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Case No: ZE23P01211 and ZE24F60004

Neutral Citation Number: [2024] EWFC
332 (B)

IN THE FAMILY COURT AT EAST LONDON

Westferry Circus

Date: 25th October 2024

Before :

HHJ PURKISS

Re: B

**Ms Raminder Khasriya for the London Borough of
Redbridge**

F in person assisted by a QLR, Ms Mehtab Malhotra

M in person assisted by a QLR, Ms Angela Campbell

Mr Edward Flood for B by her Guardian, AM

Hearing dates: 7-11., 14 & 15 October

JUDGMENT

Her Honour Judge Purkiss:

1. The child who is the subject of this application is child B (“B”). B is the daughter and only child of F (“F”) and M (“M”). Both parents are from the Pakistani community. They are first cousins. M was born and brought up in Pakistan and moved to join F a couple of months after their marriage in 2008. F is British and grew up in the north of England.
2. The parents separated in 2021 and are in the process of divorcing. I am told there is an FDR later in the month. Since the decision to divorce, the parties have had to remain living at the family home with B. It is evident that this has exacerbated the problems between them. A significant degree of acrimony has developed, in part because of these proceedings. The court has viewed/listened to a number of recordings of arguments, some of which demonstrate a lack of self-control by both parents with examples of shouting and swearing, demonstrating very poor judgment about what has been aired in front of B.
3. The application was initiated by F. He applied for a Child Arrangements Order/ shared care. He was concerned that he was being excluded from B’s life and that she was being deliberately alienated from him by M. This had resulted, he said, in difficulties in communication between F and daughter and he found it difficult to spend time alone with her without M being present. M’s presence, he said, inhibited B from being able to speak to him freely and prevented him from wanting to press the issue in order to avoid conflict. M’s case is that B felt upset and let down and hurt by F’s decision to spend time away from the family home following the decision to separate. M denies alienating B from F. Whilst she agrees there are difficulties in their relationship, these have been caused solely by F and not her. For example, she says that F’s decision to scrap the family car because of the ULEZ charge made B very upset. Apparently, she was unable to eat for two weeks.
4. At the earliest hearing F raised concerns about what he described as attempts by M to isolate B from the wider British community. In his evidence he has cited examples of M apparently saying she did not want B to play with British children at school. He portrayed a girl on the cusp of adolescence increasingly home-bound: not allowed to participate in extra-curricular activities; focused on her religion (Islam) and encouraged to deprecate British values and society. This concerned him greatly. In addition, he was worried that M was attempting to alienate B from him because of his more liberal views which aligned with common British values. Of particular concern was his fear that the isolation was a way of preparing her for marriage – to someone from their particular community and specifically to a cousin. He says he heard discussions between M and one of her sisters which led him to believe that there was a plan to marry B to her first cousin, the son of her maternal uncle, who lives in Pakistan.

5. The context for F's concerns arise out of his knowledge of their particular community (which has not been the subject of challenge) and specifically his experiences within his own family. He says that he has been the victim of coercion and psychological pressure to marry his cousin. He has, in effect been forced into marriage.
6. M denies F's allegations. Within the proceedings, she has applied for permission to travel with B to spend time outside the jurisdiction – in Pakistan. In her final submissions she says that she believes B is at serious risk of abuse from F and possibly the paternal family. She opposes the “application for 50/50 contact and interim 3 hours” as ordered. She says B is at risk of emotional harm.
7. Each parent has raised allegations of coercive and controlling behaviour and F has said that M has been aggressive.
8. At one of the first hearings, the court made a Forced Marriage Protection order in relation to B as a protective measure. B was joined to the proceedings and is represented by a guardian. In addition, the court directed a s37 report from the Local Authority. Although the author of that report was on the witness list for this hearing, the report has not been either updated or challenged. The local authority, whilst not wishing to apply for a care or supervision order, did take over the conduct of the forced marriage application.
9. This hearing has been listed as a fact-finding hearing. QLRs have been appointed to conduct cross examination of each of the parents. It follows that there are four parties to this application: the Local Authority, represented by Ms Khasriya of counsel; F in person, assisted by a QLR, Ms Malhotra, M in person, assisted by a QLR, Ms Campbell the guardian represented by Mr Flood of counsel.
10. The hearing has been listed to determine the following issues:-
 - a) Was F forced to marry M?
 - b) Is there a culture and legacy of forced marriages in the family?
 - c) Has B been betrothed to her cousin in Pakistan or in the UK who is a similar age to her?
 - d) Have conversations taken place between M and her family members to make arrangements for B's marriage?
 - e) Was M subject to coercive and controlling behaviour by F during the marriage?;
 - f) Was F subject to coercive and controlling behaviour by M during the marriage?
 - g) Did M behave aggressively towards F during the marriage?

11. Position of the parties

12. The Local Authority section 37 report accepts that F has experienced forced marriage and supports the making of a FMPO. However, they appear to have resiled from that position to a degree. The case as put during the hearing appeared to undercut the support the LA had shown in its s37 report to F. The clearest example of this was the LA's challenge to F in cross examination that he had described his marriage as *arranged* in an historic case note (which he denied saying). The shift in the LA case, which has not been set out in any updating evidence since the s37 report has placed F at a disadvantage. Witnesses (such as the author of the note) who might have been called to give evidence so he could challenge the note, have not been called because F understood the Local Authority to support his case on the facts.
13. F invites the court to make the FMPO which would include a travel restriction in relation to Pakistan. He would like the order to be in place for as long as possible but at least until B is 18.
14. M denies there is any risk, denies F was forced to marry her and resists an order. She would like to be able to take B to Pakistan.
15. The Guardian does not advance a positive case but Mr Flood, on her behalf, has tested the evidence and explored a number of relevant issues arising from the papers.
16. **The Law** (with thanks to Ms Khasriya and Mr Flood)
17. **Findings of fact**
18. The law is well known in this field and uncontroversial and need not be recited at length but can be summarised as follows:
19. There is only one standard of proof in these proceedings, namely the simple balance of probabilities (*Re B [2008] UKHL 35*).
20. The burden of proof is on the party who makes the allegations. It is not reversible and it is not for the other party to establish that the allegation(s) are not made out. It is for F and the local authority (who are the deemed applicants in the Force Marriage Protection Order application), to prove their case for the continuation of the Forced Marriage Protection Order.
21. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred "common sense, not law, requires that in deciding this question regard should be had to whatever extent appropriate to inherent probabilities" – Lord Hoffmann in *Re B* at para.15: if a fact is to be proved the law operates a binary system in which the only values are 0 and 1 therefore it is open to the Court to make the following findings on the balance of probabilities:

- a. that the allegation is true
 - b. that the allegation is false.
22. The wide canvas is relevant in this case. Findings of fact must be based on evidence *not* speculation, as Munby LJ observed in Re A (Fact Finding: Disputed findings) [2011] 1 FLR 1817 at paragraph 26 “it is an elementary position that findings of fact must be based on evidence, including inferences that can be properly drawn from evidence and not suspicion or speculation”. When carrying out the assessment of evidence, regard must be had by a Judge to the observations of Butler-Sloss, then President in Re T [2004] 2 FLR 838 at para 33: “Evidence cannot be evaluated and assessed separately in separate compartments. A judge in these difficult cases must have regard to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward by the LA has been made out to the appropriate standard of proof”. The “wide canvas of written material”. Lies must be evaluated carefully: “if a court concludes that a witness has lied about a matter, it does not follow that he has lied about everything. A witness may lie for many reasons. For example, out of shame humiliation misplaced loyalty panic fear distress confusion and emotional pressure” – R v Lucas [1981] QB 720
23. Forced Marriage
24. Part 4A Family Law Act 1996 concerns Forced Marriage and confers on the court power to make Forced Marriage Protection Orders for “the purposes of protecting a person from being forced into a marriage, or from any attempt to do so, or protecting a person who has been forced into a marriage”. (s.63A(1)). The court “must have regard to all of the circumstances of the case including the need to secure the health, safety and wellbeing of the person to be protected” (s 63A(2)). Pursuant to Family Law Act 1996, s. 63A(3) there is a requirement that “in ascertaining that person's wellbeing, the court must, in particular, have regard to the person's wishes and feelings (so far as they are reasonably ascertainable) as the court considers appropriate in the light of the person's age and understanding.”
25. Parliament has neither imposed a threshold criteria nor a checklist of factors that the court is required to consider.
26. In Re K (Forced Marriage: Passport Order) (2020) EWCA Civ 190, the court set out a route map in four stages to be followed when the court is considering making a FMPO: (1) Establishing the underlying facts, with the burden of proof ordinarily resting on the person asserting the facts that are said to justify the making of a FMPO. This will include determining any disputed facts at an on notice hearing. (2) Based on the facts that have been found, determining whether there is a need to protect a person from being forced into a marriage or from an attempt to be forced into a marriage or to be protected having been forced into a marriage. (3) Assessing the risks and protective factors which exist. The court may be assisted by drawing up a balance sheet. In particular, the court must determine whether the facts establish a real and immediate risk of the subject of the application suffering inhuman or degrading treatment sufficient

to cross the Article 3 threshold. (4) If so, balancing the Article 3 and Article 8 rights, and within Article 8, respect for the subject of the application's autonomy. In assessing the duration of a FMPO the court should bear in mind that family circumstances change and it is unlikely that in all but the most serious and clear cases that the court will be able to see far enough into the future to make an open-ended order.

27. The Multi-agency statutory guidance for dealing with forced marriage and multi-agency practice guidelines: Handling cases of forced marriage (updated 13 April 2023) says this: *“a forced marriage is not the same as an arranged marriage. There are clear distinctions between them. In an arranged marriage, the families of both spouses take a leading role in the arrangements, but the choice of whether to go ahead with the marriage remains the decision of the prospective spouses. However, in a forced marriage, one or both spouses do not consent to the marriage but are coerced into it. An arranged marriage can, however, become a forced marriage if there is any form of coercion. Forcing someone to marry against their will can include in some cases physical violence and/or psychological, financial, sexual and emotional pressure.”*
28. Section 2.1 “Forcing an adult to marry” puts it this way: *“When it comes to the proposed (or actual) marriage of a person after they turn 18, there is a distinction between a forced marriage and an arranged marriage. In arranged marriages, the families of both spouses take a leading role in arranging the marriage, but the choice of whether to accept the arrangement remains with the prospective spouses. A forced marriage is a marriage in which one or both parties have not personally expressed their full and free consent to the union, and in which violence, threats or another form of coercion is used to bring the marriage about. An arranged marriage can also become a forced marriage if there is any form of coercion...”*
- “...Free and full consent is essential to all marriages and it may be the case that only the prospective spouses themselves will know if their consent is fully given and done so freely. Being forced into marriage can include acts of physical violence and/or psychological, financial, sexual and emotional pressure...It is also specifically an offence to practise any form of deception with the intention of causing another person to leave the UK where the aim is that, while that other person is outside the UK, violence, threats or another form of coercion will be used to cause them to marry...”*
- “...This reflects the common scenario in which someone intends to force a person into marrying overseas (where they are likely to find it harder to resist the marriage and to have less recourse to authorities who could protect them) and tricks them into going overseas by pretending that there is another reason for the trip... If families have resorted to violence, threats or any other form of coercion (which includes subtle forms whose coercive nature may not be apparent to the victim) as described above to make someone marry, then that*

person's consent has not been given freely and fully given and it is therefore considered a forced marriage."

29. 'Force' includes being coerced by threats or other psychological means under the statute (Family Law Act 1996, sec 63A(6)). "*... forced marriage cases are likely to throw up issues which are profound in the extreme, the subject matter itself is highly sensitive. In every case, as it seems to me, a clear distinction needs to be drawn between, on the one hand, forced marriage as a form of domestic violence and a serious abuse of human rights, and, on the other, the concept of the consensual arranged marriage which is rightly perceived as a cultural norm in certain societies and thus wholly acceptable...*" (West Sussex County Council and Anor v F, M, N, P and T [2018] EWHC 1702 (Fam) at para 18, Williams J repeating the guidance on the proper approach to the jurisdiction to grant forced marriage protection orders given by the then President of the Family Division, Sir Nicholas Wall, in paragraph 9 of Chief Constable and Another v YK and Others [2010] EWHC 2438).

30. The Evidence

31. I have read the evidence in the bundle, including a s37 report which has not been challenged. I have heard oral evidence from M, F, and M's two sisters. Cross-examination of each of these witnesses by the other spouse has been through their QLRs Ms Malhotra and Ms Campbell, whose assistance has been invaluable and who have advanced the parents' cases comprehensively.
32. The written evidence includes many local authority case notes and other documents the parents have exhibited to their statements as well as a number of video clips which I have watched – including some played during the hearing.
33. The volume of written evidence is large for a case of this type. It would be disproportionate and is unnecessary to refer to or recite summaries of all of the evidence. I have read it and taken it into consideration. I propose to focus on the evidence relevant to the issues I have to determine to avoid this judgment being too long.

34. Impression of the witnesses

35. I found F to be a compelling witness. His evidence was credible in his description of his family life both when living in the north of England and after he moved to the London area and was married. He is an intelligent and reflective individual and demonstrated insight into the impact of his own experiences upon him. He appeared genuine in his fear as to the risks of B being forced into marriage. He referred to the way in which adults from his community groomed children to choose marriage which aligned with adult plans and expectations and gave a vivid description of the attempts to force him into marriage with M's older sister. He is desperately sad at the breach in his relationship with his daughter. There was an inconsistency put to him arising out of the local authority records. He had described his marriage as arranged in 2021 rather than forced, as he now alleges. F denied having said this and the maker of the statement was not called to give evidence.

36. M gave evidence. Although an interpreter was booked for her and was available including during her evidence, he was hardly required. She is fluent in English and is an intelligent woman but with a tendency to impulsive and emotional behaviour. One obvious example consistent with this impression is the film taken by the front door camera video of M hurrying B into the car with suitcases before they travelled to visit family in the north of England in breach of a court order made in June this year, later telling the police who called her that she was at Heathrow airport. This was a serious provocation which would have been very upsetting and worrying to F. She could be observed on the video shouting that the order was “*totally wrong*” and has since seemed unapologetic about this sequence of events. M did not strike me as prone to bouts of introspection or reflection but tending to firm opinions on life choices which she approaches in a binary way. In this respect, her approach lacks sophistication, with little seeming grey area in decision making.
37. It is clear that M is family oriented. Her life revolves wholly around B, whom she loves very much. She is completely devoted to B and fiercely protective of her. During her evidence I formed the view, which increased as her evidence progressed, that she has been very badly hurt by F’s decision to end the marriage. His assertion that he never really wanted to marry her and was forced into it, has wounded her further.
38. She did not appear to have any direct knowledge of what was happening on F’s side of the family in relation to their marriage but she had been told that he wanted to marry her. She had also been told, in relation to the failed marriage between F and her eldest sister that F had told the family he didn’t want to marry the eldest sister but wanted to marry M and would return in 10 years’ time (as he did) to marry her. From her perspective it was a love marriage.
39. She is, I find, still very angry with him and there was little sense in anything she said that she valued him as a presence in B’s life. M had produced a number of video clips of family interactions/arguments to demonstrate the inappropriate behaviour of F. Most of these clips showed both F and M behaving badly and there were further videos which F showed, evidencing her swearing at F. She did not seem to be capable of recognising her own failings in those clips, by contrast with F who seemed upset when challenged about his conduct and fully accepted his behaviour had been unacceptable, describing himself as ashamed.
40. As her evidence progressed, my impression that she was tailoring her answers in order to avoid giving the impression that she was in any way hostile to western culture increased. She denied restricting B’s friendship groups, despite there being clear evidence from the school that she had been unhappy about B associating with non-Muslims. She denied even speaking to B about marriage, despite B’s own statements to others suggesting otherwise.

In essence, she was denying any pressure being brought to bear upon B to behave in a certain way. When asked whether she would object if B decided not to get married *it was her choice*, or if she wanted to marry a woman *it was her choice*. I did not find her answers to these questions remotely convincing as evidence of her tolerance of or respect for B's autonomy. She has involved herself to such a degree in her daughter's life and choices that the reality is it would be very difficult for B to express a contrary view. A clear example supporting this analysis is contained in the recorded discussions between B and F about the proposed school trip.

41. According to F, everyone in B's year group was going on the trip and M did not want B to go. B wanted to go on this trip and knew her mother did not, so she approached F and discussed the topic with him. F recorded an exchange between them on the way home from school in which he and B were in effect colluding about how to manage the fact he had paid the deposit for the trip to enable her to go. The end of this clip records the discussions which took place with M following their arrival home. M appeared to have been made aware of the deposit being paid to the school when F and B arrived home. She sounds cross and immediately explains to B that B is her child and that she knew her better than anyone – the implication being she knew her best and would decide. B said that she wanted to go but part of her didn't want to go. I found M's responses during the recorded exchange to be manipulative and undermining of B's ability to make a choice. She was highlighting the difficulties B she would encounter so far away for so long if she changed her mind. This *was* putting pressure upon B not to go, although she denied it. She told B that she could not sleep over at one of her school friend's houses because we never sleep over at other people's houses.
42. I found M's evidence about this episode, which ended with B saying she did not want to go on the trip, lacking in credibility. It is clear from the video clip that when she spoke to her father she *did* want to go, even if she subsequently changed her mind. M's conversation with B undermined her confidence about making any trip away from home. B's change of mind is, as I find, more likely to have been linked to the fact that the proposal caused parental conflict and she was trying to keep the peace.
43. F was criticised for colluding with B in relation to this proposed trip. The exchanges between F and B do include his persuasion of her to go on this trip. M was attempting to persuade B to her point of view, albeit in a more directive way. What occurred in relation to this trip provides evidence of the difficulty these parents have experienced in being able to reach a consensus between themselves about the trip rather than involving B in that conflict, to her detriment.
44. I note that M felt justified in flagrantly breaching a court order with which she disagrees which reinforces my impression of her as a woman with firm opinions who will brook no disagreement.

45. A, the maternal aunt, had lived with the family for a few years following the breakdown of her marriage to a cousin. She gave evidence with the assistance of an interpreter and was cross examined by father's QLR. I agree with Mr Flood that it was clear that A's agenda was to give evidence to support her sister. For example, she insisted that her second marriage was "*not to a second cousin*" although she conceded they were related but it was only "*distant*". When challenged how they were related she replied it was something to do with his mother and her father being related although she claimed not to know how. She was obstructive when asked about whether she had been in love with someone else before her second marriage, eventually denying it in evidence which sounded unconvincing.
46. She said her first marriage had not been a forced marriage but it was unclear she understood what that meant. She described it as an arranged marriage which was "*like a concept between two parties. Two people who want to get married*". Her mother had made the arrangements for her to meet her husband. Her mother had told her that "*if you like someone have a choice and if not give me permission I choose for you*". She had met her husband once on a previous trip he made to Pakistan. Initially unsure, she had been given a day to decide. She said the choice was hers. After the decision, her cousin's family returned to their home, returning after five days for the wedding. She and her first husband subsequently divorced for reasons which were unclear.
47. A number of examples of first cousin marriages were put to her and she professed either not to know about the marriages or appeared to be Disinterested: "*it is their life*". I found her responses evasive and unconvincing on this issue.
48. She was unable to assist with direct recollections in relation to the eldest sister and F's proposed marriage, saying "*I don't want to interfere in this issue, was a child at the time*". She only remembered he [F] had come to the house and then left. To most of the questions put to her, her response was that she "*didn't know*" and had not spoken to the eldest sister about this later although she did accept she was close to her sister the eldest sister. She denied any knowledge of a family rift because of the dishonour of F's refusal of the marriage. She denied that it would have been considered dishonourable in the family culture for him to have refused the eldest sister. She did accept that there was no contact between the two branches of the family between 1998 and 2008.
49. Her recollection of F's marriage to M was hazy and she claimed she had never spoken either at the time or since to M about the circumstances in which they married. She did recall that it was F's mother who was putting pressure on M's mother that they should be married.
50. Under cross-examination, she gave an answer which I attempted to clarify at the end of her evidence. She had been asked if she was unhappy with B adopting western culture? She replied in no B was very nice and she [A] had never been unhappy with her. The question was put again and she said: "*No never. She has never adopted anything like that. She used to play with me. I used to play whenever hungry I used to serve her food.*" At the end of her evidence, I went back to that question and answer to better understand what she was trying to say when she said: "*she never adopted anything like that*".

She said she had been confused and didn't know what to say when asked. I then asked her a series of questions about the differences between western culture and her culture. Her answers were vague and non-committal, for example: "*so every person has a choice and if they want to do something or choose to do something that is their choice.*" It was my impression that despite her protestation that she was confused by the question, she was not confused at all but was giving these answers to support her sister. It was not credible that as a Pakistani immigrant who had experienced life in both cultures, she was unable to identify and articulate any differences between her culture and western culture and it was notable that when asked to do so, she declined and simply expressed the view that it was a matter of personal choice.

51. When asked about her experiences of living with the family, she confirmed that the parents had argued, sometimes daily, in front of B and she had cautioned her sister against this.
52. R, another maternal aunt, gave evidence remotely through an interpreter with cross examination through the QLR. She lives at a distance from the parents. It was clear that she had far fewer dealings with M and F during their marriage than A who had lived with them for a period of time. Her evidence gave much the same impression as A's. She seemed hazy about the details of M's marriage to F and denied that her son was betrothed to B. I thought that R saw her evidence as an opportunity to support M.

53. Family culture and context for allegations

54. Within the wider family there is, as F contends and M agrees, a culture of first cousin marriage. F, in unchallenged evidence, stated that first cousin marriages are a symbol of elevated status, in that a united family promotes the overall unity of the family. Betrothals take place, he says, when the bride and groom are children and the marriages performed later. M and her sister denied the early betrothals, but I found F's evidence convincing.
55. He put forward some specific examples of coercion. So, when a family member married A (a first-cousin marriage), he told F he did not want to get married as he had a girlfriend. F said that family member was forced to marry A. A denied this. I accept that the family member did not give evidence to contradict A's account, although her evidence on the topic of marriage and relationships was somewhat argumentative and evasive. She said they met each other and the introductions took place over a period of 5 days with A given a day to think about whether she wished to marry the family member and a day to choose.
56. Neither M nor R claimed to know why A and the family member separated. Given their closeness this appeared unlikely. A refused (at least initially) to respond to a question about another man, whom F said had been her boyfriend. She accepted she had married another cousin as a second marriage but was at pains to tell me it was not a close relative.
57. In addition to A and the family member, three other couples, all first cousins, are married.
58. I am satisfied that the family practice in this family is for arranged marriages

and first cousin marriages. In addition, I am satisfied that the arrangements for marriage are made by the elders in the family, the parents of the prospective spouses. The options presented to the prospective spouse are limited and have been pre-selected as appropriate. The marriages which take place are arranged in a short space of time within days or weeks. There are family members who have not married, or who have married and then divorced. I accept F's evidence of betrothals during childhood with marriages in adulthood.

59. Turning to the particular issues to be determined in this hearing. I propose to take the second first as it is logical to do so.
60. **Is there a culture and legacy of forced marriages in the family?**
61. I found the LA submission on this and their cross-examination of F a little surprising given that their s37 report, which has not been amended in advance of this hearing, accepts that F was forced into marriage and accepts there is a risk of forced marriage to B in this case. Nevertheless, I have considered the points raised on their behalf, which could have been raised by M.
62. The LA says that F's case is undermined by the fact that there have been no *underage* marriages in the family. I do not think this assists on the issue of whether or not there is a culture of forced marriage. F's evidence is of betrothals in childhood and marriage after the age of consent.
63. The LA also points to the fact F had British girlfriends before his marriage. I do not consider this assists on the question of whether his family attempted to force him into marriage because his evidence, which I accept, was that he had been shunned and abused for dating British girls, conduct which was perceived by family to be inappropriate.
64. The LA says further that F's siblings were not forced into marriage, one of his female siblings marrying at 51. This is true. However, it is also relevant that she had been sent to Pakistan to marry her first cousin, as a young woman at the same time as F, who was sent to marry M's eldest sister. That female sibling has filed a statement saying her own father assisted her when she called him from Pakistan and said she could not go through with the marriage to another cousin. The LA submits this could contradict F's characterisation of his parents' conduct. It could do so. However, I have not heard evidence from that female sibling, who has declined to come to the hearing to give evidence, meaning that her statement carries less weight than had it been challenged. Nor have I heard evidence from the paternal grandparents. In addition, that female sibling's statement contradicted M's evidence which was that it was the male cousin who "*rejected the female sibling when he saw her first time.*"
65. F explained his sister's non-marriage in this way: "*this is what happens in the culture if you have an engagement and it is broken off you are dishonoured. [His sister's] situation was dishonoured*" the inference being that she was no longer considered a suitable marriage candidate. I make no finding about the circumstances of his sister's failed arranged marriage to the cousin. Suffice it to say that they did not marry, although there appear to be different explanations for this in the evidence. Nor did she marry until she was 51. She did however, travel to Pakistan with F in contemplation of a marriage to her

first cousin.

66. Each of the witnesses has been able to give evidence about family practices. F's evidence is about his childhood/teenage years and young adulthood and the proposed marriage to M's eldest sister which he alleges was forced. It is important to consider F's allegations in relation to the marriage proposed to him and to M's eldest sister in 1998.
67. F gave evidence convincingly about his own journey to adulthood. He had known from a young age that he was betrothed to M oldest sister (his first cousin as well as M's older sister). His parents, and in particular his father, expected him to go through with the marriage. He described that he had white girlfriends when he was a young man but this brought him into conflict with his family and with other members of the Pakistani community. His sisters berated him for going out with one of these girlfriends, calling him a dog walking around with a white girl.
68. His father put pressure on him to fulfil the expectation of marriage and in 1998 he accompanied his sister to Pakistan. They were engaged to a couple of siblings (M's eldest sister and M's brother) who were their first cousins. He described arriving in Pakistan and the two branches of the family spending time together. Almost immediately he knew that he did not want to marry M's eldest sister.
69. He says, in evidence which I accept, that he was subjected to physical violence, threats of being cast out from the family, continuous verbal abuse with the aim of making him go through with the marriage and finally his passport was stolen to prevent his leaving and returning to the UK. He described having to go to the High Commission in Pakistan in order to obtain emergency travel documents to permit him to return to the UK. There is some corroboration of this in the bundle in the form of a letter from the Home Office confirming that in September 1998 he obtained a 1-year passport from the British High Commission in Pakistan stating he had lost his passport. He wasn't challenged about his claim the passport had been lost rather than stolen when presenting for the emergency passport. I accept his account it was stolen.

70. M and her witnesses denied the violence and the threats and the stolen passport, although their denials were somewhat vague particularly as they claimed either not to know or not to remember other aspects of this episode. They were young at the time and not necessarily privy to plans or family discussions on this topic and it was my impression that they were presenting a unified front in defence of their family without much actual knowledge of the detail of what had occurred.
71. They did agree that the marriage with M's eldest sister did not take place and appeared to accept this was because F didn't want to marry M's eldest sister. R's statement confirmed the double engagement between the two siblings. A remembered, when cross examined that F had left "*run away*". She adding that she didn't know why but "*his M told me he left but don't know about any marriage arrangement*". She said she didn't know if F had been pressurised to marry their eldest sister. Unconvincingly M's and R's explanation was that F had refused to marry their eldest sister because he wanted to marry M. There is no evidence that any of the witnesses *heard* him say this to anyone. They heard it (so they said) from others within the family. I do not discount the possibility that one of M's parents may have said something along these lines later, as part of an explanation as to why marriage between M and F was proposed and M's eldest sister was rejected by him, but I do not find this to be the reason (not having heard from the grandparents). Nor I do find that F did give this explanation for not wanting to marry M's eldest sister. He denied it robustly in the witness box and I believed him.
72. None of the sisters appeared to have reflected on whether the version of events they had been given by their own family was true. This family "legend" was simply presented by them as the truth. It is of course, entirely possible that M (and her sisters) were provided with this explanation in order to encourage her to think that F was very much in love with her and to encourage her into marriage.
73. A confirmed that the families were not in contact after F rejected the eldest sister this episode but said she didn't know why. The impression given by all three sisters was that there was no rift between the two branches of the family as a result of this failed attempt at marriage. F says the rift was serious and that the families did not speak to each other for about 10 years because of the offence/dishonour which had been caused by F's rejection of M's eldest sister.
74. I found F's evidence compelling and convincing when describing this sequence of events and I preferred his evidence to that of the three sisters. F is telling the truth when he says that an attempt was made to force him into marriage with M's eldest sister, which he resisted. It was clear this had a profound impact upon him and also upon the relationships within the wider family, with a serious rift between the two branches of the family persisting for 10 years. I do find, on balance, that there is a culture of early betrothal, arranged and sometimes forced marriage within this family.

75. Was F forced to marry M?

76. F has given evidence about the pressure which was brought to bear on him to marry M. He was nearly 40 when he married M and had just emerged from a long-term relationship with a British girl for whom he still had feelings. In his statement he described being in a vulnerable state at this time. He says that his uncle invited him to Pakistan to choose a bride from Pakistan. He thought the time was right for marriage and agreed to make the trip. Once there, he was made aware of the shame he had brought upon his family by rejecting M's eldest sister and came under pressure to marry M, including from his own mother, who had accompanied him on this trip. He described being introduced to women only from his own family. In his oral evidence he said that at the time, he was not really attuned to this manipulation of his choices but looking back on it, particularly now he has received advice and information from the Forced Marriage Unit, he thinks that his choice was manipulated. He says he thinks he was being watched to check he was not going out unaccompanied (an uncle was waiting in the lobby of the hotel). There were fights which took place at the homes of the two brides other than M and looking back he thinks these events were engineered to steer him towards M.
77. Of his decision to marry, he says he was persuaded that M had a bond with him, but he now realises the marriage was simply transactional from her perspective, citing her arrival in the UK a couple of months later.
78. M wholly rejects the suggestion that father was forced into the marriage. In doing so, she did not refer to any declarations of love from him to her, nor did she describe any moments of intimacy between them, whether an innocent meeting of the eyes or some other sign of a connection between them, during family meetings which led her to believe that there was or could be love between them. The evidence she relied on was what she had been *told* by her own mother: that he had rejected M's eldest sister because he wanted her.
79. I accept F's evidence about his culture and his family's practices. The evidence he provided in his statement about the conduct of his father, including towards his mother was not challenged in cross-examination and I accept it as consistent with these cultural and family practices.
80. I find on balance that in 2007/8, F was pressurised by his family, including his mother, father and also members of the extended family to marry M on his return trip to Pakistan. Consistent with this evidence was A's oral evidence that F's mother had been pressurising her parents for the marriage. Part of that pressure was applied because the family, and his mother, whom he said was instrumental in the attempts to get him to marry M, wanted to repair the damage he had caused to the family's honour by rejecting M's eldest sister and returning to England in 1998.
81. I accept that this psychological pressure and the manoeuvring of him into a situation where every option other than M was either cut off from him or appeared unpalatable probably was instrumental in his choice of M as a bride. I accept, too, that there was pressure placed on him to uphold family honour and rectify his previous "mistake". However, on the evidence before

me, I am not persuaded that he was *forced* into marriage with M. Although great pressure had been applied to him, I think he did make a choice to go ahead with the marriage.

82. As a much younger man, F had already show himself sufficiently independently-minded to pursue the life he wished to live, including having at least a couple of English girlfriends and rejecting M's eldest sister. I am confident that had F genuinely not wanted to marry M, he could have and would have declined to do so. So, whilst I accept that left to his own devices he may not have pursued a marriage at that particular time with M and I accept his evidence that he had not been intending to marry her for 10 years or ever said so, he did take a decision to marry her in 2008 and he went through with the marriage in the hope and with the commitment to make it a successful marriage
83. **Has B been betrothed to her cousin in Pakistan or in the UK who is a similar age to her?** and
84. **Have conversations taken place between M and her family members to make arrangements for B's marriage?**
85. I propose to take these two issues together to avoid duplication.
86. F's concerns about the possibility of B being forced into marriage or having a marriage arranged for her have been raised a number of times and over a period of years. He refers to multiple occasions when he has overheard M talking about B being betrothed to a first cousin. B is apparently unaware of any such betrothal.
87. On 6th May 2021, F raised this concern and M was spoken to by a social worker. She did not deny having a conversation about marriage but claimed it was not about B. She said she would not allow B to marry until she was ready. Later that year on 20th October, M was asked about F's allegation he had overheard a conversation about B being betrothed to her 14-year-old cousin. Again, her response was not to deny the conversation had taken place, but she claimed it was about someone else and not B.
88. M was asked about these conversations when she gave evidence in this hearing. She was unable to explain who she was talking about if it wasn't B. She said she was not talking about anybody. At the end of her evidence, she claimed that B would be able to choose. She said she would not mind if B did not marry. Nor would she mind if B chose a same-sex spouse. I found M's oral evidence evasive and unconvincing on the issue of B's marriage prospects and choices. In her oral evidence M claimed never to have discussed marriage with B despite evidence to the contrary (for example, B's conversation with the social worker when she said she had spoken to her mother about marriage but not her father and that she thinks at the age of 22 she will have a fiancé and might be proposed to at the age of 20). Nor did I believe the evidence that M had not discussed B's future marriage with her sisters. The sisters are close. It is implausible to think there will have been no discussion about this topic given the family culture. In light of my findings about the family's approach to marriage and the instrumental role of parents in arranging marriages for their children, the most likely analysis of the

conversations overheard by the F, which M did not deny had taken place, is that M *was* speaking about B's marriage and her betrothal to a cousin rather than having conversations about others whom she cannot now recall or nobody as she added.

89. I am reminded by Mr Flood about the importance of considering the reasons why M may not have been truthful in her evidence on this topic. It is possible that she has been defensive, panicked and untruthful about these conversations for fear they will be interpreted as evidence she plans to marry B to her first cousin when there *is* no active plan to marry her to a cousin. I have considered this, particularly as M strikes me as a volatile and impetuous character. However, the allegations she has faced have been set out in written evidence which has been available to her for some time. My impression was not that her answers were the panicked response of an innocent party or that there was an explanation for her dishonesty other than the most likely: that B's marriage with her cousin was being discussed because it was proposed.
90. Congruent with this interpretation is the fact that M has denied, implausibly and dishonestly, many aspects of the family culture and practice in relation to marriage which the court has found established. She has claimed that the inter-cousin marriages were love marriages (which suggests a degree of knowledge about the couple in question) only to deny any detailed knowledge of when or why they separated. She has claimed B can choose whomever she wants, or nobody at all which, on the evidence appears unlikely to be true (a) given the family culture of arranged marriage and (b) her strict control of B's choices, e.g. the school trip, no sleep-overs.
91. There is nothing inherently risky or wrong in families from a particular culture arranging marriages for their offspring as long as there is valid consent to marriage and the marriage take place legally. All children are brought up with the weight of family expectations, whether to finish their education and go to university or choose a professional career. Some choose a different path than the one their parents expected. One of the challenges of parenthood is understanding and accepting that parental influence over children's life-choices diminish with a child's developing autonomy.
92. M has *said* many reassuring things in her evidence about B being able to make her own choices, but when faced with examples to provide B with an opportunity to exercise a choice with which M disagrees, it is clear that M has undermined her confidence in those choices and/or refused to allow her to carry through her choice (eg the school trip and sleep-overs). This approach has been the subject of bitter arguments between the parents. Whilst these examples could indicate that she is a conservative and religious individual who is keen to exercise legitimate parental choice to ensure that her daughter remains observant to her religion and is protected, the weight of the evidence from F, coupled with her and her sisters' lack of transparency and candour, suggests it is more than that.

93. There is other evidence which lends support to an analysis that F's allegations are true and that B is betrothed to be married to a cousin.
- i) In the s37 report (unchallenged), it is recorded that B told her school in November 2023, as recorded in the s37 report that "*M told her she should avoid her father and not talk to him*" She denied it later. The report also records that: "*B has also been critical of her father in relation to his knowledge and practice of Islam.*" This is congruent with F's evidence of M's attempts to isolate B from him and his influence. This latter comment in particular appears to go beyond an attempt to keep B away from him. It is an attack on his propriety.
 - ii) F points to the evidence denying boyfriends and girlfriends in the family culture, suggesting the lack of a choice which many would consider to be a legitimate basic choice available to British teenagers.
 - iii) Further, the evidence which suggests that B is being brought up to believe that mainstream British culture is to be deprecated (B's remarks to him).
 - iv) B's comment to her father in June 2023 that she might be married before she went to university.
 - v) The closed category of potential spouses that are likely to be put before B as demonstrated by the history of betrothals and marriages in this family and the evidence of active consideration by B's mother and maternal family, to the extent there may already have been a betrothal, to a first cousin (whether in the north of England or Pakistan).
 - vi) A's evasive evidence about B's adoption of western culture ("*nothing like that*") which she then was unable to explain, in evidence lacking in credibility, by reference to any differences between the two cultures.
 - vii) Further evidence is found in B's diminished school attendance in 2023: 78.7 % which F alleged was the precursor to M's moving B to Pakistan to home-school her (the statistic was unchallenged), the context for this being that M had threatened to go to Pakistan.
 - viii) M's provocative remark to police that she was at Heathrow airport, when she contravened the order refusing her permission to take B on holiday in the summer, suggesting an uncompromising refusal to accept as valid any restriction upon her parental responsibility, even when ordered by the court.

- ix) The very fact that there was an attempt to force F into marriage to M's eldest sister in this case whilst not determinative of the issue of whether or not such a risk exists for B does support an analysis that there is a risk of B being subject to a forced marriage, in the face of M's denials.
94. For all of these reasons, I do consider it to be likely that there have already been discussions about B's marriage to a cousin and specifically B's betrothal to a first cousin. M's dishonesty about that fact does indicate there is a risk of B being forced into marriage contrary to her wishes.
95. If B were able to enjoy a proper relationship with her father, who clearly does not want her to be subjected to a marriage she cannot choose, this would be a powerful protective factor for B. At present, the breakdown in their relationship means that there is little, if any, protection offered to B through this relationship.
- 96. Was M subject to coercive and controlling behaviour by F during the marriage?**
Was F subject to coercive and controlling behaviours by M during the marriage?
Did M behave aggressively towards F during the marriage
97. I propose to deal with these three allegations together to avoid duplication. Practice Direction 12J stipulates that "*domestic abuse includes any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial or emotional abuse. Domestic abuse also includes culturally specific forms of abuse including but not limited to force marriage honour-based violence, dowry-related abuse and transnational marriage abandonment.*
98. "Coercive behaviour" means *an act or pattern of acts, assaults, threats, humiliation and intimidation or other abuse that is used to harm, punish or frighten the victim.*
99. "Controlling behaviour" means *an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour"*
100. There is very little specific evidence about behaviours which could be described as coercive or controlling being exhibited by either M or F during the marriage.

101. M spoke of F having many bank accounts by comparison with her own but there is no reliable evidence of financial abuse. There is plenty of evidence which suggests that F supported M well during the marriage, not only financially but socially. He encouraged her independence rather than restricted it, supported her to learn English and integrate and encouraged her to work and to have a career. M spoke of B being emotionally harmed by F's decision to get rid of the family car because of the changes to the Ulez charges. She said B had not eaten for two weeks, after this, which was exaggerated, dramatic and implausible evidence of domestic abuse. She is disturbed by the evidence B had threatened self-harm on one occasion, which emerged in the oral evidence of F and attributes this entirely to F's conduct.
102. F did come under pressure, the evidence disclosed, to permit A to live with the family for a period of nearly three years, about which he did not appear to have been very happy. However, this sort of negotiation between spouses: the tension between wider family obligations and the preference of one's spouse can be a feature of many marriages and does not in my judgment evidence coercive control.
103. Both M and F in this case are headstrong, opinionated people. Neither strikes me to be a character likely to instinctively subordinate their own wishes. Both the lack of specificity within the evidence and the evidence of the couple themselves lead me to conclude that these allegations are not established on the balance of probability.
104. However, there is plenty of evidence, provided by each, which suggests that living together after the separation has resulted in significant disputes, loud arguments and bad behaviour by both M and F. This behaviour has included shouting, swearing and the use of humiliating language for example when M called F a donkey while speaking to her father on the phone. Each of them has, on occasions, used B to convey messages to the other which is wholly inappropriate and each of them has been reckless about the extent to which she has been exposed to their disputes. B has, likely, been emotionally harmed by the abusive conduct of each of her parents. F had good insight into his own responsibility for this. M did not.
105. In addition, there is, as the Guardian submits, credible evidence that M has influenced B with the effect of distancing her from her father, a clear example of this being the fact that B has moved from her own bedroom into her mother's bed. M's explanation for this was inconsistent, saying at first that it happened because F wasn't there and then suggesting that it was because she was having nightmares. There are also other statements B has made to professionals which suggest her mother is unhappy for her to associate with her father. M has, I find, created a hostile environment within which B has not felt free to have contact with her father.

106. CONCLUSION

107. In this case, for the reasons explained, I do consider that there is a risk to B of forced marriage. The evidence indicates that within the family, arranged first cousin marriages are practised and that the category of potential spouses is closed to relatives. There has already been a discussion about B's betrothal to her first cousin and she may already be betrothed. This coupled with the evidence I accept of M's threat to remove B to Pakistan and her flagrant breach of the July court order (for which she is wholly unremorseful) means that the threat is real and immediate.
108. B's views are very important. She is not of an age where she is able to legally consent to marriage or betrothal. She appeared somewhat revolted by the notion that she might be betrothed when the subject was discussed with her. I infer that whatever discussions have taken place with B about future marriage prospects, have not conveyed to her the full intentions of her mother and maternal family in his regard.
109. B does, in my judgment need to be protected from the risk of being forced into marriage. I propose to make a Forced Marriage Protection Order until B is 18, in order to protect B from any attempt to remove her from this jurisdiction with a view to forcing her into a marriage with a cousin. Once she has attained the age of 18, B should be free to make her own choices about her life. If she, or her father, or anyone else considers the risk to subsist, they can make an application to the court.
110. Other applications
111. F applied for an expert in forced marriages. Given my findings, it is not necessary for the court to adjourn the decision on whether or not the court should make an order. I dismiss that application.
112. M has applied for permission to travel with B to spend time with her maternal grandfather outside the jurisdiction. This has not been pursued actively within this hearing. Granting permission would be inconsistent with my findings about the risk to which B would likely be exposed if such a trip were to take place. I dismiss that application.
113. F has applied for occupation and non-molestation orders. I am not satisfied that the evidence supports such orders being made. What the parents need to do is resolve the outstanding financial remedies application. In the meantime, they should desist from engaging in arguments.
114. F's application for a child arrangements order and a shared care arrangement. It is envisaged by the guardian that she will prepare a further analysis following this hearing. What is vital is that the order of the court in relation to B's contact with her father made on 5.6.24 must be complied with, without exception. This provides that: *Mother shall make B available to have contact with father once per week for a minimum of 4 hours where she should leave the family home to allow B and father to spend time together undertaking an activity chosen by father and B or father should take B out of the home. Father shall ensure he is available for any planned activity and in the event that*

B does not wish to participate in the activity or indicate she wishes for the activity to cease the contact period shall come to an end. B should not be forced to engage in any contact activity which she does not wish to engage in.

115. I propose to direct short statements from the parents setting out future proposals for child arrangements plus a further analysis from the Guardian and list this case for a short hearing. I shall hear from all parties on the timetable for evidence before making any order.