

ENGLAND AND WALES / JUDGMENT

LA v M & Ors

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Neutral Citation Number: [2025] EWHC 630 (Fam) IN THE HIGH COURT OF JUSTICE FAMILY DIVISION Case No: ZC23F05005 Royal Courts of Justice Strand, London, WC2A 2LL Date: 18/02/2025 Before : MRS JUSTICE LIEVEN

- ----- Between : LA and M and F and X and Y and Z Applicant First Respondent Second Respondent Third Respondent Fourth Respondent Fifth Respondent
- ----- Ms Catherine Jenkins (instructed by A Local Authority) for the Applicant Ms Rabia Mir (instructed by VLS Solicitors Ltd.) for the First Respondent Mrs Kemi Ojutiku (instructed by Dawson Cornwell LLP) for the Second Respondent Mr Tom Wilson (instructed by Goodman Ray) for the Third, Fourth and Fifth Respondents The Guardian was also in attendance and was represented by Ms Ami Bartholomew and Ms Ravi Mahey (of instructing Solicitors Cartwright King) Hearing dates: 22 January 2025
- ----- Approved Judgment This judgment was handed down remotely at 10.30am on 18 February 2025 by circulation to the parties or their representatives by e-mail. MRS JUSTICE LIEVEN This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court. MRS JUSTICE LIEVEN Approved Judgment Mrs Justice Lieven DBE : ZC23F05005 1. 2. 3. This judgment concerns further proceedings in respect of this family, and the risk of forced marriage for their children. The Local Authority (“LA”) were represented by Catherine Jenkins, the First Respondent (“Mother”) was represented by Rabia Mir, the Second Respondent (“Father”) was represented by Kemi Ojutiku, the Third, Fourth and Fifth Respondents (“the young people”) were represented by Tom Wilson, and the Guardian was represented by Ami Bartholomew and Ravi Mahey. Both parents had the benefit of Pashto interpreters although on Day One they had to share an interpreter. I gave judgment on 1 May 2024, reported as LA v M & Ors [2024] EWHC 1336 (Fam), making Forced Marriage Protection Orders (“FMPO”) in respect of the young people up to their 18th birthdays. The issues now before the Court are whether to extend the FMPOs until the young people’s 21st birthdays, and whether to extend the Passport Order in respect of the parents to Z’s 21st birthday, i.e. six more years. History 4. 5. 6. 7. 8. The parents were both born in Afghanistan and were married in 2003. They have six children: A (female, aged 21); N (male, aged 20); C (female,

aged 19); X (female, aged 18); Y (male, aged 16) and Z (female, aged 15). The last two children were born in the UK and the entire family are UK citizens with Afghan identity cards. They have lived in the UK since 2007. It appears that A was married in 2021 in Afghanistan, probably when she was 17. C told the social worker in 2022 that A had not wanted to get married but had subsequently accepted the marriage. No findings have been made in respect of that marriage. In February 2022 C alleged to teachers at her school that she had self harmed and had been subject to physical chastisement by her parents. On 9 June 2022 C told the safeguarding lead at the school that her parents had booked tickets to take her to Afghanistan to be married. She said she would have to marry the man and had no choice. C told the social worker and the police that she was in trouble for vaping and her parents had brought forward plans for her to be married and that she had no choice. On 10 June 2022 the LA applied for an FMPO. At that time there was then a rather unclear dynamic within the family which suggested the older two children were supporting the parents. In any event, on 14 June 2022 an FMPO and Passport Order were made and then renewed subsequently. The parents denied any plan to force C into marriage and suggested she had lied to the school and the social worker. In October 2022 the parents agreed to work with the Halo Hope Charity ("Halo"), a charity which works, inter alia, to prevent forced marriage. Halo provided a report in January 2023 saying that the parents had engaged well in the work done, and there was a reference in the report to C making things up. MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 9. 10. 11. 12. In light of the Halo report, the FMPO and Passport Orders were discharged on 9 March 2023. On 18 July 2023 (according to the Father's statement of 22 September 2023), the family travelled to Saudi Arabia for Umrah. The Father says he booked one way tickets because it was cheaper. On 25 July 2023 the family travelled on to Afghanistan. The history of the case and the proceedings between September 2023 and May 2023 is fully recorded in the earlier judgment, at [9] to [31]. There are three critical pieces of evidence which were in CLOSED at the hearing on 23 April 2024 (with judgment given on 1 May 2024), but have now been disclosed to the parties (with some redactions) and therefore were not referred to in the May

judgment:

1. Paragraph 9 of the social work statement by social worker dated 15th September 2023 sets out that on 13th September 2023, C's school were played a recording of C stating that she was in Afghanistan and believed that a marriage was being arranged for her to the man she was to be forced to marry in 2022. C reported that she had been tricked into going to Afghanistan for this purpose and was not being allowed to return to the UK unless she agreed to be married. Y was angry with C as he blamed C for them all remaining in Afghanistan. 2. The redacted statement from a friend of C sets out the communication with her over the summer of 2023: "School friend of C provides police statement. Describes their conversations with C who informs her about her situation in Afghanistan. Confirms name of 'fiance' is XX'. Sounded in one call very upset. C says that she is worried she may get pregnant. Says she has had an Islamic marriage, and her parents believe it is ok that they

sleep together. 3. The final document is an email sent by a friend of C's to DC YY on 30th October 2023: Dear DC YY C had a miscarriage. The baby did not naturally remove itself from her body so she had to go to the hospital where they removed it without giving her any anaesthetic or painkillers. She also told me yesterday she tried to kill herself on Friday by taking pills (which she didn't specify). She had to go to the hospital again but now she tells me that she is ok. These conversations took place on call and on Snapchat, so I don't have any screenshots of any communication. MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 13. These documents support the account given by C regarding her marriage and make clear the serious harm that was caused to her as a result of her parents' action in arranging a forced marriage. I should make entirely clear that this information was not disclosed at the time by C, but by her friends who were doing their utmost to protect her. Those friends should be commended for what was both a brave, but also a difficult, decision to tell the school and police what they knew. 14. On 1 May 2024 I gave a detailed judgment setting out the following findings: C had been forced to be married, with a nikah in summer 2023 The Parents had consistently lied to the court. The young people were placed under pressure from parents It was "staggeringly unlikely" that C had entered into a sexual relationship in Kabul without her parents knowing. The Father had it within his power to get the young people to return to UK The risk of forced marriage was very high A Passport Order has an important role in protecting the young people from forced marriages 15. 16. 17. 18. I therefore made a Passport Order in respect of the Father until the young people reached 18 years of age. The FMPOs continued until all the young people were 18. In June 2024 C and Y returned to the UK. On 16 July 2024 the Mother, X and Z returned. On 18 August 2024 the LA issued applications for Passport Orders until the young people turned 18. On 21 October 2024 I confirmed the FMPOs until the young people reached 18 and returned the parents' passports. The Guardian had sought to extend the FMPOs until Z and Y were 21. The LA subsequently made an application on 16 January 2025 for fresh FMPOs for X. The Guardian sought permission to appeal and Peter Jackson LJ stayed the order. The parents and young people complain that the Guardian delayed approving the order until appeal and an application had been lodged. I have no doubt that the Guardian has acted at every stage with the intention of achieving the young people's best interests. On 4 December 2024 the Guardian asked the court to reconsider my decisions pursuant to Re LB (In the Matter of L and B (Children) [2013] UKSC). The parents and X opposed this course. I accepted the Guardian's submissions and decided to redetermine the issues, which are those now before the Court. Y and Z then appealed my decision that they should not be separately represented. That appeal was allowed and all three young people have been represented before me in this hearing by Mr Wilson. The Evidence MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 19. 20. 21. 22. The Father, the Mother and each of the three young people gave witness statements. At the start of the hearing it became clear that the Mother did not wish to give oral evidence. Ms Mir said that the Mother was under severe stress and mentally unwell, but I note that no medical evidence was produced. Her failure to give oral evidence was particularly unfortunate because the Mother, but not the Father, was in Kabul through the winter of 2023/2024. I note that the Mother had felt quite able to speak to the

Court via CVP when she was in Kabul. I suggested that she might give oral evidence by electronic means from another room in the Court building, but she declined. None of the three young people wanted to give oral evidence. I do not criticise them for this, but the result was that I had no oral evidence from any family member who was in Kabul during the winter of 2023/2024. All the parties in their written evidence said that no marriage had taken place in 2023. The Father said he had only become aware that C was pregnant when she returned to the UK on 9 February 2024. Importantly, in their statements none of the parties referred to the content of the email dated 30 October 2023 that C had had a miscarriage in October 2023; had been hospitalised and had tried to commit suicide. Even though this material was now, as opposed to the hearing in April 2024, before the court.

23. When the Father was giving oral evidence he denied having known the facts set out in the email. I asked Ms Mir to take instructions from the Mother whether she accepted the truth of the contents of that email and I was told that she did. The Mother subsequently confirmed this in a separate witness statement dated 24 January 2025. It is therefore now accepted that C was pregnant in October 2023, had a highly traumatic miscarriage and tried to take her own life. 24. 25. 26. 27. The fact that neither the Mother nor the young people referred to these highly significant events, when they had all been living in the same house in Kabul, very materially undermines the weight I can give their evidence. For whatever reason, they have manifestly failed to be open and honest with the Court. I further note that in her statement dated 24 January 2025 the Mother did not take the opportunity to explain what had happened in Kabul, but merely accepted the events in the email, which she had already accepted to Ms Mir the day before. The Father's oral evidence can only be described as shocking. In my judgment of 1 May 2024 I made findings that the Father had consistently lied to the Court and had forced C into marriage. However what was so striking in his oral evidence in this hearing was his failure to take responsibility for his children's wellbeing, and in particular his apparent lack of care, concern, empathy or love for C. He said he had not known about the miscarriage or suicide attempt. But when asked when he found out (it having been in the papers revealed into OPEN) he initially pretended he did not understand and then relied on ill health and memory loss. He denied speaking to the Mother about these events even in the last few days. He seemed utterly unconcerned about the level of C's trauma and the fact that she had tried to kill herself. MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. He had accepted earlier that he spoke to the Mother when in Kabul every few days. I have not the slightest doubt he was fully aware of the events in Kabul. Throughout his oral evidence he professed his love and concern for his children. But his substantive evidence pointed to a quite different conclusion. He blamed what C said in 2022 and 2023 on her mental health. He said in answer to Ms Jenkins that "she is not as normal as the other children, we have spoilt her". He tried to blame Ms Mahey (the children's solicitor) for what C had said in 2024, saying she had persuaded C to lie. I note that there is no evidence of C having any mental health problems, save perhaps by reason of being forced into marriage and then effectively trapped in Kabul by her parents. Interestingly, through cross examination, he consistently called the young

people, including Z, “adults” and only changed this in re-examination to them being “little”. In doing this he was trying to shift responsibility onto them, and away from himself. I had the overwhelming impression of a man who would say anything if he thought it suited his case. His approach to what C went through, as Ms Jenkins says, can only be described as callous. Oral evidence was also given by the social worker and the Children’s Guardian. I do not need to record their evidence in great detail as neither have primary knowledge of the facts. The social worker has been the allocated social worker only since August 2024, but she was previously the team leader for the case. She had plainly done her utmost to engage with the parents and the young people and was of the clear view that there was a very significant risk of forced marriage. She said the LA supported the extension of the FMPOs until the young people were 21 and did not oppose the extension of the parents’ Passport Orders. Her view was that the young people love their parents and want to protect them. The result of the proceedings is that the young people will not feel able to approach the LA or any other agency if there are problems in the family. The young people were, and had been, under intense pressure and that was now affecting them including in their education. It was important to bring the proceedings to an end but with the highest possible level of protection. She believed that extending the orders gave an additional level of protection to the young people although she accepted that it intruded into the parents’ rights, particularly in respect of the Mother and her inability to see her relatives in Kabul. She said that the LA change of position from accepting the orders ended at 18 to extending them to 21, came after discussions with the Guardian and the desire to give the young people the highest possible level of protection. She accepted that extending the FMPOs would be an intrusion into the young people’s lives and distinguishing between an arranged marriage and a forced marriage might not be easy. The Guardian has been appointed throughout the proceedings and has been closely involved with the family. She had plainly thought very carefully about the orders that MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 38. 39. she was seeking, and the fact that young people had all said that they were opposed to those orders. She was clear that this was the best way to protect the young people from being forced into marriage. In her evidence she had considered the position of each of the three young people separately. She was asked about why she had accepted the orders only going up to the age of 18 in the Spring of 2024 but now wanted them to extend to 21. She said the main focus in early 2024 had been on securing all the young people’s return to the UK. Whilst the young people were in Afghanistan the FMPOs were of limited practical effect. It was when they returned to the UK that the thinking really focused on how they could be best protected going forward. She felt that the young people remained at high risk until they were 21, but after that she hoped that they would find a way to make their own decisions. She did not think that at the present time they would be able to speak up if they were being coerced into a marriage, given the impact of the proceedings and the nature of the family relationships. She had fully considered the impact both on the young people and the parents, and in particular the parents’ ability to see their families in Afghanistan. She believed that the parents would go to any lengths to arrange and where needed to force their children into marriage. Although she accepted that some steps might be capable of being made over the

internet, the lack of ability to actually go to Afghanistan by removing the parents' passports was an important protection. She felt the balance of harm to the young people of potentially being forced into a marriage for 60 years that they had not wanted outweighed the harm to the parents of not being able to travel. The parties cases 40. The LA and the Guardian seek orders until the young people are 21. Their cases are set out in the evidence above. In terms of the difference in position between Spring 2024 and now, Ms Jenkins said that when the young people were in Kabul it was necessary to "tread lightly" in the hope that they would return. Now the focus must be entirely on the most proportionate and effective way to protect them from forced marriage. The other factor that had changed was the disclosure of the CLOSED material, thus proving that the LA's position had been entirely correct and that the parents had consistently lied about C's marriage.

41. Ms Bartholomew submitted that if the Mother was allowed to travel to Kabul she could then act as a proxy for the Father in arranging any marriage and also concoct evidence or a narrative that would seek to justify the children going to Kabul. I note that the Mother's story about being unwell and that is why she and the family travelled to Kabul seems to have rather fallen away. So Ms Bartholomew's suggestion seems to be supported by the evidence of the lengths these parents will go to cover their actions. 42. 43. The Mother accepts the FMPOs until the young people are 18 and that her passport should be held until that date but submits that her passport should then be returned to her. The Mother's family are all in Afghanistan and she has elderly relatives there. Ms Mir submits that the Mother is somewhat isolated in the UK given that she speaks no English and it is therefore very important to her that she can travel to Afghanistan to MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 44. 45. see her family. Ms Mir submits that for these reasons the Passport Order is a particularly significant interference in the Mother's Article 8 rights. She says the Mother is prepared to give any undertakings sought and that she has no intention of forcing any of the young people into marriage. In any event, marriages can be arranged over the internet so the Passport Orders are not proportionate to deal with the associated risks. Ms Mir emphasised that arranged marriages were the norm in this culture and therefore it was wrong for the LA to seek to impede the making of arranged marriages for the children. The Father seeks the return of his passport immediately. He says that he has an elderly father in Kabul, although the evidence was unclear as to whether his father is currently unwell. He also says that he wants to go to Afghanistan for treatment for an ear problem, which he says can be undertaken there without surgery, whereas in the UK he had been told he would need surgery. 46. He is adamant that he has not and has no intention of forcing any of the young people to marry.
47. Mr Wilson, on behalf of the young people, submits that the Court should start from the position in April 2024 when I determined that the orders should end when the young people reached the age of 18. At that time the Court had the CLOSED material so knew the level of risk, and the young people were actually at a higher level of risk because they were in Kabul. There is no basis to depart from that position. 48. He relies on Re LB and submits that this matter should not be reopened. I note that I had already decided in December 2024 to

reopen the question of the lengths of the order, and that decision was not appealed. But in any event, in the light of the Father and Mother's evidence at this hearing, I would have made the decision to reopen the orders in any event.

49. Mr Wilson submits that the continuation of the orders after the age of 18 is a very serious interference in the young people's autonomy and Article 8 rights. X is an adult and her wishes and feelings deserve the greatest of respect. Y and have demonstrated an understanding of the level of risk and maturity and insight into the orders. The FMPOs will inevitably impact on the young people's ability to marry before the age of 21, which is culturally very normal, particularly given the likelihood of arranged marriages. The degree of scrutiny that a social worker, the LA and ultimately the Court is likely to give such arrangements is highly intrusive. The law 50. 51. The power to make FMPOs is contained in Part 4A of the Family Law Act 1996 (as amended) ("FLA"). There is no dispute that an order can be made in respect of a person over the age of 18. In *Re K (Forced Marriage: Passport Order)* [2020] 1 FLR 904, the President articulated a "roadmap" for the determination of applications for an FMPO. This comprises four stages: MRS JUSTICE LIEVEN Approved Judgment ZC23F05005
- a. Stage one – The court must establish the underlying facts (at [46]- [49]).
 - b. Stage two – The court must determine whether or not there is a need to protect a person from being forced into a marriage or from any attempt to be forced into a marriage (at [50]).
 - c. Stage three – The court must assess both the risks and the protective factors that relate to the particular circumstances of the individual who is said to be vulnerable to forced marriage. The court must then consider whether the facts found are sufficient to establish a real and immediate risk of the individual suffering treatment contrary to Article 3 ECHR (at [51]-[52]).
 - d. Stage four - The court must then undertake the exercise of achieving an accommodation between the necessity of protecting the subject of the application from the risk of harm under Article 3 and the need to respect their family and private life under Article 8 and, within that, respect for their autonomy (at [53]-[55]).
52. When undertaking this final stage, the court must establish a "bespoke order" which "pitches the intrusion on private and family life at the point which is necessary in order to meet the duty under Art 3...but no more" (at [54]). The court's task, described at [40], is to find: "the accommodation that must be reached in each case between the need to protect an individual from harm, whilst at the same time respecting their other human rights, particularly those relating to their private and family life." 53. 54. Further, the court should bear in mind that "family life is dynamic" and that "the circumstances within any family and relating to any individual within such a family, may change" (at [54] and [77]). Each individual term within an FMPO must be justified and the court must consider the "nature and extent of the interference with family life which any proposed order would cause" (*Re X (A Child: Female Genital Mutilation Protection Order)* [2019] 1 FLR 415, per Moylan LJ, at [31]-[33]). This requires a proportionality assessment, articulated as follows in *Bank Mellat*

(No.2) [2014] AC 700, and endorsed by the President in *Re K*, at [44]:

- a. Whether the objective of the measure pursued is sufficiently important to justify the limitation of a fundamental right;
- b. Whether it is rationally connected to the objective;
- c. Whether a less intrusive measure could have been used without unacceptably compromising the objective; and
- d. Whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community. Conclusions MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 55. 56. 57. 58. 59. 60. 61. This case brings into stark focus the need to protect an individual's autonomy and the Court's duty to protect against the pernicious practice of forced marriage. I will deal first with whether the FMPOs should be extended until the young people are 21 years old, and then the extension of the Passport Orders in respect of the parents. As I set out in the May 2024 judgment, forced marriage creates enormous harm, amounting to a breach of Article 3 European Convention on Human Rights. I can now say, which I could not in the earlier judgment, that in C's case it led her to having a highly traumatic miscarriage and to attempt suicide. Forced marriage can directly lead to rape, unwanted pregnancy and a lifetime of being married to someone one did not choose. Although C (and many women in her situation) may come to accept their marriages, it is hard to contemplate the nature of the coercion, including cultural pressure, that is placed on women and girls to accept the marriage which has been forced upon them. There is no dispute that the FLA gives the Court jurisdiction to extend an FMPO beyond the age of 18. However, the general law in the UK, both statutory and common law, draws very distinct differences between persons under and over 18. X is an adult whose autonomy deserves very great respect. If I extend the FMPOs then both Y and Z will be adults whilst still under the terms of the Orders. Even now they are both Gillick (Gillick v West Norfolk and Wisbech Area Health Authority [1985] UKHL 7) competent young people whose wishes and feelings deserve respect and careful consideration. All three young people have said in very clear terms in written statements that they do not wish the Orders to be extended beyond their 18th birthdays and that they do not feel that the Orders are necessary. However, none of them have been willing to give oral evidence, despite offers of whatever special measures would assist. For Y and Z, they are both under 18 and their wish not to give oral evidence is wholly understandable. However, X is 18 and has said throughout that she is not under pressure and that her stated views are her own. In my view it would be quite inappropriate to force X to give evidence. However, her unwillingness to do so does cause me to reflect on the degree to which she is able to be open and honest with the Court. Importantly, although the young people each put in written statements, none of those statements were open and honest. It is now accepted that C had a miscarriage and tried to commit suicide whilst in Kabul. No mention of these events is made in the three statements. This lack of honesty in the written statements leads me to place considerably less weight on them than I would otherwise have done. The first stage under *Re*

K is to establish the facts. I have done this in the May 2024 judgment. The only additional points to make here is that in the light of CLOSED material now disclosed to the parties, and the Mother's concession about C's miscarriage and attempted suicide, I am even more confident that a forced marriage took place and the parents have systematically lied to the Court. I also find as a fact that neither parent has acted to protect C. The second stage is to determine whether there is a need to protect from a forced marriage, and the third stage is the risks. I will deal with these together. The facts in respect of C have now been established. The parents say they will not force the young MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 62. 63. 64. 65. 66. 67. 68. people into marriage. I put no weight on this assertion because of their past lies and what happened to C. The young people say that the Orders are unnecessary and they can effectively look after themselves. The risk here, certainly in respect of X and Z, is manifest. In respect of both of their older sisters, they were married before their 18th birthdays. There appears to be a cultural norm, both generally in the Afghani community and in this family in particular, for girls to be married young. These young women necessarily remain at serious risk until they are 21. They may be at risk after that age, but if they get to 21 and manage to complete their education and perhaps get jobs, they will be in a stronger position to resist coercion from their parents and exercise their own free will. It may be that neither of them feel now that they are at risk. However, the evidence in respect of C, so far as we have it, is that her parents forced her into marriage because she was seen as being difficult and problematic. It is a sad feature of some families who have come to the UK to seek refuge, that when their children, particularly their daughters, start asserting autonomy, the parents may force them into marriage as a form of coercive control. The Father's frequent references in oral evidence to C's "mental issues", seems to fit this pattern. There is absolutely no evidence of C having mental health problems, but there is some evidence of her not accepting her parents' diktat. One of my many concerns is that if X or Z start to push back against their parents they may well be forced into marriage in order to keep them under parental control. The position is less clear with Y because he is a boy. The evidence on forced marriage of boys in Afghanistan is not clear. There are general Forced Marriage Unit statistics that suggest a lower but still appreciable risk to boys, but this is not Afghanistan specific. I note that the older brother N has not been married. However, because no member of the family has told the truth about the older girls' marriages it is not possible to undertake any detailed risk assessment. For example, I do not know if the parents gained financial advantage through the marriages of their daughters. I accept that there is a risk in respect of Y, but it is unquantifiable. In respect of protective factors, I discount the parents or the other siblings as being protective factors. C was protected by her friends at school, but the other siblings, including A, appear to have done nothing to protect her. The main protective factor is that of the Passport Orders in respect of the parents. The fourth stage is the balancing exercise. The making of an FMPO is undoubtedly an intrusion into the young people's Article 8 rights. As Mr Wilson submits, if they wish to marry they will have to go through a process of being interviewed by social workers, including on highly personal matters, and in all probability having to go to court. However, it is of great importance that the FMPOs do not prevent the young people from

marrying. As Munby LJ explained in *NS v MI* [2006] EWHC 1646 (Fam), there is a world of difference between an arranged marriage and a forced marriage. Arranged marriages are completely normal in many cultures, and should be given complete respect. The parties enter the marriage of their own freewill, but the marriage is arranged often by the parents. A forced marriage is made by reason of MRS JUSTICE LIEVEN Approved Judgment ZC23F05005 69. 70. 71. 72. coercion and duress, the parties (or at least one of them) do not enter the marriage freely. In Afghani culture arranged marriages are the norm, and if the young people wish it they can enter arranged marriages. The parents' advocates have been keen to stress that marriages can doubtless be arranged remotely as well as in person in Kabul. Therefore the orders do not prevent an arranged marriage, albeit I accept they may make it more difficult. On the other side of the balance is the risk and the harm. The risk I have addressed above. The harm is also as set out above. The balance is in my view, particularly in the light of the Father's evidence, relatively straightforward. The young people will suffer a measure of intrusion into their Article 8 rights, but that is to be weighed against the risk of going through what C has gone through and spending a lifetime married to someone they did not want to marry. The Father's oral evidence and the Mother's lack of openness and honesty in her written statements, lead me to the conclusion that they have learned nothing from the last two years, and will cause severe harm to their children if they perceive it to be in their interests to do so. I do not consider that the Passport Orders against the parents are sufficient alone to mitigate the risk. Although Passport Orders and port alerts are usually effective, it is well known that people do manage to evade them. These parents have shown themselves to be undaunted by court orders, and indeed by the risk of criminalisation. They have also been shrewd in their manipulation of the legal system. C was only allowed to return to the UK when it was agreed no criminal action or action for committal would be taken against the Father. I accept that removing the parents' passports for another 6 years is a serious intrusion into their Article 8 rights. Both parents have families in Kabul, and I am told they have elderly and sick relatives. I also accept that the intrusion is particularly great for the Mother, given that she is more isolated in the UK. However, given the level of risk, and the inability of the court to place any reliance on either the parents wish to protect their children, or on their truthfulness, I think this is a case where the highest possible level of protection is needed. 73. I therefore make the orders sought.

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