

'Don't take my Dad'

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The Seng family of Jacob, Tina, Nicholas, S., Justice and Aiden are fighting to remain together in Australia. 242882_08 Picture: GARY SISSONS

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By Cam Lucadou-Wells

A desperate Doveton family is in a last-ditch legal battle to remain together in Australia.

At stake is not only the fate of husband, dad and asylum-seeker Mr S. Seng but eight Australian citizens – his wife Tina and seven kids.

After six years of road-blocks, Mr Seng is appealing for a protection visa at the Administrative Appeals Tribunal.

If he loses, he will be removed from Australia and sent back to Cambodia – which he says he fled after being seriously assaulted for his political beliefs.

Mrs Seng and the seven children themselves are not at risk of deportation.

But she says the family may have no real choice but to follow her husband to Cambodia.

She cannot bring up the young children alone. Two of them have special needs under the NDIS.

Nor can she allow Mr Seng to return to his homeland alone and face a high risk of harm.

“My husband fears for his life. He has been traumatised and had nightmares.

"I can't live without him – especially with seven children. He has been a great supporter and father figure for the children.

"I hope the judge will have consideration and compassion for our family."

As decision day approaches, the children fret through sleepless nights.

"I'm scared and worried that we're going to lose, and he's not going to be here," his nine-year-old son Aiden says.

"I ask for the tribunal – please don't take my father away. He means everything to me.

"If I lose him, I won't get to spend future time with him, and he's been caring for me for my whole life."

At the tribunal, Mr Seng is seeking to establish his eligibility as a political refugee.

A refugee must demonstrate a well-founded fear of persecution in their home country on the grounds of race, religion, political opinion, nationality or being a member of a particular social group.

They must be unwilling to return, and the local authority unwilling to offer protection.

Mr Seng's application has been rejected three times by the Department of Home Affairs despite reportedly significant human rights abuses in Cambodia and being the alleged victim of multiple assaults.

Some of the fault lies with his bungling, disinterested migration agents in the past, Mrs Seng says.

With some advice from well-known refugee advocate Julian Burnside QC, migration agent Thay-Horn Yim is preparing the appeal at the AAT.

He will argue that the Home Affairs delegate erred when not giving due consideration for the police reports, Mr Seng's claims and making no note of Mr Seng's wife and dependent children.

Splitting the family was against international law – namely The UN Convention on the Rights of the Child, Mr Yim says.

"Children should not be deprived of the love and care of their father.

"I want the tribunal to hear from the boys – how it makes them feel if the tribunal removes a father from his kids."

The department also failed to account for an assault by an alleged Cambodian agent on Mr Seng in Australia, Mr Yim says.

Mr Seng was hospitalised. His attacker known to him as 'Jamie' was charged and found guilty at Dandenong Magistrates' Court in 2016.

A police statement that identified the culprit was overlooked by the department delegate, Mr Yim argues.

According to a US State Department Report, Cambodia is blighted by "significant human rights issues" by government officials and police.

It lists abuses such as torture and arbitrary detention, political prisoners and forced child labour.

To make matters worse, Cambodia is in the grip of an escalating Covid outbreak – averaging 1000 new daily cases and nearly 500 deaths in the past month.

About 20 per cent of the population are fully vaccinated.

If Mr Seng wins his appeal, he is granted protection to allow him to live in Australia with his wife and seven children.
