Mohammed Saleh went to the toilet and when he came back to his cell, said that he had blood in his urine.

He told me that he fainted three times in the first five days in Juliet Block. I had heard the other men in his room shouting and call for help from the ACM officers on several occasions.

He said he was suffering from stomach pains. We told ACM officers about this issue. However, they replied that you are criminals and have no right to see a doctor or a nurse.

I was in Juliet Block with Mr Saleh for 13 days and at no time during that period did I see Mr Saleh receive any medication or medical assistance.

Recently retired Labor MP Colin Hollis was in Port Hedland that January when Mohammad Saleh was in J Block. Hollis was the Deputy chair of the foreign affairs subcommittee on human rights, which was touring Australian detention centres.

COLIN HOLLIS, LABOR MP: During our meetings people, especially with the men, raised the question several times "Are you people going to visit Juliet Block?" This was the first that most of us had even heard of Juliet Block and I dunno, one of us said well. "Should we?" And they said "Yes, you should visit Juliet Block," and they were so insistent and when we put this to the officials, they hesitated and started to say "Well, why do you want to visit that?" and our response was "Well it doesn't matter why we want to visit, we want to visit it." They were very, very

reluctant to have us visit it.

It was decided by the parliamentary team that three member, including Colin Hollis would break away from the group and go to Juliet. When they arrived, it was when they wanted to see the locked rooms upstairs that they encountered further resistance from the officials.

COLIN HOLLIS: We were told "Well, why did you we want to go upstairs" and the officials actually argued with us and tried to persuade us not to go upstairs. It was dark. It stank. There were, I don't know how many cells and that's because they had iron doors, locked doors and behind these people - behind these doors were people looking at us with the most pitiful, sorrowful look I have ever seen in my life.

'AHMAD': There was about three or four people which came to visit detention - Juliet Block. I saw him, I saw him when I was in cell. I saw them from small window. I saw them, they come to visit. They walk to the end and they come back. But when he come back, he was very sad. I saw him.

COLIN HOLLIS: They wouldn't have been alerted as to who we were, that we were federal members of parliament, that we were there on an inspection. They probably thought we were DIMIA officials. That might have been why they wouldn't talk to us.

'AHMAD': I think people was scared also, because they think if they tried to speak with visitors - after that, ACM maybe or DIMIA will go to get retaliation or revenge o N them. And they keep them for longer, longer time.

PHILIP RUDDOCK: Juliet Block was accommodation that was available in exactly the same form, individual rooms, two people to a room, it merely had not been refurbished. It was not used for management purposes. It was used because there had been a serious reduction in the amount of accommodation that was available in the centre at a time when there had been fires and riots earlier in the detention centre.

COLIN HOLLIS: What was happening, and it emerged later, is that the 24 people in solitary confinement upstairs were there because they were perceived as ringleaders. They were there as punishment.

REPORTER: They say that Juliet Block was used as a punishment block was it?

PHILIP RUDDOCK: No, it wasn't.

COLIN HOLLIS: If it wasn't used as a punishment block, why were they kept there behind bars, not even being able to go to the toilet, having to do all your personal things in the corner in a bucket. If that's not punishment, having your food pushed through the wall, through bars to you in that stinking room, having to eat it. If that's not punishment, how does DIMIA define punishment? It was a punishment block.

REPORTER: Have you been inside Juliet Block because they have been in there?

PHILIP RUDDOCK: Well I've been to Port Hedland on a number of occasions I may have been in Juliet I may not. I have been going to Port Hedland for some eight, nine years, because I was interested in these matters long before I became minister. And I may well have been in Juliet Block, I don't recall.

REPORTER: These claims that they were forced to defecate and urinate in their cells and that the rooms were purposely kept dark and that officers didn't come when they were called and they were refused medical treatment. Are those claims made up?

PHILIP RUDDOCK: Look, what I know is that we had some very serious riots at Port Hedland, that people broke open bed stands to be able to use the iron bars as weapons, that considerable damage and assaults occurred. There were a lot of behavioural issues at that time and yes, detainees behaved in ways that were quite unacceptable. Now if you want to make angels out of people who are involved in riots and fires, by all means try and do so. I think these sorts of claims are made by people who try to camouflage their own activity which was designed to put us under pressure, designed to force us to release people who had no lawful entitlement to do so, and who often go to well meaning people like yourself and spin a bit of a yarn. Yes, I think they're greatly exaggerated and ought to be seen for what they are.

DIMIA, the Department of Immigration, Multicultural and Indigenous Affairs, has said that the men held in Juliet that January were there because they were identified as participating in the riot and therefore needed to be isolated whilst decisions were made about charging individuals.

REPORTER: Do you know how many people in Juliet Block in January 2001 over the incident that occurred there on 21 January, do you know how many of those men were charged?

PHILIP RUDDOCK: Well, there were investigations undertaken in relation to seven, I believe, people, with a view to bringing charges and as is often the case, the evidence was not thought to be sufficiently unambiguous by the police to warrant the laying of charges. Now, I don't think you should see anything significant in that.

Not only were no charges laid, but in this letter to the coronial inquiry, the then director of detention operations in the Department of Immigration stated that Mr Saleh posed no behavioural management difficulties whilst in immigration detention. So the question remains, why Mohammed Saleh was ever placed in Juliet Block.

On June 18, 2001, just under a week before Mohammed Saleh died, Juliet Block was put under the spotlight when the parliamentary committee report was presented in Parliament.

PARLIAMENTARIAN (18 June 2001): In particular I would like to draw the attention of the house to the section of the report that refers to Juliet Block at the Port Hedland detention centre....

When Mohammad Saleh died a week later, questions began to be raised over how he was treated in detention.

PARLIAMENTARIAN (18 June 2001): ...was shocked by the conditions in that block.

When the court and the Saleh family requested the documents relating to Mohammad Saleh's time in Juliet, the Department of Immigration said that the files had been destroyed in a riot. This paper, unsigned and undated, is all that was provided. "No case notes on this file due to a riot at the centre. All case notes were destroyed. Port Hedland Immigration Reception and Processing Centre."

CHARANDEV SINGH: When we asked for the documents about Mohammed Saleh's time in Juliet and the issues around the Port Hedland detention centre, all of those documents are not made available to us. Not one single document about Juliet is made available to us.

ELIZABETH LACEY: What we wanted from the Commonwealth Government, or from ACM, was some kind of an indication that it hadn't happened or that there was some defence to it or some explanation for it. But we haven't got any of that. So we have to accept what we have.

In his findings, the West Australian coroner stated: "It would appear very likely that while the deceased was placed in Juliet Block, documentation would have been created..." The coroner went on to say: "In the circumstances, it seems remarkable that DIMIA has not been able to locate a single document relating to the deceased's placement in Juliet Block."

REPORTER: Can you explain why the only documents that have gone missing on Mohammed Saleh's files were those relating to his time spent in separation?

PHILIP RUDDOCK: Look, my understanding is there were a number of files and all of them were located, except one.

During his time in Juliet?

PHILIP RUDDOCK: And that file, after it was located, was referred to the coroner.

REPORTER: So that file of when Mohammed Saleh was in Juliet was definitely located?

PHILIP RUDDOCK: I believe so, and referred to the coroner.

However, when Insight spoke to the coroner's office, they told us that none of the documents or files given to them by the Department of Immigration relate to Mohammed's placement in Juliet Block.

CHARANDEV SINGH: Were people able to go to the toilet whenever they needed?

'AHMAD': No, you should kick the door and if officer is happy with that, they come and they open the door. They will take you with the camera, handi-cam.

CHARANDEV SINGH: So during this time, did they use the camera between the cell and the toilet?

'AHMAD': Yeah.

CHARANDEV SINGH: So there should be photographs of Mohammad Saleh going to the toilet? Are you absolutely sure of that?

'AHMAD': Yeah, yeah I'm sure 100% because I spent two time in Juliet Block. Any time you go for toilet or you want to come back, they have handi-cam.

This was the first that Charandev Singh had heard of videos possibly existing of Mohammed Saleh whilst he was held in Juliet Block.

CHARANDEV SINGH: It will show the impact of Juliet on Mohammed Saleh while he's in there. It's crucial evidence.

REPORTER: Minister Ruddock, when detainees are inside Juliet, all their conversations and actions are videotaped.

PHILIP RUDDOCK: No. I don't believe all their actions are.

REPORTER: Mr Heinmarsh was an operations manager of Port Hedland at the time and this is an ACM memo and it says that all conversations and action by detainees is to be videoed and extensively logged in individual files. Did the Department not aware that ACM was doing that?

PHILIP RUDDOCK: No, I'm not saying that at all. I'm simply saying that there is a separate management unit at Port Hedland. There was alternative accommodation. If arrangements were made to record any conversations or video any activity, it would have been on an ad hoc basis.

The ACM memo, available on the Human Rights and Equal Opportunity Commission website states: "All conversations and actions by detainees are to with videoed and extensively logged in individual folders." When the Saleh's family legal team tried to call witnesses from the Department to give evidence about Mohammed's time in Juliet, they again faced further difficulties from the Department. The Port Hedland DIMIA manager on duty at the time, had since left the centre and the replacement witness supplied by the Department had no direct knowledge of whether files were even created, let alone what may have been in them or where they might be located.

CHARANDEV SINGH: The Department provided us a witness who had only been in Port Hedland for three weeks prior to the inquest and had no direct knowledge of this case or what had happened at Port Hedland during that time. So they put a witness who, you know, could not give any direct evidence about these issues.

John Cameron acted as the barrister for Mohammed Saleh's family during the coronial inquest. He believes that the holding of people inside Juliet Block may have been illegal under Australian law.

DR JOHN CAMERON, BARRISTER: I think it raises the interesting question that the High Court has said that detention of refugee applications is justified for certain purposes. But it should not be used as punishment and I think there comes a point at which the conditions of detention maybe such that it does become a punishment, and that the detention then becomes illegal. Now I would have thought that the conditions in Juliet Block were such as to amount to punishment, and that possibly those persons who were detained in Juliet Block, including Mr Saleh, was detained illegally.

Whether the holding of Mohammad Saleh in Juliet was legal or otherwise, his physical and mental deterioration after his time in Juliet Block is clear. Mohammed Saleh's medical and counselling notes document his decent into a state of severe depression.

ACTOR'S VOICEOVER FOR MEDICAL AND COUNSELLING NOTES: Sleeping four hours a night. He is missing his wife and three sons very much and was tearful on showing their photo.

Mohammed Saleh sat at the front of the chair shaking his head waiting. It feels like my head is about to blow up. I can't take it anymore.

Lost 6kg since arriving.

Needs TLC and someone to talk to and be empathetic.

Holding back tears, fists tight in frustration. Stomach pain, knee lower leg pain. Constant headache.

Trauma of detention reminding him of time in real jail.

Hasn't called family since last month, they have no idea that he is in detention and no access to money.

CHARANDEV SINGH: And this is a note dated 30 March from the ACM senior counsellor at Port Hedland saying that it's very important that Mohammed EME19 is offered an excursion ASAP and the ASAP is very much highlighted, which is evidence at the very least the counselling team being acutely aware of how devastatingly depressed, I guess, Mohammed Saleh was.

Mohammed Saleh sought and received medical attention 22 times in the seven weeks after he was released from J Block, before he was finally transferred out of the centre for specialist psychiatric treatment. Accompanied by two ACM guards, he was flown to Perth to be admitted to a private hospital.

ACTOR'S VOICEOVER FOR MOHAMMED: They told me I should be taken to a hospital in Perth. The plane took

off to Perth about nine o'clock. Two guards accompanied me and stayed with me in the room day and night.

DR BRENDAN JANSEN, PSYCHIATRIST: When I first met Mr Saleh, he had symptoms of quite profound depression. He had all the classical symptoms of poor sleep, poor appetite such that he'd lost weight. He was tearful. He had lost all hope for the future.

Dr Brendan Jansen was Mohammed Saleh's psychiatrist throughout his stay in hospital. He saw him every working day for two months. Mr Saleh's family gave him permission to talk to us.

DR BRENDAN JANSEN: His guilt was so severe that it got to the stage where he actually believed that the treatment that he was receiving, the detention and the treatment in detention, was somehow punishment for him because he had done something wrong. He felt he deserved it. He felt his actions were blameworthy. He would not let me call him by his name Mohammed because he said that he did not feel worthy to be called that. He said to me that he could not understand why he had been treated as though he was an animal, and after a time, he began to wonder if in fact he should be treated like an animal. It was difficult for us to get him to take an adequate diet, adequate fluids, even, because he did not feel as though he deserved to nurture himself in any way.

REPORTER: The World Health Organisation, the Royal Australian New Zealand College of Psychiatry, the Federal Health Ministry says that depression is a mental illness. Does it concern you that the Department is not classifying depression amongst detainees as a mental illness when those figures are asked for?

PHILIP RUDDOCK: Not really. I think I mean as long as you can deal with the various conditions and describe them - as I say, depression is quite significant in the Australian community and people are treated for it and I'm not sure that everybody would regard depression as being a mental illness. Now, you, look you may have some colleges and World Health Organisations that will describe it that way, but I'm not sure it will be seen that way more broadly in the Australian community.

DR BRENDAN JANSEN: It is possible that his treatment in Juliet Block was not only instrumental in contributing to his depression, but also caused a relapse of his post traumatic stress disorder.

In hospital, Mohammed's doctors waited for two months for his depression to improve so they could operate on a large tumour that had been found in his stomach.

ACTOR'S VOICEOVER FOR MOHAMMED'S WRITINGS: Another doctor said that I needed an operation. Oh, God, help me. My wife and children should be present. What if I die? It's a big operation.

Eight months after arriving in Australia, Mohammed Saleh died in hospital from complications arising from surgery.

ELIZABETH LACEY: When I look back on this case and my involvement with it, sure there's frustration and anger and all those things, but really more than anything there's just this overwhelming sadness at the tragedy and futility of it all. And at the irony of someone seeking asylum in a place where the standard of living is as fantastic as it is here and where my life is as good as it is, that we should feel so threatened or frightened or whatever it is, as to treat somebody like that, just makes me enormously sad.

Currently, the Human Rights and Equal Opportunity Commission is the only body in Australia that can independently investigate allegations of human rights abuse, such as those that surround Mohammed Saleh's story. Recently, the Attorney-General Daryl Williams introduced legislation into parliament that if passed, significantly reduces the independence and powers of that commission.

JENNY BROCKIE: Earlier today, Australasian Correctional Management, ACM, faxed its response to allegations raised in that report. ACM denies that inmates were deprived of food, blankets, medical care or outdoor exercise whilst in Juliet Block.

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