

Neutral Citation Number: [2011] EWHC 2037 (QB)

Case No: HQ10D04670

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/07/2011

Before :

HIS HONOUR JUDGE RICHARD PARKES QC
(Sitting as a Judge of the High Court)

Between :

Mohammed Hussein Al-Amoudi

Claimant

- and -

Elias Kifle

Defendant

Mr Desmond Browne QC and Mr Jonathan Barnes (instructed by DLA Piper UK LLP) for
the Claimant

The Defendant did not appear and was not represented

Hearing date: 18th July 2011

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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HIS HONOUR JUDGE RICHARD PARKES QC

HHJ Richard Parkes QC:

1. I have to assess damages in a libel action brought by Mr Al-Amoudi against Mr Elias Kifle. The assessment was ordered by Master McCloud on 15th May 2011, to be heard by a judge alone. The Master also gave directions for trial. Master Eastman had earlier ordered on 27th January 2011 that the claimant should have judgment in default of acknowledgement of service, for damages for libel to be assessed. Proceedings were originally served on the defendant out of the jurisdiction in accordance with an order of Master Foster dated 6th December 2010.
2. The claimant gave evidence. He is an international businessman and a man of huge wealth. He is regularly listed by Forbes magazine as one of the richest individuals in the world (in 2009 he was listed in the top 50). He was born in Ethiopia, but his family moved to Saudi Arabia when he was 18. He became involved in land development, then in construction, and he still has substantial business interests in Saudi Arabia. He also has interests in oil and petroleum. He is a director and majority shareholder of Svenska Petroleum Exploration Aktiebolag, a Swedish oil and gas company registered in London, and he is a director and the ultimate shareholder of Corral Petroleum Holdings Aktiebolag, another Swedish company registered in London. Both companies have London offices, where the claimant attends meetings. He also has interests in mining, agriculture, hospitals, finance, hotels and other areas. His evidence was that he frequently travels to London for business purposes, and therefore knows and is known by a large number of business people in London. He meets management from his companies here and he meets oil company executives and bankers to consider development of the oil sector in particular. He has a home in central London and a house in Surrey, which he has owned for nearly 20 years and which he visits regularly. He has travelled here about twelve times in the past year, for periods ranging from a couple of days to a week. It is clear from newspaper articles and media reports in evidence before me that his activities, including a speech to a London conference on African investment in February 2008, have been reported by the British media. Three of his daughters have attended or are attending university in the United Kingdom. The three, including his daughter Sarah, who has just completed a bachelor's degree in Business Administration, live in the claimant's London home. The claimant has seven daughters and a son. Two of his daughters are married, but his remaining two daughters, and his son, will come to this country when they are old enough to attend university. I have no doubt that he is a man with real, substantial and long established connections to this country, where he is well known in the business community. He is plainly a man with an established reputation to protect in this jurisdiction. But it is worth noting, because it is relevant to the way in which he is known by Ethiopians in this country, that he has also been a very substantial investor in Ethiopia. He has invested some \$4bn in the country, and currently has 62,000 people working for him there.
3. The defendant is the publisher and editor-in-chief of the online news site Ethiopian Review, which is published at the internet addresses www.ethiopianreview.com and www.ethiopianreview.net. He was neither present nor represented at the trial of damages, and he has played no part in these proceedings.
4. The claimant complains of publication by the defendant of an article headed 'Ethiopian billionaire's daughter faces stoning in Saudi', published on two internet

sites. The evidence shows that the article was freely available to readers in this jurisdiction from 27th January 2010 until about 29th March 2010, from 19th July 2010 until about 12th August 2010, and from 17th to 18th August 2010, on www.ethiopianreview.com. The article was then available on a restricted basis to those with passwords to enter the site. It was available on that basis on www.ethiopianreview.com from about 20th August 2010, and remains there to date, and in addition on www.ethiopianreview.net from about 20th August 2010 until at least 1st September 2010.

5. The article reads as follows. For convenience of reference, I have numbered the paragraphs 1-81.

“Ethiopian billionaire’s daughter faces stoning in Saudi

1. The identity of the alleged Saudi Princess given secret asylum in the United Kingdom early last year has now been revealed. The young woman, who is in her late 20s is reported to be Sarah Mohammed Al-Amoudi, originally from Jeddah, Saudi Arabia and now living in London. Sarah Al-Amoudi told British authorities that she is the daughter of Ethiopian billionaire businessman Mohammed Al-Amoudi who married her off to an elderly and disabled senior member of the Saudi royal family, a "prince," when she was only 13 years old.”

2. Mohammed Hussein Al-Amoudi, one of the world's richest men, was born in Ethiopia to a Yemeni father and Ethiopian mother and received Saudi citizenship in the mid 1960s.

3. Al-Amoudi has been linked (in the press) to the financing of organizations with associations to terrorist groups. The alleged princess, herself, has stated this to numerous individuals. For more on Mr. Al-Amoudi, please copy and paste the links below.

4. Sarah Al-Amoudi also told British authorities that her father was looking for her and she feared for her life. In a disparate attempt to flee Saudi Arabia, she acquired a Yemeni passport, based on her grandfather's place of birth and used it to flee Saudi Arabia.

5. Mohammed Yahya Al-Mutawakel, a senior Yemeni official and a senior member of one of Yemen's most powerful families, confirmed Sarah Al-Amoudi acquired a Yemeni passport in early 2000 at the passport office in Aden, Yemen. The Aden passport office had major problems with corruption and the illegal issuance of Yemeni passports between 1999 and 2002.

6. It is also learned that Sarah Al-Amoudi's longtime lover was one of the four Blackwater contractors famously killed in Fallujah, Iraq on March 31, 2004. After being shot to death,

their bodies were mutilated, set aflame and paraded through the streets, before being hung from a bridge, while the world watched in horror. The murderers were never caught. Officially, it was blamed on Islamic militants, but according to sources close to the princess, she believes that her family in Saudi Arabia was probably responsible for the death of her lover as an act of revenge.

More by Ian Gallagher and Amanda Perthen of UK's Daily Mail

7. On the surface, it resembles a fairy tale. A beautiful young princess is forced to marry a wicked old nobleman but falls in love with a handsome boy her own age, secretly bears his child, then goes into hiding – lest she falls into the clutches of her husband, who vows to execute her for adultery.

8. It sounds improbable, but this, in essence, was the story a Saudi princess told one winter morning last year in the unprepossessing surroundings of the Asylum and Immigration Tribunal at Hatton Cross, near Heathrow Airport.

9. The princess, who we cannot name for legal reasons, said she was convinced that she and her daughter, whose father is British and once worked at Harrods, would be flogged or stoned to death if forced to return home to Jeddah.

10. Dealing on a daily basis with desperate immigrants from all corners of the globe, the tribunal has no doubt heard many a tall tale, and the woman's testimony was nothing if not melodramatic.

11. Yet it was a story the judge was prepared to accept.

12. It is redolent of the 1980 television drama-documentary *Death Of A Princess*, based on the true story of the public execution of a Saudi princess and her adulterous lover, and it is easy to see how the parallels would play upon the minds of those involved in the tribunal.

13. The judge's decision to grant her asylum in Britain – she had previously been turned down – only came to light in July along with some sketchy details and speculation about the implications for Anglo-Saudi relations.

14. Now, an investigation by *The Mail on Sunday* has uncovered the full story behind the princess's extraordinary predicament and her desperate efforts to conceal the birth of her child, including an ill-conceived plot to pass off the baby as the daughter of a friend and spirit her to the United States.

15. Much of her story is revealed in her compelling witness statement, leaked to this newspaper.

16. In it, the princess says she fears she is being hunted across London by both her husband and her father, whom she names, and whose honour, she says, her actions have compromised.

17. She also expresses distrust of the British Government and concern that officials might betray her whereabouts.

18. 'I feared the Home Office would give my details to my husband and my life would be in immediate danger,' she says in her account.

19. The sensitivity of the situation and its potential to cause diplomatic tension cannot be overstated.

20. It is worth noting that the political fallout from the screening of *Death Of A Princess* was devastating and resulted in a request that Britain withdraw its ambassador to Jeddah.

21. As the princess herself says in her statement: 'I am aware that Saudi Arabia is an important business partner of the UK. I am also aware of the power of my husband's family and also my father in such business dealings.'

22. 'I was very concerned that my situation could become compromised.'

23. Born in Jeddah, the princess 'had an Islamic education' at first.

24. Then, in common with the children of many wealthy Saudi families, she was sent to a Western school, but taken out after only two years when it was decided she should marry a senior member of the Saudi royal family.

25. At the time of the wedding, she was still in her early teens, while her husband had already reached old age.

26. 'The marriage was arranged by my father, who is a close friend to the royal family, and my marriage was a symbol of their friendship – according to custom, I was a gift,' she says in the statement.

27. 'In my previous asylum statement and interview, I declined to mention my husband's name as I thought I had already brought too much shame to him and his family and did not wish to embarrass him, his family or my family further.'

28. 'Moreover, I have received information from third parties that if his name is revealed in any way relating to this case, I and family members who have helped me in Saudi Arabia would be in serious danger – particularly my mother. All members of my family have been banned from talking to me, contacting me, helping me in any way.'

29. One of several wives, she says she was 'used for show' and that the marriage was 'designed to ensure unity between my own and my husband's family'.

30. She adds: 'The marriage was never consummated and I remained a virgin. Due to his age, his medical conditions and the wishes of his other wives, my husband rarely slept in the same room as me.'

31. It must have been a dispiriting existence but one lifted by frequent visits to London, which she regarded as her 'second home'.

32. It was on one such trip, while shopping with her maid in Harrods, that she met the man who would father her daughter.

33. 'He approached me and we chatted for some time before he asked for my phone number,' she recalls in her statement. 'He was a good-looking man (I did not hesitate to give him my number). He wished to keep in touch with me.'

34. 'At that time, my bodyguard and driver were waiting for me outside Harrods. As there are strict restrictions in Muslim and Saudi culture, it was common at that time [and still is] for couples to meet in shopping centres and to exchange numbers in this manner.'

35. They developed a phone relationship – 'we would talk as if we had known each other since childhood' – and managed one more clandestine meeting in Harrods before the princess returned home.

36. No sooner was she back than she persuaded her husband that she needed to return to London for medical reasons.

37. He acquiesced, and her relationship with the man, a Harrods employee, then became physical, quickly resulting in her pregnancy. The situation was understandably grave. To add a further complication, as if one were needed, her lover was Jewish.

38. The princess recalls in her statement that she learned of her pregnancy only when she suffered morning sickness and, at first, confided in only her personal servants.

39. At a later stage, she confessed to her mother, now her closest ally.

40. To this day, she continues secretly to fund the princess's life in London with money sent by Western Union.

41. 'I wanted to have an abortion so that I could continue to lead a normal life with my family, but this was not possible in Saudi Arabia,' recalls the princess.

42. 'However, she was able to hide her pregnancy by wearing a loose-fitting head-to-toe abaya cloak.

43. 'I also wore the abaya while sleeping at night,' she says. 'This is common practice for Saudi women.

44. 'As my husband and I never slept together, it was easy to hide my growing body from him. In addition, my bump was very small and I didn't gain much excess weight.'

45. As the pregnancy neared full-term, the princess convinced her husband once again that she needed to visit Britain for medical reasons.

46. It was during this stay that she gave birth to her child in a London hospital.

47. Any elation she experienced at holding her daughter for the first time was quickly overtaken by panic and confusion.

48. At the time, she felt she had little choice but to give up the baby for adoption. Before anything could be resolved, she had to fly back to Saudi Arabia. She left the baby with a female friend.

49. 'However, once I returned, I realised that my husband had suspicions about me,' she says. Fearing for her life, she boarded a plane to London and has never been back to Jeddah since. She says that 'my main priority was to find a safe place for my daughter and to ensure that she is not the subject of harm'.

50. The address the princess supplied to the tribunal is an elegantly appointed basement flat in a mansion block in one of the most fashionable districts of West London. Land Registry records confirm that she bought it.

[Caption to photograph showing distressed woman being buried upright in ground]

Fate? A woman is buried up to her neck before being stoned to death

51. When The Mail on Sunday visited the address, we were told she no longer lived there. For a while, she rented a flat on the first floor of the same block, but she now lives in another part of London.

52. Last week, a former neighbour, who knows the princess's whereabouts, recalled how she confided in him, revealing how her distress at the time of the pregnancy was compounded when she was abandoned by her lover.

53. 'She wanted to marry him but unfortunately he disappeared off the scene,' says the neighbour. 'She was left to bring up her daughter on her own.'

54. The neighbour was left in no doubt that her fears were genuine.

55. But while the Saudi Embassy in London has declined to comment publicly on the case, diplomatic sources have suggested, enigmatically, that the princess 'may not be all she seems'.

56. It must also be said that, initially at least, she was denied asylum after the Home Office uncovered 'inconsistencies' in her story.

57. The Mail on Sunday has discovered that she falsified her daughter's birth certificate, stating on it that the girl's father was an American and that the mother was her Yemeni friend.

58. The address given for the couple is in a square in Bayswater, West London. A woman now living in the block says she could not recall the Yemeni woman or her American partner, but did remember the princess living there with her newborn baby, who is now aged eight.

59. In her statement, the princess admits she lied on the birth certificate but did so to protect her daughter. 'In desperation, I asked my friend to take my daughter to the US with her American husband and to treat my daughter as her own,' she says.

60. The scheme failed when American authorities discovered from DNA and blood samples that the supposed mother was not related to the child.

61. Why these samples were requested is not clear. But an immigration source familiar with the case said that at one stage

both US Immigration and Customs Enforcement and the FBI became involved, and expressed concern about the Yemeni's story.

62. US records reveal that her wedding to an American from Cleveland, Ohio, took place at a mosque in Las Vegas – two weeks after the princess's baby was born.

63. The man's family explained that he served in the elite Special Forces, America's equivalent of the SAS, before becoming a private security consultant in Iraq.

64. In April 2004, he died at the age of 32 when his convoy was hit by rocket-propelled grenades and set ablaze in a notorious atrocity in which three other Americans were also killed.

65. A frenzied mob dragged their bodies through the streets of Fallujah and hanged two of them from a bridge.

66. Curiously, his mother told us she had never heard of the Yemeni woman and was mystified when told of a wedding certificate bearing their names.

67. 'My son wasn't married. I would have known if he'd had a wife. I was in touch with him every other day,' she says.

68. 'He died a single man and as a man of the Catholic faith. He would never have gotten married in a mosque. Someone must have stolen his identity.'

69. The Mail on Sunday tried to locate the princess's Yemeni friend but could find no trace of her in the UK or the US.

70. Following the wedding, there was just one mention of her in public records, when she listed her address as a rented flat in a building in a rundown area of New York.

71. The flat is now occupied by an Indian couple who do not speak English. No one else in the building recognised her name last week.

72. Despite the unresolved questions about her account, however, the princess was granted asylum after she testified that she lied to protect herself and her daughter.

73. 'This is the main reason why I did not include my name on my daughter's birth certificate. It would give a clear link to where I am living,' she says.

74. 'Since coming to the UK, I have not left the country and have had to persevere with my emotional stresses, most

importantly, worrying about what will happen to my daughter and me.'

[Caption to photograph showing prisoner apparently about to be executed in public]

Echo: A scene from 1980 drama documentary Death of a Princess

75. And she admits: 'I had been used to a very high standard of living in which almost every part of my life was managed by others.

76. 'It was a great shock to adjust to managing my own life and being responsible for my daughter. It has been a very lonely period of readjustment, particularly in the knowledge of the stress I have caused to my family in Saudi Arabia.'

77. She says she is supported by her mother who is 'sympathetic to my problem. My father is a very strict man and hence my mother always fears his actions.

78. 'If I return to Saudi Arabia, my daughter and I will be subject to capital punishment under sharia law.

79. 'In addition, my husband or my father will definitely make sure that we receive the full sharia law punishment, which will include flogging and stoning to death, execution or some other form of honour killing.

80. 'This is my greatest worry and the cause of my depression.

81. 'I realise that I have made a mistake but the punishment is so severe and inevitable that I have had no option but to hide in the UK.'

6. The article is curiously constructed, in that the whole of it apart from the first six paragraphs appears to consist of an article lifted wholesale from the Mail on Sunday, which describes the plight of an-unnamed 'Saudi princess', and makes no suggestion that the woman concerned is the claimant's daughter. If the defendant had published only the Mail on Sunday material, there would have been no reference – or at least no express reference – to the claimant. The factor identifying the claimant as the target of the allegations is the first six paragraphs, which purport to reveal the identity of the 'Saudi princess' as the claimant's daughter Sarah.
7. The claimant complained to the defendant about this article through a solicitor's letter dated 5th February 2010. The defendant's response was as follows: 'Here is my formal statement. Screw yourself. Same goes for all DLA Piper "lawyers". Stop bluffing and face me in court'. His initial claimed enthusiasm for defending the claim later faded. It appears from the affidavit of service of Mr Harold Copus that the defendant attempted to evade service, but that when presented with the documents in the case he was

insulting and offensive, informing Mr Copus that the claimant was 'funding Al Quaida'. He said that he would ignore the court papers, although in later correspondence he again claimed to be eager to face the claimant in court, where he boasted that he would win the action. However, in the event he seems to have had second thoughts, perhaps adopting Falstaff's standpoint, that discretion is the better part of valour.

Meaning

8. The pleaded meanings of the article are set out at paragraph 6 of the Particulars of Claim. They are as follows:
 - (1) Disgracefully and callously the claimant married off his daughter, Sarah (then aged only 13) to an elderly and disabled senior member of the Saudi royal family, as a gift and for no other reason than to symbolise the claimant's friendship with the royal family;
 - (2) The claimant has knowingly financed alternatively there are reasonable grounds to suspect that he has knowingly financed international terrorism, which fact has been confirmed by his daughter;
 - (3) The claimant was probably responsible alternatively there are reasonable grounds to suspect that he was responsible for the notorious murder on 31st March 2004 in Fallujah, Iraq, of the (supposed) long term lover of his daughter and the mutilation, burning, parading and hanging of his body, which crime he ordered in revenge for their (supposed) relationship.
 - (4) The claimant is and has been hunting his daughter and his (supposed) grand-daughter across London in order to ensure their execution in Saudi Arabia, by way of flogging, stoning to death or otherwise, and thereby the claimant has callously caused and continues to cause his daughter to fear for her own life and that of her daughter.
9. I am invited to accept that the words complained of bear the pleaded meanings, and that in relation to paragraphs 6.2 and 6.3, the words imputed actual guilt, as opposed to reasonable grounds for suspicion. In fact, the primary meaning pleaded at paragraph 6.3 is not actual guilt but probable guilt.
10. The principles which apply in determining meaning are well established. I must consider the meaning which the words complained of would have conveyed to the ordinary reasonable reader of the Ethiopian Review, who I take it would either be Ethiopian or at least interested in the affairs of the country.
11. One of the most familiar statements of the correct approach to meaning is that set out by Sir Thomas Bingham MR (as he then was) in *Skuse v Granada Television Limited* [1996] EMLR 278 at 285:

“The court should give to the material complained of the natural and ordinary meaning which it would have conveyed to the ordinary reasonable viewer watching the programme once in 1985.

The hypothetical reasonable reader ... is not naïve but he is not unduly suspicious. He can read between the lines. He can read an implication more readily than a lawyer, and may indulge in a certain amount of loose thinking. But he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. (per Neill LJ, *Hartt v. Newspaper Publishing PLC*, unreported, 26 October 1989...)

While limiting its attention to what the defendant has actually said or written, the court should be cautious of an over-elaborate analysis of the material in issue. ...

... The court should not be too liberal in its approach. We were reminded of Lord Devlin's speech in *Lewis v. Daily Telegraph Ltd* [1964] AC 234 at 277:

‘My Lords, the natural and ordinary meaning of words ought in theory to be the same for the lawyer as for the layman, because the lawyer's first rule of construction is that words are to be given their natural and ordinary meaning as popularly understood. The proposition that ordinary words are the same for the lawyer as for the layman is as a matter of pure construction undoubtedly true. But it is very difficult to draw the line between pure construction and implication, and the layman's capacity for implication is much greater than the lawyer's. The lawyer's rule is that the implication must be necessary as well as reasonable. The layman reads in an implication much more freely; and unfortunately, as the law of defamation has to take into account, is especially prone to do so when it is derogatory.’ ”

12. In *Gillick v Brook Advisory Centres* [2002] EWCA Civ 1263 at [7] Lord Phillips adopted Eady J's formulation of the principles, which he described as an ‘impeccable synthesis’ of the authorities:

“The court should give the article the natural and ordinary meaning which it would have conveyed to the ordinary reasonable reader reading the article once. Hypothetical reasonable readers should not be treated as either naïve or unduly suspicious. They should be treated as being capable of reading between the lines and engaging in some loose thinking, but not as being avid for scandal. The court should avoid an over-elaborate analysis of the article, because an ordinary reader would not analyse the article as a lawyer or accountant would analyse documents or accounts. Judges should have regard to the impression the article has made upon themselves in considering what impact it would have made on the

hypothetical reasonable reader. The court should certainly not take a too literal approach to its task.”

13. I do not think that it is necessary or even appropriate for me to set out my reasoning at great length, given that my task is to give to the article the meaning which it would have conveyed to the ordinary reasonable reader reading the article once. I have to read the article as if I were a layman, while attempting at the same time to apply the principles which I have set out above.
14. I have no doubt that the article bears the meaning pleaded at paragraph 6.1 of the Particulars of Claim, namely that the claimant married off his daughter Sarah, then aged 13, to an elderly and disabled senior member of the Saudi royal family, as a gift and for no other reason than to symbolise the claimant's friendship with the royal family. That meaning is plainly borne by paragraph 1 of the article, coupled with paragraphs 25 and 26, namely 'At the time of the wedding, she was still in her early teens, while her husband had already reached old age. “The marriage was arranged by my father, who is a close friend to the royal family, and my marriage was a symbol of their friendship – according to custom, I was a gift”, she says in the statement.' The pleaded meaning is elaborated with the adverbs 'disgracefully and callously', but they seem to me an apt index of the effect of the allegation.
15. Similarly, I am confident that the article also bears the meaning pleaded at paragraph 6.4 of the Particulars of Claim. It seems to me, taking it shortly, that the meaning arises particularly from paragraphs 4, 9-11, 16 and 77-79 of the article. It is reinforced by an appalling photograph of a young woman being buried up to her neck before (so that caption states) 'being stoned to death'. Mr Browne QC, who represents the claimant, makes the point that the article recounts how the claimant's supposed daughter convinced an immigration judge of the truth of her story of pursuit at the hands of a vengeful husband and father, so that she was granted asylum in the United Kingdom, and that her witness statement in the immigration proceedings is described in the article as 'compelling'.
16. Paragraphs 6.2 and 6.3 are a little less straightforward. The primary allegation under paragraph 6.2 is that the claimant has knowingly financed international terrorism, a fact confirmed by his daughter. The alternative allegation is that there are reasonable grounds to suspect those matters. That meaning is drawn from paragraph 3 of the article, where it is said that the claimant has been 'linked' in the press to the financing of organisations with 'associations' to terrorist groups, and that the alleged princess (his supposed daughter) has stated that to numerous individuals. Mr Browne QC argued that the fact that the claimant's supposed daughter is said to have spoken in this way must mean that the claimant is actually involved in financing terrorism, because she would have hardly have said only that he was 'linked' to organisations with associations with terrorist groups. But it is not alleged that she said any more than that. Moreover, there is an extent to which the claimant is distanced by the words of paragraph 3 from an allegation of actually funding terrorist groups. He is said to be 'linked' to the financing of organisations which are not themselves terrorist groups but which have 'associations' to terrorist groups. I think that the words complained of would have been understood to allege something less than the definite and direct funding of terrorist groups, so would not have been understood in the unqualified primary sense relied on by Mr Browne, but rather in the secondary sense, namely that there are reasonable grounds to suspect the claimant of having knowingly financed

international terrorism.

17. Paragraph 6.3 of the Particulars of Claim pleads that the claimant was probably responsible for the murder on 31st March 2004 in Fallujah, Iraq of his daughter's supposed lover, and the mutilation, burning, parading and hanging of his body, a crime ordered in revenge for their alleged relationship. Again, the pleaded alternative is that there are reasonable grounds to suspect that he was responsible. Mr Browne derives these meanings from paragraph 6 of the article, where it is said that the claimant's 'daughter' believed that her family in Saudi Arabia was probably responsible for the death of her lover as an act of revenge. Paragraphs 4, 16 and 79 show that the particular family members who were allegedly taking active vengeful steps against her were the claimant and her husband. It seems to me that the fact of her alleged belief that her family was responsible – a terrible thing for a daughter to believe, as Mr Browne argues – adds force to the strength of the allegation. In my judgment, the words complained of do bear the primary meaning pleaded at paragraph 6.3 of the Particulars of Claim.

Extent and impact of publication

18. I have dealt above with the length of time for which the article complained of was published. It appears that it is still available to date, albeit on a password protected site which appears to require registration.
19. It appears that there is a substantial Ethiopian exile community in this jurisdiction. Yalew Kebede, formerly a lecturer at SOAS in Amharic and in Ethiopian culture and presently Constituency Building and Community Affairs advisor at the Ethiopian embassy in London, told me that the defendant's Ethiopian Review is read regularly by embassy staff. It is part of his job to follow all issues relating to Ethiopia, and he therefore reads the Ethiopian Review twice a day, although in his view it promotes hatred, and stands against the interests of his country. He told me that his embassy has done research on statistics relating to the Ethiopian diaspora, and that there are some 50,000 Ethiopians in the United Kingdom. There was also written evidence from a DLA Piper solicitor, Ruth Hoy, which suggested that the figure was approximately 20,000, but it seems to me that Mr Kebede is in as good a position as anyone to know the true figure. On any view it is a substantial grouping.
20. Mr Kebede is also a journalist, and has his own radio programme, 'Voice of Ethiopian Consensus', which used to be broadcast on Voice of Africa Radio but is now broadcast over the internet worldwide. The defendant himself listens to the programme, something Mr Kebede knows because the defendant has been critical of it, seeing Mr Kebede as a supporter of the current government. He had about ten callers on his programme from Ethiopians resident in the United Kingdom, all of whom told him that they had read the article about the claimant and wanted to know if it was true. That discussion of course gave the allegations further currency. Mr Kebede himself read the article on or about 27th January 2010 when he was in his office at the embassy. He knew of the claimant, but did not know him personally. He knew him as one of the first direct foreign investors in Ethiopia and as an example of the kind of investor which his country needed. He also knew that the claimant had done humanitarian work in Ethiopia and that he promoted Ethiopian culture and football. He held the claimant in high regard. However, he was uncertain whether

there was any truth in the article, and rang his friend Abraham Workneh, who works for the claimant, to ask if there was any truth in it. Mr Workneh said that there was not. Mr Kebede also told his ambassador, and showed him a copy of the article.

21. Mr Workneh also gave evidence. Since he worked for the claimant, he knew that the article was untrue. He said that apart from Mr Kebede he had been approached by some 30 other members of the Ethiopian community, including the ambassador, who had read the article, and he tried to reassure them that there was no truth in it. He said that the people who raised the subject with him regarded the article as having more credibility because much of it was a piece which had apparently been published in the Daily Mail (although in reality it had been the Mail on Sunday).
22. Other members of the Ethiopian community in this country gave evidence.
23. Tadios Abegaz, who has lived in the UK since 1990, works in London as a self-employed driver. He read the article while sitting in a Somali internet café in Shepherds Bush, and then discussed it with a group of friends in the Yama Café next door. He was uncertain whether the article was true. He knew of the claimant, although he did not know him personally, and said that he was famous among Ethiopians. People generally had a positive view of him because he created a lot of jobs in Ethiopia, supported the national football team and helped London fundraising for the Ethiopian drought.
24. Yoseph Tesfaye, a property accountant working in London, whose family remains in Ethiopia, said that he was a reader of Ethiopian Review. Although not a supporter of the current government, he finds Ethiopian Review too extreme in its views, but he read the article and was shocked by it. He is a Christian himself, but knew that the claimant was a Muslim and knew also that Muslims are strict with their families, so thought that the article could be true. He discussed the article with five or six friends, one of whom had read it himself, at a pub in West Kensington. He knew of the claimant as a humanitarian who had helped many people whom he knows financially, including his own uncle, but he disagreed with the claimant's political views.
25. Mustefa Beshir is an Ethiopian by birth who came to work in England in 1992. He was a journalist, a sports programme producer for Lucy Radio, which promotes Ethiopian history, culture and tradition among people back home in Ethiopia and among the diaspora. He said that he read the Ethiopian Review regularly, either in the library or at home in England. His reaction was one of surprise: he knew of the claimant, who he said was a popular celebrity figure in Ethiopia, who invested a great deal of money in the country, and he was left in a state of uncertainty as to whether the article could be true, and whether he could really have treated his daughter in the way in which he was alleged to have done. He regarded the allegations as serious, and he expected the claimant to take steps to clear his name. Had the claimant not done so, he would have had doubts about where the truth lay.
26. Dawit Asress is Ethiopian by origin and teaches in adult education in London. He has been living here for 20 years. He keeps up with what is going on in Ethiopia by visiting internet news sites, including Ethiopian Review. He read the article in an internet café in Walthamstow. He found the story shocking. He knew of the claimant's good work in Ethiopia, where his 9 siblings still live, and did not think that the article

could be true, although he was sure that other people would have been confused by it. He rang Abraham Workneh to discuss it with him.

27. Afework Wondimu, a housing officer working in inner London, has lived in Britain since 2002. He read the article on the internet at home: he said that he looked at a number of websites to find out what was going on in Ethiopia, where he was born, one of which was Ethiopian Review. He knew of the claimant, whom he regarded as a very good investor in Ethiopia. He discussed the article with a lot of his friends, including one called Tesfay Hailu, who had also read it, and with Abraham Workneh.
28. In addition, Ms Mary Gately, a partner in the US partnership of the claimant's lawyers, DLA Piper US LLP, told me that before the article was published a former legal representative of the claimant received an unsolicited email raising allegations similar to those subsequently made in the article. She herself wrote to the sender of the email on 20th January 2010, using her standard email footer, telling the sender that the information was false and should not be disseminated. On 28th January, a comment about the article was posted on the defendant's website by someone (not herself) using the name 'Mary'. The comment reproduced some of her email and her email footer, which gave her name and contact details. She was not then aware of the article. No doubt because of the posting of her contact details, she received an email from one Negede Haile, who told her that he had read the article, and that he knew the woman referred to in the article, the claimant's supposed daughter, in the United Kingdom: he told Ms Gately that she was not the claimant's daughter but that her father was related to the Al-Amoudi family. To his knowledge, the woman fabricated her story in order to secure asylum in the UK. Ms Gately inferred that Mr Haile was a British resident (I note that his email address ends in uk2.net), and her enquiries confirmed that he is British and lives in London. A colleague of hers telephoned Mr Haile, who acknowledged having sent the email to her but did not wish to be further involved. Furthermore, Ms Gately received an unsolicited email from one Patrick Ribbsaeter about the allegations in the article, which she was able to conclude that he had read while he was in this country. A curious feature of Mr Ribbsaeter's involvement is that he claims to have been the boyfriend of the woman who, according to the defendant, was the claimant's daughter. He was prosecuted, but acquitted, on charges of assaulting her. Ms Gately told me that he had posted the defendant's article on his own website. She said in evidence that she believed that it remained there, but subsequent enquiries by DLA Piper UK LLP, communicated to me after the hearing, have revealed that it was removed on a date unknown after 23rd June 2010.
29. It was quite clear to me from the evidence which I heard that, as one would expect, Ethiopian emigrés in this country, even those who have lived here for nearly 20 years, wish as a matter of course to keep up with affairs back in Ethiopia, that they do so by reading internet websites, including Ethiopian Review, and that – again as one would expect – they discuss the news of the day with one another. This was plainly a matter of importance to the witnesses whom I heard, and it seems to me that it would be a natural priority of anyone in this country who retains connections with his distant homeland. This has been a case in which the evidence has clearly established a factual basis from which the court can properly infer that substantial further publication has taken place beyond that to which the witnesses individually spoke.

30. The defendant himself is reported as having told the Sunday Times (issue dated 23rd January 2011) that in his estimation fewer than 1,000 people in Britain would have read the article. The defendant, of course, has played no part in these proceedings, so he has given no disclosure, and it is impossible to know whether his reported estimate is genuine or accurate. However, his remarks were made in the context of an article hostile to what it referred to as 'libel tourism', of which the claimant's proceedings were, it was suggested, an example, and it seems likely that he would have wished to play down the scope of the publication in this jurisdiction for which he was responsible.
31. Mr Browne makes the point that even if the defendant is right it is a far from insubstantial total, but he suggests that the true readership was considerably greater. He relies on evidence showing that the defendant's website is likely to be accessed by internet users who employ a search engine. For the period 18th January 2010 to 15th February 2010, 4.62% of the visits to the Ethiopian Review website were immediately preceded by a visit to the UK search engine www.google.co.uk. About 16% of global visits to the website come via a search engine. That, he argues, suggests that some readers are likely to have reached the site not because they were regular readers of Ethiopian Review but because they entered the claimant's name in a search engine. Moreover, unless the readership of the Ethiopian Review in this country was substantial, it would not attract UK advertising; but it plainly does. A printout of the article before me includes four advertisers whose names appear at the end of the article, two of which have .co.uk addresses. That suggests that British advertisers are persuaded that the Ethiopian Review is read by a substantial number of residents of this country. Mr Yalew Kebede told me, as I have said, that there are some 50,000 residents of this country who come from Ethiopia, and Mr Browne submits that it is a fair assumption, given the claimant's reputation among the Ethiopian expatriate community, which all the witnesses spoke, that the likely readership of the article will have been several thousand. That seems to me to be a reasonable assumption from the evidence as a whole. It is clear to me that its impact on those members of the Ethiopian community who learned of it will have been substantial.

Impact of the article on the claimant

32. The claimant's evidence was that he was horrified by the article and very angry about it. Although he is well known as a businessman, he keeps his personal and family life private, and for that reason he was both particularly upset about such a personal attack on him and worried that because his private life was not generally known, readers would be the more likely to believe what was said about him. He was also upset because he had been told that a number of members of the Ethiopian community in London had read the article and believed it to be true, since London-based Ethiopians were people who generally had a high opinion of him on account of his commitment to Ethiopia. He was also concerned that his business contacts and associates might have read the article and not have wanted to mention it to him. He was understandably reluctant to raise the matter with them himself. His evidence, which of course I accept, was that his daughter Sarah was not the woman identified in the article, and that he is implacably opposed to terrorism in all its forms, including such atrocities as the killing of US military contractors in Iraq. In short, the article is wholly untrue.
33. Some years ago the claimant sued a Mr Brisard, who had posted internet articles

which asserted that he had knowingly financed the terrorist networks of Osama bin Laden. Mr Brisard did not merely apologise in open court: he also stated that he had ascertained that the information which led him to make his allegations had been false, and accepted that he had been wrong to make the accusation. Similar allegations have been made and retracted in the past by responsible media organisations: Times Newspapers Ltd apologised to him in 2000, accepting in that case that the allegation had been founded on mistaken identity; the National Review in 2004 accepted that it had been provided with information which had confused the claimant with a Hussein Al-Amudi, who had died in the 1990s, and stated that it was not aware of any facts to support the contention that the claimant had any associations with any organisation that supported or advocated terrorism; and in 2002 the Boston Herald announced in a correction that it had determined that its allegations against the claimant had been primarily the product of mistaken identity. Much of the good achieved by those corrections and apologies will have been undone by the article now complained of.

34. The claimant told me, and was clearly very upset as he did so, that a father would understand how much the allegations hurt him. They hurt a lot for a long period, he said. His relationship with his daughter Sarah (who is unmarried) was the kind of normal relationship which any father has with his daughter. She is a normal university student in this country who does not cover her hair or face. She learned about the article but he did not want her or her sisters to worry about it. He just wanted them to be able to get on with their studies. The article caused some of his family to want Sarah to go back to Saudi Arabia, but plainly he did not want her education to be damaged.
35. There are a number of factors in this case which aggravate the damage caused to the claimant. Publication continues to this day, notwithstanding the claimant's attempts through his solicitors to persuade the defendant that he is mistaken, and notwithstanding the defendant's failure to put forward any evidence at all suggesting that there is any truth in the libels. If it is understandable that the defendant should prefer not to submit to this jurisdiction, that preference sits uncomfortably beside his boast as recently as January 2011 that 'more (was) coming to (the claimant) once the trial starts at court'. That boast has turned out to be an empty one. It might have been expected that if he had any evidence, he would have attempted to rebut the claimant's complaint by putting forward at least a précis of it. Instead, he has simply repeated the libels on his own websites and elsewhere, and resorted to low abuse of a kind not normally associated with a political commentator who expects to be taken seriously, calling the claimant a 'scumbag bloodsucker' and abusing the claimant's lawyers. In addition, he has posted on his website a number of court documents, including the claimant's witness statement (accompanied by a derisive commentary), in the face of warnings that they could be used only for the purpose of the proceedings.

Damages

36. I now turn to the issue of damages. My task is to award general damages for libel. An award of general damages for libel serves three functions: first, to act as a consolation to the claimant for the distress and embarrassment which he has suffered from the publication of defamatory words, secondly, to compensate for the injury to his reputation; and thirdly, to act as vindication for his reputation. I bear in mind the overriding principle that, in order to comply with Article 10 of the European

Convention on Human Rights, an award of damages must be proportionate to the legitimate aim of compensating the claimant for the injury and distress which he has suffered and of providing him with vindication.

37. The need for damages to provide vindication was explained in the case of *Broome v Cassell* [1972] AC 1027 at p.1071 by Lord Hailsham LC who said:

“Not merely can (the libel plaintiff) recover the estimated sum of his past and future losses, but, in case the libel, driven underground, emerges from its lurking place at some future date, he must be able to point to a sum awarded by a jury sufficient to convince a bystander of the baselessness of the charge.”

38. Vindication is the single most important consideration for the claimant, particularly given the previous proceedings which he has had to take in order to scotch allegations of links to terrorism. It has been said that in some circumstances a reasoned judgment may provide some degree of vindication: see *Purnell v Business Magazine Ltd* [2008] 1WLR 1. Laws LJ, who gave the main judgment, held that a prior narrative judgment rejecting a defence of justification was capable of providing some vindication of a claimant's reputation, but that there were also cases where the judgment would provide no or no significant or reckonable vindication, such as where a defence of justification has been struck out and no consideration has been given to the merits. Here I am delivering a reasoned judgment and assessing damages in one operation, following a judgment entered in default. Given that this is not a contested decision on the merits, and given the defendant's continued assertion of the truth of the libels, it seems to me that the effect on damages of any vindication in this judgment must be marginal.

39. Factors which may be relevant to the level of general damages include the position and standing of the claimant and the gravity of the allegation, especially insofar as it closely touches the claimant's personal integrity and his business reputation. As Sir Thomas Bingham MR said in *John v MGN* [1997] QB 586 at p.607:

“The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must compensate him for the damage to his reputation; vindicate his good name; and take account of the distress, hurt and humiliation which the defamatory publication has caused. In assessing the appropriate damages for injury to reputation the most important factor is the gravity of the libel; the more closely it touches the plaintiff's personal integrity, professional reputation, honour, courage, loyalty and the core attributes of his personality, the more serious it is likely to be. The extent of publication is also very relevant: a libel published to millions has a greater potential to cause damage than a libel published to a handful of people. A successful plaintiff may properly look to an award of damages to vindicate his reputation: but the significance of this is much greater in a case where the

defendant asserts the truth of the libel and refuses any retraction or apology than in a case where the defendant acknowledges the falsity of what was published and publicly expresses regret that the libellous publication took place. It is well established that compensatory damages may and should compensate for additional injury caused to the plaintiff's feelings by the defendant's conduct of the action, as when he persists in an unfounded assertion that the publication was true, or refuses to apologise, or cross-examines the plaintiff in a wounding or insulting way.”

40. Far from apologising, the defendant in this case has repeated the libels and abused the claimant and his lawyers. I have dealt with the meanings which the allegations bore. They are that the claimant disgracefully and callously married off his daughter, Sarah (then aged only 13) to an elderly and disabled senior member of the Saudi royal family, as a gift and for no other reason than to symbolise the claimant's friendship with the royal family; that there are reasonable grounds to suspect that he has knowingly financed international terrorism, which fact has been confirmed by his daughter; that he was probably responsible for the notorious murder on 31st March 2004 in Fallujah, Iraq, of the (supposed) long term lover of his daughter and the mutilation, burning, parading and hanging of his body, which crime he ordered in revenge for their (supposed) relationship; and that he is and has been hunting his daughter and his (supposed) grand-daughter across London in order to ensure their execution in Saudi Arabia, by way of flogging, stoning to death or otherwise, and thereby the claimant has callously caused and continues to cause his daughter to fear for her own life and that of her daughter. This is one of those rare cases where the lawyers' customary hyperbole – that it is difficult to imagine more serious allegations – may perhaps be justified.
41. I have dealt with the extent of publication in this jurisdiction, which in my judgment is likely to have been several thousand, largely among Ethiopians living in this country.
42. I must also take into account the degree of distress caused to the claimant, judged objectively. The claimant is not, I judge, a man who wears his heart on his sleeve. But his distress as he described the effect of the article on himself and on his family was evident to me, and the more so because, as it seemed to me, he was doing his best to preserve his composure. The injury to his feelings has undoubtedly been aggravated by the defendant's behaviour since the claimant first complained of the article.
43. The practical ceiling for libel damages is perhaps £230,000 - £240,000, reflecting the award of £200,000 by Eady J in *Lillie v Newcastle City Council* [2002] EWHC 1600 (QB), with some adjustment for inflation. The claimant does not invite any direct comparison between that case and his own, although Mr Browne QC points out that an important flavour of the present allegations is appalling cruelty to his own child.
44. The court is entitled to have regard to previous awards made by judges sitting alone. It is true, of course, that the facts of each case vary to such a degree that unless another first instance decision is almost on all fours with the facts of the case being considered, such comparators are rarely helpful, but Mr Browne QC took me to a

number of cases where foreign claimants sued for publication of grave allegations in this jurisdiction: *Ghannouchi v Al Arabiya* [2007] EWHC 2855 (QB), *Veliu v Mazrekaj* [2006] EWHC 1710 (QB), [2007] 1 WLR 495 and *Berezovsky v Terluk and Russian State Television* [2010] EWHC 476 (QB). In *Ghannouchi* the award was £165,000 for a libel broadcast to an Arabic-speaking audience measured in hundreds of thousands, alleging that the claimant was an extremist linked to Al-Qaeda. In *Veliu*, an offer of amends case, the starting point was fixed at £180,000 for a libel alleging that the claimant was closely involved in the London bombings in July 2005, published by an Albanian language newspaper widely read by the 20,000 strong Albanian community in London, with an actual readership measured in thousands. In *Berezovsky*, the claimant was awarded damages of £150,000 for a television broadcast likely to have been seen by subscribers numbered in the thousands. The relevant allegation was that he was a knowing party to a criminal conspiracy to avoid his extradition and to obtain asylum by trying to procure a false confession from the defendant Terluk by bribery and drugs. That award is currently under appeal.

45. The quantification of damages may well be academic here (as Eady J observed that it was likely to be in *Berezovsky*), because enforcement of this judgment may be problematic. That is unlikely to be of great concern to the claimant, who has plainly brought these proceedings not for financial reasons but to obtain such vindication as he can. In any event, I have to approach the question of damages in the same way as a jury would, giving a verdict in effect without a reasoned judgment. Taking everything into account and looking at it in the round, it seems to me that a proper award for this libel is £175,000. That is the award which I make.