

A&L GOODBODY AND IRISH REFUGEE COUNCIL

ASYLUM LAW AWARD 2016

While this assignment is inspired by current events, the facts and individuals detailed are all fictional. Any similarities to the facts of recent or ongoing cases or individual asylum seekers are purely coincidental.

Your Task

You are a solicitor working with A&L Goodbody and you have volunteered to act on a pro-bono basis as part of the firm's early legal advice programme for asylum seekers. You have been asked to act for an individual from Iraq who has recently arrived in Ireland in search of international protection. Your task is to draft a legal submission of no more than 2500 words to the Office of the Refugee Applications Commissioner in support of your client's application for refugee status pursuant to the Refugee Act, 1996 (as amended). Please study the facts below and draft your submission citing relevant legislation, country of origin information, case law and other precedent (but only if relevant) and any other material you believe will aid your client's application.

Your Client's Story

Mohammad Ahmed Al Obaidi was born on 15 April 1996 in Mosul in northern Iraq, where he spent his childhood. Mohammed went to primary school in Mosul and was a very keen and bright student. Mohammad was a timid and shy child and at a young age developed a deep interest in Sunni Islamic teachings and doctrines which he inherited from his deeply religious father. Mohammed instructs that when he was younger he always wanted to become a Sunni Imam Khatib, which he explains is the equivalent of a priest in his religion. Mohammed received his secondary education in a madrasa in Mosul where his older brother, Tariq Ahemd Al Obaidi (two years his elder) also studied. Here Mohammad studied a modern curriculum (including English and French) together with Arabic, Islamic law, hadiths (recorded sayings and deeds of the prophet Muhammad) and Muslim history.

Mohammad's father, Ahmed Al Obaidi, was a local tribal elder and was an officer in Saddam Hussein's army and a member of the Arab Socialist Ba'ath Party in Iraq. His father was strongly associated with insurgent activities in Iraq post the US invasion in 2003. His father was strongly opposed to the current Shia-led Iraqi government. Although deeply religious and a stout disciplinarian, Ahmed Al Obaidi was a caring father who wanted what was best for his two boys and always ensured that they were well provided for in their childhood.

Mohammad's father pledged his family and tribal loyalties to the Islamic State of Iraq and Syria (**ISIS**) in 2013. He sent his two sons to train and fight with ISIS in August of that year, shortly after Mohammad had finished his secondary education. Mohammad was very reluctant to join ISIS and protested to his father on one occasion, as a result of which he was beaten with a leather belt. Mohammad's older brother, who believed strongly in the teaching and practices of ISIS, was more excited about the prospect and eventually convinced Mohammad it was for the best that he obeyed his father's wishes. While Mohammad and his older brother were very different, Mohammad had always looked up to his older brother and had a lot of respect for him.

Ahmed Al Obaidi arranged travel to Syria for his sons. The two boys received ISIS military training which included bomb making, suicide attacks and armed insurgency outside of Al Raqqa in northern Syria. After their training in January 2014 they were sent to fight the Kurdish forces of the People's Protection Units (**YPG**) in the Northern Syrian town of Kobani.

Mohammed has instructed you that during his time in Kobani he did not partake in any armed fighting and that he was mainly involved in assisting wounded ISIS fighters in makeshift hospitals. He was filmed a number of times by ISIS at the hospital and the footage was used as a recruitment tool on the internet. You have access to one of the videos published on the internet. Mohammed's brother was sent into front line combat immediately after he finished his training in January 2014.

Mohammad informed you that his brother carried out a suicide bombing on a YPG checkpoint close to the border with Turkey in June 2014, killing himself and 3 YPG soldiers in the process. Mohammed was devastated when he was informed of this news.

In late August 2014 Mohammed was told by his local ISIS commander to report to the front line. When he did so he was instructed to guard captured YPG soldiers. He helped guard the captured soldiers for two weeks during which time he witnessed other ISIS members brutally interrogating and torturing them. This made Mohammed extremely uncomfortable but he knew it would not be in his interests to object to anything he saw. One night one of Mohammed's supervisors found him tending to and feeding some of the injured YPG soldiers who were being held captive. As a result of this Mohammed was told that he was going to have to execute some prisoners the next day. Mohammed refused to partake in the execution of the prisoners as he believed that Allah would not want unarmed Muslim prisoners executed.

As a result of his refusal, the local ISIS commander ordered that he be detained. He was convicted in an ISIS military court of desertion and was sentenced to five years hard labour. He was put to work building trenches on ISIS operated oil fields. He suffered a leg injury when an oil field in the Deir Ezzor region in Syria on which he was being forced to work was bombed by French fighter jets in October 2015. Also during this time he was tortured by electric shocks and cigarettes were put out on his hands and arms by ISIS members. On one occasion when he refused to work as result of being too weak and ill he was tied to a stake and given 20 lashes across his bare back, many of which broke his skin and caused serious injury. Mohammed has shown you some of the scars from the cigarette burns on his hands and arms and has shown you a picture of the wounds and scars on his back.

Mohammed's father became aware of the plight of his son and reached out to a number of his contacts in ISIS based in Syria. He managed to filter a bribe of \$5,000 to one of the military prison guards who facilitated Mohammed's release in early November 2015. On the night of his release Mohammed was woken up by armed guards at 4am, had a canvas bag placed over his head and had his hands tied behind his back with cable ties. He was thrown into the back of a van which drove along rough terrain for what he thinks must have been 8 – 12 hours. Mohammed was sure that he was going to be executed.

Instead the next day he was handed over by the prison guards to an unnamed individual in the middle of the Aleppo Desert. The individual informed him that he was a contact of his father and had been instructed to transport Mohammed to safety in Turkey. Mohammed was transported to the Turkish town of Antakya by the individual and was given a sum of \$5,000 by the individual when he was dropped off there. Mohammed remained in Antakya until the start of December 2015. While in Antakya, Mohammed was put in touch with a group of smugglers who agreed to transport him to Greece for a fee of \$3,000. Mohammed was transported through Turkey in the back of a haulage lorry with a group of about 20 other asylum seekers.

When Mohammed and the group reached the Turkish coastline they were handed over to another group of men and the group were all squashed onto a rubber dinghy and transported to the Greek island, Kos. Mohammed informs you that the crossing was extremely dangerous and he feared that he and the rest of the group would drown. The sea was freezing and very turbulent and on one occasion two children fell from the dinghy, but luckily, were pulled back to safety. Miraculously, the entire group made it to the island of Kos in once piece.

When Mohammed arrived in Kos he was finger-printed and his details were recorded by Greek authorities. He was given a pass to travel to mainland Greece. Mohammed instructs that he never claimed asylum in Turkey or Greece. He remained in Greece for only three weeks. He instructs that he had a cousin in Ireland who had successfully claimed asylum in Ireland in 2012 (receiving refugee status in 2013).

Mohammed instructs that he managed to obtain a fake Italian passport. He flew from Athens, Greece to Milan, Italy, stopping over for one hour. He then flew to Dublin, Ireland on 28 December 2015. Upon landing at Dublin airport he approached a Garda National Immigration Bureau officer, handed in his fake passport and requested asylum.

Mohammad has been in Ireland for four weeks and has been staying in Baleskin direct provision centre in Dublin. He was informed by his cousin that his father was arrested, tortured and executed by ISIS forces in Mosul at the start of January 2016 as a result of his role in Mohammed's escape from military prison and this

has greatly distressed Mohammed. Mohammed also informs you that while in Baleskin he has been interviewed by Garda Anti-Terror Unit officers on two occasions, who have interrogated him in relation to his connections with ISIS in Syria. Mohammed informs you that he has explained his story in full detail to the officers and the last contact he has had with them was one week ago. Mohammed was referred to the Irish Refugee Council for legal assistance with his application for asylum and they in turn referred his case to A&L Goodbody Solicitors.

Some Useful Links:

<http://www.orac.ie/website/orac/oracwebsite.nsf/page/index-en>

<http://www.irishstatutebook.ie/eli/1996/act/17/enacted/en/print>

<http://www.irishrefugeecouncil.ie/>

<https://www.gov.uk/government/publications/iraq-country-information-and-guidance>

<https://www.gov.uk/government/publications/syria-country-information-and-guidance>

<http://www.unhcr.org/pages/49da0e466.html>

<http://www.unhcr.org/3d58e13b4.html>

<http://www.refworld.org/>