

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

~G~ and ~D~ (Risk of forced marriage: Forced marriage protection order)

STEPHENS J

Introduction

[1] This case concerns two children, ~G~ & ~D~ both female, British of Pakistani descent, now aged 12 and 14. In 2007, when the children were aged 10 and 11, a Trust, which I will not name, brought wardship proceedings on the basis that the parents had arranged for ~G~ and ~D~ to travel to and remain for a number of years in Pakistan so that they could be educated in that country. The Trust alleged that this was a pretext, that no arrangements had been made for their education and in reality, based in part on the previous experience of the forced marriages of their brothers ~S~ and ~T~ in 2005, that once in Pakistan they were to be isolated, attended to and prepared so that they also could be forced to marry.

[2] By orders dated 25 June 2007, 26 June 2007 and 21 September 2007 wardship orders were made in relation to both children giving care and control to the Trust. The matter remained in that way for some considerable time but recently it has been contended by the children's mother that there had never been a final hearing in relation to the wardship application. That the last order in the sequence dated 21 September 2007 was not a final order but was in fact an interim order. Accordingly she brought this matter back before the court and it now comes into my list. The last order in the sequence dated 21 September 2007 was expressed to be "pending further consideration". Accordingly it was agreed that I should consider the written evidence and hear oral evidence in relation to the wardship application and make a final ruling. On the hearing of that application and in the alternative, the Trust invited the court to make an order of its own motion under Schedule 1 of the Forced Marriage (Civil Protection) Act 2007.

[3] I have anonymised this judgment. The initials used are not the real initials of any of the individuals. Nothing should be published which would identify the children or any member of their extended family. I refer to:-

- (a) The older child, now 14, as ~G~
- (b) The younger child, now 12, as ~D~
- (c) The children's four older male siblings as
 - (i) ~S~ now in his 20s
 - (ii) ~T~ now approximately 20
 - (iii) ~U~ now 18
 - (iv) ~V~ still under 18.

[4] Both the mother and the father are respondents to the wardship application. The father has chosen to take no part in the proceedings. The Official Solicitor has been appointed to represent the children.

[5] Ms McKenzie appears on behalf of the Trust. Ms Higgins QC and Mrs Farrell appear on behalf of the mother. Mr McGuigan appears on behalf of the Official Solicitor. I am grateful to all of the counsel involved for the care and attention with which they conducted the litigation and delivered their oral and written submissions.

[6] The parties are requested to consider the terms of this judgment and to inform the Office of Care and Protection in writing within one week as to whether there is any reason why the judgment should not be published on the Court Service website or as to whether it requires any further anonymisation prior to publication. If the Office is not so informed within that timescale then it will be submitted to the Library for publication in its present form.

A summary of the case on behalf of the Trust, the mother's response and the position of the Official Solicitor

[7] In summary the Trust states that in the summer of 2005 ~S~ and ~T~ on a trip to Pakistan, and whilst there, were forced to marry. That upon their return to Northern Ireland wardship proceedings were commenced but continued only in respect of ~T~. Those proceedings concluded in 2006 with a finding by Gillen J that ~T~ had been forced to marry. That in 2007 the Trust became aware that the parents were planning to send ~G~ and ~D~ to Pakistan to stay there for a number of years to be educated. The Trust contend that education was a pre-text and that in reality no arrangements had been made for the education in Pakistan of either ~G~ or ~D~. That false documents were produced to the court in 2007 in an attempt to deceive the court into believing that arrangements had in fact been made in Pakistan for the education of ~G~ and ~D~. The Trust also contend that the parents either chose to ignore the distinction between a forced and an arranged marriage or

have no insight into the emotional and physical pressures that they have applied in the past and for instance still apply in a different context in relation to ~U~. That in reality ~G~ and ~D~, once in Pakistan, and after a period of time, would be forced to marry.

[8] Though no record of the judgment was produced Ms Higgins on behalf of the mother accepted that there had been a finding by Gillen J in 2006 that ~T~ had been forced to marry in 2005 and that her client in these proceedings was bound by that finding. However in the event the mother, who had chosen not to give oral evidence in 2006, wished to and did give evidence before me. That evidence also encompassed the events which had occurred in 2005. In effect, despite the concession of counsel, I was being asked to revisit the outcome of or the details of, the 2006 decision of Gillen J. It has not been necessary for me to determine the effect in these proceedings of the decision of Gillen J because in the event, having considered the evidence, I have come to the same conclusions.

[9] A number of propositions were advanced either by or on behalf of the mother not all of which I will summarise but they include the following:-

- (a) As I have indicated the mother in her evidence did not accept either the outcome in respect of the earlier wardship proceedings or some of the details in relation to what occurred in 2005. She adhered to the concept that what had occurred in 2005 was overstated and was therefore an unreliable indicator as to what could occur in the future in respect of ~G~ and ~D~.
- (b) Furthermore that even if ~S~ and ~T~ were forced to marry in 2005 this was not or was no longer an indicator of what could occur in relation to ~G~ and ~D~ in 2010 or in the future.
- (c) That ~U~ and ~V~ had travelled to Pakistan since 2005 and that they had returned to Northern Ireland without being married, let alone forced to marry.
- (d) That the interference with family life was not proportionate.

[10] In addition to all the matters raised by or on behalf of the mother I have given consideration as to whether due to the sad illness of the father and given the role that he played in 2005, it could be said that either there is no longer any risk to ~G~ and ~D~ or that the risk has substantially reduced.

[11] Counsel on behalf of the Official Solicitor, whilst informing the court as to the wishes and feelings of the children contended that the risks in this case were of such a degree that the court should continue the wardship order

rather than relying on an order under the Forced Marriage (Civil Protection) Act 2007.

Legal principles

[12] The proceedings in this case commenced prior to 25 November 2008 the day appointed for the coming into force in Northern Ireland of the majority of those parts of the Forced Marriage (Civil Protection) Act 2007 that apply in Northern Ireland, see Forced Marriage (Civil Protection) Act 2007 (Commencement No. 1) Order (Northern Ireland) 2008. The relief initially sought in these proceedings was under the inherent wardship jurisdiction of the court, see *Re KR (Abduction: Forcible Removal by Parents)* [1999] 2 FLR 542, *Re B (a child)*, sub nom *RB v. FB v. MA* [2008] 2 FLR 1624 and *Re K; A local authority v. N and others* [2007] 1 FLR 399 at paragraphs [90]-[92]. The interim wardship orders in this case gave care and control of ~G~ and ~D~ to the Trust but as wards ultimate responsibility for them rests with the court. The court remains in control and no major step in their lives may be taken without the consent of the court. This represents a substantial interference with the Article 8 ECHR right to respect for private and family life. The Trust has made it clear that there are no other risks in this case apart from the risk of forced marriages. The Trust does not seek a continuation of the wardship order if in fact an order is made under the Forced Marriage (Civil Protection) Act 2007. The Trust has not applied for a forced marriage protection order but rather invites the court to make such an order without an application having been made to it, see paragraph 3(1)(b) of schedule 1 of the Forced Marriage (Civil Protection) Act 2007.

[13] Section 2 of the Forced Marriage (Civil Protection) Act 2007, headed "Protection against forced marriage: Northern Ireland" provides that Schedule 1 shall have effect. Paragraph 1(1) of Schedule 1 provides that the court may make an order (a forced marriage protection order) for the purposes, amongst others, "of protecting a person from being forced into a marriage or from any attempt to be forced into a marriage." Under paragraph 1(2) in deciding whether to exercise its powers ... and, if so, in what manner, the court must have regard to all the circumstances including the need to secure the health, safety and well being of the person to be protected. Furthermore under paragraph 1(3) in ascertaining the well being of the person to be protected the court must, in particular, have such regard to that 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.

[14] The requirement in paragraph 1(2) is to have regard to all the circumstances. The relevant circumstances in each individual case have to be established by the party seeking to obtain the order on the balance of probabilities. The circumstances will be infinitely variable from case to case.

For instance in this case the circumstances include a rare devastating hereditary disease suffered by the father who is a first cousin of the mother, which is to be seen in the context that the brothers ~S~ and ~T~ were forced to marry their first cousins and the Trust's contention that there is a prospect that ~G~ and ~D~ could also be forced to marry their first cousins. The nature and extent of the precautions are to be proportionate to the circumstances and in this case a consequence of a forced marriage would not only be a gross abuse of the rights of ~G~ and ~D~ but if the forced marriage was to a first cousin it could have a devastating impact on the health of any their children. Whilst circumstances will be infinitely variable one circumstance has to be the existence of a risk of a forced marriage of the person to be protected either to a particular individual presently identifiable or a general risk arising at some unspecified future date.

[15] The definition of a forced marriage is contained in paragraph 1(4) of the Schedule. Thus a person is forced into a marriage if another person forces him or her to enter into a marriage without his or her free consent. Force is not confined to physical force but includes coercion by threats or psychological means. The conduct which forces a person into a marriage need not be by the other person to the marriage and can be directed against not only the persons to be married but also any other person.

[16] The wide definition of a forced marriage reflects the range of diverse conduct from the simple to the complex used to force an individual or individuals to marry. The spectrum covers "loving manipulation" where parents genuinely believe that they are acting in their children and the family's best interests, emotional pressures, to the more extreme cases including threatening behaviour, abduction, imprisonment, physical violence, rape and in some cases murder. As can be seen some of the techniques involve the commission of very serious criminal offences by those participating in the arrangements, including serious sexual offences if the marriage is consummated by force. Munby J drew attention to this at paragraph [13] of his judgment in *NS v MI* [2007] 1 FLR 444 and also highlighted at paragraph [14] that forced marriages can also expose the perpetrators to civil remedies. He stated that

"Finally, it needs to be remembered that, quite apart from any criminal sanctions, forced marriage will also expose the perpetrators to civil remedies for such torts as trespass to the person and false imprisonment. Statutory damages may also be recoverable under the Protection from Harassment Act 1997. Mr Teertha Gupta who appeared before me on behalf of the petitioner helpfully brought to my attention the decision of Mr Recorder Timothy Scott QC in a county court case where he awarded

£35,000 to a Sikh woman who was subjected to what the judge described as 'four months of hell' when she was 'deliberately targeted' by her mother-in-law following an arranged marriage which collapsed after only 4 months largely as a result of her mother-in-law's treatment of her."

[17] All forced marriages deny their victims at their deep hearts core the most fundamental and fulfilling human emotions. They are abominations involving gross abuses of human rights. There can be no justification for such degradation of the human spirit and the autonomy of the individual.

[18] Forced marriages are distinct from arranged marriages. Arranged marriages are perfectly lawful, not in any way to be condemned but on the contrary to be supported and respected. The key difference between a forced marriage and an arranged marriage is articulated in paragraph 1 of "The Right to Choose: Multi Agency Statutory Guidance for Dealing with Forced Marriage" (Foreign and Commonwealth Office and others November 2008) in the following terms:-

"There is a clear 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 whether or not to accept the arrangement remains with the prospective spouses. In forced marriages one or both spouses do not (or, in the case of some vulnerable adults, cannot) consent to the marriage and duress is involved. Duress can include physical, psychological, financial, sexual and emotional pressure."

In *Re SK (An Adult) (Forced Marriage: Appropriate Relief)* [2005] 2 FLR 230 at paragraph [7] Singer J dealt with the grey area where social expectations can of themselves impose emotional pressure so that an arranged marriage may slip into a forced marriage. A court should be astute in that grey area where a filial duty of obedience can override free consent but also guarding against the risk of stereotyping. Munby J emphasised the need to guard against the risk of stereotyping in *Re K: A Local Authority v N and Others* [2007] 1 FLR 399 at paragraph [93] when he stated that

"We must be careful to ensure that our understandable concern to protect vulnerable children (or, indeed, vulnerable young adults) does not lead us to interfere inappropriately - and if inappropriately then unjustly - with families

merely because they cleave, as this family does, to mores, to cultural beliefs, more or less different from what is familiar to those who view life from a purely Euro-centric perspective.”

[19] The procedure for making applications in Northern Ireland under the Forced Marriage (Civil Protection) Act 2007 is provided for by the Family Proceedings (Amendment No. 3) Rules (Northern Ireland) 2008 which came into operation on 22nd December 2008.

[20] The provision of paragraphs 15(1) & (2) of Schedule 1 provides that the Schedule does not affect any other protection or assistance available to a person who is being, or may be, forced into a marriage and in particular, it does not affect, amongst others, the inherent jurisdiction of the High Court, any right to a non-molestation order under the Family Homes and Domestic Violence (Northern Ireland) Order 1998 or any civil remedies under the Protection from Harassment (Northern Ireland) Order 1997. Making a forced marriage protection order does not preclude, amongst others, a wardship order, a non-molestation order or an order prohibiting harassment.

[21] By virtue of Article 8 of the European Convention on Human Rights everyone has the right to respect for his private and family life. The right is qualified and interference may be justified where it is in accordance with law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. The questions ordinarily considered under Article 8 are:

(1) Will the proposed order be an interference by a public authority with the exercise of an individual's right to respect for his private or family life?

(2) If so, will such interference have consequences of such gravity as potentially to engage the operation of article 8?

(3) If so, is such interference in accordance with the law?

(4) If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for

the protection of the rights and freedoms of others?

(5) If so, is such interference proportionate to the legitimate public end sought to be achieved?"

In considering the last question the means used to impair the right or freedom should be no more than is necessary to accomplish the objective and thereafter there should be consideration as to whether those means have a disproportionate or excessive effect upon the interests of the affected person. There are two stages. At the first stage, the question is: can the objective of the measure be achieved by means which are less interfering of an individual's rights? The essential purpose of this stage of the inquiry is to see whether the legitimate aim can be achieved by means that do not interfere, or interfere so much, with a person's rights under the Convention. At the second stage, it is assumed that the means employed to achieve the legitimate aim are necessary in the sense that they are the least intrusive of Convention rights that can be devised in order to achieve the aim. At this stage the enquiry shifts to whether the means employed have a disproportionate or excessive effect upon the interests of the affected person, see paragraphs [19] –[20] of *Samaroo and Sezek v Secretary of State for the Home Department* [2001] EWCA Civ 1139.

[22] Ms Higgins contends that

“the common law, the principle of paramountcy, the UNCRC and the procedural protections of Article 8 require the Trust has to justify to the court on an ongoing basis the continuing Article 8 interference in this family’s life by way of regular reviews.” (sic)

If an order is made under the Forced Marriage (Civil Protection) Act 2007 then I do not consider that there is any on going obligation on the Trust to continue to justify the order or any obligation on the court to have regular reviews. Paragraph 6 of Schedule 1 enables the court to vary or discharge a forced marriage protection order on an application by (a) any party to the proceedings for the order (b) the person being protected by the order... or (c) any person affected by the order. This ability to apply to the court provides ample opportunity to respond to changes in circumstances and also provides another method by which the voice of the child may be heard.

The family

[23] The mother and father are both British of Pakistani descent and of the Muslim faith. They are first cousins and many of their extended family members live in Pakistan with one part of the extended family living predominantly in a mountainous and remote area. Sadly the father has not

been well for some years having been diagnosed with a rare hereditary condition which ordinarily is progressive and ordinarily affects both the individuals' physical and mental capacities also with a bleak prognosis. The mother and all of the children are to be offered testing for this hereditary condition.

[24] The mother who gave evidence before me was concerned to bring up all of her children in accordance with proper ethical standards giving them every conceivable advantage at her disposal. In an affidavit sworn on 18 September 2007 she stated that she had brought up her children well. That they behave well and work hard. That her children know how much she loves them, what she has done for them and that she will always be there for them. The mother and indeed the family have had to endure a degree of racial hostility in the area in which they live. This despicable hostility, the ill-health of her husband and some of the events in relation to her family have all borne down upon the mother who is under emotional pressure suffering from depression for which she receives medical care at consultant level and medication. Unfortunately she wishes to avoid engaging with Social Services.

[25] The children, ~G~ and ~D~, are a credit to both of their parents. ~G's~ teacher states that ~G~ is fantastic in class mixing very well. ~D's~ teacher states that her attitude is very good, she has integrated very well and that she is the "life and soul". The social worker states that both of the children are delightful, confident and intelligent.

[26] As I have indicated there is a degree of racial hostility to the family in the area in which they reside a consequence of which is that there has been no close contact with the community in that area. The effect of this has not been tempered by contacts with other members of the community of Pakistani descent because this is not an area in which such other members reside. The children's social activities revolve around their school and their family rather than activities based in their residential area or local community. The effect is that the existing sense of family which is a particularly strong feature of their culture has been enhanced resulting in a very self-sufficient and self-contained family in which the family members are highly dependent on each other.

[27] As I have indicated commendably the mother wishes all of her children to have a great future. She values education as a means to achieving a rewarding career for all of her children in a profession or, for instance, she suggests, as airline pilots. She has a deep and abiding affection for Pakistan being proud of the amenities in the area in which the father's extended family lives and for the customs and traditions of that area in particular and of the country as a whole. Her regard for Pakistan has added emphasis in the context of the difficulties she faces in Northern Ireland and the flaws in the

local community in which she lives. However it is also clear that her views in relation to Pakistan lack balance and are idealised.

[28] The mother places considerable emphasis on respect for elders. She considers that in Pakistan children are taught to listen to their own parents who know best. That if a child is disrespectful then he gets a smack. That if a man is disrespectful that he is then shown the door. I find that “respect” in her mind is the equivalent of control through obedience removing free or full consent. An illustration of this is her recent relationships with ~U~ which has involved his exclusion from the family home and his isolation from her. In October 2009 she was facing difficulties with ~U’s~ behaviour. She set various rules with which he had to comply. Absent compliance he was to leave the house which he did. She has not spoken to him since October 2009 and she does not provide him with financial assistance. Except in general terms she does not know nor does she wish to know, where he lives. She does not know with whom he lives. If he comes to the family home she will avoid him so that they do not see each other let alone meet or talk. As a consequence of ~U’s~ behaviour, some of which may well have been reprehensible, together with the enforcement of these rules he is cut off from the affections of his mother to the knowledge of the rest of his family. I have had the opportunity of seeing the mother give evidence. She is under considerable pressure and her circumstances require assistance of which unfortunately she will not avail. She reacts to pressure by closer and stricter adherence to what she views as correct. Her relationship with ~U~ is a clear message to other family members including ~G~ and ~D~ that if they do not do what she says out of respect for her that they also can be cut off from her affections excluded from the family home and isolated. The effect of that on ~G~ and ~D~ has to be seen in the context that the members of this family are highly dependent on support from each other it being a self sufficient and self contained family. In that respect I consider that such express threats to ~U~ and the threats by implication to the other family members is a powerful psychological factor in this case.

[29] The recent incident in relation to ~U~ is instructive in another way in that it demonstrates the loyalty of ~G~ and ~D~ and their reluctance to reveal information which they perceive that their parents would not wish to be disclosed. ~G~ and ~D~ are visited regularly by their social worker. They did not reveal to the social worker that ~U~ had left the house. They were spoken to by a solicitor in the Official Solicitor’s Office on 16 February 2010. ~G~, far from stating that ~U~ had left, informed the solicitor “all of her brothers live at home with her”.

[30] I consider that this reluctance to reveal information is also a result of ~G~ and ~D’s~ close supervision and control by their parents and by an aunt. ~G~ and ~D~ were accompanied by an aunt on 16 February 2010 to the meeting with a solicitor in the Official Solicitor’s Office so that they could

inform that solicitor and therefore the court as to their wishes and feelings. There was difficulty in persuading the aunt to allow them to be interviewed in her absence and also for them to be interviewed separately. In the event the aunt waited outside during the interview and they were interviewed separately, though at the end of the interviews the aunt expressed discontent and was verbally aggressive and unpleasant. During the course of the interviews I find that ~G~ and ~D~ were not forthcoming about their family circumstances. For instance ~G~ gave incorrect information as to ~U's~ presence in the family home. Both ~G~ and ~D~ did not reveal their knowledge as to why it had not been possible for them to travel to Pakistan for a number of years despite having previously been informed that the reason was concerns as to forced marriages. I consider that both ~G~ and ~D~ are heavily influenced in what they can and cannot say by their parents.

Forced marriage of ~S~ and ~T~ in 2005 and the earlier Wardship proceedings in respect of them

[31] ~S~ and ~T~ travelled to Pakistan in June 2005 with their father. Shortly after their return to Northern Ireland and in September 2005 both ~S~ and ~T~ left the family home and went to a nearby police station. They stated that they had been forced to marry whilst they had been in Pakistan. ~S~, in view of his age, was provided with bed and breakfast accommodation. ~T~ was placed in a foster home.

[32] ~T~ has provided a detailed statement dated 17 May 2006 and in this and the following paragraphs I will summarise the account that he has given. He states that prior to travelling to Pakistan in May 2005 he and his brother became suspicious of telephone calls between his father and a person in Pakistan. The sort of thing he overheard was his father stating "Yes, we have made arrangements for the marriage". He also overheard his mother reminding his father not to forget to pick up the jewellery in a city in England before leaving for Pakistan. ~T~ states that his parents were being unusually secretive. However prior to travelling to Pakistan he dismissed his concerns on the basis that there was no way his parents would think of doing anything like this to him.

[33] However a few hours into the flight to Pakistan he states that his father said to him:-

"We are going here to get you married and I don't want any argument about it. When we arrive and people talk to you about coming here to get married you must agree and go along with everything they say to you."

An example was then given to him of going along by the injunction that he must answer "yes" if asked "Are you here to get married?" ~T~ states that he was shocked.

[34] When they arrived in Pakistan rather than following their normal practise of immediately visiting their relations, his father waited until he was sure that both ~S~ and ~T~ were compliant. This took a number of days. On the first day his father tried coaxing them by putting his arm about them saying "Please my sons, do this thing for me". On the second day he was starting to get very short and had even started to slap them about. On the third day he was getting extremely angry. He locked the door and started to punch them. On the fifth day he said he had their passports and that he would take the passports home with him and leave them behind. All this was against a background that both ~S~ and ~T~ knew that if they did not go along with their father's wishes he would be seen as a disgrace, an outcast and no longer respected in his village and by his family members.

[35] Both ~S~ and ~T~ eventually agreed on the basis of a promise from their father that the "wedding" was only going to be a front to get the girls their visas and to have him shown respect by his relatives. A religious ceremony took place. There were a number of days of celebration with a feast, music and dancing. A video was taken. The jewellery which ~S~ and ~T~ had seen their father pack in a city in England was given to the girls whom ~S~ and ~T~ "married."

[36] After the ceremony and the celebrations ~S~ and ~T~ were told by their father that as they were now married men from now they would be expected to sleep with their "wives". Each was compelled by their father to sleep in the same room as their "wives". Refusal to do so was met with their father picking up a stick and beating them. He succeeded in compelling them to sleep in the same room as their "wives" but not with them. The marriages were not consummated.

[37] At the end of the summer their "wives" remained in Pakistan whilst ~S~, ~T~ and their father returned to Northern Ireland. Shortly thereafter ~S~ and ~T~ reported to a police station and were placed respectively in bed and breakfast accommodation and in a foster placement. ~T~ remained in foster care until he was 18 but ~S~ returned to the family home after a relatively short period in bed and breakfast accommodation. The girl whom ~S~ married in Pakistan in the summer of 2005 is now recognised by him to be his wife and with whom he now lives in Northern Ireland, she having come here during 2008. There is no evidence of any further religious ceremony or family celebration or the giving or receiving of gifts subsequent to the ceremony in the summer of 2005. The mother stated that some paper may have been signed at a later date. I hold however that ~S~ was "married" in 2005.

[38] Wardship proceedings in respect of ~S~ and ~T~ were commenced and heard by Gillen J. In those proceedings the father did not give evidence nor was a statement filed on his behalf. The mother's affidavit in those proceedings was sworn by affirmation on 25 August 2006. In that affidavit she did not deal in detail with the allegations that had been made by ~S~ and ~T~ contenting herself with asserting that the allegation that they were forced to go through with an arranged marriage was not true. By way of explanation she stated that when her husband and the children got to Pakistan it was discovered that their grandfather was very ill. As a result, the family thought that it would be beneficial for him that he could get to see his eldest grandsons become betrothed to be married. The mother stated that this took place and the betrothal ceremony was captured on video. She indicated that the reason why it was captured on video was so that she could see it as she was not there. She asserted again that "this was not an *arranged marriage*, simply a *ceremony of betrothal* to please a dying old man and that to suggest otherwise is a complete lie." (emphasis added)

[39] That explanation from the mother lacked detail, failed to address the difference between an arranged marriage and a forced marriage and failed to address the question as to whether even if it was a ceremony of betrothal it had also been forced. The mother was not in Pakistan in the summer of 2005 and could not state at first-hand what had occurred but she could have obtained details from her husband or from her relatives or from the imam in the village in Pakistan. If she obtained details she chose not to give them. The lack of detail extended to every aspect of ~T's~ statement and also to her own explanation. That explanation was based on the proposition of a grievous illness of the children's grandfather about which illness nothing was apparently known before the children and her husband travelled to Pakistan. In the event the grandfather, stated to be dying in 2005, survived for a number of years. There was no detail as to the nature and extent of the illness of the grandfather, when it first arose and when it was first diagnosed. There was no explanation as to why they were not told as to the illness before ~S~ and ~T~ and their father travelled to Pakistan, if indeed they were not. Furthermore if this was a ceremony without any real commitment "to please a dying old man" then it is questionable as to why she would wish to see it captured on video and why it was so elaborate involving so many people. Furthermore there is no suggestion in her affidavit that the girls involved were aware that this was just "to please a dying old man". On the other hand if it was a real betrothal with real emotional, religious and cultural commitments then such a betrothal can also be forced and if forced completely contrary to human dignity.

[40] The mother having filed her affidavit chose not to give oral evidence before Gillen J who proceeded to deal on the papers with those wardship proceedings together with an application for a non-molestation order brought

by ~T~ against his parents. All the documents were admitted in evidence without formal proof. Gillen J made a final wardship order in respect of ~T~ and also a non-molestation order in his favour. He preferred the evidence of ~T~ to that of the mother.

[41] Recently ~T~ has been reconciled to his parents. He has informed a social worker that a lot of issues have been resolved and his parents have agreed that they were wrong to force marriage upon him. That reported recognition by his parents that they were wrong to force marriage upon him might have been evidence of insight on their part that forced marriages, as opposed to arranged marriages are immoral. I do not consider that there is any such insight on behalf of either parent. The father continues to take no part in these proceedings. Accordingly there is no clear or unequivocal statement from him to the effect that what occurred to ~S~ and ~T~ in 2005 was wrong. The mother who gave evidence before me continued to minimise and avoid the issues refusing to accept that this was a marriage as opposed to a betrothal or that either was forced. Indeed she was dismissive of ~T~ undermining his credibility with inaccurate remarks as to his conduct. I accept the evidence of the social worker that ~T~, in foster care, was very uncomplicated with no management concerns and no inappropriate behaviour. I also prefer the evidence of ~T~ all of which I accept and find that ~S~ and ~T~ were forced to marry in 2005 in the circumstances set out by ~T~.

The facts prompting the present application

[42] On 29 January 2007 the Trust was informed by ~T~ that his mother intended to send ~G~ and ~D~ to Pakistan in the summer to live there.

[43] On 14 February 2007 the mother informed the school, which ~G~ and ~D~ were attending that they would not be returning in September 2007 as they were to be educated in Pakistan.

[44] In June 2007 ~T~ informed the Trust that one way tickets had been booked for ~G~ and ~D~ to travel to Pakistan. ~T~ expressed concern that this was with a view to de-westernising them so that they would agree to go through with a marriage in Pakistan.

[45] On 21 June 2007 the Trust contacted the mother who refused to allow a social work visit. She confirmed that both ~G~ and ~D~ were going to Pakistan to stay with extended family. She emphasised that the purpose was for them to get a high quality education at an English speaking school which would ensure that they had an opportunity to learn about Islamic culture.

[46] On 25 June 2007 the Trust commenced an emergency wardship application and the Master granted an order and appointed the Official

Solicitor to represent ~G~ and ~D~ adjourning the matter to the judge to be heard on 26 June 2007.

[47] The matter came before Weir J on 26 June 2007. He directed the mother to file an affidavit dealing with her proposals for the children in a comprehensive manner.

[48] On 28 June 2007 the mother filed an affidavit which contained very little detail of either where or with whom the children were to live, the standard of accommodation provided, or the arrangements for the children's school.

[49] It is clear from this sequence that ~G~ and ~D~ going to Pakistan had been contemplated and planned for some time. The mother places considerable emphasis on education and she contends that the primary motivation was to secure "the best possible education" for ~G~ and ~D~ and for "them to learn proper values". The mother states that she left the choice of schools to a 20 year old nephew in Pakistan with the only requirement being that the school should be English speaking. That she trusted her relatives and that accordingly which ever school in Pakistan was chosen would be satisfactory provided it was English speaking. Having seen her give evidence and given the emphasis she places on education and advancement I do not accept that proposition. I do, however, accept that nothing was done about selecting a school in Pakistan prior to February 2007 when the school in Northern Ireland was informed that the girls would not be attending in September 2007. I consider that efforts only started once the proceedings had commenced in June 2007 and questions were being asked by the Trust, by the Official Solicitor and the court as to which school ~G~ and ~D~ were to attend in Pakistan.

[50] Letters dated 25 July 2007 purporting to be signed by Mr ~X~, the principal of an English speaking school in Pakistan were faxed to the mother's solicitors on 30 July 2007 by the nephew in Pakistan. The letters bore the name of the school printed at the top. There was no address but a contact telephone number was given. There was an official looking stamp on the letters. The letters confirm acceptance of ~G~ and ~D~ by the school commencing on 27 August 2007. The letters were meant to confirm and were presented as confirming that ~G~ and ~D~ were indeed going to attend a school in Pakistan.

[51] It transpires that Mr ~X~ is not the principal of the school. The contact telephone number is the mobile number of the nephew. The nephew has no connection with that or any other school. The letters are forgeries. This has been confirmed by the real principal of the school. It was the mother who during a telephone conversation with her nephew gave him the fax number of her solicitor in Northern Ireland to whom the fax should be sent. The

mother denies any involvement in this forgery. She refuses to condemn her nephew for perpetrating it.

Conclusion

[52] In arriving at my conclusions in this case I have had regard to the evidence of both ~G~ and ~D~ as relayed to me and to their wishes and feelings in the light of their age and understanding. The views of the children have not been restricted to issues of well being under paragraph 1 (3) of Schedule 1 and they have been relayed to the court on behalf of the children by the Official Solicitor. ~G~ and ~D~ have been asked as to whether they know the reasons why they have to date been prevented from travelling to Pakistan. In reply, despite having previously been informed as to the risks of a forced marriage, they purported to be unaware of that reason. I consider that the information that they impart to persons involved in these proceedings is severely curtailed either out of loyalty to or directly by their parents. They have been asked as to whether they wish to travel to Pakistan, whether they wish to learn at first hand the culture and traditions of Pakistan and whether they wish to meet their extended family in their own home environment in Pakistan. They do. I consider that in their present circumstances they either have no understanding of the consequences of a forced marriage or if, as is probable, they do, then they are unable to articulate those concerns as a result of pressure from their parents. For the same reason I also consider that they are unable to articulate any balancing of the risks against the means to be employed to prevent those risks.

[53] I find that the real reason that ~G~ and ~D~ were to be sent to Pakistan in 2007 was so that they could learn “respect” as an overarching filial duty which I hold in the context of this family means obedience overriding their full and free choice. Thereafter that it was the intention of the parents that they would be forced to marry in Pakistan. If the primary purpose of the trip to Pakistan had been to secure an education for ~G~ and ~D~ then before deciding to send them to Pakistan the mother would have carried out enquiries with her family and through them made arrangements with a school so that at the very least the school could interview them upon their arrival in Pakistan. That for instance she would have sent to Pakistan school reports from the schools in Northern Ireland in relation to ~G~ and ~D~ so that they could be made available to the schools in Pakistan. The concept that this was all left to be arranged when ~G~ and ~D~ arrived in Pakistan is completely inconsistent with the mother’s emphasis on education and advancement.

[54] I do not need to decide whether the mother was complicit in the forged letters dated 25 July 2007 because having heard and seen her give her evidence I consider that she has not been open and honest about her real intentions. I should also record that given the emotional pressure on the

mother and concerns as to her well being I made enquiries from counsel as to the steps to be employed to allow her to give her evidence and as to any enquiries that should be made of any medical advisor. In the event short breaks were deployed to allow the mother to give her evidence. Unfortunately after a short break in her cross examination she declined to return to court despite an adjournment for a period to reflect on her position and an indication from the court that it would consider any other measures that could be put in place to assist her to give her evidence. The mother having given her evidence in chief thereby avoided continuing having to answer legitimate questions.

[55] I do not consider that there has been any change in approach by the mother or the father since 2005 when ~S~ and ~T~ were forced to marry. On that occasion an array of techniques were deployed some of which were criminal. I consider that there is a substantial risk of those techniques being employed in relation to ~G~ and ~D~ in the future.

[56] I find that there been no change of attitude since 2007. The parents no longer wish ~G~ and ~D~ to be educated in Pakistan and accordingly that pretext no longer exists. However if ~G~ and ~D~ did go there for a "holiday" I consider that also would be a pretext. The fact that their brothers ~U~ and ~V~ have in the interim been to Pakistan without being forced to marry is a factor to be taken into account but I remain persuaded that in respect of ~G~ and ~D~ there is a present real and substantial risk that they will be forced to marry.

[57] Accordingly I find as a fact that there is a present real and substantial risk that ~G~ and ~D~ will be forced by their parents to marry against their wishes.

[58] I do not consider that it is proportionate to continue the wardship order given the lack of any other concerns in relation to the care afforded to ~G~ and ~D~ by their parents and the protection that can be afforded to the children by a forced marriage protection order.

[59] I consider that a forced marriage protection order, a draft of which has been submitted to me, is a proportionate response. In the circumstances of this case by virtue of paragraph 3 (1) (b) of schedule 1, I am able to make that order without an application to this court and the draft order complies with rule 3.46 of the Family Proceedings Rules (Northern Ireland) 1996. I make that order. I discharge the wardship order.