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PARLIAMENTARY DEBATES
(HANSARD)

# HOUSE OF LORDS

## OFFICIAL REPORT

*ORDER OF BUSINESS*

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| Abbreviation | Party/Group |
|---|---|
| CB | Cross Bench |
| Con | Conservative |
| DUP | Democratic Unionist Party |
| GP | Green Party |
| Ind Lab | Independent Labour |
| Ind LD | Independent Liberal Democrat |
| Ind SD | Independent Social Democrat |
| Ind UU | Independent Ulster Unionist |
| Lab | Labour |
| LD | Liberal Democrat |
| LD Ind | Liberal Democrat Independent |
| Non-afl | Non-affiliated |
| PC | Plaid Cymru |
| UKIP | UK Independence Party |
| UUP | Ulster Unionist Party |

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

# House of Lords

*Friday 15 December 2017*

*10 am*

*Prayers—read by the Lord Bishop of Carlisle.*

## Oaths and Affirmations

*10.06 am*

*Lord Clarke of Stone-cum-Ebony took the oath, and signed an undertaking to abide by the Code of Conduct.*

## Personal Statement

*10.07 am*

**Baroness Bloomfield of Hinton Waldrist (Con):** My Lords, with the leave of the House, I should like to make a brief personal statement. Yesterday, in response to a Question asked by the noble Lord, Lord Anderson of Swansea, I drew the Minister's attention to the high standards of reporting and transparency required of the financial services industry by the regulatory authorities in the Cayman Islands. In doing so, I should have informed the House that a close family member is a director of a financial services company domiciled in the Cayman Islands, and I apologise unreservedly for this omission. I am very grateful to the House for this early opportunity to correct the record.

## Refugees (Family Reunion) Bill [HL]

*Second Reading*

*10.08 am*

*Moved by* ***Baroness Hamwee***

That the Bill be now read a second time.

**Baroness Hamwee (LD):** My Lords, our society recognises the plight of refugees and our moral obligations, including giving practical expression to our humanitarianism. Our culture recognises the importance of family—as do most cultures. This Bill recognises both.

I first acknowledge the Government's contribution by way of funds in the Middle East and elsewhere. Pursuing the provisions in this Bill is not to deny either the significance of that contribution or the good example set by the UK, but it is not a complete answer. Many refugees from Syria are still in the region and there is an enormous strain on the neighbouring countries: Turkey, Jordan and Lebanon—which is about the size of Wales and hosts a refugee population amounting to around 30% of its total population, and is not in fact a signatory to the refugee convention. If those countries can do so much, we should do our bit. In 2016, the UK received 3% of asylum applications made in the EU. Per head of population, the UK ranked 18th in the EU, with 0.6 applications per 1,000 people. In the same year globally, 20 people became newly displaced every minute of every day.

I know the Government take the view that the Bill seeks little that is not done already, so I will take it clause by clause. Clause 1(1) provides that a person who has refugee status or humanitarian protection may apply for permission for family members to join him—when I say "him" from time to time, I generally mean "him or her". Indeed, that is the position in our current Immigration Rules, but they are rules, not primary or secondary legislation—not something Parliament can amend or reject. Rules are an executive instrument, subject to change without Parliament's involvement.

The first three groups of people listed in Clause 1(2) can, under the current rules, be sponsored, but only by an adult. People in the other categories may be given leave—that is, leave to enter or remain in the country—by discretion. I do not think it unreasonable for a refugee to have a right to be joined by family members, and it could not be said that those listed in Clause 1(2) are distant relatives. Where there is discretion there are bound to be inconsistencies—if leave is given at all, of course—in the type of leave or length of stay granted; family members may get different lengths. There may be a residency criterion—for instance, for housing.

Some noble Lords were at a meeting last week in Parliament and heard Khalil, a very mature and tall teenager, tell them that he had reached the UK alone. His parents and siblings came later and separately and eventually they were together, albeit briefly. He said, "They've been told they have to go back to Birmingham because that was where my Mum was sent to live when she was an asylum seeker, and because I came as a refugee child on my own, I have to live in Essex, so we are still not together. My brothers and sisters are at school in London and my dad is working in a restaurant. If we had to move to Birmingham, then they would miss out on schooling once again and my dad would lose his job and have to find a new one, which might not be easy. The reason we're still separated, even though we are in the same country, is because I couldn't apply for family reunion when I came to England, and that's the reason I'm still living on my own".

Home Office caseworkers have guidance and must consider,

"exceptional circumstances or compassionate factors".

The guidance tells them:

"Entry clearance or a grant of leave outside the Immigration Rules is likely to be appropriate only rarely".

I heard, for instance, of a disabled person with a carer who is a family member who was allowed leave. "Exceptional circumstances" is a term we are used to considering in various contexts, but often these circumstances are in fact the norm in this situation. One of the people who may—I stress "may"—be given leave is an unmarried child over 18. The position of a 19 year-old daughter or son alone in a refugee camp without family support is something that would worry any of us.

At the meeting to which I referred, we also heard from Maya, a hugely impressive young Syrian. She spoke no English when she arrived but, four years on, and very fluent, she is studying aeronautical engineering. So many of the young refugees I have met have been keen to contribute to society and are model citizens. Her father took the initial journey by himself and she and her mother later joined him under the current

[Baroness Hamwee]

rules, but only after several attempts to get visas from the embassy in Beirut, having travelled from northern Syria, been held up at the border and arriving late at the embassy, where they were told that, as they had missed the appointment, they could not be dealt with, so that difficult and dangerous journey had to be repeated in both directions. She said, "There was no respect at the embassy; no respect for our papers". Dangerous journeys to embassies and consulates to make applications are a common story. Travelling through war zones is not like catching a bus at the end of the road.

Then there are the unaccompanied asylum-seeking children, whose situation has particularly caught the public imagination. I do not want to dehumanise them by using the acronym UASC. Rule 319X currently applies and its existence is implicit acceptance of the importance of family, though the need for,

"serious and compelling … considerations which make exclusion of the child undesirable",

seems to go in the other direction and suggests exceptionality. However, it is not an alternative to the provision in Clause 1(3) of the Bill. Among the other requirements are that the child can and will be accommodated with a relative—usually in this situation an aunt, uncle or sibling—in accommodation "owned or occupied exclusively" by that relative, and will be maintained by that relative,

"without recourse to public funds".

Often these criteria cannot be met by the relative. In addition, the child must hold a valid entry clearance or leave to remain on arrival—I have referred to the difficulties in getting documentation—and a substantial fee is payable.

In the case of child asylum seekers, we are told by the Government that if we were to allow them to sponsor their parents or other family, this would act as a "pull" factor and they would be sent here by family so that the family had a way in. I will leave aside whether it is consistent to argue this at the same time as arguing that what the Bill would do already applies. I will also leave aside the fact that there are enough "push" factors—but what evidence is there for this? I think that my noble friend Lady Sheehan will say a little more about this.

I can understand that, once a child has reached Europe, the UK may have more of a pull factor than some other countries—although this is not invariably so. However, that is quite different from what is called a "perverse incentive" to send a child out of his own country—and, frankly, I do not buy it. The more we learn of the situation in France, Greece and elsewhere—we recently debated in this House the situation post the Calais Jungle, including very disturbing findings by the Refugee Rights Data Project and the Human Trafficking Foundation: the clue is in that organisation's name—the more manifest is the need for safe and legal routes to reduce opportunities for criminals to exploit and abuse. Without safe and legal routes, children are destined for abuse.

Giving the right to a child refugee to have his family join him would not be novel. The EU directive on the right to family reunification does so, although we are not a signatory, and Clause 1(3) is based on this. To use another phrase with which noble Lords will be familiar, what in the following situation is in the "best interests of the child"—a child whose father has been killed in Afghanistan and whose mother sends him away for his protection? He is a child in need of protection under the Geneva Convention and it is in his interests to be joined and cared for by his family.

Noble Lords may wonder why I have not mentioned Dublin III. We are concerned with the position post Brexit, but that is a regulation dealing with arrangements between states regarding the transfer of asylum applications. It is a related but parallel issue. I have included an exception to the rights in Clause 1 if that would be in the interests of national security, and applied this also to Clause 2, which concerns British citizens with family members who have a protection need. The problem came to prominence just before the Calais Jungle was broken up. A father was settled in the UK. His daughter was in the Jungle, but he could not meet the fees and income requirements of our family visa rules and so he, the holder of a British passport, went to live in the Jungle to look after his daughter.

Clause 3 allows for the Secretary of State to make regulations,

"to extend the definition of a family member, and … provide for requirements for evidencing family membership or dependency".

I referred to evidencing, which is not as simple as Ministers ordered during the passage of what became the Legal Aid, Sentencing and Punishment of Offenders Act. In debates on the Bill, Ministers said that keeping family reunion cases in scope would cost £5 million a year. I leave it to noble Lords to take their own view of that amount. Documents may not be available; they may have been left behind or may never have been provided in the country of origin. DNA testing would help; the Government used to fund it, but no longer. Indeed, the chief inspector has recommended its reinstatement. I mentioned travel to a UK embassy and back, which can be a dangerous journey in itself. Centres have been set up in France to help refugees—I had understood in conjunction with the UK, but we hear of difficulties in reaching them and of various practical problems. The last I heard was that the UK had sent over a single official to assist. I hope that that is wrong.

If everything I have mentioned is already our law, it is not working in practice. Hard cases make bad law, but bad law—or no law—makes hard cases. The EU directive on the right to family reunification states in a recital that it is,

"a necessary way of making family life possible. It helps to create sociocultural stability facilitating the integration of third country nationals in the … State, which also serves to promote economic and social cohesion".

I agree. Families belong together. I beg to move.

*10.21 am*

**Lord Dubs (Lab):** My Lords, I congratulate the noble Baroness on achieving this debate with her important Private Member's Bill.

There are, I think we are aware, 65 million refugees in the world. How we handle the refugee situation is one of the greatest challenges to all of us—although

the majority of them are miles away, nowhere near the United Kingdom. It is as well to remember that even with the Syrians, there are about 3 million in Turkey and about 1 million each in Jordan and Lebanon. So when people say to me, "Why are we worried about unaccompanied child refugees coming to Britain?", I say that it is such a small number compared to those in the region itself.

I will digress from the subject of the Bill for a moment. I was in St James's church, Piccadilly, at the invitation of the vicar two days ago. There is a wonderful installation in that lovely old church, in which clothes discarded by refugees who arrived in Lesbos hang from the ceiling. It is a powerful image indeed, showing what it means to be a refugee. One wonders what happened to all the refugees whose clothes are hanging up there in that installation.

The important thing in this is public opinion. I firmly believe that we have to keep public opinion on our side if we are to deal humanely with refugees. I still believe, certainly as regards refugee children—and refugees as a whole—that public opinion, if informed of what is going on and of the experiences that refugees have been through, is still, by and large, on our side. I have been involved quite a bit in talking about refugees, and I always say, "I must bear in mind that public opinion has to be with us, then we can be much more humane and can do better things". On this issue in the Bill, public opinion is certainly on our side. All we have to do is to explain to the public what the position is and how individuals are affected. They will not all come round—I have had a few abusive tweets and so on—but on the whole, public opinion is supportive.

We have to bear in mind that every refugee has gone through a period of uncertainty at the least; sometimes their experiences have been terrible. I was talking to a Syrian boy some months ago who told me that his father had been killed, virtually in front of him, by a bomb, either in Aleppo or Damascus. I asked him about the rest of his family and he said that he did not know. But suppose that the rest of his family have escaped from the carnage in Syria and that his mother, and possibly his siblings, are somewhere in Greece or Turkey. Will we say that the Bill should not apply and that the family should not come to join that young boy here? Of course we cannot say that—it would be inhumane. Yet, save for exceptional circumstances, that is exactly the position—and that is what the noble Baroness's Bill seeks to remedy.

Of course, there are other uncertainties as well. If a child reaches the age of 18, there is no assurance that they can stay in this country, which is a key issue. However, the main issue for many refugees is separation from family. The child leaves, and then he—it is more often a boy than a girl, because usually only a boy takes the risk of undertaking the terrible journey and can make it in these difficult circumstances—will possibly end up in Dunkirk, Calais or Greece, and maybe will come here. What can he do then, if he cannot be joined by his family? I cannot think of anything more painful. As for his family, do they sit it out in Greece, Turkey or Jordan and just say, "We are never going to be able to join our son in Britain", or do they make the dangerous journey themselves, subject to trafficking and other things? It is a terrible dilemma to put a family in by saying, "You can either stay in these circumstances separated from your child or you can undertake a dangerous journey".

The Home Affairs Select Committee said this clearly:

> "It seems to us perverse that children who have been granted refugee status in the UK are not then allowed to bring their close family to join them in the same way as an adult would be able to do. The right to live safely with family should apply to child refugees just as it does to adults".

Surely that is the total argument as regards children. There are other aspects in the Bill, but this seems to be the main one. That is the case, and the Government need to be able to respond to the case of the Home Affairs Select Committee. We will hear arguments about pull factors. We hear such arguments every time anything is said about refugees. There are also push factors. There may be an element of a pull factor, but it is not much of one compared to the humanitarian need to do something to deal with these terrible family separations.

We are told that there might be exceptional circumstances. That is fine; if the exceptional circumstances apply often enough, maybe that would be all right. But it is still uncertain—and even if they applied, they would not give the protection that there would be if people came as of right to be united with their family member. Indeed, the Government themselves said, as the noble Baroness quoted, that exceptional circumstances in these cases must be very rare. Of course, the complexity of the situation is such that, without legal aid, it is very difficult indeed to make much progress.

That is the argument. The Dublin III provisions do not cover all cases—only a small number—and in any case they apply only when a child somewhere seeks to join their family, not when a family seeks to join a child. So there is a clear, humane and humanitarian case in favour of the Bill. I believe that if it were put to the British people, they would support it. That is why we should support the Bill.

*10.28 am*

**Lord Paddick (LD):** My Lords, I support the Bill and commend my noble friend Lady Hamwee on her tenacity and stamina in trying to improve the lot of refugees and asylum seekers. The Bill is just one example of the work she does in this area. It is also a great privilege to follow the noble Lord, Lord Dubs, who has perhaps done more than anybody in this House in this area.

My noble friend talked about moral obligations and our humanitarianism. Call me cynical—after 30 years in the police service you tend to become a bit cynical—but, for me, often in politics the number of votes a measure is likely to win or lose determines whether a Government will support it. However, with some issues, our desire for political advantage should take second place to our moral obligations and humanitarianism. This is one of them.

It is difficult to imagine the trauma of being separated from your family, your children or your parents, for example, in any circumstances. Knowing that they are still in a dangerous part of the world where they could very easily be killed or seriously injured and that the

[LORD PADDICK]
already painful separation could become permanent must be even worse. Imagine having to take the perilous journey across the Mediterranean and across Europe, eventually seeking asylum in a foreign country far from home where you may be unable to communicate very easily and where you feel hostility from a Government who express the wish to make the UK a hostile place for illegal immigrants, and then to be given little or no hope of ever seeing your family again.

Some of us, apart perhaps from the noble Lords among us who are lawyers, would hesitate to engage in any formal legal process involving a court or tribunal without legal representation, even in this country. Imagine being stranded in a foreign country where you have no knowledge of that country's legal processes, cannot speak the language and cannot afford to employ a legal representative. What chance would any of us have of navigating complex legal processes in an attempt to be reunited with our family?

Now imagine that all those scenarios are happening at the same time: separated from your family, traumatised by the dangers which you have fled from and which your family members still face, still traumatised by the perilous journey you have undertaken, arriving in a hostile foreign country and being faced with a legal process you have no understanding of and no help in engaging with. If that were not bad enough for an adult to cope with, unaccompanied asylum-seeking children, as we have heard, have no recourse to bring their parents or other family members to join them unless there are exceptional circumstances. Of the 28 European Union countries, only Denmark and the United Kingdom do not allow applications for reunification from asylum-seeking-children—something that, as the noble Lord, Lord Dubs, has just mentioned, the Home Affairs Select Committee described as "perverse".

Talking of perversity, it is only while someone is a refugee that they are able to bring other family members to the UK without having to have a sufficiently high income to qualify to do that. If a refugee does everything this country asks of him or her and is granted British citizenship, they are then prohibited from bringing their spouse to the UK unless they reach the spousal visa income threshold. If they were to string out their asylum application, they would not have to earn a high salary to achieve that end.

This Bill addresses all those issues. It allows unaccompanied refugee children to sponsor their family members to join them; it allows former refugees the right to sponsor family member asylum seekers under the refugee reunion rules; and it reintroduces legal aid for refugee family reunion cases. What are the Government's objections? The 2017 Conservative Party manifesto, on page 65, says that,

"solidarity is a Conservative principle, growing out of family, community and nation—all things that Conservatives believe in and work to conserve".

If the Government truly believed in family and truly worked to conserve the family, they would support this Bill. As the noble Lord, Lord Dubs, has said, we are not talking about large numbers here. I support the Bill and I ask the whole House and the Government to support it as well.

*10.33 am*

**Baroness Afshar (CB):** My Lords, I had the great privilege and good fortune that, when I decided to return to the UK to marry my husband, who was of New Zealand extraction of British parents, I did not have to prove that I had an income. I was allowed to come here because I had spent the largest part of my life as a student in this country, and it was accepted that I could come back and live here. Therefore, when I married my husband, he knew that I did not do it for a passport.

The assumption that the dependants and families of immigrants are in need of resources is perhaps worth considering in some detail. First and foremost, I contend that it is only the brightest, the best and the most enterprising who ever decide to move, because the logistics of getting oneself from A to B, particularly if it involves a family, require good tactics, good knowledge, good diplomacy and savoir faire in dealing with all kinds of officialdom across the board.

I also suggest that, once such refugees arrive here, they have much to give. Both my brother and I decided to stay in the countries where we had studied—he in the US and I in England—so after the Iranian revolution we were both in a position to ask our families to join us. I do not remember there being any problem at the time with our requiring our families to come and join us. As I said, one of my brothers went to the US. My father decided to go to France, where he was instrumental in setting up the Faculté Internationale de Droit Comparé in Strasbourg. It made very good money for the French Government because a lot of students wanted to live there. My brother heads a research institute in the US, and my youngest brother, who also went there, heads a hedge fund. The youngest, who stayed in France, also owns his own research unit. So there is a wealth of good information that immigrants bring, even if they arrive as dependants or otherwise.

In addition, the moral economy of kin dictates to all of us that we should protect our own. Therefore, when immigrants arrive, whether they be children, close relatives or distant relatives, we see it as our duty to care for them as our own. If you go to somewhere like Bradford, you see how rewarding that is.

Not only do I think that immigrants have contributed considerably to the food industry in Britain and to the palate of the British but I suggest that they bring a whole variety of different perspectives and outlooks. In this world we need to celebrate differences. They are enriching. Different ways of doing things help us to see better and they add wider dimensions to our lives. It is beneficial to us all to celebrate differences, and I think that we can rely on the moral economy of kin to be sure that those who arrive to join their families will not be a burden on the economy for long.

*10.38 am*

**Lord Alderdice (LD):** My Lords, I congratulate my noble friend on bringing forward this short Bill. There are three reasons why I stand to support her and the Bill. The first is that, when I was growing up, I had a sense of pride in our country because I was aware that people had come as refugees, particularly during and after the Second World War. They had been welcomed into our country and, as other noble Lords have said,

they contributed to it greatly. That was all positive. There was a sense that this was a welcoming country—one that people from other parts of the world could look to as a place of safety that would nourish and care for them—and that we as a people were doing something good and right by providing that kind of national home.

We have in recent years, for understandable pressures, changed the attitude. We are pulling up the drawbridge and instead of being an open place that has a reputation for being welcoming we are seen as a place that is hard to get to and, when you do arrive, you are no longer welcome. I do not advocate the kind of open door policy that Chancellor Merkel embarked upon—warmly but ill advisedly—because it has had adverse effects in all kinds of ways. However, I fear that our country is being infected by turning away from the other and into itself and losing its reputation and something of its soul. That is the first reason why I support the Bill. It is a sign, a symbol, an indication that there is a spirit in this country which is open and welcoming for those who need a place to come for safety.

The second reason is the practical experience I have had over a number of years of the splitting up of marriages because one partner was able to live here and the other could not. People have said, "Well, if they really want to live together the partner who has the right to live here should go elsewhere". That is easily said. A recent example is that of a bright, capable young woman who has been given a contract by Penguin for a book that she has written. She is a British citizen, her parents are British citizens and she lives in this part of the world. Some years ago she married a young man but he cannot come here for a number of reasons to do with our regulations and rules. So she has gone to live with him, but every time she has gone she has fallen seriously ill and ended up in hospital. They have tried again and again but have been unable to get access for him. So she went back out again. I received an email from her a few days ago to say that she was back in hospital. She had not been in touch with me because she nearly died last week with typhoid and malaria. The truth of the human stories, of the splitting up of marriages and relationships, is serious and we need to regard it with due care.

The third reason, the one which moves me most, is the situation of the children. As the director of the Centre for the Resolution of Intractable Conflict I run a group to provide supervision, advice and guidance for younger people—although increasingly everyone seems younger to me—who are working for NGOs, the Foreign Office and organisations where they are experiencing situations of conflict. They are wondering how to manage and cope emotionally themselves and how to understand the dynamics of what is happening.

A member of that group for a time was a young Syrian lawyer who had spent much of her life working in the Middle East for the UN High Commissioner for Refugees. When the situation arose in Lesbos and Greece the UNHCR called upon her, saying, "We need you. Can you come? We need everyone who can". She went out to Lesbos and every couple of days I would get photographs and emails of what was happening there. After that the situation got worse. As the news got less for us, the news got worse for them. She was asked to go to Athens to work with Greek children. Why? Because there were so many refugee children in Greece that the services could not cope with not only the incomers but with Greek children. Everything was beginning to break down in another EU country. We have a responsibility to those children as EU citizens as well as to those who come in.

Then she began to tell me about the hundreds, indeed thousands, of children who are on the road and being used and abused—inevitably so. It is almost impossible for them to find a way of surviving without ending up in the hands of either organised or disorganised crime. So when I hear people saying that we do not want to go down this road because it will only encourage people to come, I understand their concern. However, the fact is that they are already coming—they already have come—and if we do not provide the opportunity for them to live in a family circumstance, we ensure that they go into a life of crime. We are making it impossible for them to grow up in normal families of their own. As a psychiatrist I am not naive about families—they are not always perfect—but they are a lot better than the reality of the experience of these young people who are already in our country and our continent.

We should not allow ourselves to be pushed away from attending to that by the notion that in passing legislation we are opening the doors—we are not. We are setting down rules to ensure that those children who are already here are not condemned to a life of crime because it is the only way that they can survive. That is the responsibility that this Bill is trying to address, and that is why I give it my full support.

*10.46 am*

**The Lord Bishop of Carlisle:** My Lords, I too am most grateful to the noble Baroness, Lady Hamwee. I am delighted that this debate is about families, which is an apt topic as Christmas approaches. I am not speaking of the nostalgic image of a nuclear family around a groaning table; the Christian table is plainer but more welcoming and inclusive, a table around which all are welcome.

Round the table gathers a family. Our country has for so long and so rightly emphasised the family as a—perhaps the—key building block of society. At the present time we seek urgently for social integration, a society where shared values and shared culture bind us all into an ethos of mutuality which naturally, organically, squeezes out extremisms, violence, injustices and hate.

We have found that we cannot really legislate for this, and only to a limited extent can we educate for it. We just have to build it. We have to undermine the divisive idolatry of individualism by growing networks at every level of social reality. About the most effective growing medium for this is the age-old one of kinship—that is, the family.

I have a particular interest in health policy, on which I speak for the Church of England. Time and again I see how utterly vital family support is for health, both mental and physical; how loneliness, for instance, has certain negative impacts which have been the focus of some very welcome attention during the past year.

[The Lord Bishop of Carlisle]

Into this scene now comes the reality of refugees, as we have been hearing, just as the Holy Family were refugees at the first Christmas. Not the least tragic of the consequences of war, persecution and civil unrest around the world is the tearing apart of families—of children from their parents, of family groups for whom their interdependence is an essential resource as they strive for resilience in the face of dreadful events and such severe dangers.

So people arrive in this country or in Europe, or perhaps come to the attention of the UNHCR in a conflict region. A child may be adrift in a place where he or she is easy prey for traffickers. Parents may be worried sick about their child, whether under 18 or not. The exact configuration of mutual support will vary from family to family; it is not just a matter of parents and their children.

It is very apparent, and not just in the season of good will, that British people are desperately concerned for those who are driven from their homes and divided from their families, as we heard from the noble Lord, Lord Dubs. Of course, questions about pull factors and the possibility of abuse of the system are valid, and we all understand them. But to let them drive the direction of policy is to let the exception dictate the rule and run the risk of driving desperate and vulnerable refugees into the unscrupulous hands of criminals.

Others have a greater grasp of the detail of all this than I do, but the barriers we are currently putting up to the reunion of refugee families seem to me to be disproportionate to the benefits that could come for individuals, for families and for our communities as we seek to strengthen family life—a theme, incidentally, which featured strongly in all three of the debates in your Lordships' House yesterday on vulnerable children, poverty and the right to justice. So if stringent checks are needed, let us not use that as a means of introducing friction into the system and dissuading people from trying to do the right thing for their family. Rather, let us provide the information, the support and, let us hope, the legal aid which will help them to navigate the system.

Because every family and every situation is different, let us not draw the rules so tightly that truly deserving families are disqualified from consideration without any attention to natural justice. For example, it is often not fair that a relative who is under 18 at the time of application is disqualified because he or she reaches their 18th birthday during a long drawn-out application process. Where we rightly build into our rules discretion for their interpretation, with some flexibility to allow for special circumstances, perhaps we can train and support officials to use that discretion to make exceptions not grudgingly but with an eye first of all to fairness.

Although I began with a reference to the Christmas season, this is not a matter of ephemeral good will. As the noble Lord, Lord Alderdice, pointed out, it is a matter of our national identity as a hospitable nation which strongly believes in the values of family. This Bill is the natural corollary of those values and I support it most warmly.

*10.52 am*

**Baroness Garden of Frognal (LD):** My Lords, I add my thanks to my noble friend Lady Hamwee for introducing this Bill, and it is a pleasure to follow the right reverend Prelate. I agree with everything he said and, indeed, with all that has already been said in support of the Bill. I have added my name to speak not through any specialist knowledge but because it is such a good cause. It is both morally right and humane to allow more refugee families to be reunited. If one needed economic arguments it could certainly be the case, as we have heard from the noble Baroness, Lady Afshar, that refugee families who have the comfort and strength of being together are much better able to look for opportunities to be part of and contribute to the country which has given them refuge. But it is humanity rather than economy which drives this Bill.

My decision to add a brief word was reinforced by having the privilege of attending the parliamentary briefing to which my noble friend Lady Hamwee has already referred. Two Syrian refugees, Maya Ghazal and Khalil Al Dabbas, shared their experiences of traumatic journeys to the United Kingdom, their determination to seek refuge and their deep desire to live as a family. It was humbling to hear two young people who had had to face terrible challenges but who had come through their ordeals speak with clarity and conviction about measures which would help them and others like them.

As my noble friend Lord Alderdice said, we used to be an open and welcoming country to those in need of sanctuary, and we have benefited immensely from the skills and dedication of people who came to us in that way. But some of our current regulations make us less welcoming, and this Bill seeks to cut through the cost and complexity of reuniting families and to help us once again to show that we care about those fleeing persecution. The noble Lord, Lord Dubs, has already quoted from the Home Affairs Select Committee but I will just repeat what it said:

> "The right to live safely with family should apply to child refugees just as it does to adults".

The changes proposed in this Bill would affect only a small number of child refugees but would have an immense effect on their lives and prospects.

Others have set out further reasons why this Bill is timely and necessary. As a wealthy country, we have a duty of care to those who have little or nothing, and bringing families together is a measure we should be taking to give them hope and a brighter future. I do hope that the Government will look favourably on the measures here, appreciate the Bill's intentions and the beneficial effect it could have on young people in great need, and will be able to add their support. I look forward to the Minister's reply.

*10.55 am*

**Baroness Ludford (LD):** My Lords, I agree with everything that has been said so far. I am pleased to support my noble friend's Bill, on the basis of certain principles, the first of which is continuity and comparability with our existing EU responsibilities, or at least the essence of them; the second, reasons of humanity; and the third, rationality.

I turn first to continuity with the principles of EU law in comparable situations requiring the examination of family reunion. The free movement directive, 2004/38, which is on all our lips these days, refers to the spouse, a registered partner,

"direct descendants who are under the age of 21",

and,

"the dependent direct relatives in the ascending line".

That is reflected in the citizens' rights provision of the divorce agreement reached last Friday, which I hope will be endorsed by the European Council today. My noble friend referred to the Dublin regulation, known in the jargon as Dublin III and shortly to become Dublin IV. That is a different situation, of course, because it is about grouping a family for the examination of asylum application, so it is not about residence or settlement, but it is a parallel situation. That regulation puts great stress on the best interests of the child; it should be a primary consideration. It stresses that children should not be separated from family members, including brothers or sisters. Member states even have an obligation to trace family members, including siblings and other relatives, residing in the European Union in order to bring the asylum applications together.

On Tuesday this week in the other place, the Conservative Member Tim Loughton sought, with cross-party support from Tim Farron and Yvette Cooper in particular, to persuade the Government to continue, if we Brexit, the essence of the Dublin regulation which, as he said,

"allows unaccompanied asylum-seeking children to be reunited with their adult siblings, grandparents, aunts and uncles, as well as their parents".

He highlighted how for children who have lost their parents they are,

"the last vestiges of family connection. Quite often, those connections were with siblings, or uncles and aunts. For those young people, it was the only available bit of stability and continuity with their previous existence in places such as Syria".—[*Official Report*, Commons, 12/12/17; col. 250.]

The family reunification directive, which of course the UK Government did not opt into in 2003, also has a much wider definition of family reunification than that in the Immigration Rules. It is worth noting that although Ireland did not opt into the directive, it has enshrined in its own domestic law the right of unaccompanied child refugees to act as sponsors for the purposes of refugee family reunion.

The second principle is humanity. One of the guiding principles of the Dublin regulation is that when the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of a member state who can take care of him or her should be a binding responsibility criterion. That is how seriously the issue of family support is taken. In assessing the best interests of the child, member states should take due account inter alia of family reunification possibilities, the minor's well-being and social development along with safety and security, particularly where there is a risk of the minor being a victim of human trafficking. It also mentions that the views of the minor should be taken into account. A recital to the 2004 free movement directive cites the criteria of "freedom and dignity" as an inspiration to the family unity provisions. This is not just an administrative issue; the recital talks about maintaining,

"the unity of the family in a broader sense".

My noble friend, in referring to our moral obligations and the recognition of the importance of family in our culture, placed that idea centre stage. It has become a cliché that politicians of a certain persuasion, often of the governing party, routinely invoke family values; my noble friend Lord Paddick cited the Conservative Party manifesto. It is time to apply those values.

My third principle is rationality. It makes sense on grounds of public policy. Being reunited with close family is a way to ensure the welfare and safety of child refugees, as well as improve their chances of integration and recovery. Integration promotes economic and social cohesion, as mentioned by my noble friend Lady Hamwee. Splitting up families and relationships is costly for our society and economy, if we look at it from that level; it is also terribly costly for the people concerned, as highlighted by my noble friend Lord Alderdice. Last week, there was a *Guardian* article about a teenager from Afghanistan whose asylum application was initially refused because it was not believed that he was under 18 or from Afghanistan. He won his appeal, but he still has no contact with his mother or two brothers. He is trying to get to college. He could thrive much better in our society—and, given the resourcefulness of refugees, contribute to it, as noble Lords have mentioned, including the noble Baroness, Lady Afshar, and my noble friend Lady Hamwee.

In 2016, the Home Office published updated guidance. However, as mentioned by my noble friend, such cases of discretion will be "rare". Without legal aid, making an application outside the rules is very difficult due to the complex rules. Separation of families can have a devastating impact on people's lives, their rehabilitation from experiences of trauma and their ability to integrate in and adapt to our country. As has already been mentioned, the report from the Home Affairs Committee in the other place stressed the bureaucratic difficulty of family reunion and the current sponsorship and visa system. The Government should be doing all they can to help people in these circumstances rather than hindering their chance to reach safety. The report also recommended that the Government amend Immigration Rules to allow refugee children to act as sponsors for their close family.

On the grounds of all those principles, especially the last one, leaving families divided makes no sense and is costly in social and economic terms for us. Such people will be in the best position to start a life in and contribute to the UK, as so many have already done magnificently, if they have the support of their family.

*11.03 am*

**Lord Kerr of Kinlochard (CB):** My Lords, in debating the Bill of the noble Baroness, Lady Hamwee, I declare an interest as a trustee of the Refugee Council, which for approximately 25 years has tried to help some 1,000 unaccompanied children each year to navigate our complex processes. I pay tribute to the work, for

[LORD KERR OF KINLOCHARD]
many years, of the noble Lord, Lord Dubs, at the Refugee Council. It still goes from strength to strength, as indeed does he.

I want to speak about the problem of unaccompanied children and the alleged pull factor. Until I joined the Refugee Council, I was not aware of the rather cruel anomaly whereby, unlike an adult refugee—who has the right to bring in close family members—a refugee child on his or her own has no such right to be reunited. That seems both illogical and inhumane. As the noble Baroness, Lady Ludford, said, it is certainly out of line with European practice. Such countries, which, unlike us, did not opt out and are applying the 2003 directive on family reunion, allow unaccompanied child refugees to subsequently bring in their families. As the noble Baroness said, we and the Irish opted out—or rather, did not opt in—so we are in a different position. The Irish are in a different position from us because they had the humanity to apply the system in their domestic law; it is written into Irish law. The noble Baroness, Lady Hamwee, suggested that we should write it into our domestic law, following the example of the Irish and the rest of the European Union. It is a little shaming that we are the odd one out.

The number of people who would benefit if we corrected the anomaly is very small, but the benefit to each individual would be very large. Let me cite one example. The Refugee Council is currently trying to help a 19 year-old from Eritrea called Solomon, who came here as an unaccompanied child and was granted refugee status. He has a job, goes to college and wants to bring in his 16 year-old sister, Liwan, who is currently in a refugee camp in northern Ethiopia. He has just been told that he cannot do so. He has been in a camp in the past and knows how grim the conditions are; he knows that his sister is in mortal danger. She is talking of trying her luck on the perilous illegal passage across the Sahara and Mediterranean. He fears that she will die and he blames himself for failing to persuade us to save her—but it is we who are failing these young people and failing to show the common humanity to live up to the standards of the society we like to think we are.

Following the Second Reading debate on what became the Immigration Act 2016, the noble Lord, Lord Bates—for whom I have a very high regard—wrote to the noble Lord, Lord Rosser, and the rest of us taking part in that debate. He asserted that permitting refugee children here to sponsor requests from their parents and siblings to join them,

"could result in children being encouraged, or even forced, to leave existing family units in their country and risk hazardous journeys to the UK in order to act as sponsors".

That is the pull factor theory. With respect, it is totally lacking in evidential credibility or plausibility and does not reflect well on the Government. Mr Justice McCloskey, overturning in the Upper Chamber the refusal of an application by a 19 year-old—granted refugee status at 16—to bring his mother to join him, ruled that,

"there is no evidence underlying it"—

"it" being the pull factor, which is inherently implausible. It is implausible to suggest that families living a hand-to-mouth existence in the squalor of a refugee camp in Ethiopia, Eritrea, Syria, Jordan or Libya sit down at the dinner table and make a cold calculation, coming up with a cunning, multi-year plan to send one of their children through bandits and traffickers, across deserts and ocean, in the hope of reaching our land, navigating our system and securing a right—if the Bill of the noble Baroness, Lady Hamwee, passes—to bring in the rest of the family. The world is not like that. That is a strange, sick, Swiftian joke, worthy of *A Modest Proposal*. Parents do not send the children off. The children—and adults—are driven not by a pull factor, but by a push factor. They are fleeing from intolerable conditions. They are fleeing for their lives.

If the Minister has been briefed to warn us against the perils of a pull factor relating to unaccompanied children, I really hope she will not. She should go back to the Home Office and ask her officials how often they have been to the camps and how many of these cruel parents they have spotted there, plotting to force a child to come here. She might ask her officials why their colleagues in all other EU countries apparently have not spotted these cruel, callous, Swiftian parents. Why does the UN Committee on the Rights of the Child now urge the UK to:

"Review its asylum policy in order to facilitate family reunion for unaccompanied and separated refugee children"?

Why is the whole regiment out of step—except us? Why do we know better than everybody else? Why does the pull factor apply only to this emerald isle?

The best way to convince your Lordships would be for us all to see Ai Weiwei's striking new film "Human Flow". Soberly, undramatically but rather movingly he captures the scale, waste, misery and human cost of the current refugee crisis and the factors that drive these people—the despair of their broken societies. Against this huge canvas of human tragedy, this Bill is a pitifully small thing, but passing it would be the right and decent thing to do. I support it.

*11.11 am*

**Lord Cormack (Con):** My Lords, I thought it rather sad that nobody from this side of the House was taking part. I will briefly give my support to the general principles of the Bill. I am so glad that the noble Lord, Lord Kerr of Kinlochard, mentioned Jonathan Swift's *A Modest Proposal*. If your Lordships have not read it and do not read anything else during the Christmas Recess, look it up. It will not take you long. It is the most wonderful, erudite, witty, scintillating indictment of nonsense that you will ever read.

I want to contribute to this debate for three reasons. I remember that in 1945, we had in our own small home a couple of Polish children roughly of my age—six or thereabouts—who came from a camp in Lincolnshire not very far from where they lived in Grimsby to spend the day on two or three separate occasions. My father was on the point of making an application to see whether we could adopt at least one of them when they were mercifully reunited with their family. I can still remember the joy.

When I came into the other place in 1970, I had not been there long when I was very proud to support Edward Heath's welcoming of the Ugandan Asians. Like the Jews before the last war and those such as the noble Lord, Lord Dubs, who came with the Kindertransport, that influx enriched our society. We even have at least one of them—my noble friend Lord Popat—among our number in your Lordships' House. I remember, as chairman of the campaign for the release of Soviet Jewry, helping to welcome in Vienna those who got their visas to get out of the Soviet Union and the repressive conditions there, and to come to the West.

We are moving towards Brexit. I acknowledge it as much as I regret it, but the one thing we must not be moved towards is an isolationist position in the continent of Europe. We must remain a leading nation. We are a leading nation with a proud history of welcoming those fleeing persecution. Of course we must be careful in how we vet people in this age of terrorism and so on. But earlier this year when I was on the Home Affairs Sub-Committee of the European Union Committee—before I was sacked for voting as I did on the Article 50 Bill—a group of children came before us and gave testimony in a private session. It was deeply moving.

This country, with its proud record going back centuries—welcoming the Huguenots in the 17th century and so on—has a role that it must not abandon. The family unit is the building block of any society. If we can help by having some family units from those countries riven by famine, civil war and strife, we will be living up to our proud history. If this Bill helps us to do so, it deserves our full and unreserved support.

*11.16 am*

**Baroness Sheehan (LD):** My Lords, I commend my noble friend Lady Hamwee for bringing this Bill to your Lordships' House. Improving the lot of asylum seekers and refugees in UK is a cause for which she has long fought. I commend her for her tenacity.

We have heard powerful arguments on all sides of the House—I thank the noble Lord, Lord Cormack, for his speech, which allowed me to say "all sides of the House"—of how devastating it can be for families to be separated from close family members and the desperate measures some are forced to take to escape the dreadful situation they find themselves in. As we heard from my noble friends Lady Ludford and Lord Paddick, the Government place great store on family values so I hope they will give serious consideration to the very measured asks in the Bill.

I wanted to speak in this debate for two reasons. First, one of the hardest things I have to listen to was a mother describing having to make the choice between staying in a dangerous situation with her very young children or fleeing to safety with them. The price of safety was to leave behind a young daughter, because our rules say that as an over-18 she is adult and old enough to fend for herself. I have three children all in their early 20s. I utterly disagree that they have the ability to fend for themselves, even in London. The thought of a young girl on her own without the protection even of her close family in a conflict zone is a chilling one, but that is the choice parents are being asked to make.

The second reason is the example of a young Eritrean I met in the Calais camp, in the Jungle. He was on his own, having left home at the age of 15 to flee the oppressive regime there. He wanted to join his uncle in the UK, but this is against the rules. He, like many of the others in northern France, was reduced to playing refugee roulette, trying his luck every night through dangerous and illegal means instead. As the noble Lord, Lord Dubs, said, we are talking about only a very small number of children who are unaccompanied and alone in northern France and other parts of Europe. It would not take very much on our part to fulfil our own legal obligations—the Government's own legal obligations—to bring 480 Dubs children to the UK.

These are only two stories and we have heard a few others, all moving stories of human suffering that is, quite frankly, avoidable. At very little cost to ourselves, as my noble friend Lady Ludford said, we could remedy this situation. I do not know exactly what the Minister will say in her response but in the past, all too often the Government have talked about pull factors. The noble Lord, Lord Kerr, has addressed that argument and showed that the evidence does not give any credence to the Government's assertion that the easing of family reunification rules will create pull factors. Too often the Government have said in debates on these issues that those pull factors will encourage more smugglers to operate.

Frankly, the argument about pull factors is a fig leaf and there is not a single shred of evidence to support it. I have evidence for my position and I should like to hear the evidence from the Government for theirs. There is ample correlation between push factors, such as conflict, repressive, hateful regimes and famine, and it is these that force people to do the unthinkable and leave their homes, livelihoods and communities and flee with only what they can carry. Alexander Betts, head of the Refugee Studies Centre at the University of Oxford wrote in a *New Scientist* article in September 2015:

> "No existing sound research substantiates the political claim that giving people asylum in Europe stimulates more flow".

In an email to me, Professor Ian Goldin, head of the Oxford Martin School of Global Challenges, says, "There is no credible evidence for the Government's claim on pull factors. The simplest argument against this is that the pull factors have not changed, yet refugee numbers have increased dramatically. The pull factors that are cited for the UK, such as higher wages or attraction to the social security benefits are relatively unchanged over many years, yet refugee numbers have changed dramatically and can be shown to be directly related to the push factors, notably the conflicts in Syria, Afghanistan and elsewhere".

The Council of Europe's *Report of the Fact-finding Mission on the Situation of Migrants and Refugees in Calais and Grande-Synthe, France* by Ambassador Tomáš Boček says:

> "I was told by the authorities that there was a reluctance to improve conditions because of concerns that this would act as a pull factor, leading more and more migrants to make their way to Calais. However, it seems clear to me that the poor conditions have not acted as a deterrent so far. The current conditions raise

[Baroness Sheehan]

potential issues under Articles 3 (prohibition of inhuman and degrading treatment) and 8 (right to respect for private and family life) of the European Convention on Human Rights".

The EU Home Affairs Sub-Committee, chaired by the noble Baroness, Lady Prashar, published a report last July on unaccompanied migrant children which says:

"We received no evidence of families sending children as 'anchors' following the implementation of the Family Reunification Directive by other Member States; we were also told that in some cases unaccompanied children in the UK declined to take advantage of tracing and reunification procedures, even when these were offered. Kent County Council wrote that 'the Red Cross is used to trace family who are still living abroad although our experience is that there is limited take up of this service from young people'. This is not surprising … many unaccompanied migrant children fear that attempts to trace family members living in their countries of origin could put those family members in danger".

There you have it: pull factors, whether through improving humanitarian conditions in refugee camps or easing family reunion rules, will not cause people to pack up their lives in a backpack and risk an extremely hazardous journey to come to the UK. To do that they have to be pushed, and pushed hard.

I shall move on quickly to smugglers. Do the rules that currently exist keep refugees out of the clutches of ruthless people smugglers? The Government are correct in saying that smugglers are a real threat to refugees. In fact, even authorities in Europe, with all their many resources, cannot deal with the smugglers that currently operate in Europe, and vulnerable refugees fear them even more. The fact of the matter is that the fewer safe and legal routes there are to process asylum seekers, the more power the smugglers have.

The Human Trafficking Foundation's independent inquiry in July this year, co-chaired by Fiona Mactaggart MP and the noble and learned Baroness, Lady Butler-Sloss, found no evidence whatever that a safe and legal route to the UK constitutes a pull factor for traffickers targeting vulnerable unaccompanied children. In fact, it found the opposite—that the closing off of such routes feeds the trafficking and smuggling networks. The prices to get to the UK illegally go up, forcing children into situations where they are exposed to labour exploitation, sexual exploitation, criminal exploitation or a combination of all three. A simple truth coming out of the inquiry is that instead of protecting children who have fled to Europe for safety, the Government are failing them, leaving the way open for smugglers and traffickers to exploit them.

As a number of noble Lords have said, it really comes down to a question of what kind of Britain we want to live in; an open and welcoming country for those seeking sanctuary or a closed one. It is time to stop flouting our duties to some of the most unfortunate people on the planet, step up to the mark as decent human beings and pull our weight on the international stage.

*11.26 am*

**Lord Rosser (Lab):** My Lords, I too congratulate the noble Baroness, Lady Hamwee, on her Bill, the purpose of which is to provide for leave to enter or remain in the United Kingdom to be granted to the family members of refugees and to refugees who are family members of British citizens.

In her opening speech, the noble Baroness explained the provisions of the Bill, including the extension of the list of eligible family members who can be sponsored in an application for refugee status or humanitarian protection. The Bill also provides for the reinstatement of the provision of legal aid in respect of refugee family reunion cases, which can be complex and lengthy. The current position under our Immigration Rules is that individuals making an asylum application may include in that application only a spouse, civil partner, unmarried partner or children under the age of 18, with those dependants being granted leave to enter or remain in the UK for the same duration as the sponsor if the principal application is granted. Child asylum seekers in this country are not able to sponsor a parent or carer to join them.

As has been said, an objective of the Bill is to reduce the incidence of the separation of family members in the light of the significant adverse impacts this can have, and so address the issue of the vulnerability of unaccompanied children and the exploitation many experience. Eighteen months ago the House of Commons Home Affairs Committee issued a report which, among other things, called on the Government to amend the Immigration Rules to allow refugee children to act as sponsors for their close family. The committee argued, as my noble friend Lord Dubs said, that it was perverse that children granted refugee status in the UK were not then allowed to bring their close family to join them in the same way as an adult would be able to do, and that the right to live safely with family should apply to child refugees as it does to adults. This was not a view shared by the Government, who argued that the current family reunion policy met our international obligations and said that there was provision to grant a visa outside the rules, which could be used in respect of extended family members, including parents of children recognised as refugees here, in exceptional circumstances.

However, we are one of only two EU countries that have neither opted in to the EU directive on family reunion, which sets out that unaccompanied child refugees are entitled to be reunited with their family members, nor provided for this in their own domestic law. When she responds, can the Minister provide some information on the number of visas that have been granted outside the rules in exceptional circumstances since July 2016, when the updated guidance was published, and the number of those that were in respect of parents of children recognised as refugees here? Can she also provide information on the terms on which leave to remain has been granted outside the rules in exceptional circumstances, and the extent to which those terms differ from those that would apply in respect of individuals joining relatives in the UK within and through the applicable rules?

I hope the Government will feel able to give a supportive response to the Bill, even though that would be contrary to their approach to date. If they do not intend to be helpful—I am conscious of the way in which they failed to deliver on the spirit of the Dubs amendment—the least they can do is spell out their reasons in some detail, and the hard evidence to support those reasons, bearing in mind the devastating impact, both short-term and long-term, about which

we have heard today, that family separation can have on those affected, not least on children and young people.

What impact on the net migration figure do the Government think the terms of the Bill would have? What is their hard evidence to support their conclusion? I ask that in the context that the net migration figure has fallen not inconsiderably recently following the decision to withdraw from the European Union and the hostile climate that that provoked, and in the context that the Government do not apply existing EU rules on movement of people as firmly as they could within those rules and as some other EU countries do. Indeed, apparently the Government do not even know the impact on the net migration figures of not applying those EU rules as firmly as they could. I also ask the question in the context that we have found out only recently that—to put it politely—the Government have been working under a misapprehension about the number of students who stay on in this country beyond the time for which they are permitted to do so. I also ask that question in the context that the Government have no idea of the number of people in this country illegally and focus only on making it harder for this unknown number of people to live in this country illegally.

My final question is about the Government's estimate of the impact on the net migration figure of the Bill. The Government have had control over the size of the net migration figure for people from outside the EU since 2010 and have had no issue since then with that figure consistently being way above their claimed target of it being in the tens of thousands. This contradiction is no doubt the case because, whatever their publicly declared net migration target, the Government know only too well the benefits that immigrants have brought and continue to bring to this country.

I hope that in the light of all these factors the Government will not try to argue or imply that we do not have the capacity to take into our country the additional people, under humanitarian family reunion principles, who might come here under the provisions of the Bill, unless they are going to provide hard evidence that the figure would be way above what anyone might have anticipated. That would be totally contrary to the Government's overall approach to net migration, which in reality has been somewhat different, as far as the overall figures are concerned, from the public impression they seek to give, for electoral purposes, that their policy is to bring that figure into the tens of thousands as a matter of priority.

*11.33 am*

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, I thank the noble Baroness, Lady Hamwee, for raising this very important issue, which we oft discuss in your Lordships' House, and noble Lords for the many thoughtful and passionate contributions to the debate. I think it would be useful if I state up front, particularly in response to the noble Baroness, Lady Afshar, and my noble friend Lord Cormack, that I totally agree that immigration—and I say this as an immigrant—has enriched the UK, particularly for refugees who have made the UK their home.

Since 2010, we have granted more than 100,000 refugees permanent residence in the UK. In the year ending September 2017, almost 9,000 children found shelter, security and safety in the UK—49,000 since 2010—and we are committed to resettling up to 3,000 vulnerable children, together with their families, from the Middle East and north Africa region, and 20,000 vulnerable refugees by 2020, around half of whom will be children. Those are the facts to date. In comparing ourselves with the EU, I think we can stand proud because in 2016 the UK resettled more refugees—adults and children—than any other EU member state, and more than a third of all resettlement to the EU was to the UK. We are a welcoming country and we remain a welcoming country.

The noble Lord, Lord Rosser, asked how many visas have been issued outside of the Immigration Rules in family reunion cases since we published the new guidance. I can give him the figures for 2015 and 2016. In 2015 we issued 21 visas outside the Immigration Rules. In 2016 we issued 49. Up to September 2017 we have issued 49. Whether there are exceptional circumstances depends very much on the facts of each case but may include, for example, an adult dependent son or daughter living in a conflict zone or a dangerous situation with no other relatives to support them. Since we published the guidance in July 2016, entry clearance officers have referred an increased number of applicants for a grant of leave outside of the rules. These have included children aged over 18 from various countries, such as Syria, Iraq and Sudan, who are not living an independent life and who applied as part of a family unit.

My noble friend Lord Cormack made the important point that we must not turn inwards. Britain has always been an outward-looking country and we will remain so on leaving the European Union. We will continue to uphold our international obligations and welcome refugees to our shores, as we have done throughout history, as my noble friend pointed out.

I have listened to concerns for those separated from family members by conflict or oppression. No one could fail to be moved by the thought of close family living in conflict zones or dangerous situations. That is why this Government strongly support the principle of family unity and we already have a comprehensive framework for family members of refugees to be reunited here. This is set out in the Immigration Rules and our family reunion policy, rather than primary legislation. This policy has seen more than 24,000 partners and children reunited with their refugee family members in the past five years. There are rules already in place for extended family of refugees in the UK to sponsor children where there are serious and compelling circumstances, and for British citizens to bring family here so that there is no need for children, in particular, to make illegal and dangerous journeys to get to the UK, as many noble Lords have acknowledged.

The noble Lords, Lord Dubs and Lord Kerr, and the noble Baronesses, Lady Sheehan and Lady Hamwee, talked about the pull factor and the Government not having evidence of that. I absolutely accept that there are push factors but it is important that we do not create further incentives for asylum seekers to choose

[Baroness Williams of Trafford]
to come here illegally rather than claim asylum in the first country that they reach. It is important to note that the push factor of civil war or persecution is the deciding factor in whether or not an individual flees their country, but we must do all that we can to support those in need of protection to claim asylum in the first safe country to avoid these dangerous secondary movements.

We know that changes in policy impact on asylum seekers' choices with regard to those secondary movements. In 2015, Germany, for example, saw its asylum intake increase by 155%. More than 20% of people who sought asylum in Germany in 2015 were from countries in the Balkans, which thankfully have not seen conflict for more than 20 years.

The noble Baroness, Lady Hamwee, talked about our no longer funding DNA tests for family children. There is no requirement to provide DNA evidence or any other type of evidence, because we recognise that documentary evidence may not always be available, particularly in countries where there is no functioning administrative authority. We have improved our guidance to highlight the challenges that applicants may face in this regard.

Noble Lords highlighted the fact that the family reunion rules provide only for immediate family members, but our policy caters for extended family living in precarious and dangerous circumstances. There is provision to grant visas outside the rules—I have given those figures to the noble Lord, Lord Rosser—in exceptional cases and published guidance for caseworkers makes that clear.

The noble Lord, Lord Paddick, asked about former refugees being unable to sponsor family members under family reunion. Most refugees will complete six years' leave to remain before they can apply for British citizenship and they can sponsor their family members at any point during those six years. But there is also provision in the family rules for British citizens with exceptional circumstances. I can write to him further about this if he wishes.

I must be clear that the rules will remain in place after our exit from the European Union. Some have sought to argue that so-called family reunification under Dublin may no longer be available post Brexit. However, Dublin does not confer immigration status simply because an individual has a family member in the UK; it is a mechanism for deciding the member state responsible for considering an asylum claim. Those transferred under Dublin may need to leave if they are found not to need protection. Our family reunion rules will continue to enable immediate family members to reunite safely with their loved ones in the UK, regardless of which country those family members are in. In addition, those recognised by UNHCR as refugees may be able to join close family members here in the UK through our mandate resettlement scheme. Individuals are referred to UK Visas and Immigration by UNHCR where resettlement to the UK is deemed appropriate. We need to ensure that existing schemes are used to full effect to benefit family members living in regions of conflict. For this, we must rely on UNHCR referring more people for resettlement under these schemes.

I can assure your Lordships that we are listening to concerns about family reunion and discussing with NGOs how we can make improvements as part of our wider asylum and resettlement strategy. Our starting point, however, is that family reunion is a matter for Immigration Rules and policy rather than primary legislation. I believe that those rules already cater for certain types of cases that noble Lords are concerned about, although I agree entirely that we need to ensure that the policy is delivered in practice.

The noble Baroness, Lady Hamwee, referred to Immigration Rule 319X regarding unaccompanied children. I assure her that we are looking at that rule and whether improvements can be made. Home Office officials are discussing this with the NGOs, including organisations such as UNICEF.

The noble Lord, Lord Paddick, said that our policy is perverse and out of step with the rest of Europe vis-à-vis children. Our family reunion policy meets our international obligations and allows thousands of refugees to be reunited with their immediate families. We regularly review family reunion policies in other member states and note that some are seeking to impose more stringent requirements. I have already laid out some of the figures, but it is important that our system does not encourage asylum seekers who have reached a safe country to choose to move elsewhere. We must avoid illegal migration from safe countries, which undermines our efforts to help those most in need.

The noble Lords, Lord Paddick and Lord Dubs, talked about reinstating legal aid in family reunion cases. We are committed to providing clear guidance and application forms to support customers through the family reunion process. Again, we are working closely with key partners such as the Red Cross and UNICEF to further improve the process for considering family reunion applications, so that people understand what is expected of them and to ensure that policy works in practice. Legal aid is paid for by taxpayers and, as noble Lords will understand, resources are not limitless. It is important that it is provided for those most in need, including those who claim asylum.

Our focus remains on those who need protection and those fleeing conflict. I am of course aware of the importance to those recognised as refugees in the UK of having their family join them here to support their integration. That is why our policy allows immediate family to come here, whether they need protection in their own right or not. More importantly, this Government's significant resettlement commitments are designed to keep families together. It is worth reflecting on the contribution that the Government have made to support those fleeing conflict and oppression. I laid out some of the figures earlier, but we have expanded our resettlement commitments to resettle more than 23,000 people by 2020. In addition, we have committed £2.46 billion of humanitarian aid in response to the Syrian conflict.

In conclusion, we already have a comprehensive framework to provide safe and legal routes for family to reunite here. Instead of primary legislation, we must ensure that our existing family reunion policy is delivered in practice. I think the noble Baroness,

Lady Hamwee, made that point right at the outset. This includes granting visas outside the rules in exceptional circumstances and using our resettlement schemes to full effect, so that we help those who need it most. I thank the noble Baroness once again and ask her to continue to work with the Government to see whether there are any other ways in which we can build on the existing family reunion policy and process, without the need for primary legislation.

*11.48 am*

**Baroness Hamwee:** My Lords, I thank everyone who has supported the Bill and I thank the Minister not only for her response but for that last offer. I am happy to work with anyone, however much I disagree with certain aspects of what is being done.

The Government's exposition of a positive response to refugees does not really accord with what speakers have heard and know and have told the House. No doubt that is because so many people are affected. Much reference has been made to the pull factors and in response I will adopt the term of the noble Lord, Lord Kerr: implausible. I am not clear why primary legislation is a bad thing in this situation, and with regard to the rules, I simply repeat—because I do not want to make my speech all over again—that exceptional circumstances have become normal circumstances, so you cannot apply the exceptionality factor.

The fact remains that we have a situation that is of huge concern to all noble Lords regarding separated families, and the comprehensive framework, which was referred to by the Minister, is not doing the job we all want to see. The threads which have run throughout this debate include how we wish our country in 2017 to be and to be perceived, including as one that expresses its humanity and the value of family, as well as practical reasons, including those which are not actually altruistic about the enrichment of our society. Reference was made at the start of the debate to informed public opinion. Politicians need to take the lead in informing public opinion and in debating with the public. I hope that noble Lords will agree to give this Bill a Second Reading.

*Bill read a second time and committed to a Committee of the Whole House.*

## Immigration Control (Gross Human Rights Abuses) Bill [HL]

*Second Reading*

*11.51 am*

*Moved by* ***Baroness Kennedy of The Shaws***

That the Bill be now read a second time.

**Baroness Kennedy of The Shaws (Lab):** My Lords, it is impossible to embark on the Second Reading of this Bill without explaining briefly the shocking backdrop to this effort to create legislation which will bar entry to this country to people who are gross abusers of human rights.

Sergei Magnitsky was a Russian lawyer who acted for William Browder and his company Hermitage Capital Management. Bill Browder's refusal to bow to the demands of Mr Putin brought state attention to his door and episodes of harassment and intimidation followed. In June and October 2008 Sergei Magnitsky testified before the public investigative committee in Moscow against corrupt officials who were involved in the corporate raid on Hermitage's offices there which had taken place the previous year.

For having the temerity to challenge the power of the Russian state, Sergei Magnitsky was arrested and detained on trumped-up charges. The conditions in which he was held in pre-trial detention were horrendous: freezing cells, open sewage running underfoot and beds in such short supply that prisoners were forced to sleep in them in shifts. Sergei Magnitsky became very ill but was denied proper medical treatment. His family's entreaties were ignored. He was kept permanently handcuffed and regularly struck with rubber truncheons. He was eventually found dead in his cell with injuries which were consistent with a final and hellish beating. It beggars belief that four years after his death he was tried—I suppose they would call it a trial in your absence—and convicted, having been posthumously prosecuted by the Russian state. The authoritarianism of Putin's state reaches beyond the grave. Of course, what it was really doing was seeking to justify the cruelty that had been exacted by it against a lawyer who dared to stand up for the rule of law.

Those who were responsible for this catalogue of abuse have since been honoured by the Russian state and have hugely enriched themselves through fraud, using Hermitage as a cover. Sergei's death left a mother, a wife and two children to grieve, as well as a devoted friend and client who was not going to take what happened lying down. Bill Browder is the only financier and banker I know who has turned into a dedicated, full-on, full-time human rights activist. Since Sergei's death William Browder has worked tirelessly to secure justice. He has campaigned against the impunity which is enjoyed by the officials who committed those gross acts of inhumanity. Knowing that Russia under Putin will never prosecute those who jailed, persecuted and ultimately killed Sergei, Browder has lobbied and campaigned and urged other nations to deny sanctuary to his killers and to create laws which will deny those criminals the enjoyment of travel, the use of ill-gotten gains and the anonymity that which allows them to escape ignominy.

So far, he has persuaded the United States and Canadian Governments to legislate, and it is time that we did this, too. This is about creating a Magnitsky law. Human rights violators like those who murdered Magnitsky exist in other nations, too. In Sudan, there are generals like Salah Gosh, who was identified by a UN panel of experts as an individual who should be subject to sanctions because of his role in the Darfur atrocities. There is another general, Major General Abdel Rahim Mohammed Hussein, who has outstanding warrants from the International Criminal Court for his role in crimes of inhumanity and war crimes, all relating to Darfur.

[Baroness Kennedy of The Shaws]

In the Congo we have seen grievous atrocities and the mass rape of women. In parts of the Middle East, too, criminals walk free and come regularly to this country. The generals in Myanmar also come to mind at this time. The United Nations Commission on Human Rights can identify and provide evidence on these violators of human rights. They should not be able to come here, sink their money into expensive properties, have their operations in our private hospitals, send their children to expensive private schools and live in our midst with impunity. Assets can now be frozen. This Bill is to deny them visas.

The US and Canadian Magnitsky Acts contain three distinctive elements that provide a template to be replicated the world over: asset freezes, travel bans and the explicit naming of the individuals whose conduct has led the Government to sanction them. At present, the UK has only the asset-freezing aspect of a Magnitsky law. This was introduced when the Criminal Finances Act, which had a "Magnitsky amendment" attached to it, received Royal Assent in April 2017—this year—having passed through Parliament in the preceding months. This amendment allows the Government to apply to the High Court to have the assets of suspected human rights violators frozen. This leaves the United Kingdom lacking a provision for travel bans and explicit naming procedures.

Under the Immigration Rules as presently constituted, the Home Secretary has a personal, non-statutory power to issue travel bans to individuals on the basis that their exclusion from the United Kingdom is conducive to the public good. Section 3(5)(a) of the Immigration Act 1971 also confers upon the Home Secretary discretionary power to deport anyone if it is deemed to be,

"conducive to the public good".

I would like us to ask ourselves how often those powers have been used against human rights abusers. However, the current powers allow the Home Secretary to prevent the names of those who have been banned being published. The existence of a specific statutory provision—that is what is being sought here—aimed at sanctioning those involved in human rights abuses will both focus the attention of those applying that law and introduce greater transparency into the exercise of the power to impose visa bans.

The Foreign Affairs Committee published a report in 2011 on the FCO's human rights work which asserted the value of publicising the names of those who are denied visas to enter the United Kingdom as a means of drawing attention to the UK's determination to uphold high standards of human rights. Only a few days ago in this Chamber, I participated in a debate about human rights subsequent to Brexit, and we were given guarantees by the Minister from the Dispatch Box that human rights were a central consideration of this Government. Here is a way in which this can be expressed.

Dominic Raab, a Member of Parliament, argued cogently in a Commons debate in February 2015 that the introduction of specific statutory powers would give the public the right to know which individuals were being banned and which were not and would help travel bans act as an effective deterrent to others. We would soon see a chilling effect on the movement of people if they thought that there were going to be problems as they sought entry into this country. The Immigration Control (Gross Human Rights Abuses) Bill would introduce two missing elements of a fully fledged Magnitsky law: explicit powers to ban from the UK those responsible for, and complicit in, gross human rights violations; and transparent naming requirements for those who are banned.

Following the successful campaigns to pass Magnitsky Acts in the United States and Canada, the Russian Government have pursued William Browder through manifold routes, including abuse of Interpol's international co-operation mechanisms by applying for Red Notice arrest warrants to secure his arrest and extradition to Russia. There have been five separate applications for Mr Browder's arrest via these means, all of which have been rejected by Interpol.

But what this tells us is that Magnitsky laws are working. They are doing their job. That is why Russia is so determined to go after Bill Browder. One of the great complaints made about international human rights law is that it has insufficient teeth. This is how you give teeth to our international commitments. I strongly commend this Bill to the House and beg to move.

*12.01 pm*

**Baroness Bottomley of Nettlestone (Con):** My Lords, I thank and applaud the noble Baroness, Lady Kennedy, for introducing this Bill on a profoundly important subject. As the House well knows, she brings phenomenal experience as a distinguished lawyer and advocate, renowned for fiercely championing human rights and civil liberties. Her admirable work, past and present, includes six years as chair of the British Council, where I had the privilege of being a deputy chair for some of that time. I well recall her relentless and inspiring focus on human rights and the rule of law—quite a fresh perspective and energy for the British Council, and so hugely important and relevant. She has sat on any number of committees in the most distinguished fashion: as the chair of Justice, a trustee of Refuge and, most recently, leading Mansfield College splendidly as principal for the last six years. She will of course have a long-term legacy in the Bonavero Institute of Human Rights, which opened in October this year. The institute will provide a distinguished forum for human rights scholarship and we look forward to the world-class events, research and policy developments it will surely generate.

Respect for human rights is at the heart of our constitution and culture. As the late Lord Bingham of Cornhill, the first judge of the modern era to be Master of the Rolls, Lord Chief Justice and Senior Law Lord, and the first professional judge to be named Knight of the Garter, said:

"In a world divided by differences of nationality, race, colour, religion and wealth",

the rule of law,

"is one of the greatest unifying factors, perhaps the greatest, the nearest we are likely to approach to a universal secular religion".

This House is well aware that discussion on legislation against violators of human rights has been ongoing here and internationally for many years. As the noble Baroness—and my friend—said, since the tragic death of Russian lawyer and auditor Sergei Magnitsky, the matter has been given fresh intensity. After uncovering an alleged £150 million fraud by Russian officials, in 2008 Mr Magnitsky was incarcerated in a Moscow prison without trial. As the noble Baroness said, during his detention he was wilfully subjected to torture and received delayed and inadequate treatment for pancreatitis. After 358 days in jail, he died in 2009.

Sergei, as has been said, worked as legal adviser to Hermitage Capital Management, an investment fund and asset management company specialising in Russian markets. The founder and chief executive of this company, Bill Browder, has been unrelenting in his dedication to campaigning for legislation pursuing those responsible for Sergei Magnitsky's death, and penalising others acting similarly. As the noble Baroness said, he has become a full-time human rights campaigner. So many in business facing adversity move the other way and look at the commercial interests; it is never good for business to become a difficult person, a thorn in the flesh or a relentless campaigner. It is so much easier to move on and create more wealth, and maybe dedicate some of that to philanthropic causes, but Bill Browder is an example to us all in his tenacity, courage, persuasiveness and determination.

Bill Browder was the driving force for the Sergei Magnitsky Rule of Law Accountability Act 2012 in the United States. The purpose of that legislation, as has been said, is to punish the officials responsible for or complicit in Mr Magnitsky's death by banning them from the United States and denying them access to the American banking system. When President Obama signed the Act, another prominent human rights lawyer, Geoffrey Robertson QC, saw it as,

"one of the most important new developments in human rights".

In the last year, other countries have followed America's example. Estonia introduced a law inspired by the US position in December 2016, followed this year by Canada in October and Lithuania last month.

Following much campaigning, it was a welcome development when in April this year the Criminal Finances Act 2017, passed unanimously by the House of Commons, contained a Magnitsky Act-inspired provision that allows government to freeze the assets of international human rights violators in the UK. I applaud the cross-party support that led to the Government taking that vital step to prevent those responsible for, and complicit in, these appalling incidents from laundering their ill-gotten assets here in Britain.

Human rights are central to our shared values. We should send the clearest possible message, holding ourselves to the highest standards. We recall the Minister's excellent speech on the then Criminal Finances Bill earlier in the year. She paid tribute to Sergei Magnitsky and recognised his story as,

"only one example of the many atrocious human rights violations committed globally every year".—[*Official Report*, 9/3/17; cols. 1476-77.]

We very much look forward to her response now and hope she will agree to go this extra step.

Additionally, let us not overlook the ongoing depredations, the deprivation and the persecution by some national leaders in particular countries. We have to weep at the causes of the fate of Muslims and other minorities in Myanmar, of so many in Syria and for those held back in Zimbabwe over the years. The noble Baroness catalogued a further list of examples where we cannot pass by and take no notice.

I wish that there were, every year in every continent, qualified candidates for the equivalent of the Ibrahim award for African executive leaders who, under challenging circumstances, have developed their countries and strengthened democracy and human rights for the shared benefit of their people, paving the way for sustainable and equitable prosperity. We should identify and support the best, but we also have an obligation to target and penalise the worst. Let our law and practice bring an end to the scandal of wrongdoers being welcomed to spend their time and money here without let or hindrance. I support the noble Baroness.

*12.08 pm*

**Lord Brown of Eaton-under-Heywood (CB):** My Lords, I, too, strongly support the Bill and warmly commend the noble Baroness, Lady Kennedy of The Shaws, on her commitment to this cause and her good fortune in the Private Member's Bill ballot. As she has explained, essentially it seeks to complete what must surely be accepted by all as a compellingly necessary legislative response to the particular form of gross abuse of human rights to which it is directed.

We addressed part of that response—the monetary part, as has been explained—in the Criminal Finances Act earlier this year, which provides, by way of amendment to the Proceeds of Crime Act 2002, for the civil recovery of the proceeds of unlawful conduct. That unlawful conduct is now defined, pursuant to the 2017 Act, to include, under the title "gross human rights abuses or violation", the appalling ill treatment of, in shorthand, whistleblowers and the like. Under the 2002 Act, as now amended, the financial gain from this form of gross human rights abuse can be frozen by establishing a "good arguable case" and recovered by legal action if the case is then established on the balance of probabilities.

Having supported that provision in my speech at Second Reading of the 2017 Bill, when I simply mentioned the name Magnitsky, I received by post a copy of Bill Browder's book, *Red Notice*. Generally, one never gets around to reading such unsolicited books, but I was tempted to dip into it by the endorsements on the cover. Tom Stoppard called it,

"a shocking true-life thriller",

while Lee Child said:

"Reads like a classic thriller … but it's all true, and it's a story that needs to be told".

And so indeed it is. Having picked it up, I could not put it down and I finished it with a deep sense of outrage. Subsequently, I lent it to the noble Lord, Lord Butler of Brockwell, who described it as the best thriller he had ever read, and now I have it on loan to the noble Baroness, Lady Chakrabarti.

The Criminal Finances Act earlier this year dealt only with the material proceeds of that sort of appalling misconduct. As has been explained, United States

[Lord Brown of Eaton-under-Heywood]
legislation, which Mr Browder secured previously, prohibited—and surely rightly—the entry of certain individuals to the United States. It is essentially to achieve that that the Bill today is directed, and I applaud it, but there are two questions that are worth raising.

First, Clause 1(1) of the Bill provides for the banning on entry, and so forth, in respect of a third-country national,

"who is known to be, or to have been, involved in",

the dreadful conduct in question. I would suggest that "known" is a pretty high test. What standard of proof is intended to apply? In what state of mind must the Secretary of State or immigration officer be before he can act as the Bill envisages? For what it is worth—and it may not be much—in a judgment that I gave in the Supreme Court in 2010, in the case of JS (Sri Lanka) v the Home Secretary, on the correct approach to deciding whether an asylum seeker was barred from refugee status as a war criminal under Article 1F(a) of the 1951 convention, we were concerned with the test of whether,

"there are serious reasons for considering",

the applicant to be a war criminal. In considering what that involved, we concluded that, clearly, a lower standard is required than would be applicable to an actual war crimes trial, but that there was a higher test for exclusion than, say, having "reasonable grounds for suspecting". We decided that the word "considering" approximated rather to "believing" than to "suspecting".

I note from the short but helpful Library briefing on the Bill that the Home Office guidance on the approach to Immigration Rule 320(19), the paragraph that provides for an immigration officer to refuse entry if he,

"deems the exclusion of the person from the United Kingdom to be conducive to the public good",

is that entry must be refused if the person is suspected of crimes against humanity. It is one thing to refuse entry clearance or leave to enter or leave to remain on the basis of mere suspicion, as the guidance suggests, but it is perhaps another thing, as the Bill envisages, to cancel or curtail an existing leave on that basis. At this stage, all I would say is that further thought may need to be given to the word "known", which is perhaps too exacting a demand to make of the immigration officer and Secretary of State; it may need amendment in Committee.

Secondly, over the past few months, the House has devoted considerable time to the Sanctions and Anti-Money Laundering Bill. Knowing of this impending Private Member's Bill, it has occurred to me from time to time that its objective could possibly have been encompassed within the sanctions provision in this substantially more comprehensive public Bill. The sanctions Bill has just reached Report in the House. Could and should this further Magnitsky provision now be introduced into that Act? At least, the possibility should be considered—unless, of course, it already has been, and for some reason of which I know nothing, it has been rejected. I suggest that thought be given to that. All that said, I repeat my strong support for introducing this further provision into our law, and I wish the Bill a fair wind.

*12.15 pm*

**Lord Alderdice (LD):** My Lords, I support this Bill in the name of the noble Baroness, Lady Kennedy of The Shaws, and commend her for introducing it with all the persuasiveness and passion that has made her one of this country's great advocates. Of course, she is an advocate for great causes, and this is one. It is perhaps particularly ironic that this Bill comes immediately after the last Second Reading, when we talked about unfortunate children at the mercy of events. It was about trying to open the door to enable them to come into this country, to be looked after and cared for. Here we are looking at the horrible fact that there are those who can relatively easily get into this country and bring their ill-gotten gains and indeed families with them, with remarkably little let or hindrance, when they have engaged in some of the most appalling and inhuman practices in their own parts of the world. I am as enthusiastic about dealing with the malefactors as I am in speaking for those who need our care and support.

This Bill is described as a Magnitsky Bill, but of course it is not because that is not the only case. I see the noble Lord, Lord Trimble, in his place and remember that in July 2013 he brought forward the case of Mikhail Khodorkovsky. There are many other such cases—and I note that the noble Lord is on the speaking list and look forward, as ever, to what he has to say about these things. This is not an isolated case—it is an ongoing, whole attitude and approach of Mr Putin's regime. One might well say that there is a long history in that country going back to the days of the Soviet Union, where he was also a significant figure. But one of the big differences is that in those days the officials, whatever they did within the Soviet Union, tended to stay there. Now they steal from their own country and their own people and bring their ill-gotten gains and families to this country, inflating house prices in some places and certainly giving themselves a good life and all sorts of possibilities. We are permitting that to happen when we know it is wrong, but we do not have to; there are things we can do about it.

Often when things are happening that we are unhappy about—sadly, there are many of them in the world at this time—we are unable to do anything to make a difference. But it is clear that in this case, we can make a difference. When the Magnitsky Act was passed, the response from Mr Putin and his colleagues was strident: it clearly had had an impact. When he spoke in December 2012 at a press conference, it was clear from what he said and the way he said it that this was really striking home. Indeed, the Russians produced their own anti-Magnitsky Act. It was a strangely ironic thing, because they blocked the adoption of Russian children by people from the United States. There is something seedy, unpleasant and vile about that kind of response, and it tells us something about the spirit from which it comes.

It is clear to me that this is something we can and should do, and I am glad we have the opportunity presented to us to do just that.

*12.20 pm*

**Lord Trimble (Con):** My Lords, I, too, congratulate the noble Baroness on bringing forward this Bill. It is a pleasure to support it. In her speech, she gave a short

description of the circumstances that led to the death of Sergei Magnitsky. I want to reflect a bit on that context, because people are sometimes reluctant to recognise the reality that Russia is not a normal state. It is pretty close to being a mafia state: there are high levels of corruption in all parts of it. Putin's response to the Magnitsky legislation and the pursuit of Bill Browder indicate that the highest level of government is colluding with the criminality that is in and about the status quo. I wish that members of society here, who can sometimes be found on the expensive yachts of these gangsters, or who think Russia is a country that we can do business with, would think again and bear in mind the character of the people they are proposing to deal with.

As has been said, this is the second half of what one might call the Magnitsky amendment; the first half has already been enacted. I note with interest what the noble and learned Lord, Lord Brown, said. We should look closely at that idea. I hope that we will get the Bill on the statue book, but the big question is whether it will be enforced. I have concern in that area, and I will illustrate them. Dominic Raab, who has taken an interest in this matter, tabled a question in the other place asking,

"if any of the 60 individuals named on the list published by the Commission on Security and Co-operation in Europe, individuals involved in the tax fraud against Hermitage and the torture and death of Sergei Magnitsky, published in June 2012 have visited the UK in the last year; and if she will disclose the details of any such visits".—[*Official Report*, Commons, 18/4/13; col 499W.]

Unfortunately, the Minister for Immigration, Mark Harper, replied that it was,

"long-standing policy not to disclose details of records which may be held in relation to arrivals in the United Kingdom. The Home Office Special Cases Directorate is already aware of the individuals on the list and has taken the necessary measures to prevent them being issued visas for travel to the UK".

That is Mark Harper mark 1, doing quite well by signalling that. Unfortunately, a letter was sent over his signature a few days later to the editor of *Hansard* stating:

"Although the Special Cases Directorate has taken measures to ensure that applications for travel to the UK are flagged up for careful consideration on a case by case basis, no decision has been made to refuse their leave outright".

That is disgraceful. To talk about all applications being dealt with,

"on the individual merits of the case in line with our usual practice"—[*Official Report*, Commons, 9/7/13; col. 2MC.],

is quite chilling. These are not usual cases and they should not be treated as part of the usual practice.

The point was made earlier that these provisions actually work. Freezing assets and denying access to them here are hitting the oligarchs and criminal gangs where it hurts. We should be doing this as a matter of policy, rather than waiting for individual cases to come about. I want not just to support the Bill, but see that it is enforced as a matter of general policy. It gives us a very valuable tool. Coming to London is attractive and refusing that will enable us to make a difference. It is a demonstration of our effective soft power, which is something we should use. I hope that we will do so and that the Bill will become law speedily.

*12.25 pm*

**Baroness Afshar (CB):** My Lords, I thank the noble Baroness, Lady Kennedy. Some 10 years ago, I asked her to become my mentor. She agreed and has remained my hero for all my working life. I was astounded to read that it was possible for someone who has committed acts of corruption that would have been regarded as unacceptable even in my days in Iran to come to this country. Minutes ago, we were fighting for the right of immigrants who have committed no crime to come to this country. This is an extraordinary contradiction. How is it possible to have laws that allow criminals to come to this country, and bring their money here to launder it? All my life, I thought that by coming to Britain I would have left behind corruption and gross financial indecency of that kind.

I came to this country because I thought that its laws were straight; we knew what was happening; we could trust the banks. We knew that this country would protect those who are needy and would certainly not offer a haven for those who would abuse their positions. It is unacceptable and I beg that we change this attitude. It is dishonourable for me to think that it is acceptable for this country to allow the kind of corruption that has been rife in many countries which we have considered undesirable. Please, my Lords, change your minds.

*12.27 pm*

**Baroness Warsi (Con):** My Lords, I congratulate the noble Baroness, Lady Kennedy, on bringing forward the Bill to the House. She has many admirers on all sides of this House and I fully endorse the words of my noble friend Lady Bottomley, who elegantly and succinctly reminded us why we all admire her so much. I too support the Bill and, as I speak lower down the order, I fully endorse comments made by noble Lords on all sides of the House—it is not often that I can say that. I hope that that means I will not have to speak for as long as I might.

I congratulate the Government on adopting the amendment to the Criminal Finances Act, which brought in the first part of the Magnitsky Act but, as other noble Lords have said, this does not go far enough. It is right that, as my honourable friend the Security Minister, Ben Wallace, said,

"we need to make the UK a hostile environment for those seeking to move, hide and use the proceeds of crime and corruption. In an increasingly competitive international marketplace, the UK simply cannot afford to be seen as a haven for dirty money".

We must go further than that: we must not be a haven for dirty deeds and human rights violations.

The law which the Bill would create has widespread support in this House. Polling has shown that it has popular support in the United Kingdom. It has support across the political divide and is in tune with what has happened in the United States, Canada and other European countries, as other noble Lords have already mentioned. More than five years ago, a motion was unanimously passed in the House of Commons calling for visa and economic restrictions on Russian officials involved in the original crimes uncovered by Magnitsky and in the cover-up since his death. A month later, the Foreign Affairs Select Committee issued recommendations to make public the list of banned human rights violators, with reference to the Magnitsky case.

[Baroness Warsi]

The noble Baroness, Lady Kennedy, also referred to the Home Secretary's overarching power to refuse or remove those whose presence in the UK would not be conducive to public good. You may therefore ask: what is the need for this law? However, as you have heard from my noble friend Lord Trimble, those bans are rarely published and often, when questions are asked, they are neither confirmed nor denied; there is no naming and shaming and no knowing who is here and who has been allowed in; no light is shed on those who have operated in very dark ways.

Let me quote again Ben Wallace. He said that when dealing with the financial provisions that we now have this measure would,

"send a clear statement that the UK will not stand by and allow those who have committed gross abuses or violations around the world to launder their money here".—[*Official Report*, Commons, 21/2/17; cols. 975, 881.]

I argue that we need to send a similarly strong signal in relation to the presence of these individuals in the United Kingdom. We have said, "We don't want your money here"; we need to say, "We don't want you here either".

This Bill, however, must not limit itself to the specific and appalling circumstances that the House has heard about today around the death of Sergei Magnitsky, even if it is motivated by that. The Bill must be universally applied. In the United States, initially a limited Magnitsky Act was passed in 2012 to deal with the specific issues and individuals surrounding that case. However, four years later, that Act was made global. It authorised the President—at a time when we had a US President to whom human rights mattered somewhat—to block or revoke visas and impose property sanctions if individuals or entities are responsible for, or acted as an agent for someone responsible for, extrajudicial killings, torture or other gross violations of internationally recognised human rights. A similarly broad Act could and should be adopted by us.

Every day, we see the most heinous human rights abuses committed around the world by the so-called respectable, official and powerful. Officials, politicians and military personnel in Burma have been a particularly horrific case in recent months. This Bill could apply to those at the highest level who commanded such acts, but also to those on the ground who committed such acts. While we must always in the long term seek to bring the perpetrators to justice, either in their home countries or the fora of international courts, in the short term we must send out the strong signal that it cannot be business as usual. Our belief in and commitment to human rights must be clearly visible when people seek to enter the United Kingdom.

This Bill, extending previous legislation, would enable us to say that if you have been known to have committed or been involved in gross human rights abuses—or possibly even wider than that, as we have heard—then Britain will not be a place where you can do business, buy property or holiday. If your children come to study here, you will not be at their graduation. If you have blood on your hands, you will not be doing your Christmas shopping at Harrods. Earlier today, this House discussed refugees and family reunion. For centuries we have quite rightly been a haven for those who flee from human rights violations and abuse. We must never become a haven for those who commit such abuse.

*12.33 pm*

**Baroness Falkner of Margravine (LD):** My Lords, I join every other speaker in the House in congratulating the noble Baroness, Lady Kennedy of The Shaws, on bringing this Private Member's Bill to the Floor of the House. I will be with her every step of the way in ensuring that we get as much support as we can to make it pass.

Before I commence the substantive part of my speech, I declare under category 2 of the *Register of Lords' Interests* my role as a remunerated chair of the Five Rights campaign, a new human rights campaign.

The Bill is very timely, coming as it does a year after the signing into law in the United States of the Global Magnitsky Human Rights Accountability Act, on 23 December 2016. This went a step further than the Magnitsky Act 2012, in bringing the provisions of that Act, which were specifically directed towards Russia, into a global framework so that there would not be impunity anywhere in the world for people who commit human rights violations. We in the UK should be extremely proud that we are trying to move in the same direction today. This Bill will also bring clarity and give teeth to the travel ban aspect, which is currently missing in other legislation, including the Criminal Finances Act, which others have mentioned.

I too have the privilege of knowing Bill Browder and take inspiration from his courageous leadership, which is so frequently absent from commercial life.

In the late 1990s and into the early 2000s, I worked for the Commonwealth Secretariat and had particular responsibility for its good governance, human rights and democracy aspects. That was the period when, for example, the regime of Robert Mugabe in Zimbabwe was committing heinous human rights violations. The Commonwealth ministerial action group charged with oversight and powers to sanction countries in that regard knew what was going on. We had verification and Foreign Ministers knew exactly what was happening, yet we sat in utter and complete frustration as international tools and law, as well as United Kingdom law, did not provide us with any ability to stop Robert Mugabe, his henchmen and his wife coming to the UK for medical treatment—or, more likely, to spend their ill-gotten gains in our high-end stores in this capital city.

Another useful example is Pakistan, where an individual called Altaf Hussain was thought to have committed enormous numbers of human rights violations, which he sanctioned while living in self-imposed exile in London. He was a known person of interest to UK law enforcement. There were a minimum of at least 31 charges against him in Pakistan itself, for allegations of murder, money laundering and a multitude of other human rights abuses. However, he was able to preside over and interfere in Pakistani politics with impunity. I have heard a Pakistani describe it as such: he was running something akin to SPECTRE from the Bond movie. This diminished the United Kingdom in the eyes of millions of ordinary non-partisan Pakistanis who were not involved in politics. They read every day

of the violations that were occurring—the murder, the torture and the beating of his opponents in Pakistan while he sat here in London. If this Bill had been in place, that could not have happened. It tarnished the reputation of the United Kingdom.

Clause 1(2), which refers to Section 241A of the Proceeds of Crime Act 2002, is particularly important as it defines "unlawful conduct" more broadly. The UK has long had a reputation for tolerating financial crime and wrongdoing in terms of welcoming people who have ill-gotten gains. But this does not include only the developing world, although the two examples I have used do. It covers many other states too.

As far as I know, London is one of the few cities of the world which has a kleptocracy bus tour, although I understand that the organisers are planning to expand to New York shortly. I took this tour last year with my family, as I saw it as an essential part of my learning and that of my teenage daughter. It was not a pretty sight. I suggest that other noble Lords take this tour—it takes off from Whitehall Place, not very far from here, and takes little more than two hours. It provides a real insight into who owns London, our capital and home to Europe's largest financial services sector.

Corruption and money laundering is not of itself a gross human rights violation within the ambit of our narrow interpretation of human rights, but the two often go hand in hand, with those who are grossly corrupt often outsourcing their intimidation, torture and murder to others in order to silence public officials who cannot be bought off. If one superimposes a map of gross human rights violations on to a map of corruption in Russia, central Asia or the Caucasus, it is the same states that come up. That applies to other regions of the world as well.

There is secrecy at government level here in the UK that allows us, the public, to never be clear on what basis the wrongdoers are here in the UK. We see in our Library briefing that the then Minister of State for Security and Immigration, James Brokenshire, stated in response to a Written Question that:

"The UK has a long-established practice of not routinely commenting on the details of individual immigration cases".

This is what the Bill throws light on. We cannot allow that to continue. It suggests that the Government prefer to continue dealing with shady people on the basis of a nod and a wink—presumably on the basis that they are close to people in power that the Government wish to keep sweet and on side. I know that this is not a foreign affairs debate, but I say to the Minister that, if she had heard the condemnation of Saudi Arabia on 16 November in a Statement on Yemen, she would know what I am talking about.

The era of gross hypocrisy on the part of states is over, and the public demand to know what their Government are up to. The US Magnitsky list is an unclassified document, with classified sections as and where necessary, but only on grounds of national security interests and consistent with congressional intent. Legislators can request that names be added and evidence can be obtained from US and non-US sources. This is important, as those on the ground in those rights-violating states are best informed of the facts.

We often find that countries hide behind the excuse that we will leave the sanctions regime to be implemented at the EU and UN levels. While I am highly supportive of smart sanctions, we also need to see our own country rising to the challenge. This Bill would improve and fast-track the ability of UK authorities to take action themselves where international bodies have not reached agreement or are too slow to respond.

I conclude by urging the Government to support this Bill. The year 2018 will be the 70th anniversary of the Universal Declaration of Human Rights. It will also be the year when the UK hosts the Commonwealth Heads of Government Meeting—the first time that the UK will have had that role this century. In a post-Brexit environment, what a powerful signal it would be if the Government followed Canada's example and incorporated this Bill into law by April 2018.

*12.42 pm*

**Baroness Wheatcroft (Con):** My Lords, like others, I congratulate the noble Baroness, Lady Kennedy, on bringing forward this Bill. I am proud to regard her as a friend; she is a hero and a crusader—and in this crusade it is clear that all sides of the House support her. This debate is not about whether human rights abuses take place—we know that they do and we abhor them, but that reaction is not enough. This debate is about what we should to punish those who perpetrate such abuses.

Earlier this week, I was lucky enough to meet Bill Browder. A fellow guest at dinner asked him if he was afraid for his life—a reasonable question, given what had happened to Alexander Litvinenko in a London hotel. But Browder is remarkably sanguine about the possibility of encountering a fatal dose of polonium in his tea. He is far too engaged in his absolute passion for redressing what was done to his lawyer—a young man who was determined to see the right thing done. That is really what we are debating today: whether we in this country should join him in the fight against what Russia did to Sergei Magnitsky and what other countries do to other people all around the world.

Browder's book, *Red Notice*, is a remarkable read and, since the copy of the noble and learned Lord, Lord Brown, is out on loan, I am happy to offer mine to anybody interested in reading it. It is a terrifying chronicle of what can go on when a regime becomes, as he puts it,

"a criminal enterprise wielding all the power of a sovereign state".

Russia is not the only country for which this description is appropriate. We need to stand up against such regimes and, in particular, against the people who exert power within them. As we have heard today, some of those people may even be outside the regimes where wilful abuse is being perpetrated on their behalf.

This country has, as we have heard, introduced an asset ban, but this Bill goes further. It gives the power to refuse entry and to name the criminals who have benefited from their crimes. We know that the UK is a magnet for people with money, and we have heard the sort of things that they like to do here with their cash. Those who perpetrate human rights abuses seem, all too often, to reap rich rewards from their crimes and seek to spend them on luxuries in the West. We should

[Baroness Wheatcroft]
do our very best to stop them. They like to make use of health services and luxury hotels and to get the best education for their children. We should not be making it easy for them to do that.

Yesterday, a television reporter who has decided that she will stand against Putin in the election in March next year, said that,

"people understand that being an opposition figure in Russia means either you get killed, or jailed, or something like that".

She was remarkably matter of fact about it. That is how things are in Russia. We need to demonstrate that we will not condone such behaviour.

As a result of Bill Browder's efforts, more than 40 Russians have been named and shamed in the US. We could do that too. If we support this Bill, we will be following, rather than leading—not the best position to be in, but we should nevertheless follow. Our Government seem remarkably sanguine about the fact that Russia was actively involved in trying to influence the result of our referendum. I find that an insult to democracy. However, more than anything, I am opposed to the sort of human rights abuses heaped upon people such as Sergei Magnitsky. We need to support this Bill and fight back.

*12.47 pm*

**Baroness Hamwee (LD):** My Lords, I too congratulate the noble Baroness. She has an ability to make the issues that she espouses very real to those who listen to her.

Like other noble Lords, I have spotted the paradox of spending a couple of hours discussing allowing refugees' families and children who are by themselves to seek sanctuary in the UK, yet without this Bill we will not be able to keep out some very bad—I have written "but"; it might be "and"—wealthy people, who buy multi-million pound apartments, spend—I also wrote "Harrods"—and have all the benefits of our society, when their presence here is so offensive.

I too recall the amendment to the then Criminal Finances Bill. Like other noble Lords, it led me to read Bill Browder's book. I fear that we will provoke an awful lot of books coming our way from others who see that we sometimes read them. Like the noble and learned Lord, my reaction is often not to want to do so. However, it is such a powerful description of what led to his campaign for what one might hope to be the Magnitsky amendment number one, of which this Bill is part two. A drawback of being such a good read is that it is difficult to remember that the book's content is fact, not fiction, but the fiction is terrifying.

Earlier this morning, the debate on my Refugees (Family Reunion) Bill focused very much on how we wish our country to be, and how we wish it to be perceived. Human rights should, of course, by definition be enjoyed by every human being but, equally, every human being, however powerful, should observe them and apply them. Transparency is a very important factor in that. Therefore, I enthusiastically support the Bill we are discussing.

I have one tiny, not a caveat but rather an observation, on enforcement, which was raised by the noble Lord, Lord Trimble—namely, should immigration officers have these powers without ministerial approval? I am not always enthusiastic about giving extra powers to the Home Secretary, and there is an issue around whether this might amount to political intervention in a human rights issue. However, I believe that in the US the President is required to submit the Magnitsky list to the appropriate congressional committee. I simply raise this as a process issue, not in any way as opposition. I wish this Bill well. I think it will get a better reception from the Government than my Bill did earlier.

*12.51 pm*

**Lord Rosser (Lab):** I too congratulate my noble friend Lady Kennedy of The Shaws on introducing her Bill, for which she has been so rightly praised, and which has so far had the support of all speakers in this debate.

This Bill enables the refusal of entry or leave to remain in the UK to a non-UK or non-EEA national who is,

"known to be, or to have been, involved in gross human rights abuses".

Clause 1(2) defines conduct constituting a gross human rights abuse or violation as that in which,

"the three conditions referred to in section 241A of the Proceeds of Crime Act 2002 (gross human rights abuse or violation) are met".

As has been said, Section 241A of the Proceeds of Crime Act as it stands was inserted into that Act as a result of an amendment to the then Criminal Finances Bill, now an Act, during its passage through the House of Commons. The amendment was referred to as the "Magnitsky amendment" after the Russian lawyer, accountant and whistleblower of that name who died in prison in Moscow in 2009. He had uncovered an alleged $230 million dollar theft from the state budget by Russian tax officials who siphoned off money paid to settle tax bills to senior Russian government officials. After going public in 2008 with his claims, he was arrested by those whose crimes he had uncovered, imprisoned and tortured prior to his death in prison, which I think was shortly before the end of the one-year term during which he could be legally held without trial. The amendment to the then Criminal Finances Bill in 2017 made provision for asset-freezing for those involved in gross human rights abuse. However, as we know, there is still no primary legislation that deals with visa bans for perpetrators of human rights violations.

In 2012, the United States Congress passed the "Magnitsky Act", which enabled the US Government to impose visa bans and asset freezes, including being barred from using the US banking system, on individuals connected with the case. In 2016, the US Government approved the Global Magnitsky Human Rights Accountability Act, which extended the scope of the Magnitsky Act from Russian citizens to individuals who have participated in or benefited from corruption or human rights abuses in any country. Similar legislative provisions have been adopted in the last two years in Estonia, Canada and Lithuania, and are apparently under development in other countries, including France and South Africa.

Questions here in Parliament have asked the Government what action they were taking to reform our Immigration Rules and laws to address, for example,

the situation where those in positions of power in Russia are stealing money in that country and are able to come here to spend or hide it through the purchase of expensive property in London, or through having their children in the UK for their education.

The Government's response to date has been that the current Immigration Rules provide adequate scope to deny entry to perpetrators of human rights abuses on the basis, apparently, that if there is evidence to show that their presence would not be considered conducive to the public good, an individual can be denied entry to the UK, as they would have brought themselves within the scope of the general grounds for refusal in the Immigration Rules. Part 9 of the Home Office Immigration Rules sets out the general grounds for refusal of entry clearance or leave to enter or remain in the UK. The rules state that entry should be refused to a person who is,

"the subject of a deportation order; or … has been convicted of an offence for which they have been sentenced to a period of imprisonment".

The rules also make provision for refusing entry to a person on grounds that their conduct, character and associations make their exclusion conducive to the public good either on the direction of the Secretary of State or by an immigration officer. The Home Office guidance to immigration officials states that entry should be refused if a person is suspected of crimes against humanity:

"If it is conducive to the public good not to admit a person to the UK because of their character, conduct or associations you must consider refusing entry or leave to remain … Refusal of entry clearance, leave to enter and leave to remain is mandatory where … a person is suspected of war crimes or crimes against humanity".

Can the Minister say how many people have been refused leave to enter and leave to remain in this country, with anonymity, on the grounds that they had committed gross human rights abuses or violations under the terms of the current Immigration Rules, which refer specifically to war crimes or crimes against humanity?

The suspicion is that this power under the Immigration Rules, with its anonymity for those who could be refused entry, which the Government—as I understand it—claim is effective, is not being used to any purpose, even though a 2016 report by the House of Commons Home Affairs Select Committee referred to £100 billion being laundered through the UK's banks each year. That indicates that the present Immigration Rules are not fit for purpose—or not as much as they might be—on the issue of denying entry or removing perpetrators of gross human rights abuses and naming such abusers, and that the need for specific statutory provision against human rights abusers in the form provided for in the Bill is both overdue and clear cut.

We need to show in very specific terms, through a clear, primary statutory provision, that those who commit such abuses and violations of human rights will not enjoy the freedom to enter and remain in this country, including for the purpose of spending their stolen money from criminal activities with which such abuses and violations, as in the Magnitsky case, are so often associated.

*12.57 pm*

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, I thank the noble Baroness, Lady Kennedy of The Shaws, for bringing forward this debate. Many noble Lords, including the noble Lord, Lord Rosser, the noble Baroness, Lady Hamwee, my noble friend Lady Wheatcroft and the noble and learned Lord, Lord Brown of Eaton-under-Heywood, mentioned that they had read the book *Red Notice*, as have I. The word "compelling" comes to mind—and if it was fiction, it would certainly be a bestseller. I know that the noble Baroness, Lady Kennedy, was not present for much of the passage of the Criminal Finances Act, but she may be interested to read the section in Part 1 to which she referred today, as there was some compelling debate at that juncture. My right honourable friend the Home Secretary announced very recently the setting up of the National Economic Crime Centre for the UK, which brings together all the agencies to tackle serious fraud and economic crime.

The Bill seeks to provide for the refusal and curtailment of leave where a person is known to be, or to have been, involved in gross human rights abuses. The Government are committed to improving human rights across the world by holding states accountable for their human rights records. We take a strong stance against individuals who are known to have committed gross abuses and violations, and I commend the wish of the noble Baroness, Lady Kennedy, to act firmly to protect our borders from such individuals.

The noble Baroness, Lady Kennedy, talked about naming individuals, and this touches on a point made by my noble friends Lord Trimble and Lady Warsi. There are compelling reasons for naming and shaming individuals but the Government have always stated that they will not do that. Doing so would send a message to those not named that, by their omission, they are of less concern than those who are named, although that might not be the case. Naming individuals might also alert those named and not named as to the level of information that the Government hold on them.

The noble Lord, Lord Rosser, asked about the number of people refused leave to enter or leave to remain. He will understand that I cannot give that number, but it has always been the Government's position that for further legislation to be warranted in this area there would need to be a real demonstration that the existing powers were insufficient. I hope I can demonstrate that the provisions proposed in the Bill remain unnecessary.

The Government have a range of measures that provide for robust action to be taken against individuals known to be involved in human rights abuses. Obviously I cannot comment on individual cases, some of which are subject to exclusion orders, but I would like to take noble Lords through the policies and procedures that we have in place to prevent those involved in gross abuses from coming to the UK or securing immigration status here.

As the noble Baroness, Lady Hamwee, pointed out, the Home Secretary has the power to exclude a foreign national if she considers that their presence in the UK

[BARONESS WILLIAMS OF TRAFFORD]
will not be conducive to the public good or if their exclusion is justified on grounds of public policy or public security. A person may be excluded for a range of reasons, including national security, criminality, involvement in war crimes and crimes against humanity, corruption and unacceptable behaviour. There is no time limit on exclusion, and a person who is excluded remains so until the Home Secretary agrees to lift that exclusion. Having been excluded by the Home Secretary, anyone who applies for entry clearance or leave to enter must be refused so long as the exclusion remains in force. Such a power is serious and no decision is taken lightly. All decisions have to be based on sound evidence and must be proportionate, reasonable and consistent.

The noble and learned Lord, Lord Brown of Eaton-under-Heywood, talked about the test threshold. He is of course correct in his reference to the test in the Immigration Rules. Decisions to exclude must be taken only on the basis of sound evidence. The UK operates a watch list, which is used to flag individuals of concern, and those known to be involved in human rights abuses would be included on that list.

The noble Baroness, Lady Afshar, talked about excluding human rights abusers. Contrary to her concerns, those involved in this sort of shocking behaviour can already be excluded. However, we can make an express amendment to the current guidance to make it absolutely clear that involvement in gross human rights abuses will be grounds for exclusion. That may be helpful.

The noble Baroness, Lady Hamwee, talked about officers' powers as opposed to the democratic process, although I think that she meant "in conjunction with" the democratic process. Border Force officers' powers derive from the Immigration Act 1971, particularly those in Schedule 2 relating to refusal of entry to those who do not qualify for entry to the UK.

**Baroness Hamwee:** Yes, of course, there is the democratic process, but I was also concerned that it would be very unusual for it not to be within the context of the Executive's decision and the Secretary of State's consideration of the matter. It is not something to be done lightly at Dover.

**Baroness Williams of Trafford:** I do not think I was making light of the noble Baroness's point. I hope she did not think that.

It is precisely because each decision to make an exclusion order is based on sound evidence and the facts of each individual case that it would not be proportionate or reasonable to exclude every national of a particular country. The vast majority of them will be law-abiding citizens engaged in activity which meets the threshold for exclusion. The current sanctions regime imposed by the UN Security Council and the Council of the European Union adds an additional layer of protection preventing non-EEA nationals of concern from travelling to the UK. International travel bans apply to individuals associated with regimes or groups whose behaviour is considered unacceptable by the international community. Where an EEA national or their family member is subject to a UN or EU travel ban, we will normally refuse admission to the UK on the grounds of public policy or public security.

The Immigration Rules provide for the refusal of entry clearance, the refusal of leave to enter or to remain and the curtailment of leave to a non-EEA national where that person has a criminal conviction, or on the basis of their conduct, character or associations, including where there is independent, reliable and credible evidence of their involvement in human rights abuses. In the case of EEA nationals we can refuse admission to the UK where public policy or public security is engaged. The person must be shown to be a genuine present and sufficiently serious threat to one of the fundamental interests of our society.

Except in exceptional circumstances, a foreign national subject to immigration control who has been convicted of a criminal offence and sentenced to a period of imprisonment faces a mandatory refusal of visa or leave to enter the UK for a specified period. The length of the prison sentence will determine the duration of the ban from the UK. For those persons given a prison sentence of four years or more, an indefinite ban will apply; where a person has received a sentence of between 12 months and four years, there is a 10-year ban; and for those persons with a sentence of less than 12 months, there is a five-year ban. This applies to those convicted in the UK or overseas.

The Government also recognise the importance of distinguishing between those who are entitled to come to the UK and stay here and those who are not. We have a number of measures to assist with this. For those who need a visa to come to the UK, the application process requires the applicant to declare any criminality or immigration offence and to provide their facial image and fingerprints as biometrics. Entry clearance officers are required to check a range of databases, including the biometric, Home Office and police databases. This allows us to check the details of any UK criminal record and identify important information about the applicant's immigration history, including any travel ban or exclusion order. At the border we undertake similar checks against police, security and immigration watch lists, as I have already said, to identify people of concern. Border Force officers can and do refuse entry if they believe that a foreign national poses a risk.

The Immigration Rules include provision for leave to remain to be curtailed and for indefinite leave to remain to be revoked if we become aware that a person with leave, including refugee status, has been involved in gross human rights abuses. Where a person cannot be removed from the UK because it would breach their human rights, we will consider granting short periods of restricted leave.

I am grateful for the opportunity to set out the wide range of government powers to deal with those committing gross human rights abuses. The measures proposed by the noble Baroness, Lady Kennedy, are not necessary to protect our borders from undesirable individuals. The existing legislative framework prevents those involved in gross human rights abuses entering the UK and, indeed, goes further by ensuring that we can consider an applicant's complete background and criminal history when deciding whether or not to grant entry.

I thank the noble Baroness for bringing forward this debate today.

*1.09 pm*

**Baroness Kennedy of The Shaws:** I thank everyone who has participated in the debate in support of this Bill. Until the last speaker, we were united in saying that there is a need for it. This is not a question of simply protecting our borders from unpleasant persons; it is about sending a message to the world that there is no impunity for those who commit crimes of inhumanity. It is about making a statement to the world about our views with regard to human rights and those who violate them. I greatly regret that the Government do not see the potency of having such a Bill on the statute book.

I thank all those who have supported the purpose of this Bill. I feel privileged to be in this House, in particular because I have friends all around the Chamber. They sit on all the Benches and just now I can see them smiling at me, and I am lucky to have them. My friendships with people in this House are sometimes peppered with political differences on certain subjects, but we still enjoy great friendship. I want to make it known to the world that noble Lords are not speaking today because of that friendship but because one of the things we share is our concern for the rule of law and for justice. That is what has brought us all together today in support of the Bill. It is to say that justice matters and that it is important that we in the United Kingdom take a stance on human rights abuses around the world—and that, when we know they have happened, we should refuse entry to those who have been party to such egregious crimes. It is shaming on the Government that they are not prepared to take steps on this.

Of course I anticipated that it would be said that powers are already available to the Home Secretary, but we know that they are not being used. The noble Lord, Lord Trimble, referred to the failures on that front. It is not enough to talk about the fact that we are now introducing legislation to deal with those who commit fraud and so on because here we are talking about people who are slaughtering others and are prepared to kill in order to maintain their power. They are people who are prepared to rape and to sanction rape by others. That is what is so disgraceful about the failure of the Government to make clear to the world what the message is by having legislation of this kind.

I was very interested to hear about the kleptocracy tour described by the noble Baroness, Lady Falkner. Perhaps the noble Baroness will have to organise a bus to take people from this House around London in order to point out how dark money is infecting our city and our nation. People are coming here because they know that they can enjoy impunity for the crimes they have committed. I say to the Government that we should be ashamed; I say, "Poor show, Government, that you are not prepared to take this step".

As for the business of publishing names, the argument for doing so is that those who have not been named would be put on alert. They would think immediately, "Am I going to be on that list tomorrow—or in a month's time?". It is unpersuasive to say that that is a reason for not publishing. We are providing cover for people with whom unfortunately we do business for reasons that are still not good enough. They have disgraceful pasts that they are covering up.

I thank the noble and learned Lord, Lord Brown, who is a truly great lawyer, for his intervention. He raised the important issue of the standard of proof. What I referred to in my speech was that there is an independent United Nations panel that looks at those who have committed crimes and applies careful standards. Drawing up a list of those the panel considers have committed human rights breaches is not done merely on suspicion. We can also look to the International Criminal Court, which again draws up lists as part of its investigations. There are ways of doing this, but I accept that if, as I hope, we take the Bill further, we can look at ways to perfect this through amendments tabled in Committee.

I want to make it very clear to the Government that there is no suggestion of this being used against all citizens of a country because it falsely claims to be a democracy. That is not the purpose of the Bill. The purpose is to deal with the leadership in these places—people who sanction this kind of egregious crime. It in no way deals with people who are victims because they happen to live in a country where the leadership behaves in such terrible ways.

Mention was made by the noble and learned Lord, Lord Brown, of the possibility of something being done in the Sanctions and Anti-Money Laundering Bill. I would urge that on the Government; it may be that they can find some part of that Bill that could be expanded to cover this—although I suspect that there will be unwillingness to do so. I have absolutely no doubt that this Bill can be perfected in Committee, but the purpose today is to say that there should be a Bill—one that makes it very clear to the world that we support the Magnitsky Acts that have come into being in the United States and Canada—not countries that casually introduce such legislation. The world needs to take steps to prevent such impunity.

Finally, I want to reiterate what was said by the noble Lord, Lord Trimble: we have seen that this is working. It has been a long time in coming. Over the years, we have talked about the ways in which international law can be an expression of good will but is often unenforceable; it is often impossible to implement our good intentions. This Bill is a way of doing that and a way of sending a message around the world: "You cannot come here. You will not be able to come here. You will not be able to go to the United States or Canada or Latvia or other nations that have signed up to this". I think that it will spread. We want to be in there at the beginning, surely.

I thank noble Lords for supporting me and I beg to move.

*Bill read a second time and committed to a Committee of the Whole House.*

## Local Government Elections (Referendum) Bill [HL]

*Second Reading*

*1.17 pm*

*Moved by* ***Lord Balfe***

That the Bill be now read a second time.

**Lord Balfe (Con):** My Lords, I begin with a couple of personal declarations.

First, as of today, I am still a member of the Venice Commission's Council for Democratic Elections—a body partly funded by the Council of Europe. I also have a long history—a lot of form, you might say—in this area. Some 45 years ago, I became the political secretary of the Royal Arsenal Co-operative Society, which used proportional representation as a method of election. I saw its use bring many disparate groups into the same body to form the policies to carry the co-op forward; I did so very clearly because we used proportional representation, but the other big co-op in London—the London Co-operative Society—used first past the post. As a result, they spent nearly all their time fighting each other; we got together and managed to work our way forward. I should also declare an interest because, for many years—until circumstances intervened—I was a member of the Labour Campaign for Electoral Reform, which I thank for slipping me some information to help with today's debate. We still remain friends, if not in the same party.

My contention is that, in the last 15 to 20 years, we have seen a shift towards usage of various forms of proportional representation in the election of bodies in the United Kingdom that have legislative duties. My proposal is extremely modest. All it asks is that the Secretary of State brings forward a law that is very similar to, if not modelled on, the Welsh Government's proposal. Earlier this year, the Welsh Government expressed their belief that,

"councils should be able to decide which voting system to use".

Their consultation document said:

"As such, the Welsh Government proposes to make legislation which will allow Councils in Wales to decide which voting system best reflects the needs of their local people and communities".

That is all the Bill attempts to do. It does not lay down a system. It does not even say that local authorities must change their system. It is a permissive Bill, with hurdles.

According to the Library briefing, in January 2016 in the House of Lords the noble Viscount, Lord Younger of Leckie, argued against PR. He said that,

"it is often a mish-mash of policies hammered out behind closed doors, which I argue is hardly democratic".—[*Official Report*, 28/1/16; col. 1442.]

My experience of most democracy is of policy hammered out behind closed doors in a mish-mash. Whatever the political group, you tend to find that it covers a wide variety of opinions. Although on occasions, particularly during the last coalition Government, much play is made of the manifesto, throughout most of my political life the manifesto has not been the guiding light. If it has been, it is used with discretion by people who find bits of it that happen to justify whatever they want to do at any given time.

I saw that there was a debate in the House of Commons in October 2017. The Parliamentary Secretary for the Cabinet Office, Chris Skidmore, said that first past the post has an advantage because it is less complicated, takes less time and resources to administer, and is better understood by the electorate. If it is better understood, why is it that only 30% to 35% of people vote? Maybe what they understand is that in most places their vote is totally wasted. I am not sure that that level of understanding is a justification for keeping the system in place; it is a clear argument for changing the system.

My experience, both in the Venice Commission but also going back the 50 years that I have been around government, is that parties are strongly addicted to the system that helps them to win. I have been involved in a number of arguments in both of the parties I have belonged to that have boiled down to, "How can we get this through, because it benefits our party? Can we get this ward brought into the constituency, because it will probably vote one way or the other?". People have seldom said, "How can we reflect the will of the electorate?"; they generally say, "How can we shape it so that we can win?".

One of the ways we see this is in the way local government is put together. We have three-member wards. What on earth is the intellectual justification for the number three? Is it a magic Chinese number? I suggest, from all the evidence I have from talking to people, that the number three is big enough that any local campaign will find it very difficult to get elected. That is what happens in the area I live in, which is probably the most expensive postcode in the city of Cambridge—so, clearly, it is a safe Labour seat—but it does contain some quite poor areas. The paradox is that the Conservatives often get their votes from these more modest areas of the ward. There is no reason behind the wards in my own city; they make no sense whatever. They do not bring communities together, they bring numbers together. I do not think they make sense, and the Bill aims to leave local government to organise itself.

I will confess that on two occasions in the last 20 years I have voted for the Green Party. I voted as a Labour Party MEP for the Green Party because I was faced with an election in which the Labour Party put out material attacking the education policies, which were of course the responsibility of the Conservative county council, not the local council that the election was about, and the Liberal party put out leaflets attacking the Labour Party for health service cuts. The health service was also nothing to do with Cambridge City Council. The Conservatives did not put out any leaflets and when I asked why I had not had a leaflet from them, they said, "Oh, we have just put up a paper candidate". The Green candidate put out a leaflet which was certainly the worst prepared—a reflection on their resources, not their intellectual ability—which said what they were going to do about cleaning the streets, emptying the bins, looking after the local services and shifting the bus stop. I thought, "This leaflet is actually talking about the things that matter to us". Unfortunately, the Green candidate did not win, though they did come second, but I think that turning the electoral system in this way would help parties concentrate on what matters to them and what matters locally. It would give a real incentive. I have no hesitation in saying that I would not wish Cambridge City Council to be run by the Green Party, but I would certainly like to see it represented within the city council because the ideas it puts forward in Cambridge reflect the views, it is regularly shown, of around

15% to 20% of the population and they deserve a hearing in the council that makes the decisions. That is what is at the heart of the Bill.

There are two safeguards within it. First, 10% of the electors must request a referendum, so it cannot just be sprung on people. There has to be a demand, and in order for there to be a demand there would have to be an education campaign. If it were 1% or 2% it would be easy. If it were 10% the parties would have to go out and convince people that it was worth having the referendum. Secondly, the council would then have to ask for the referendum, so there would be a double hurdle to jump over. Also, in doing that, in order to get it through there would clearly have to be some consensus at local level and there would have to be local demand, through the papers and through a local campaign. So this is not something that is going to be sprung on people, nor does the Bill say what form of PR should be adopted. It gives local government the freedom to look at what suits the local area. Of course, it could decide that the local area is best suited by no change at all: it gives that freedom.

My personal preference has always been for the additional member system. We often forget that the additional member system was drawn up by the British Labour Government in the 1940s when it wrote what became the constitution of the Federal Republic of Germany. Ashley Bramall—a name that will certainly be familiar to the noble Baroness, Lady Hayter—was one of the drafters of that constitution. We have form when dealing with other people; what I am suggesting with the Bill is that maybe we should have a bit of form when dealing with ourselves. I am sure that we can have a lot of debate around systems: that is not the purpose of this very modest Bill. The purpose of the Bill is to advance us just as far as the Welsh Government have already got, to start a debate and to make it possible for change to be initiated at a local level. I thank noble Lords for listening, I look forward to listening to the debate and to responding in due course, and I beg to move.

*1.29 pm*

**Lord Lipsey (Non-Afl):** My Lords, I congratulate the noble Lord, Lord Balfe, on giving the House an opportunity to debate electoral reform, albeit only one aspect of it, by introducing this Bill. Some noble Lords will know that I have previous on this: for nearly a decade I chaired Make Votes Count, a group campaigning for electoral reform. We were scuppered in the end by Nick Clegg's eccentric decision to hold the referendum on a date in 2011 which made it absolutely certain that the cause he purported to support would go down to defeat. Incidentally, had the AV system been in place for the 2017 election he would almost certainly have won his Sheffield Hallam seat with the aid of Tory second preferences—serves him right.

The referendum of 2011 temporarily took electoral reform off the national agenda but I doubt it has gone for ever. We now have two dominant great national parties: one divided to the point of fissure over Brexit; the other with a set of policies far more left-wing than at any time in its recent history and led by a man whom few see as prime ministerial material. Under first past the post at the next general election, people—noble Lords excepted, sadly—will be able to vote for the devil or the deep blue sea, but any other choice is likely to be a wasted vote.

The case for electoral reform in local government is even stronger than in national government. Partisan party governance is gradually going out in local government. In many places now we have elected mayors. In other places we have the executive model of local government, where the role of individual councillors is more to represent their constituents than to govern. Yet we retain first past the post, which, among its many flaws, means that councillors are effectively chosen by parties, not people. Turnout is low, not surprisingly in the circumstances, so councillors have the weakest of mandates.

Meanwhile, piecemeal, subnational administrations have increasingly not been elected by first past the post. Mayors are not; for example, London uses the supplementary vote. The Scottish Government and Welsh Assembly are not; they use the additional member system. In Northern Ireland and Scotland, STV is used for local elections, and the Welsh Assembly wants it to be used for council elections there, too. I do not think there are many voters who would want a return to first past the post—for example, for the London mayor—although, regrettably, a proposal to that effect was sneaked into the Tory election manifesto.

The Bill of the noble Lord, Lord Balfe, would lead in time to a further extension of electoral reform into local government, and that is to the good. But I have a couple of concerns about it. The first is that it sets the bar rather high: 10% of local voters have to sign a petition to trigger a referendum, and even that is not enough. The council has to agree and of course councillors have a vested interest in retaining the system that led to them being councillors. I would love to see the country swept by a mass movement for fair votes but I shall not hold my breath.

My second concern is more fundamental. I am not a supporter of referendums. I believe in representative democracy—actually, with a slight leaning towards epistocracy, as represented by this House—but not in direct democracy. The last two referendums we have held—on electoral reform, with a low turnout and very little information seen by the public, and on Brexit, the consequences of which we are still grappling with—have not warmed me to the device. I doubt that local referendums on electoral reform would make many hearts beat faster, and I very much doubt that the majority of electors would choose to grapple with the issues involved. Turnout would be nugatory. Moreover, if citizens voted for reform, what reform—supplementary vote, alternative vote, STV, top-up lists? Would the top-up lists be closed or open? I will not even go into d'Hondt and the many varieties of largest-remainder systems. You cannot resolve a complex set of preferences by a single vote.

There is, however, a form of direct democracy towards which I am much warmer and which has promise as a way forward. That way forward is citizens' juries. I am sure all Members of the House are familiar with what a citizens' jury is: you get together a group

[Lord Lipsey]
that is reasonably representative of the population, and for a day or a weekend they sit together to debate the issues in front of them. These are exposed in dialogue with the key arguments by experts. The group deliberates and then decides. Often, as a result of the education process, people change their minds. I remember one citizens' jury that started off by saying how dreadful the House of Lords was, because it was appointed, but ended up thinking that we were about right. That warmed my heart to this device.

The Constitution Unit at UCL recently staged a citizens' jury on Europe and the results were released this week. They are fascinating. Initially, the citizens wanted free trade and less immigration—perhaps they should all have been given positions in this Government. But then the experts said, "No, you can't have your cake and eat it", so what then? A clear majority prioritised free trade over immigration controls, which came as a slight surprise to me.

I would like to see this Bill amended in Committee so that either councils could decide to hold such citizens' juries or a given percentage of electors, perhaps 10% or less, could trigger the calling of one. If the citizens' jury opted for reform, the law would bring it into being. My own firm belief is that in most cases, an informed and engaged group of citizens would want electoral reform but if not, that is their prerogative.

*1.36 pm*

**Baroness Jones of Moulsecoomb (GP):** My Lords, I support the Bill and congratulate the noble Lord, Lord Balfe, on bringing it before the House. As far as I am concerned, it is a tiny little brick that we might pull out of a colossal wall of indifference and bad democracy.

I am sympathetic to the view of the noble Lord, Lord Lipsey, that a referendum is often not a way to settle a complex issue. I think we have understood that with the Brexit referendum. But at the same time, I am not sympathetic to his view that voters sometimes find things too complex or cannot be bothered. I would have thought that the voting in Alabama this week shows us that when a cause is just, voters will come alive and cast their vote to make a difference.

I am probably one of the few people here in your Lordships' House to have been elected under PR but also under the first past the post system. It was difficult to get elected as a London Assembly member and equally difficult to get elected as a local councillor, but it was obviously a very rewarding experience on both counts. There is always a lively debate about proportional representation, with people often feeling strongly one way or the other. But most developments in Britain's constitution have come about though compromise and negotiation, sometimes as an unusual add-on.

The noble Lord's Bill offers a gentle compromise on allowing for proportional representation in a way that will have the support of voters. It would not force change from above and would allow local people to decide how they elect their local representatives, which is excellent. I would have thought that the Bill fits quite well with the Government's declared devolution and localism agenda, because there is no good reason why local people should not be able to choose their own local election system. There is even less reason that the Government should force first past the post on a local authority if there is public and cross-party support to replace it.

It would be pretty hypocritical if the Government were to oppose referenda on the future of local democracy. Quite a lot is made of the will of the people at the moment; we hear of it constantly on both sides of the Chamber and in the other place. It seems that a lot is made of it when it suits people and then it is completely negated when it does not suit their arguments, which is very depressing. Even though I voted for leave, because I want to amend the Bill I am assumed to be a traitor and an enemy of the people, which I find very offensive. You cannot care about the will of the people when they want Brexit but not when they want a local election system to suit themselves. The will of the people is either sacred or it is not.

As a Green Party member, I care very deeply about proportional representation because I am well aware that our first past the post system in the past always produced a strong and stable Government, but that is clearly not the case anymore. It is clear that first past the post has outlived its usefulness. It has become infuriating to watch this minority Government in league with a very niche party which actually got half as many votes as the Green Party at the last election but got 10 times as many MPs. I would really like an answer from the Minister about how half the number of votes and 10 times the number of MPs is fair or democratic in any way.

Green Party policy is that we should have single transferable vote for local elections. It can be done in a way that maintains a constituency or ward link, whichever is more appropriate, while creating a much more proportional voting system. However, there is a variety of views about which system to use, and almost all of them are better than the current system. This Bill would allow local communities to decide for themselves.

It is possible for local authorities to be too strong and stable. A local authority that is totally dominated by one party can easily resist common-sense and reasonable views that are not its own. I could name quite a lot of councils: for example, Sheffield City Council has a supermajority and has denied debate by opposition councillors simply because it can. I do not think that is democratic in any sense.

Directly elected mayors have been a very interesting experiment. In London, the mayor has quite a lot of scrutiny because the London Assembly is a very competent group of elected politicians and the mayor can be held to account. In other places, it is not as easy and a lot of tweaking is needed with mayors of cities. The balance of power between councillors and the mayor was considered, to some extent, by the Court of Appeal in the Doncaster libraries case in 2013, but many questions were left unanswered. The general view is that councillors are massively weakened where there are directly elected mayors, so the mayors have a lot of leeway that they may perhaps not use to best effect. We need to shake up our political system to break up the safe seats, rotten boroughs and political monopolies. It is not healthy for democracy when we have those sorts of things.

Returning to the Bill, it is very sensible and moves forward on an important issue. We are told that people are tired of politicians and experts telling them what is best and that power is being wrested back from cosy elites. We are told that politicians must respect the will of the people. If we can trust the public on Brexit, then we can trust them on virtually anything, so let us try with this Bill to start a process of making our system more democratic.

Today, there were three Second Readings in which I would have liked to have spoken, but I do not want to hog lots of time, so I am speaking in this debate only. If I had some Green colleagues, noble Lords would not have to hear from me all the time. I would have thought that is a big enough incentive to get some more Green Peers in the House of Lords.

*1.43 pm*

**Lord Tope (LD):** My Lords, it is always a pleasure to follow the noble Baroness, Lady Jones. It is particularly appropriate today because, as she mentioned, she and I were first elected to the London Assembly in 2000 in the first, I think, elections conducted in England under a proportional representation system. Before I forget, I should declare my interest, limited though it is, as a vice-president of the Local Government Association.

I thank the noble Lord, Lord Balfe, for introducing the Bill. It will come as no surprise that the Liberal Democrat Front Bench of course welcomes any debate on a system of proportional representation. I also have to agree with the noble Lord when he said—I think almost exactly this—that parties are all too often addicted to the system that enables them to win. That is undeniably true, but I want to show from personal experience that it is not always true.

I was a councillor in the London Borough of Sutton for 40 years, up until the last elections in 2014. For the last 32 years, Sutton Borough Council has been run by the Liberal Democrats. At only one council election since 1994 have the Liberal Democrats won less than 80% of the council seats—almost literally a one-party state, perhaps. Yet to my distress, suburban south London, particularly with a majority of people voting leave in the EU referendum, is not natural Liberal Democrat territory. I have to say I am still looking for such territory but, wherever it is, it is certainly not in the London Borough of Sutton.

Thirty-two continuous years of running the council, most of the time with an absurdly large majority, is a huge vote of confidence in the way Liberal Democrats have run that council over that period. Yet at only two elections in that time have the Liberal Democrats gained more than 50% of the votes—never mind anything like 80%—in the borough. That really is not fair to the minority of residents who would prefer to be represented by Conservative or Labour councillors—or even Green councillors. At the last London borough elections, in 2014, the Conservatives got 30% of the vote in Sutton but only nine of the 54 councillors—barely half what their vote, proportionately, would have entitled them to. Labour polled 15% of the votes, yet it has not had a single councillor in the London Borough of Sutton since 2002.

When the Labour Government were experimenting with various pilot schemes for increasing turnout, voter interest in elections and so on, I was leader of the council and proposed that Sutton would be willing to conduct the next London borough elections in Sutton under an STV system, provided that the London Borough of Newham—then and now I think 100% Labour —and the Royal Borough of Kensington and Chelsea, then a Tory stronghold, although we will wait to see whether it still is, would do the same. I was not too surprised—this bears out the point made by the noble Lord, Lord Balfe—that neither the then Labour Government nor those two councils were prepared to do that. But I hope that gives a small doubt to the noble Lord's understandable assertion of addiction to the system that helps you win.

My concern is not so much that the first past the post system is unfair to the Conservative and Labour parties in Sutton—frankly, they are more than adequately compensated for that all over the rest of the country—but that it is unfair to citizens everywhere, who should always be our first concern in judging any electoral system. First past the post is notoriously unfair to the citizen, with some votes carrying vastly more weight than others, and indeed far too many votes carrying no weight at all. That is my first principle in considering this issue.

The second principle is that the system by which representatives are chosen in our democracy cannot be left simply to the whim of currently affected incumbents, who clearly have a very partisan interest in the outcome. That, I think, is the point being made by the noble Lord, Lord Balfe, and a weakness, if I might say so, in his Bill. Leaving aside the shortcomings of referendums and the difficulties of getting a required majority there, if the final choice is left to local authorities, as he himself has said, in most cases—but not all—they have the greatest vested interest of anyone in keeping the system that got them elected in the first place. Hence we would prefer to see a reform that does not in any way give a deciding voice to those already entrenched in local authorities. We believe that, if a reform of this significance is urgent, effective and popular for one group of citizens, it should be not discretionary but universal.

That brings me to a third principle: the basic building blocks of our representative democracy in the United Kingdom should be broadly the same, unless there are important local circumstances which make that undesirable in that particular place. The huge success of the introduction of effective proportional representation for local authority elections in Scotland is not just an irrefutable argument for the extension of STV to England and Wales but a strong case for uniformity. Scottish electors have a very much better chance of seeing the candidates they vote for being elected—on average 75% of such candidates, compared with around 50% in the English counties. If in Scotland they exercise further preferences, it rises to 90%. It may take a generation, but over time that will mean that many more people will vote for positive reasons because of what they want, rather than voting for negative reasons, against what they do not want. Too often these days, people go to the polling stations, if they go at all, inclined to prevent something happening rather than to encourage it to happen. That state of mind is not in the interests of healthy democracy.

[LORD TOPE]

Why should only some citizens of the UK have a far more democratic system of representation, giving many more voters there a direct influence on the result of elections? Just as we believe that the extension of the franchise in Scotland to 16 and 17 year-olds has been an unqualified success, so we believe that the benefits of electoral reform should be available to all citizens of the UK. English and Welsh voters deserve just as much to enjoy the benefits of a more representative democracy. The STV form of PR in Scottish local elections has been an excellent pilot for the rest of the UK and has been a huge success by any objective judgment. Northern Ireland has benefited from the advantages of STV for over 40 years and Wales is currently examining it. Why should England and English voters be left behind? I hope the Bill stimulates the Government into action, but I am not too optimistic.

*1.53 pm*

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I congratulate the noble Lord, Lord Balfe, on securing a Second Reading for his Bill. I draw the attention of the House to my entry in the register of interests, in particular as a councillor in the London Borough of Lewisham and a vice-president of the Local Government Association.

The noble Lord made reference to the Co-op in his opening remarks. I have been a member of the Co-op for as long as I have been a member of the Labour Party—39 years last month. Along with my noble friend Lady Hayter of Kentish Town, I sit in this House as a Labour and Co-op Peer, and we form a group of 17 Members of your Lordships' House.

The Bill focuses on referendums for local government electoral systems and is permissive in its aim. If it is passed into law, as we have heard, it would require the Government to introduce their own Bill to bring into effect the implied intention of this Bill. I am not particularly happy with that sort of procedure as it is fairly cumbersome and uses up parliamentary time unnecessarily—and, for reasons we are aware of, parliamentary time is not in plentiful supply at the moment. If the Bill did in fact become law, we might as well have done what it is requesting that the Government do in the first place. So procedurally it would be better to have a much sharper Bill than the one before us today.

Since 1997, Governments have introduced a variety of voting systems into elections in the United Kingdom. We have a closed list system for the election of Members to the European Parliament; the supplementary vote system for the election of mayors and police and crime commissioners; and additional member closed list systems to introduce an element of proportionality into the election of the London Assembly, Scottish Parliament and Welsh Assembly. As has been said, the Labour/Liberal Democrat coalition Government in the second Scottish Parliament introduced proportional representation for local government in Scotland. The noble Lord, Lord Lipsey, referred to the fact that we have proportional representation for local government elections in Northern Ireland.

So there are many systems and it could be argued that that itself is a problem. I would certainly favour cutting down the number of systems that are used to elect people to various offices in the United Kingdom. When I cast my vote for the Mayor of London and the London Assembly, I get three ballot papers and vote using three different systems, one for each election. I use supplementary vote for the Mayor of London; first past the post for the constituency member; and I vote for a closed party list for the London-wide members, which are allocated on a proportional basis when the count takes place.

I am aware that the Conservative party made a commitment in its manifesto to replace the supplementary vote system used for mayors and police and crime commissioners with the first past the post system. My own party's manifesto at the general election was silent on the issue of voting systems, but there was a commitment to establish a constitutional convention—that would certainly have looked at the question of devolution in England outside London and where power is held and used at the present time. If there were to be changes to structures, consideration would have been given to the system of election used at different tiers of government.

As I said at the start of my remarks, the proposals in the Bill are a fairly cumbersome procedure. If we want to do what is implied in the Bill, I would be clearer and more direct and seek to bring about the change with the Bill before us today. There are a few issues with the Bill, some of which have been referred to by other noble Lords. In Clause 1(2), I am not sure whether another electoral system would be helpful in areas that are not unitary. As I said earlier, we need to reduce the number of systems. I would also prefer that, if we are going down this route, we should be clear about what system to introduce. An ever-expanding patchwork of different systems, with different systems side by side and at different levels in the same area, does not give us the clarity that is important.

In Clause 1(3)(a) the petition should not be coming to the Government or Parliament: it should be presented and checked by the local authority where the petition seeks to change the electoral system. That has happened for the election of mayors and also for referendums to abolish them. In Clause 1(3)(b) there is a double lock that requires the local government body to vote for the referendum by passing a resolution, having received a petition that meets the 10% threshold. That may or may not be right; it is certainly an effective blocking mechanism that could result in very few, if any, referendums taking place. The noble Lords, Lord Lipsey and Lord Tope, both referred to this.

This Bill needs a day or two in Committee to see how it can be improved before making progress and leaving this House. As I always say when speaking on Private Members' Bills on a Friday, this can be done very effectively in the Moses Room—but the Government insist on a commitment Motion to a Committee of the Whole House rather than a Grand Committee, effectively making it difficult for all but the few Private Members' Bills which they support to make any meaningful progress. They are caught in a log-jam and that is a real shame. The Bills that do make progress often

originate in the other place, sponsored by Back-Bench Conservative MPs and may well be from the off-the-shelf collection of Private Members' Bills which the Government are happy to see passed into law but for which they do not want to, or cannot, provide government parliamentary time at the moment.

However, that is not to say that the noble Lord's Bill does not highlight that, in some parts of the country, things have become polarised, resulting in a situation where effective opposition is no longer evident in many of our town halls. I firmly believe that it is important to have effective challenge and opposition at every level of government; and where that is not possible because of the result of an election, it can be a problem. The noble Baroness, Lady Jones of Moulsecoomb, referred to such situations in her remarks. Some local authorities have sought to make some provision for opposition by allowing sole opposition councillors to table motions without a seconder or by agreeing to always formally second motions from a sole opposition councillor to enable a debate to take place. That is welcome and I congratulate the councils that do it.

I would not like to see the direct link between councillors and the electorate broken because it is one of the benefits of the first past the post system. But perhaps a think tank or some other organisation should look at what can be done to address the issue of effective opposition and challenge in our town halls. Perhaps options such as an additional member list could be thought through. Such a system could be triggered if the combined number of all opposition members is less than 10% of the total, and used to bring the opposition parties up to at least 10% of the total membership of the council by providing additional members elected on an area-wide basis. That would allow motions to be voted on, alternative budgets to be proposed, actions of the majority party to be condemned as an outrage to local democracy, and all the other things that should happen in a local council meeting. That is just a thought, not a policy, but it might be useful to look at along with other ideas.

I can tell the noble Lord, Lord Balfe, that I will think carefully about his Bill and its proposals. It is very likely that I will table amendments to bring about what I see as improvements to the current Bill. This has been an interesting and useful debate, and it is surely about to get even better with the contribution of the noble Lord, Lord Young of Cookham.

*2.01 pm*

**Lord Young of Cookham (Con):** My Lords, I begin by congratulating my noble friend Lord Balfe on his success in the ballot and on introducing this interesting debate about alternative means of electing local councillors. He certainly sparked off a wide variety of ideas, which I will focus on in a moment.

We welcome the debate that my noble friend has initiated on democratic representation in local government and how best to choose our leaders in local authorities. It is a long time since I served on a local council. It is 46 years since I lost my seat on the London Borough of Lambeth, to which I was elected in 1968 alongside Councillor John Major and also, much to her surprise, Councillor Lady Young, who was a paper candidate in an unwinnable ward in Clapham which my party won. I agree with what has been said about the importance of local government and take this opportunity to pay tribute to councillors of all parties who have managed with reduced levels of grant over recent years but have none the less maintained, on the whole, good-quality services and, in some cases, actually increased public satisfaction.

Our debate today has been underpinned by a desire to ensure popular engagement with this important local democratic process and to protect the transparency and integrity of our electoral system at local level—principles which all who have spoken would support. This is clear across all parties: successive Labour and Conservative Administrations have introduced directly elected mayors for some local authorities and the combined authorities taking on the most significant devolved powers, as well as directly elected police and crime commissioners.

I take the point made by a number of speakers that the current system can lead to domination by one party, with few opposition members. However, I think that that argument has less force now than when I was on the local authority because we have had the introduction of overview and scrutiny committees which can challenge the executive in a way that was not possible with the old committee structure that I was familiar with. On top of that, we have audit committees and officers of the council who have responsibilities on legality and value for money.

I also think that the notion of safe seats or safe wards has less validity now than it used to given the volatility of the electorate. At parliamentary level, we have seen my party lose Tatton and Dr Taylor win Wyre Forest, so I think that the notion of safe seats and safe wards is less valid. I think it was the noble Baroness, Lady Jones, who mentioned Sheffield. Within my memory, Sheffield has been run by three different parties, so it is not the case that there are parts of the country that are the monopoly of any one party.

My noble friend Lord Balfe shared his background in the Co-operative movement, which shaped his views on electoral reform. He also mentioned Wales. One consequence of devolution of course is that different parts of the UK can go their own way, and it does not follow that because Wales has gone in a particular direction, England has to follow. He also mentioned ward boundaries. As I understand his Bill, there is nothing in it that would affect ward boundaries, so the particular issue that he raised would have to be dealt with in a different way. He mentioned his support for the Greens. The Greens have shown that they can win wards—and indeed local authorities—under the existing system, so I would not accept that the existing system is a barrier to what were initially small movements.

My noble friend and the noble Lord, Lord Kennedy, mentioned that they favoured the additional member system, if we were to go down this particular route. I think that the smaller the boundary, the more difficult it is to have additional member systems. There is already the allegation that they are "second-class citizens". That argument has less validity if you are looking at a region or a country but, when you get down to individual

[Lord Young of Cookham]
wards, if you were to have additional members sitting for such a small geographical area, there would be real difficulties in persuading people of their credibility.

The noble Lord, Lord Lipsey—speaking, if I may say so, from an unusual position in the Chamber, but on a familiar theme—addressed some of the deficiencies in the Bill and made it clear that he was anti-referendums. He also made the point that some of the difficult decisions about the Bill had been subcontracted to the Secretary of State, who would have to introduce a Bill to address some of these problems. I was interested in what he said about citizens' juries, but I think that his proposal would put a huge weight on an as yet untested system of such juries taking important decisions on local democracy.

The noble Baroness, Lady Jones, asked me to answer the question of why is it fair that the DUP should have so many seats and the Greens so few. The answer is that the country had a referendum and decided that it wanted to stay with first past the post, and it is first past the post that produced the outcome that the noble Baroness referred to. In her closing remarks, she said that we should trust the people. If we are going to trust the people then I think that we have to honour the result of that particular referendum.

The noble Lord, Lord Tope, argued generously for a system that would give my party more representation in the London Borough of Sutton. I have to say that, next May, we hope to do that on our own, without the benefit of his proposed system. But, like others, he identified some deficiencies in the Bill. On the question of turnout, one can argue it both ways. I think I am right in saying that, when we moved from first past the post to the regional list system for the European Parliament, turnout fell from what it had been under first past the post—so it is not always the case that changing the system drives up turnout.

My noble friend Lord Balfe was somewhat dismissive about manifestos, but I have to remind him that my—and his—party's manifesto commits us to,

"retain the first past the post system of voting for parliamentary elections and extend this system to police and crime commissioner and mayoral elections".

In his remarks, the noble Lord, Lord Kennedy, said that he wanted to reduce the number of different systems. That is exactly what my party's election manifesto does: it proposes moving back to first past the post as the system for the elections to which I have just referred.

To return to my noble friend Lord Balfe's speech, far from moving towards the system advocated by his Bill, subject to local referendum, there is the clear commitment in the party's manifesto to move in the opposite direction, which means it is difficult for us to support this particular piece of legislation.

We want to ensure that the laws governing our local elections can be understood and applied with confidence. Under first past the post, electors select their preferred candidate or candidates for their ward, the system is well understood by the electorate and it is straightforward for electoral administrators to deliver election results accurately and quickly.

Opinion has been tested—I referred to this a moment ago—and appetite among the public for a move from first past the post is not evident. The referendum in 2011 on changing the system of parliamentary electoral representation from first past the post to alternative vote was 67.9% against to 32.1% for on a turnout of 42.2%. The Bill before us seeks to apply PR rather than the alternative vote, and to councils rather than Parliament. None the less, significant public support has recently been expressed for first past the post. The Government's position is that local government is local. First past the post ensures a clear link between the councillor and their ward in a manner that systems of PR may not. Local government has a strong tradition of having as its essential component the local councillor. Between them, these councillors represent the spectrum of different political parties; a number of councillors represent no party and stand as independents. The current system of representation facilitates this.

Electoral systems used to achieve PR are often more complex than first past the post; systems such as the single transferable vote require ballots to be counted multiple times in order to allocate seats. First past the post entails a relatively simple count which usually need be conducted only once, minimising the pressure on the administrative process and the possibility of error.

Elections using first past the post produce lower numbers of rejected ballot papers compared with other systems, including PR systems. According to the Electoral Commission, the Scottish council elections using STV led to 37,492 ballot papers being rejected: as a proportion of total ballots cast, that is nearly six times higher than under first past the post in the general election. High numbers of incorrectly completed ballot papers place pressure on the administrative process at the count by requiring electoral administrators' adjudication.

We have had a useful debate. I thank all those who have contributed. I expressed reservations about the provisions of the Bill, as have other contributors to our debate. We have clearly stated our intention not to move away from the tried and tested first-past-the-post system. We have no plans to enable the change to the voting system for elections to English local authorities that the Bill could provide for, nor indeed do the Government propose to introduce the legislation envisaged by my noble friend. I am sorry to have to close my speech with remarks that I know he will find disappointing.

*2.12 pm*

**Lord Balfe:** My Lords, I thank noble Lords who have spoken in this debate. I have obviously missed something regarding the noble Lord, Lord Lipsey, who is sitting in a different position in the House. I do not know whether this is indicative of something wider, but I recall years ago arguing within the Labour—

**Lord Lipsey:** Since there seems to be some mystery about this, I clarify that I have moved to being a non-affiliated Peer on being elected to the deputy chairmanship of the charity Full Fact, which is determinedly non-partisan.

**Lord Balfe:** That simplifies one thing. I was going to say that many years ago I remember arguing in the Labour campaign for electoral reform that it was a very good idea as it would enable us to get rid of some people. I seem to remember I mentioned a certain Jeremy Corbyn and I was told, "Don't be silly, he will never get anywhere in our party". But, of course, as a serious point, one of the advantages of proportional representation is that it sharpens up parties. You see this in the European Parliament, where I sat for 25 years: both the left and the right have effectively gone off into their own parties, where they have influence but seldom power. This has its down side, as we saw recently in the German election, where, to an extent, the parties come too far into the middle, but it also has its up side in that it gets rid of some people who, as you might say, you would not want to take home for tea with mother. However, I thank the noble Lord, Lord Lipsey.

I take all the points. You cannot draft a Bill like this that is perfect. That is why I drafted something very short which gives the Secretary of State the job of doing things. At the back of my mind I was mindful of the fact that since 1999, which is some way away, only 10 Private Members' Bills introduced into this House have become law anyway, and none in the last two years. As I was drawn as number 15 in the ballot, I did not exactly think that I was storming towards legislative glory with the Bill. It was therefore drafted simply to initiate a debate.

I am pleased to hear the comments of my good friend, the noble Baroness, Lady Jones. Overall, my view is that some form of proportional representation would be an advance on the present system. The reason for giving some choice in the Bill was because everybody falls out about what the best system would be. However, I find it difficult to believe that a series of one-party states is the best way to run local democracy—it is as simple as that. I accept that the Greens may have won in Brighton, but they have got nowhere in my city of Cambridge despite regularly getting well into double figures in the vote. They always get between 15% and 20% of the vote, and they deserve some seats. Incidentally, the Conservatives normally get about 25% of the votes, and they also have no seats on the council, which is at the moment divided between a resurgent Labour Party—it will not lose in Cambridge until Labour wins in government; then, of course, it will all start to swing back again—and the Liberal party, which used to control the city but has gradually slipped downward. But this is not local democracy—it is just a reflection of what happens nationally.

I also thank the noble Lord, Lord Tope. I am glad that his party has had 32 years in control of Sutton, but I am not sure that that will last much longer either.

**Lord Tope:** Last time we gained seats.

**Lord Balfe:** We will see.

The noble Lord, Lord Kennedy, asked for a sharper Bill. I think I have dealt with that issue. You can never be right; a sharper Bill would of course have missed a lot of things out. He mentioned being clear about the system. However, we use all sorts of systems. I vote in building society elections on one system, for my club election on another, and for the Royal Statistical Society executive on another. Ballots regularly drop through my door inviting me to vote by post for the various bodies I am in, and between them they use many different systems. Funnily enough, I manage to understand them, as do a lot of other people who vote using them. Therefore a lack of understanding is not the problem.

I listened with interest to what the Minister had to say. I appreciate that the Government take a very different position from mine—indeed, it has not escaped my notice that there is not a single Conservative speaker in support of this Bill. I recognise that it is a minority sport. It was a minority sport in the Labour Party and it is even more of a minority sport in the Conservative Party; none the less, it is an idea whose hour is coming. As we move forward, I think that we have to say, "Who has adopted first past the post recently? No one. Who has moved to systems of proportional representation? Quite a lot of people". There is invariably a demand for that in new systems.

I thank noble Lords and conclude my speech by asking the House to give the Bill a Second Reading. I look forward to it being the law of the land, although probably not in my lifetime.

*Bill read a second time and committed to a Committee of the Whole House.*

*House adjourned at 2.19 pm.*