

Love, 'Honour', Layla and Majnun

On the eve of Valentines weekend I represented a couple seeking asylum on the basis that they form part of a particular social group 'victims or potential victims of an honour crime' within the meaning of the 1951 Refugee Convention. I will refer to my clients as 'Layla' and 'Majnun'. One of them an Arab Iraqi and the other an Iraqi Kurd. Their love story is one that contains all the makings of an epic 'would be tragedy', young lovers, officious parents, different tribes, violence, their families denying their union as they planned their murder.

These stories are ones that practitioners have heard many times over but is still no less astonishing that Layla and Majnun's circumstances did not temper their love and devotion to each other.

The Country Policy and Information Note Iraq: 'Honour' crimes defines this:

“'Honour' crimes may be committed or ordered by a husband, a father, a brother or another relative as a punishment to a family member because they have gone against social or cultural norms and are perceived to have damaged the family's reputation by their actions. Such 'offences' include (but are not limited to) friendships or pre-marital relationships with a member of the opposite sex; refusing to marry a man chosen by the family; marriages that are against the family's wishes; seeking a divorce; committing adultery; being a victim of rape or kidnapping; and defying gender roles...Punishments for perceived 'honour' offences range from physical abuse, forced marriage, forced suicide and murder.”

The Iraqi Penal Code permits 'honour' as a mitigation for crimes of violence committed against family members and allows for lenient punishments for 'honour' killings on the grounds of provocation or if the accused had 'honourable motives'.

In the UK a crime committed by another member of the family in order to restore ‘honour’ upon the family will never be a defence to a criminal offence. The Court of Appeal in AM v Local Authority, The Children’s Guardian, B-M (Children) [2009] EWCA Civ 205; [2009] 2 FLR 20 [117-120] makes clear the position of ‘honour killings’ within this legal system:

“My second point is that the time has surely come to re-think the phrase "honour killings". It is one thing to mock the concept of honour – as, for example, Shakespeare does through Falstaff in I Henry IV Act V, Scene i. It is quite another matter to distort the word "honour" to describe what is, in reality, sordid criminal behaviour. I put on one side the murder of a baby in this case, since brother I's motivation for the murder is not known. However, the remorseless pursuit of the baby's mother who, the judge found, was a woman fleeing from domestic violence; the fact that the mother of the subject children in this case sprayed the night clothes of one of them with white spirit and set fire to her house in order to implicate the intervener; the fact that the mother will not identify her brothers in the conspiracy for fear of reprisals; the fact that the grandfather appears to believe that the death of the baby was an accident and the will of God - these things have nothing to do with any concept of honour known to English law. They are, I repeat, acts of simply sordid, criminal behaviour and a refusal to acknowledge them as such. We should, accordingly, identify them as criminal acts and as nothing else.

The Muslim scholar in his evidence did not suggest that such activities can be encompassed within Islam. The most he said was that they formed part of the older generation Pathan culture. The message from this case, which must be sent out loud and clear, is that this court applies a tolerant and human rights based rule of law: one which, under the Act of 1989 regards parents as equals and the welfare of the child as paramount

That is the law of England, and that is the law which applies in this case. Arson, domestic violence and potential revenge likely to result in abduction or death are criminal acts which will be treated as such.

In this case, the family may wish to reflect on the fact that it has lost five of its children: one by death, one by the legitimate flight from gender-based violence inflicted on his mother, and three to the care system. None of this, in my judgment, has anything to do with any concept of "honour" and all of it is manifestly contrary to the best interests of children."

In light of this judgment and the catalogue of research and expertise in this area it is about time we stopped using the phrases ‘honour killing’ and ‘honour crimes’ this undermines the victims and gives kudos to the perpetrator of the crime with an excuse for their violence. These crimes should be referred to without any cultural connotations and should be known as the heinous crimes they are, murder, rape, abuse and enslavement. ‘

Practitioners must also understand that ‘honour’ based crimes should be seen as distinct from domestic abuse as not recognising the specific nuances will undoubtedly leave victims unsupported by practitioners who are ill equipped to understand the nuances between the two. The challenge then is to devise suitable policies and strategies of intervention to support ‘honour crime’ victims in cases that involve both domestic *and* non-domestic perpetrators.

For Layla and Majnun they succeeded in fleeing Iraq. Their journey to the UK is one that is now all too familiar, over land by foot, in crowded lorries, makeshift boats over inhospitable waters and then arriving in an ever-hostile environment. Their nightmare ended on the eve of valentine’s weekend over two years after they arrived in the UK. The Judge dispensed with the usual reserved determination and allowed their asylum appeal to succeed. Unlike their namesakes, Layla and Majnun remain united and continue to fulfil their love.



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