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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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The following abbreviations are used to show a Member's party affiliation:

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
Lab Co-op	Labour and Co-operative Party
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

Thursday 11 March 2021

The House met in a hybrid proceeding.

Noon

Prayers—read by the Lord Bishop of Worcester.

Arrangement of Business

Announcement

12.08 pm

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally. Oral Questions will now commence. Please can those asking supplementary questions keep them short and confined to two points? I ask that Ministers' answers are also brief.

Global Population Growth

Question

12.09 pm

Tabled by ***Lord Brooke of Alverthorpe***

To ask Her Majesty's Government whether issues relating to global population growth will be on the agenda for COP 26; and if so, what proposals they have to address any such issues.

Baroness Wheeler (Lab): My Lords, I beg leave to ask the Question standing in my noble friend's name on the Order Paper.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, at COP 26 we will seek to address the steps needed to reduce emissions in line with the Paris agreement. The UK presidency will focus on five campaigns in the areas of energy, transport, nature, finance and adaptation and resilience. Population growth is not an explicit focus for the COP. At the Climate Ambition Summit in December, the COP 26 president-designate set out four strategic aims for COP 26: a step change in mitigation; a strengthening of adaptation; getting finance flowing; and enhancing international collaboration.

The Lord Speaker (Lord Fowler): Did the noble Lord, Lord Brooke, have a supplementary question? No.

Lord Anderson of Swansea (Lab): My Lords, does the Government not recognise that the pressures of increasing global population lead to cut and burn of vegetation and a number of other pressures, including, of course, drought and conflict? The question is what the Government are going to do about it. If they fail to raise it at COP, will they do something more and raise it, for example, at the UN Security Council? Will they encourage by their development policies family spacing, which is very much a women's issue and could lead to a more acceptable population movement globally?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, population growth is clearly an issue, but the bigger factor by far is consumption levels. The average UK citizen, for instance, has significantly higher levels of consumption and CO_2 production than the average beneficiary of any UK aid. For example, it takes the average UK citizen just five days to emit the same amount of carbon as the average Rwandan does in a full year. The challenge is to move towards an economic system that recognises the value of nature and understands the cost of waste, pollution and the use of scarce resources.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I have to agree with and commend the Minister's comments just now. However, given the announcement from the Biden Administration that their intention is to protect and empower women around the world, will the Government follow suit and, as chair of COP, acknowledge that climate justice demands that women have free reproductive choices, including access to contraception, abortion and treatments to addressing fertility?

Lord Goldsmith of Richmond Park (Con) [V]: Voluntary family planning programmes undoubtedly empower women and girls to choose whether and when to have children and this in turn supports the health, prosperity and resilience of their communities and countries. Where population projections show continued rapid growth, effective family planning programmes can change that trajectory. Voluntary family planning is one of the most powerful drivers of sustainable development and prosperity. Between 2015 and 2020, the UK reached an average of 25.3 million women and girls per year with modern methods of family planning and we continue to ramp up our efforts in that area.

Baroness Jenkin of Kennington (Con): My Lords, as my noble friend has just acknowledged, it is well accepted that access to contraception should be prioritised in development spending, because it is the right thing for women to choose their birth spacing, leading to empowerment and enrichment of families, communities and countries. I wonder whether my noble friend agrees with me and Sir David Attenborough, who said:

"Today we're living in an era in which the biggest threat to human well-being, to other species and to the Earth as we know it might well be ourselves. The issue of population size is always controversial because it touches on the most personal decisions we make, but we ignore it at our peril."

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, I certainly agree, as do the Government, that the greatest challenge that we face is the broken relationship between our species and the natural world around us. The statistics and facts are virtually unarguable, so I certainly would not take issue with anything that my noble friend has said. On population growth, in addition to the answer that I just gave on family planning, we also know that quality girls' education, especially at secondary level, in combination with

[Lord Goldsmith of Richmond Park]
voluntary family planning, can help girls to assert their fundamental reproductive right to choose the number and spacing of their children. At the same time, smaller family size can reduce demand on natural resources—food and water and so on—and help to limit environmental degradation.

Lord Oates (LD): My Lords, ensuring that women and girls around the world have access to reproductive and sexual health services is not only the right thing to do but is also important for global sustainability. What does the Minister have to say to the millions of women and girls in Sierra Leone, where one in 17 women die in pregnancy or childbirth, who rely on such services from the International Rescue Committee, whose programme now faces 60% cuts as a result of the Government's unlawful reduction in the aid budget? When will the Government reverse this immoral and unlawful decision?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, like any normal person, I look at the situation in places such as Sierra Leone with horror. I remind the noble Lord of the answers that I have just given about the UK's contribution to supporting quality girls' education and its contribution to family planning for empowerment and sustainable population. We are among the world's most generous donors across the board. While we are ramping up our support for action to tackle climate change and to try to reverse nature loss, this is not happening at the expense of the intensity of our support for the issues that the noble Lord has raised.

Lord Hodgson of Astley Abbotts (Con) [V]: My Lords, my noble friend said in his initial Answer that population was not an explicit theme of COP 26. Do the Government accept that the fundamental reason for global warming is human activity? More humans, wherever they appear, mean more human activity and more global warming. In the light of this, will he expand on his answer to the noble Lord, Lord Oates, by telling the House what proportion of our aid budget is targeted at educating women and helping them to control their fertility and by how much that is planned to be cut?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, the education of women and girls is a personal priority of the Prime Minister. It is a top international priority in relation to our spending of overseas development assistance. I cannot give the noble Lord figures going forward, because these decisions are still being taken, but I can absolutely assure him that the education of women and girls will remain a top priority, alongside climate change and tackling nature destruction. We will continue under all and any circumstances to be among the world's most generous supporters of the kind of initiatives that the noble Lord has just cited.

Baroness Finlay of Llandaff (CB) [V]: Following the helpful proposal over the five priorities, how will the Government encourage others to increase aid for the education of women and girls in a sustainable way, including sustainable energy production and sustainable agriculture and public health measures, in order to create sustainable education programmes in the long term?

Lord Goldsmith of Richmond Park (Con) [V]: The principal goal of COP 26—our job, in a sense—is to make real the commitments that were made in Paris under the Paris Agreement. We want countries cumulatively to bring emissions down in line with those commitments and that means all countries coming forward with realistic plans for 2030—improved nationally determined contributions and long-term strategies to reach net zero as soon as possible. Part of that involves increasing finance, so we are putting a lot of pressure on other donor countries to increase the finance that they make available for climate change and for nature-based solutions to climate change.

Baroness Hayman of Ullock (Lab) [V]: The Minister has mentioned nature a number of times. Scientists tell us that nature can provide us with almost 40% of our climate solution through forest and woodland conservation, restoration, sustainable land management and improved agriculture working that supports our climate. However, OECD data shows that investments that harm nature come to well over $500 billion per year. What action are the Government taking in preparation for COP 26 to put investment in nature and a reduction of these damaging economic impacts at the heart of tackling climate change internationally?

Lord Goldsmith of Richmond Park (Con) [V]: The noble Baroness raises perhaps the most important issue of all. There is no pathway to net zero without massive increase in our support for protecting and restoring nature. Nature-based solutions could contribute a very significant proportion of the solution in the most cost-effective manner. Only about 3% of global climate finance goes on nature, which is madness. We are challenging that and attempting to change it. The Prime Minister committed last year to doubling our climate finance to £11.6 billion. Since then, he has also committed that £3 billion of that, nearly 30%, will be spent on nature-based solutions. We are asking other donor countries to do the same. But we need to go beyond public money, so we are attempting to build a coalition of countries committed to shifting land-use subsidies, so that instead of incentivising destruction, they incentivise protection, and much more besides.

Baroness Sheehan (LD): My Lords, addressing population growth through much greater support for family planning is one of the key solutions to climate change and biodiversity loss, as proposed by the Dasgupta review. Why will the Government not use COP 26 to call on the world's leaders to fund family planning?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, COP 26 is just one staging post this year. It is a significant and major event, but we also have the Convention on Biological Diversity, we are presidents of the G7 and we will have the G20 as well. We have a

number of events hosted, for example, by the new US President to raise these issues up the agenda. We will be using all these events to do all that we can to push for a coherent approach to tackling climate change and nature destruction. That of course includes increasing support for initiatives around family planning and the education of women and girls.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed, although the screen has become a little eccentric in its recording of that. We come now to the second Oral Question.

Music and Performing Arts Students: Visas and Work Permits

Question

12.20 pm

Asked by ***Lord Black of Brentwood***

To ask Her Majesty's Government what assessment they have made of the impact of the visa and work permit requirements for touring in the European Union on music and performing arts students in the United Kingdom.

Lord Black of Brentwood (Con) [V]: My Lords, I beg leave to ask the Question standing in my name on the Order Paper and declare my interest as chairman of the Royal College of Music.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con): My Lords, the Government recognise the importance of international touring for UK cultural and creative practitioners. British music and performing arts students seeking to tour within the EU are now required to check domestic immigration and visitor rules for individual member states. The DCMS-led working group on creative and cultural touring, involving sector representatives and other key government departments, is working to assess the impacts and ensure that the sector gets the clarity and support it needs.

Lord Black of Brentwood (Con) [V]: My Lords, we are all aware of the damage to the creative economy from the new visa and work permit requirements for EU touring, with jobs lost and tours cancelled, but perhaps hardest hit are students in music and the performing arts. Does my noble friend acknowledge that students need to perform in Europe to progress their careers and enrich their education, but now cannot because the cost of work permits and the bureaucracy of multiple visa applications are prohibitive? It is essential we reach bilateral agreements on work permits with member states urgently if we are not to blight a generation of students, so can my noble friend tell the House what progress has been made on that front?

Baroness Barran (Con): The Government absolutely agree with my noble friend about the importance of touring for students, both within the EU and more broadly around the world. He will be aware that our rules for touring creative professionals are more generous than those of many EU member states. The working group to which I referred met for the first time on 5 February to try to get clarity on the issues impacting creative professionals and how best to support them. I reassure my noble friend that we are working across government to address the important issues he raises.

Lord Hunt of Wirral (Con) [V]: I strongly support my noble friend Lord Black. This could and should have been resolved by now, for it is self-evidently in the interests of all concerned that frictionless visa-free arrangements—[*Connection lost.*]

Baroness Barran (Con): My noble friend kindly shared his question with me ahead of time so, despite the technological glitches, I will endeavour to answer. First, we remain disappointed that the deal we proposed in this area, which met the needs of our extraordinary creative industries, was not agreed by the EU. We understand the concerns of the sector and we are working at pace to address them so that touring can resume as soon as it is safe.

Baroness Prashar (CB) [V]: My Lords, there are a number of testimonies from musicians who are already losing work in Europe because it is no longer financially viable to tour. EU promoters and venues are no longer hiring UK passport holders. While the proposal for a cultural export office is welcome as a long-term measure, what are the Government doing right now to unravel the huge bureaucratic and regulatory challenges facing touring musicians?

Baroness Barran (Con): We are talking to the sector about an export office, as the noble Baroness mentioned, but the real focus of the working group to which I referred is getting as much evidence as possible of the impact on the sector, some of which the noble Baroness referred to, providing clarity about the steps needed to tour more seamlessly and exploring with the sector the options to support our wonderful practitioners.

Lord Wood of Anfield (Lab): My Lords, the Minister talked about the Government's offer during the Brexit negotiations to incorporate the music industry into short-term business agreements, but this had precious little chance of success given the WTO most favoured nation rules. UK musicians now face not just inconvenience but an impossible and overwhelming array of obstacles. Have the Government ruled out what the vast majority of people in the music industry consider the only sustainable solution—a visa waiver agreement covering our world-leading musical and creative sector?

Baroness Barran (Con): As I am sure the noble Lord is aware, the issue is more complex than simply visas; work permits also play an important part. As I mentioned, our original offer worked for our creative professionals and we will continue to try to streamline their ability to tour.

Baroness Bonham-Carter of Yarnbury (LD) [V]: My Lords, post-Brexit mobility regulations are a problem not just for students but for those who teach them,

[Baroness Bonham-Carter of Yarnbury]
many of whom come from the EU. What is being done to make teaching in the UK cost effective for them, and less of an administrative and financial burden for British institutions? Without access to such culturally diverse teachers and training, our future talent pipeline will be seriously disadvantaged.

Baroness Barran (Con): The noble Baroness asks a very specific question. As I mentioned, our rules around visiting this country for creative professionals, which would include teachers, are more generous than in the vast majority of EU member states. If there is further to add on that, I will write to the noble Baroness.

Lord Bassam of Brighton (Lab) [V]: My Lords, before this year, music and performing arts students participated in study or cultural exchanges under Erasmus. This allowed them to develop the skills and build the networks that bring success in the creative industries sector. Published details of the Government's Turing replacement scheme suggest no tuition fee support and significantly lower cost of living grants. Does the Minister believe that this meets the test of rewarding raw talent rather than financial background, and will she agree to talk to her DfE counterparts and discuss the double whammy these proposals represent as a barrier to UK cultural engagement in Europe?

Baroness Barran (Con): I am more than happy to talk to my DfE counterparts. I do not think we accept the suggestion that the noble Lord makes. The Turing scheme is going to be open to about 35,000 students in universities, colleges and schools to allow them to go on placements and exchanges overseas, starting this September. He is right that we will also seek to support students from disadvantaged backgrounds. I am sure he agrees with me that that is also an important priority.

Lord Holmes of Richmond (Con): My Lords,

"I learned by touring Europe in the 60s. Young artists need the same chance".

Those are the words of Elton John. Would my noble friend agree that the Rocket Man is right? We need a long-term, sustainable solution, but we also need a short-term fix. Would the Minister agree that the department could put in place such a short-term fix, particularly when it comes to legals and logistics, to help all musicians? Otherwise, it will just be a guttering candle in the wind.

Baroness Barran (Con): I thought for a second that my noble friend had a previous musical touring career he had not told us about. We are working closely with those in the sector on exactly the sort of practical issues my noble friend refers to in terms of legals and logistics, to make sure that everything works for them once they can start touring again safely.

The Earl of Clancarty (CB): My Lords, the Minister mentioned work permits, but work permits and visas are two very different things. As the noble Lord, Lord Wood, said, the performing arts are as one in asking for a bespoke visa waiver agreement as a matter of urgency—this can be an agreement that does not cross the Government's red lines on free movement. As such, will the Government and department have discussions with the noble Lord, Lord Frost, about this, and does the Minister know what plans there might be to talk to Maroš Šefčovič on this matter in the future?

Baroness Barran (Con): I cannot speculate about the future, but I can reassure the noble Lord that we work closely with both the FCDO and the Cabinet Office on these issues.

Baroness Quin (Lab) [V]: My Lords, is it not clear that the Government's EU deal has severely penalised one of the most successful parts of our economy, putting it at a huge competitive disadvantage? On 20 January, my noble friend Lord Stevenson of Balmacara asked about publishing

"all correspondence between the EU and UK on this issue".—[*Official Report*, 20/1/21; col. 1166.]

Has this correspondence now been published in the House of Lords Library? If not, is it intended that it will be?

Baroness Barran (Con): In relation to the publication of that documentation, my understanding is that it was legal text that was shared in confidence and that there are no current plans to publish it further.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed.

Offshore Gas Rigs

Question

12.31 pm

Asked by ***Lord Teverson***

To ask Her Majesty's Government what plans they have to prohibit the flaring of gas on offshore gas rigs within the United Kingdom's exclusive economic zone.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, as set out in our recently published energy White Paper, the UK has committed to the World Bank's "Zero Routine Flaring by 2030" initiative. We are working with regulators towards eliminating routine flaring as soon as possible in advance of this date. Furthermore, we are working with the sector to transform the UK continental shelf into a net-zero basin by 2050.

Lord Teverson (LD): My Lords, I welcome the intent, but could we please have a timetable for this? The Netherlands, Denmark and Norway not only signed up to that initiative but actually practise it at the moment. At the moment, we are the dirty man of the North Sea; when will that end?

Lord Callanan (Con): Of course, the circumstances and timescale of those other countries are, depending on their operations, different from ours. However,

I assure the noble Lord that we will continue to work with the industry, through the North Sea transition deal, and regulators, drawing on their range of powers to drive down this practice as soon as possible.

Lord Kirkhope of Harrogate (Con) [V]: We have already been reminded today of the United Kingdom's hosting of COP 26 later this year, so will my noble friend join me in congratulating and further encouraging the engineers and academics, part-funded by Innovate UK, who have designed a new geo-engine that can neutralise sour gas from oil rigs and produce clean electrical energy as a by-product. Is this not a better approach than immediate prohibition?

Lord Callanan (Con): My noble friend makes some very good points, and we are open to processes that can drive down emissions from offshore operations. As I know my noble friend is aware, sour gas contains significant amounts of hydrogen sulphide and would need, of course, to meet the Gas Safety (Management) Regulations before it could be used to supply industrial and domestic consumers.

Lord Browne of Ladyton (Lab) [V]: My Lords, flaring produces 1% of total UK annual CO_2 emissions, and venting produces 1% of annual methane emissions. Worryingly, Oil & Gas UK reports that, in 2019, the number of oil and gas leaks in the North Sea rose to 130, including 48 significant and three major releases, one of which was 900% greater than the release that caused the Piper Alpha disaster. Why on earth do we allow flaring in such circumstances, when, for both climate change and safety reasons, a ban on flaring and venting must surely be a priority?

Lord Callanan (Con): The Health and Safety Executive will continue to hold operators to account to investigate any gas leaks, given that this is, as the noble Lord says, a significant safety concern. The industry actively works to reduce any opportunity for a leak where possible, and there is an ongoing initiative between the industry and regulators to reduce the number of hydrocarbon releases in the offshore sector.

Baroness Walmsley (LD) [V]: My Lords, I declare that a family member works in the oil and gas industry. The Oil and Gas Authority's policy on flaring is to ensure that the flare and vent volume requested for permission is at a level where it is "technically and economically justified". Why is the word "environment" not included in this policy?

Lord Callanan (Con): The environment is clearly very important in this matter; I agree with the noble Baroness about that. However, our revised Oil and Gas Authority strategy came into force last month and features a range of net-zero obligations for the oil and gas industry.

Lord Randall of Uxbridge (Con) [V]: My Lords, I declare my interest as a council member of the RSPB. Although I fear that this is probably not in my noble friend's remit, have Her Majesty's Government undertaken any research into the effect of flaring gas from offshore gas rigs on wildlife, particularly birds?

Lord Callanan (Con): The noble Lord is right that that is not in my remit, but I am happy to tell him that my department has not undertaken any research in this area because, to date, there is no known evidence of significant impacts identified. Some species of birds migrating across the North Sea may become attracted to offshore light sources. To this extent, the 2015 OSPAR convention developed guidelines to reduce the impact of offshore installations on birds in the OSPAR maritime area.

Lord Grantchester (Lab): Besides the philosophical objections for the Government, what are the difficulties for introducing a Norway-type zero-flare policy? Could the Government bring flaring into the emissions trading scheme and make it subject to carbon taxation?

Lord Callanan (Con): There are significant practical and operational difficulties, which the noble Lord alludes to. However, I am happy to tell him that flaring intensity decreased by 22% in 2020 from 2019 levels, as production facilities cut the overall volume to 33 billion cubic feet.

Lord German (LD): Despite what the noble Lord just said, the portion of flaring due to what I would loosely call economic reasons has been rising over the last three years—that portion is economic. Given that Norway has now found ways of reinjecting this waste back in, and that there are other solutions as well, what are the Government fearful of in trying to tackle this rising problem?

Lord Callanan (Con): The data that I have just quoted shows that it actually fell last year. However, the noble Lord makes a good point; we should try to reuse these gases as much as possible. A number of companies are working on solutions, such as generating electricity on platforms et cetera. However, there are significant practical difficulties.

Lord Moynihan (Con): My Lords, I declare my interests as set out in the register. Does my noble friend the Minister accept that, given the excellent work being undertaken on net zero by the OGA, it is certainly conceivable that the UK can meet the zero routine flaring goal by 2030? If so, given that environmental and sustainability technology is increasingly being deployed in the gas industry, gas should and must remain an important part of the energy mix as we progress through energy transition?

Lord Callanan (Con): Absolutely—my noble friend makes some very good points. Oil and gas are expected to remain a vital part of the UK's energy mix as we move towards net zero, and maximising the economic recovery of oil and gas need not be in conflict with the transition to net zero—a point that my noble friend understands well.

Baroness McIntosh of Pickering (Con) [V]: While I welcome that a target has been set, can my noble friend reassure us that the essential flaring and venting for operational and safety reasons will be allowed to continue? How can this be accommodated within a net-zero approach?

Lord Callanan (Con): I have set out that, where it continues for operational reasons, we want to reduce it as much as possible, and we are committed to the World Bank initiative to eliminate it completely by 2030.

Baroness Altmann (Con): My Lords, with UK oil rigs being the most polluting in Europe and North Sea oil producing 21 kilograms of CO_2 per barrel, compared with 8 kilograms for Norway, could my noble friend tell the House what further measures the Government might consider introducing to ensure that oil companies phase out this flaring much faster than planned—and well before 2030?

Lord Callanan (Con): Transforming the UK continental shelf into a net zero basin will be achieved through a combination of energy efficiency, electrification from alternative, decarbonised energy, and the use of carbon-capture technology. There are a range of policies that we can bring into play to try and bring these practices to an end.

Baroness Gardner of Parkes (Con) [V]: My Lords, given the vast amounts of carbon dioxide emitted directly into the air due to gas flaring, can the Minister set out how, as part of the Government's green industrial revolution, we can capture this carbon and put it to good use, while removing these harmful emissions from the atmosphere?

Lord Callanan (Con): We do encourage companies to capture as much of it as possible and, as the noble Baroness said, put it to good use on the platforms or pipe it to shore and use it, where possible, in domestic gas transmissions. The Government's 10-point plan for a green industrial revolution, announced in 2020, stated our ambition to capture 10 megatonnes of carbon dioxide a year by 2030—the equivalent of 4 million cars worth. Where possible, we can use it; if not, we can store it safely underground.

The Lord Speaker (Lord Fowler): My Lords, all supplementary questions have been asked. We now move, therefore, to the fourth Oral Question.

Northern Ireland Protocol

Question

12.41 pm

Asked by ***Lord Lexden***

To ask Her Majesty's Government what progress they have made towards resolving issues resulting from the operation of the Protocol on Ireland/Northern Ireland.

Baroness Scott of Bybrook (Con): My Lords, we want to continue work in the joint committee to address outstanding concerns, to provide space for those discussions without the threat of significant disruption. We have taken several temporary, operational measures to provide more time for businesses to adapt to the new requirements, consistent with our pragmatic and proportionate implementation of the protocol.

Lord Lexden (Con): What has been the reaction of the business community in Northern Ireland to the strenuous and welcome efforts that the Government are making to diminish the problems that they face as a result of the protocol? Do the Government have a plan—a road map even—to replace the protocol with a set of arrangements capable of commanding the confidence of a majority of our fellow countrymen and women in Northern Ireland, whose faith in the union has been shaken by the Government's departure from the commitment, on which Ministers set such store, to restore full sovereignty in every part of our country?

Baroness Scott of Bybrook (Con): My Lords, we have been in close contact with the business community across Northern Ireland as we have announced these measures, and there have been several expressions of support. That is because we are focused, as everybody should be, on avoiding unacceptable disruption to day-to-day lives and ensuring an effective flow of trade from east to west. On my noble friend's other point, the protocol is explicit that it rests on democratic consent across Northern Ireland; all sides need to work to sustain it. That is why we are committed to giving effect to the protocol in the pragmatic and proportionate way that was intended, taking account of the Belfast agreement in all its dimensions: north-south and east-west. That is why we want to work with the EU on a durable and pragmatic arrangement for trade between Great Britain and Northern Ireland in the long term.

Lord Dubs (Lab) [V]: Does the Minister agree that, in the EU, we are thought to be in breach of our legal obligations, no matter how much the Government deny that that is the case? What do the Government propose to do to repair the damage to this country's reputation?

Baroness Scott of Bybrook (Con): My Lords, we do not agree that we are in breach of our legal obligations. The steps that we took are lawful and consistent with the progressive and good-faith implementation of the protocol. They are temporary, operational steps where additional delivery time is needed, consistent with the common practice internationally of temporarily delayed implementation for operational and delivery reasons.

Lord Wallace of Saltaire (LD) [V]: My Lords, since sanitary and phytosanitary checks are a major problem in trade across the Irish Sea, and since the Government have now made it clear that they do not intend to lower such standards in negotiations with the United States, do the Government have any current plans to diverge from EU SPS regulations in the next four to

five years? If there are no plans for significant divergence, could Her Majesty's Government not declare that we will continue to adhere to EU standards until the next major review, as we are, in effect, doing on data regulation? Or is the principle of sovereignty more important here than the practice of food imports and exports?

Baroness Scott of Bybrook (Con): My Lords, we indicated in last year's negotiations that we were interested in an equivalence mechanism covering agri-foods, and the EU was not. We continue to be interested in such discussions if the EU is open to them. We will not agree to arrangements based on dynamic alignment, as this could compromise our future SPS rules and our trade agreements.

Lord Moylan (Con): My Lords, in the course of the vaccine rollout, Northern Ireland has benefited hugely from its place as an integral part of the United Kingdom. Will my noble friend confirm that, from 31 December this year, all medicines, including vaccines and any necessary Covid boosters, entering Northern Ireland will fall under the regulation of the European Union and will need to be batch-tested in the EEA? Does she agree that, if the Government allow this to happen, it will be a risk and a detriment to all the people of Northern Ireland and will call into question the very concept of a national health service?

Baroness Scott of Bybrook (Con): My Lords, the arrangements we have in place this year are to provide time for us to work with the industry. We are doing this intensively, to ensure that there is no disruption to medicine supplies in Northern Ireland from 2022 and beyond. In any case, UK authorities will remain the responsible regulators and so Northern Ireland will continue to be able to benefit from the vaccine rollout in the same way as the rest of the UK.

Lord Bilimoria (CB) [V]: My Lords, Northern Ireland now has one of the most unique trading positions in the world. We know that the protocol is not perfect, yet at the CBI—of which I am president—our members tell us that they want to make it work. It is still not plain sailing, including issues around goods at risk, rules of origin, SPS checks and controls. Following the recent events over Article 16, does the Minister agree that we need to see calm and confidence restored through extensions to existing grace periods being promptly agreed between the EU and the UK working together with business? Does she also agree that we need to reduce complexity, which is creating barriers to trade and investment?

Baroness Scott of Bybrook (Con): The noble Lord is right in everything he says. We need to continue to support—as we have extensively supported—all businesses in Northern Ireland, particularly those moving goods between Great Britain and Northern Ireland. We have provided them with over £200 million of support through our trader support service, which has processed over 200,000 declarations. Noble Lords might like to know that 98% of those declarations have been handled within 15 minutes and calls to the centre are answered within six seconds. This is the way we are supporting those businesses in Northern Ireland and the trade between Great Britain and Northern Ireland.

Lord Murphy of Torfaen (Lab) [V]: My Lords, whatever views are held on the Northern Ireland protocol, which was created by this Government—and there are problems—does the Minister not agree the only permanent way to resolve these issues is through proper discussion and negotiation between the Government, the European Union, Ireland and the political parties in Northern Ireland? That is how we have achieved progress over the last 25 years.

Baroness Scott of Bybrook (Con): My Lords, the noble Lord is right, and we want to continue discussions with the EU through the Joint Committee to address the outstanding concerns and establish arrangements that can provide durable, pragmatic and proportionate spaces for the east-west trade in particular. The steps we took were simply to provide the space for those discussions without undue disruption.

Baroness Suttie (LD) [V]: My Lords, it is hard to see how the Government's current unilateral approach is going to lead to positive results. One area where working productively with our European partners would make a real, positive difference to UK food producers is agreeing an EU-UK veterinary agreement. Can the Minister say what progress has been made on negotiating that agreement?

Baroness Scott of Bybrook (Con): We are continuing to discuss many things, including the veterinary agreement. I will write to the noble Baroness with a fuller response.

Lord Empey (UUP) [V]: The Government and the European Union say the protocol is designed to support the Belfast/Good Friday agreement. As one of those who negotiated the agreement, I can confirm the protocol is the very antithesis of it and is deeply damaging to the union. Will my noble friend confirm that Her Majesty's Government will be prepared to meet with some of us to discuss the many viable alternatives to this damaging treaty, which is a sledgehammer to crack a nut and deals with less than one-tenth of 1% of European trade flows?

Baroness Scott of Bybrook (Con): My Lords, I am afraid I do not agree. The protocol is a unique solution to the complex challenges we were confronted with. We are committed to implementing it, but in a pragmatic and proportionate way, as I have said. I will take back the noble Lord's offer to the department and see what we can arrange.

Lord Cormack (Con) [V]: My Lords, is it not a fact that when the EU suspended Article 16, it immediately recognised its profound and, frankly, stupid mistake? Should we not be doing everything possible to calm and improve relations with our former partners in the EU, and not take measures that could jeopardise the chances of the European Parliament ratifying an agreement which brought a degree of stability, and much relief, at the beginning of this year?

Baroness Scott of Bybrook (Con): Indeed, my Lords. We need to proceed carefully as part of our progressive and good faith implementation of the protocol. Our focus is on minimising the impact on everyday lives in Northern Ireland, and we are committed to working with the EU to do that, addressing outstanding concerns and restoring confidence on the ground. The steps we took were simply temporary operational steps to avoid unacceptable disruption as those discussions proceeded.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed, and it brings Question Time to an end.

12.53 pm

Sitting suspended.

Arrangement of Business

Announcement

1 pm

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing.

Business of the House

Motion on Standing Orders

1 pm

Moved by ***Lord Ashton of Hyde***

That, in the event of the Contingencies Fund (No. 2) Bill having been brought from the House of Commons, Standing Order 44 (*No two stages of a Bill to be taken on one day*) be dispensed with on Friday 12 March to allow the Bill to be taken through its remaining stages that day.

Motion agreed.

Covid-19: Government's Publication of Contracts

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Tuesday 9 March.

"The first duty of any Government in a crisis is protecting their citizens, so our work to provide personal protective equipment was a critical part of our response. It was a herculean effort that involved setting up a new logistics network from scratch and expanding our PPE supply chain from 226 NHS trusts in England to more than 58,000 different settings. Our team has been working night and day on this vital national effort and I can update the House that we have now delivered more than 8.8 billion items of PPE to those who need it. That work was taking place at a time when global demand was greater than ever before and rapid action was required, so we had to work at an unprecedented pace to get supplies to our frontline and the public.

Two weeks ago, in response to an Urgent Question from the honourable lady, I updated the House on the initial High Court ruling. I will not set out that judgment at length once again, save to say that the case looked not at the awarding of the contracts, but rather at the delays in publishing the details of them as we responded to one of the greatest threats to public health that this country has ever seen. The honourable lady's Question refers to a short declaratory judgment handed down subsequent to the original judgment in this matter, which makes a formal order as to the Government's compliance with the relevant regulatory rules.

As before, I reiterate that we of course take the judgment of the court very seriously and respect it. We have always been clear that transparency is vital, and the court itself has found that there was no deliberate policy to delay publication. The fight against Covid-19 is ongoing. As would be expected, we are agreeing new contracts as part of that fight all the time and we will keep publishing details of them as we move forward.

I care passionately about transparency and so does everyone in my department. We will of course continue to look at how we can improve our response while we tackle one of the greatest threats to our public health that this nation has ever seen."

1.01 pm

Baroness Thornton (Lab): My Lords, the Minister will be aware that 100 contracts remain unpublished, while those that have been published are so heavily redacted that it is impossible to ascertain whether the orders reflect value for money for the taxpayer. Procurement guidance, which is still in force, says that once the contract is commenced, most of the contact details should be released and that only detailed pricing arrangements should be redacted and not much else. Indeed, Cabinet Office guidelines say:

"The government is committed to greater transparency across its operations … This includes commitments relating to public procurement."

Can the Minister explain to the House and propose how meaningful transparency can be achieved to give effect to the Government's stated policy?

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, with regard to the publication of contracts, the number of contract award notices that have been published is 609 out of 609. For contract finder notices, it is 892 out of 913—97.7%—and of the redacted contracts to which the noble Baroness refers, it is 792 out of 913, which is 86.7%. That is an enormous proportion of the contracts that exist that have already been published. The redaction is utterly according to Cabinet Office guidelines. I encourage the noble Baroness to have a look at them; it is remarkable how much detail there is in those contracts as they are published.

Baroness Brinton (LD) [V]: My Lords, the inevitable public inquiry will eventually set out the truth of what has happened with contracts during the Covid pandemic. In the meantime, given that the Urgent Question Statement says that the Government

"have always been clear that transparency is vital",

can the Minister say how many of the private meetings that the noble Baroness, Lady Harding, held on test and trace matters were with companies or their directors or staff who won contracts subsequently?

Lord Bethell (Con): I do not know about a public inquiry; that will be for others to decide. I absolutely re-emphasise the Government's commitment to transparency. As for my noble friend Lady Harding's meetings, I do not have a full account of them in front of me, but I remind the noble Baroness that of course she met suppliers of test and trace. That is part of her role and that has been an important part of the engagement necessary to put together a very large organisation from scratch, and she has done a terrific job in the way that she has done it.

Baroness Pidding (Con) [V]: My Lords, crisis situations such as the present pandemic require action, not paper. Does the Minister agree that, during a national emergency, the British people want a Government who focus resources on saving lives over prioritising red tape?

Lord Bethell (Con): I am grateful for my noble friend's remarks. Absolutely—the public expected us to act, not to push paper. I pay tribute to officials from the Department of Health and in particular from the Crown Commercial Service and the MoD who stepped forward in unbelievably difficult circumstances, particularly around PPE, to transact on a very large amount of extremely complicated and very difficult procurements that ensured that our front-line healthcare workers were safe.

Lord Young of Norwood Green (Lab) [V]: My Lords, I declare an interest as I am on the advisory board of a local clothing manufacturing company in Haringey in an unremunerated capacity. Can the Minister explain why a high-quality SME capable of supplying reusable, RFID-tagged PPE gowns which can be laundered 70 times at a cost of 80p per wash—compared to disposable gowns which cost £10—and which are better for the environment and support local employment has not been given a contract?

Lord Bethell (Con): My Lords, I personally share the noble Lord's frustration over the subject of reusable gowns. It strikes me as sensible and good for the environment for us to be able to use reusable gowns wherever we can. However, those who do the procurement understand fully what is required of a fully sterile gown and, unfortunately, with the amount of moisture and liquids that are involved in operations and in the front-line healthcare service, quite often it is not possible to have reusable protocols in place. That is why we use so much disposable PPE kit. It is a huge regret to me, and I share the noble Lord's frustration. If he would like to write to me with details, I would be glad to pass them to the right people.

Baroness Warsi (Con) [V]: My noble friend will recall the large number of offers made last year to assist the Government to respond to the pandemic, and he will be familiar in particular with the high-priority lane that was established for offers that came as recommendations from Ministers, officials and parliamentarians. This is not a party-political issue but, quite rightly, questions have been raised about the way in which the process gave preferential treatment to those connected to Ministers and indeed the Conservative Party, and about the quality of products contracted for. Can my noble friend therefore commit to an independent inquiry to ensure that public trust in public procurement using public funds is not severely damaged?

Lord Bethell (Con): I completely and utterly reject the suggestion that priority was given to people who had connections in the right place. Priority was given to those who had plausible products that they were able to sell to us. I take this opportunity to thank in particular Ian McKee, the noble Lords, Lord Evans and Lord Hunt, and Richard Baker for their recommendations, which were picked up by the procurement team, put into the high-priority lane and made a valuable contribution to our efforts to get PPE.

Lord Harris of Haringey (Lab) [V]: The noble Lord told the House on 1 March that he was content to be in legal breach, as the ends justified the means. That is a very slippery slope for a Government. Was it acceptable for Sitel to ignore GDPR by instructing staff to put patients' personal details on their private emails because their computer systems could not cope? If that was not justified, the implication is that it is only Ministers who are above the law. But if it was okay, does he accept that it gives a green light to every dodgy or crony contractor to enrich themselves by breaking or bending the law?

Lord Bethell (Con): My Lords, the noble Lord's imaginative reach is to be applauded. I will be absolutely categorical about what I said on 1 March. I never said that the ends justified the means or that I thought that Ministers were above the law. I always said that this Government champion transparency and that we would try to be within the law wherever we could be. I do not wish to make this point too many times: the public expect us to deliver safety for front-line workers, and that meant securing PPE. If we were a few days late on the publication of some contracts, then I think the public would definitely take our side in that decision.

Baroness Redfern (Con) [V]: My Lords, during the Covid-19 pandemic, the fundamental aim of government has been to save lives and to do whatever is necessary to continue saving them. At the beginning of the pandemic, only 1% of PPE was produced here, whereas nearly 70% is produced here now. Will the Minister assure the House that the Government will do all they can to support this newly acquired manufacturing base for PPE and not return to relying totally on imports?

Lord Bethell (Con): The noble Baroness is right: it has been the most amazing turnaround—an achievement that has surprised me. This has absolutely turned on its head some of the assumptions about what Britain's manufacturing base can achieve in terms of affordability, technical ability and return on investment. I am

[LORD BETHELL]
enormously proud of that achievement, and I can reassure the noble Baroness that we are absolutely doubling down on it. It has made us rethink our entire manufacturing strategy for medicinal, pharmaceutical and health products and medical devices.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, given that we are not now in an unpredictable emergency situation but in a long-term continuing pandemic, can the Minister reassure me that all treatments of future contracts will meet the legal reporting requirements and that the Government might even eventually publish the full structure of test and trace?

Lord Bethell (Con): We absolutely endeavour to fulfil the Cabinet Office guidelines on the publication of contracts, and I can provide that reassurance to the noble Baroness. It is my understanding that the structure of test and trace has been published. I will look into finding a link to that and would be glad to send it to her.

Lord McNicol of West Kilbride (Lab): My Lords, it feels a bit like déjà vu. The Minister complained on Tuesday about my use of rhetoric. At the end of this, he might wish that I had stuck to rhetoric rather than moving on to facts, so here are some facts. Fifty million facemasks could not be used as they did not meet the specifications: fact. Britain's safety watchdog felt political pressure to approve the use of PPE suits: fact. One million hybrid masks were withdrawn as unusable: fact. There was contract inflation of 1,392% for the same product: fact. The Government have got this wrong, and I would simply ask: if they have nothing to hide, will they put all the facts about the contracts into the public domain?

Lord Bethell (Con): My Lords, there was a global epidemic: fact. There was a breakdown in the global supply chains: fact. There was a need for PPE on the front line of healthcare: fact. We were prepared to do whatever it took to make people safe: fact.

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the time allowed for this Question has now elapsed.

Hong Kong: Electoral Reforms

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Wednesday 10 March.

"The United Kingdom is deeply concerned about the situation in Hong Kong and the erosion of rights enshrined under the Sino-British joint declaration. In response to these worrying developments, the United Kingdom has already taken decisive action. This includes offering a bespoke immigration path for British nationals overseas, suspending our extradition treaty with Hong Kong indefinitely and extending our arms embargo on mainland China to Hong Kong. The United Kingdom has led international action to hold China to account. As recently as 22 February, the Foreign Secretary addressed the UN Human Rights Council to call out the systematic violation of the rights of the people of Hong Kong, making it clear that free and fair legislative elections must take place with a range of opposition voices allowed to take part.

On the Question raised by the honourable Member for Oxford West and Abingdon, Layla Moran, this week meetings of China's National People's Congress are taking place behind closed doors. We understand that the agenda includes proposals for changes to Hong Kong's election processes. Although the detail is yet to be revealed, these measures might include changes to the election of the Chief Executive, the removal of district councillors from the Chief Executive election committee and the possible introduction of vetting for those standing for public office to ensure that they are described as patriots who govern Hong Kong. Such measures, if introduced, would be a further attack on Hong Kong's rights and freedoms.

Ahead of possible developments this week, the United Kingdom has raised our concerns, including with the Chinese Ministry of Foreign Affairs, the Hong Kong Government and the Chinese embassy in London, as have many of our international partners. The Chinese and Hong Kong authorities can be in no doubt about the seriousness of our concerns. Given recent developments, including the imposition of the national security law last year, the imposition of new rules to disqualify elected legislators in November and the mass arrests of activists in January, we are right to be deeply concerned. We are seeing concerted action to stifle democracy and the voices of those who are fighting for it.

There is still time for the Chinese and Hong Kong authorities to step back from further action to restrict the rights and freedoms of Hongkongers, and to respect Hong Kong's high degree of autonomy. We will continue working with our partners to stand up for the people of Hong Kong and hold China to its international obligations, freely assumed under international law, including through the legally binding Sino-British joint declaration."

1.13 pm

Lord Collins of Highbury (Lab): My Lords, this morning Dominic Raab said that the action of the Chinese National People's Congress would further undermine trust in China. Earlier this week, I asked the Minister about Five Eyes co-operation. Since their November statement, the Chinese Government have rewritten Hong Kong's electoral law and arrested politicians under the national security law, and the police have continued to respond brutally to peaceful protests. The UK needs to lead a co-ordinated strategic response with our allies, so will the Government now call a new meeting of Five Eyes leaders to match words with action?

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, I, of course, take note of the suggestion of the noble Lord. Let me assure him and all noble Lords that the United Kingdom is working in a very co-ordinated

fashion with our Five Eyes partners. I am sure that the noble Lord will note the statements we have previously made on these issues together with key Five Eyes partners, including the United States, Canada and Australia, the most recent being a joint statement in January of this year. Of course, following the announcement this morning, we will be looking to further strengthen our response to the continued dilution of, challenges to and suppression of democracy in Hong Kong.

Baroness Northover (LD): My Lords, did the Minister hear the Chinese chargé d'affaires on the "Today" programme this morning describing the nem. con. vote in China's National People's Congress as "improving the democratic system in Hong Kong"? Are we now in too weak a position to be able to sanction those who have undermined the international agreement in Hong Kong committing it to "one country, two systems", which includes a proper democratic system in Hong Kong? If we are not, why are we not doing this?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Baroness's point about sanctions, of course, that is one of several tools at our disposal in taking action against those who continue to suppress democracy and the rights of democracy. I did indeed hear the "Today" programme and the description of the congress's decision. The best thing that I can say from the Dispatch Box about that decision is that it is anything but democracy: it is the continuing saga of further suppression of the democratic rights of the people of Hong Kong and of their right to choose their own representatives. We will continue to use all channels to ensure that China looks again very carefully at the situation in Hong Kong. On the issue of sanctions, as well as other tools at our disposal, I assure the noble Baroness that we are giving full consideration to everything available to us.

Lord Alton of Liverpool (CB) [V]: My Lords, I declare my interests as vice-chair of the All-Party Parliamentary Group on Hong Kong and as a patron of Hong Kong Watch. Given that BNO is not an accountability measure, what single action have we taken to hold the Chinese Communist Party to account for breaching the internationally binding Sino-British joint declaration? What cross-government assessment is being made of the CCP's involvement in our critical national infrastructure? One example is the China General Nuclear Power Group, which is blacklisted in the US for stealing nuclear secrets, but which owns one-third of Hinkley Point in the United Kingdom?

Lord Ahmad of Wimbledon (Con): On the noble Lord's second point, I can assure him that we take a very robust attitude to the operation of Chinese firms and companies within the United Kingdom. Of course, when there was a big challenge concerning the issue of 5G, we reflected on the provisions for that. I can point the noble Lord to several specific actions that we have taken, including those at the UN, dating back to May 2020. Most recently, on 22 February, the Foreign Secretary directly addressed the UN Human Rights Council, calling out the systematic violation of the rights and people of Hong Kong.

Lord Davies of Gower (Con) [V]: My Lords, the Minister will no doubt be aware that on Monday, foreign diplomats in Hong Kong were summoned to meet the head of the Chinese Foreign Ministry's office in the territory who, it is reported, warned them not to retaliate against changes to Hong Kong's election system. That is evidence, I suggest, that there is no hope of persuading Chinese and Hong Kong authorities through diplomatic means to step back from further actions to restrict the rights and freedoms of Hongkongers, or to uphold Beijing's commitment to the legally binding Sino-British joint declaration. Is it not time for the UK, together with key partners, to flex their muscles more persuasively, possibly through the financial sector, to make Beijing sit up, take notice and abide by its democratic commitment to Hong Kong?

Lord Ahmad of Wimbledon (Con): My Lords, I note my noble friend's suggestions, but I assure him that officials have raised these concerns directly. Her Majesty's Ambassador to Beijing raised them with the Chinese Ministry of Foreign Affairs on 4 March; our acting consul-general in Hong Kong raised them with the Chinese Ministry of Foreign Affairs on 2 March; and London-based officials raised them with the Chinese Embassy here on 5 March. Let me assure my noble friend that we are also in close contact with like-minded partners regarding further action that can be taken.

Baroness Blackstone (Ind Lab): My Lords, I would like to pick up on the Minister's last remarks. Given our close historical connections with Hong Kong, the international community will be looking to the UK to take the lead in defending democracy there. Can he therefore tell the House in more detail than in the Written Answer what discussions the Government have had with the US, the EU and other democracies in the Asia-Pacific region, and what response they have had with respect to the actions to be taken?

Lord Ahmad of Wimbledon (Con): My Lords, as I have already indicated, we are in constant contact with our partners, whether it is the Five Eyes partners that the noble Lord, Lord Collins, referred to, our colleagues within the European Union, or other allies for calling out the continuing suppression of democracy in Hong Kong. We are in very close contact with all of them. This includes action that we have taken at the UN and, specifically, working with close allies on the Human Rights Council, such as Germany and others. That will continue to be the case. However, the issue is for China to take a long, hard look at itself. It is not standing by international agreements that it has signed. It needs to reflect very carefully, because we are seeing the continuing suppression of democracy in Hong Kong, but we are working with partners to ensure that we call it out as regularly as we can.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, as the noble Lord stated, democracy is being stifled in Hong Kong. As a guarantor of the joint declaration, the UK has a legal and moral duty to stand up for the people there. China should be continuously called out for this egregious breach of international law. Does the Minister agree with me

[Lord Mackenzie of Framwellgate]
that the true patriots in Hong Kong are those who support the joint declaration, and that, surely, Magnitsky sanctions are now inevitable?

Lord Ahmad of Wimbledon (Con): My Lords, I agree with the noble Lord when he rightly describes those who stand up as true patriots who stand up for freedom, democracy and the will of the people. I have already addressed the issue of sanctions; as I said, it is one of the tools available to us, and we are leaving all the tools very much on the table.

Lord Garnier (Con) [V]: My Lords, the Government's response to the Urgent Question says:

"There is still time for the Chinese and Hong Kong authorities to step back from further action to restrict the rights and freedoms of Hongkongers, and to respect Hong Kong's high degree of autonomy."—[*Official Report*, Commons, 10/3/21; col. 881.]

I know that my noble friend the Minister heard Nick Robinson's interview this morning on the "Today" programme with the Minister from the Chinese embassy. Would he agree that Mr Robinson was a model of restraint as he listened to the risibly incredible answers to his questions? Does my noble friend agree that the Government of China could not care less about what the rest of the world thinks, and that they will pay attention only when we actually do something, as opposed to wringing our hands and saying, "It's all dreadful but we'd quite like their trade"?

Lord Ahmad of Wimbledon (Con): In terms of what we say publicly in strengthening diplomacy, restraint is very much a description of British diplomacy at its best. But I assure my noble and learned friend that the restraint is not demonstrated in any way through the options that we consider—as we have done in calling out the issue in Hong Kong—and we are not wringing our hands. We regard China as an important international player, and it is important that it seeks to remain, and retain its place, within the international community. Everyone is looking at China and at what is happening not just in Hong Kong but in China itself, particularly in Xinjiang. It is important that we continue to call that out in international fora and, as I have said, together with international partners.

Lord Berkeley of Knighton (CB) [V]: Could I press the Minister on one point that the noble Baroness, Lady Blackstone, made? Are we actually holding hands with the Biden Administration to put pressure on China? That would clearly strengthen our hand considerably. Secondly, given how we cannot really trust what assurances were given by the Chinese, how are we going to approach future negotiations?

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's second point, of course what is happening in Hong Kong and the continued suppression of the human rights of people within China are important considerations in any future discussions we have with the Chinese authorities. On his first issue about our links and discussions with the Biden Administration, I assure the noble Lord that my right honourable friends the Prime Minister and the Foreign Secretary are engaging with the United States, as well as all members of the team. Indeed, as I have said before, I look forward to talking quite directly with the Assistant Secretary responsible for human rights after the appropriate confirmation hearings, and I assure the noble Lord that this will be one of the key priority issues on our agenda.

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the time allowed for this Question has now elapsed.

1.24 pm

Sitting suspended.

Counter-Terrorism and Sentencing Bill

Third Reading

1.31 pm

Motion

Moved by ***Lord Wolfson of Tredegar***

That the Bill be now read a third time.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, as the UK Government have made clear throughout all stages of the Bill, we are committed to working closely with the devolved Administrations on this legislation to ensure that the important changes made by the Bill will make the UK as safe as possible from the threats posed by terrorism.

While terrorism and national security are reserved matters, some of the provisions of this legislation engage the Sewel convention, both in Scotland and in Northern Ireland. I am pleased to confirm to the House that the Scottish Parliament, on the advice of the Scottish Government, has passed a legislative consent Motion in support of the Bill. However, despite lengthy and continued engagement with the Northern Ireland Executive, it has decided not to proceed with recommending that legislative consent be given for the Bill by the Northern Ireland Assembly.

I am grateful for the collaborative engagement from officials in both the Scottish Government and the Northern Ireland Executive's Department of Justice, which has provided essential support in the development of this legislation. While on this occasion legislative consent has not been secured from the Northern Ireland Assembly, I reassure noble Lords that the UK Government will continue, as they always have done, to engage with the Northern Ireland Executive and seek legislative consent support for all future Bills which engage the LCM process in the Northern Ireland Assembly. On behalf of my noble and learned friend Lord Stewart of Dirleton, I beg to move that the Bill be read a third time.

Bill read a third time.

1.33 pm

Motion

Moved by ***Lord Wolfson of Tredegar***

That the Bill do now pass.

Lord Wolfson of Tredegar (Con): I would like to take a brief opportunity to thank noble Lords. We have limited time, but I want to give some thanks for their interest and contributions thus far to the progress of the Bill. I am grateful to noble Lords across the House who have contributed eloquently to the debates on Second Reading, in Committee and on Report.

Some strong and differing opinions have been expressed on certain provisions in this legislation. I am grateful for the scrutiny that that has brought, and especially for the co-operative and constructive spirit in which the debates have taken place. I am equally grateful for the broad support that most of the measures in the Bill have received so far.

I particularly thank, at this point, noble Lords from the Labour and Liberal Democrat Front Benches, who contributed a number of important interventions to debates on measures in the Bill, particularly on polygraph examinations and the work to deradicalise and rehabilitate terrorist offenders in the prison estate. I am especially pleased that so many noble Lords found the discussion in the House, and the complementary briefing sessions on these subjects, both thought-provoking and helpful. I hope that the House is now confident of the intention behind these measures and is reassured that the Government keep this important work under continuous review.

Noble Lords have contributed to a rich discussion on the changes being made to terrorism prevention and investigation measures—TPIMs, as we usually call them. The Government remain clear on the importance of strengthening this vital risk management tool, and we are grateful to all Peers who have spoken on the issue, especially those on the Liberal Democrat and Labour Front Benches, and also the noble Lord, Lord Anderson of Ipswich, for their thoughtful contributions to debate.

The amendments made in this House to the TPIMs provisions, tabled by the Government and by the noble Lord, Lord Anderson of Ipswich, will now be considered by the other place, and I look forward to returning to this matter when the Bill comes back to this House. Members of this House have recognised its importance, and we have discussed openly the complexity and challenges that dealing with terrorism poses.

The Government are confident that the Bill will strengthen the approach taken to the sentencing and release of terrorist offenders, by ensuring that serious and dangerous terrorist offenders will spend longer in custody, properly reflecting the seriousness of the offences they have committed. Crucially, it will improve the Government's ability to manage and monitor terrorist offenders when they are released. This will ultimately provide better protection for the public and keep our country safe. For all these reasons, I hope that the Bill will progress quickly through the other place, and I look forward to discussing it further on its return to this House.

1.36 pm

Lord Falconer of Thoroton (Lab) [V]: First, I thank the Government Front Bench, whose approach to this very serious Bill has been measured and appropriate. The noble and learned Lord, Lord Stewart of Dirleton, and the noble Lords, Lord Wolfson of Tredegar and Lord Parkinson of Whitley Bay, have been incredibly open with the House, and we are very grateful for that. I cannot remember whether this is their first Bill, but they have conducted it incredibly well. May I particularly mention the noble Lord, Lord Parkinson of Whitley Bay, who ended up having to take this Bill when, I think, the person originally nominated left in somewhat of a hurry? He did an incredibly good job.

We have had very open and co-operative help from the Front Bench. It is clear that we on this side of the House strongly support many of the measures. We did not reach agreement on TPIMs or polygraphs, but we have made changes, particularly in relation to TPIMs. Some were agreed by the Government, but they did not agree to all of them. I very much hope that those in the other place will consider very seriously the changes that we have made, which have focused mostly on TPIMs, and will perhaps think that we have provided appropriate protection, but in a more nuanced and better way.

1.38 pm

Lord Paddick (LD) [V]: My Lords, we on these Benches want to do everything we can to make the UK safer. What we sought to do in the Bill was to protect civil liberties and the rule of law. We have questioned the presumption that longer sentences, and people spending more time in prison, will make UK citizens safer. Instead, we have been trying to create a system in which prisoners stand the best chance of being deradicalised and rehabilitated.

As the noble Lord has said, terrorism prevention and investigation measures are supposed to do exactly what it says on the tin—to prevent terrorism while an investigation takes place. The changes the Government sought to bring about would have made it possible to extend TPIMs indefinitely, including what could amount to house arrest, by removing the overnight restrictions on curfews. Unless the compromise amendment forced on the Government by the noble Lord, Lord Anderson of Ipswich, survives ping-pong, indefinite detention without trial beckons.

The Bill extends compulsory lie detector—polygraph—tests not only to convicted terrorists on licence from prison, but to subjects of TPIMs orders who are not convicted, and should have the right to silence. Instead, those unconvicted suspects face a term of imprisonment for not answering questions. The long-established right to silence has been eroded.

It is not all bad. As a result of the briefings arranged by the Government, as the Minister said, I am now convinced of the benefits of the limited use of polygraph tests for those released on licence from prison and I am reassured by the efforts being made to manage the risks presented by terrorist offenders on release from prison, although I still believe that they could be enhanced by extending the remit of the Parole Board, as sensibly proposed by the noble Lord, Lord Carlile of Berriew. On a personal level, I am very grateful for the open and engaging way in which both Ministers have interacted with us, for the engagement with like-minded noble Lords across the House and to our own and Labour's staff members, Sarah and Grace, for the considerable help and assistance they have provided.

[Lord Paddick]

Finally, I would be lost without the help and support of my noble friends, in particular my noble friend Lord Marks of Henley-on-Thames and my noble friend Lady Hamwee, whose contributions in the Chamber are just the tip of an iceberg of dedication, superhuman effort and selfless support for others.

1.40 pm

Lord Carlile of Berriew (CB) [V]: My Lords, I echo the verbal applause given so eloquently by the noble and learned Lord, Lord Falconer of Thoroton, for the contribution and consultation given by Ministers. I have one regret about the Bill, which is that the potential role of the Parole Board is not recognised properly in it. However, with some confidence I express the hope that, outside the time pressures to complete the Bill in this Session of Parliament, Her Majesty's Government will talk to the Parole Board at the most senior levels to ensure that best use is made of the board's skills and of its long and successful rollout of relevant training on terrorism matters to its members. The Government should not forget that the Parole Board holds a high degree of accountability in public confidence.

I support the proportionate use of polygraphs, and I am heartened to hear that the Liberal Democrats have become converted to that use. I support it as one, but only one, of a larger set of psychological and neurological tools in assessing the risks presented by terrorist prisoners if they are released. I support the extension of TPIMs to the standard formerly available through control orders. When I was Independent Reviewer of Terrorism Legislation, I repeatedly opposed the dilution of those orders in 2010-11 by the coalition Government, and I only regret the passage of 10 years to reach today's position. I recognise with acclaim the work of my noble friend Lord Anderson of Ipswich on raising the length and standard of proof of TPIMs to a sound and realistic level. What I believe is the now achieved compromise, the limit of five years, is acceptable, but as long as prosecution always remains the preferred option.

I could but will not say much more, other than recognising that your Lordships' House has left a better Bill than we started with. Of course, in the years to come, we shall scrutinise the operability of the Act and not hesitate to suggest further changes.

1.43 pm

Lord Wolfson of Tredegar (Con): My Lords, I am very grateful for the words expressed by all the speakers. First, I in particular thank the noble and learned Lord, Lord Falconer of Thoroton. He is right that I am something of a neophyte when it comes to the work of this House, so thanks from him, with his extensive experience, is especially well received. He was also correct to draw attention and pay tribute to the other two members of the ministerial team and the officials who worked on the Bill. My noble friend Lord Parkinson of Whitley Bay did a lot of the heavy lifting, and my noble and learned friend Lord Stewart of Dirleton was, as I think the noble Lord, Lord Carlile of Berriew put it once in Committee, the other half of the Government's twin strike force. I am very grateful to both my colleagues for everything they have done.

As I mentioned the noble Lord, Lord Carlile of Berriew, I benefited personally—I know we all did—from his experience, both in this Chamber and in our discussions outside, and I am confident that they will continue on other legislative matters.

Finally, I also thank the noble Lord, Lord Paddick, for his comments. Of course, we had some differences on certain issues in the Bill, but they were differences of principle; both sides were, I hope, well and fairly argued; and I am sure that those discussions and debates also led to a better Bill in the end. The noble Lord was part of a triple strike force, and he was right to mention his colleagues, the noble Baroness, Lady Hamwee, and the noble Lord, Lord Marks of Henley-on-Thames, who also did a lot of work in this regard. I see the time, and therefore conclude my remarks there.

Bill passed and returned to the Commons with amendments.

1.46 pm

Sitting suspended.

Arrangement of Business

Announcement

1.50 pm

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, the hybrid Sitting of the House will now resume. I ask Members to respect social distancing. During consideration of the Overseas Operations (Service Personnel and Veterans) Bill I will call Members to speak in the order listed. During the debate on each group, I invite Members, including Members in the Chamber, to email the clerk if they wish to speak after the Minister. I will call Members to speak in order of request.

The groupings are binding. A participant who might wish to press an amendment other than the lead amendment in a group to a Division must give notice in the debate or by emailing the clerk. Leave should be given to withdraw amendments. When putting the Question, I will collect the voices in the Chamber only. If a Member taking part remotely wants their voice accounted for if the Question is put, they must make this clear when speaking on the group.

Overseas Operations (Service Personnel and Veterans) Bill

Committee (2nd Day)

Relevant documents: 9th Report from the Joint Committee on Human Rights, 30th and 36th Reports from the Delegated Powers Committee

1.52 pm

Clause 11: Court's discretion to extend time in certain Human Rights Act proceedings

Amendment 21

Moved by ***Lord Thomas of Gresford***

21: Clause 11, page 7, line 23, at end insert—

"(c) the importance of the proceedings in securing the rights of the claimant."

Member's explanatory statement

This amendment adds a further consideration to which UK courts must have particular regard when determining whether to disapply the standard HRA limitation period of one year so as to ensure that the claimant's interest in having their claim proceed is not subordinated.

Lord Thomas of Gresford (LD) [V]: My Lords, I will start with a quote on how the court approaches the extinction of the limitation period in any category of case:

"It is for the court to examine in the circumstances of each case all the relevant factors and then decide whether it is equitable to provide for a longer period. It may be necessary in the circumstances of a particular case to look at objective and subjective factors; proportionality will generally be taken into account. It is not in my view appropriate to say that one particular factor has as a matter of general approach a greater weight than others. The court should look at the matter broadly and attach such weight as is appropriate in each given case."

I am quoting from the judgment of the noble and learned Lord, Lord Thomas of Cwmgiedd, in the case of Dunn v Parole Board in 2008.

The standard limitation period is three years for tortious claims for personal injury and wrongful death, and one year for claims under the Human Rights Act. The limitation periods can be extended by an application to the court on the principles I have quoted.

This Bill introduces factors in Clause 8(1)(b) and in paragraph 1(4) of Schedule 1 and—in relation to Human Rights Act claims—in Clause 11(2), which inserts new Section 7A into the Human Rights Act. The purpose of introducing these additional factors that a court must take into account in claims arising from overseas operations is to introduce a degree of bias into the equation. The Bill requires that the court pay "particular regard" to the impact of the operational context on the ability of members of HM Forces to fully or accurately recall events and the degree of

"dependence on the memory of such individuals"

for the cogency of the evidence, as well as the impact on the mental health of Her Majesty's Forces witnesses caused by the proceedings.

Over the past 20 years, in the field of criminal law and procedure, the victim has been put at the forefront. I think it was the noble and learned Baroness, Lady Scotland, who emphasised that, in particular when she was Attorney-General. Everything has been done to try to make it easy for victims in criminal courts to complain in the first place—not least in cases involving sexual offences. Special measures have been introduced to that end.

In dealing with civil claims by victims, the thrust of this Bill is entirely to reverse that position. The concentration is now on fairness to the alleged perpetrators of the acts from which the victims suffered and which are the foundation of their claims. Special weight must be given to a declaration by a serving soldier or veteran of the possibility that his memory will be affected and his comfort zone invaded by the stresses and strains of giving evidence about things he would prefer to forget. This is so even if the victim happens to be a fellow service man or woman. It is not even as if this hurdle is placed on people because they are foreigners whose country we have invaded in order to save them from the particular regime under which they are suffering. It would of course be disgraceful if such a distinction were ever made between service victims and foreign victims. So what is the rationale for these provisions which introduce factors to alter the balance of which the noble and learned Lord, Lord Thomas, spoke, and weigh down in favour of the MoD?

On Tuesday, I spoke about vexatious claims. I pointed out that I witnessed an Iraqi woman withdrawing her claims of sexual assault and admitting in court that they were false. There were vexatious claims, stirred up by English lawyers for their own gain. Our legal system is robust and it dealt with the claims by striking them out and by disciplinary actions against the lawyers concerned which effectively removed them from circulation.

But not every claim brought by a victim is vexatious. We have to face the fact that some are legitimate. As I said on Tuesday, my Written Questions to the Minister on 2 June 2020 revealed that, since 2003, 1,330 claims arising from the treatment of foreign victims by British personnel had been accepted and £32 million paid in compensation. The Answer to my Questions also revealed that not a single serviceman, however responsible he might have been for the victim's claim, has had to pay damages or compensation out of his own resources. The MoD has covered them all—and it claims that it does not settle claims which it does not believe to be meritorious.

If we look elsewhere for confirmation, in its final report published on 9 December 2020 entitled *Situation in Iraq/UK*, the prosecutor for the International Criminal Court concluded that the information available provides

"a reasonable basis to believe that … members of UK armed forces in Iraq committed the war crime of wilful killing/murder … at a minimum, against seven persons in their custody. The information available provides a reasonable basis to believe that … members of UK armed forces committed the war crime of torture and inhuman/cruel treatment … and the war crime of outrages upon personal dignity …against at least 54 persons in their custody."

The prosecutor also found that there was a reasonable basis to believe that there were seven victims of sexual violence. It is impossible, regrettable as it may be, to dismiss the claims brought by victims as being vexatious. As a civilised country, we must face up to that fact and ensure as far as we can that the disciplines are in place which prevent these things happening.

2 pm

If it is accepted that these are proper claims, is it an answer to a victim that his case cannot go forward because the perpetrator from our military has lost his memory or because of the stresses of service, or that whatever the victim may have suffered, that pales into insignificance in the light of the stress of giving evidence in a witness box and recalling past events? Every day in every court in this country, people suffer the stress of the witness box, as I have myself on a number of occasions. Would we ever say to a gang-raped 13 year-old that her case could not go forward because her assailants have lost their memory or that the strain of them giving evidence and recalling what they have done would be too much for them?

[Lord Thomas of Gresford]

That is a general introduction to the topic which arises in the three groups that we will be considering, and I promise that I will not repeat it in relation to the other groups. In this group, I am concerned with the victim. In Clause 11, the court's general discretion to extend time in Human Rights Act proceedings is to be fettered to require the court or tribunal to have "particular regard to", first, the ability of the alleged perpetrator to remember or to "record" the events and, secondly,

"the likely impact of the proceedings on the mental health of any witness … who is a member of Her Majesty's forces."

Our amendment would add a third factor: namely, the importance of the proceedings in securing the rights of the victim and thus to achieve justice. If the Bill needs to spell out in statutory form the factors that the judge should pay particular regard to, contrary to the general approach of the noble and learned Lord, Lord Thomas, which I have quoted, our addition would add the duty to pay particular regard to the rights of the victim. Without our amendment, the judge's discretion is deliberately skewed by this Bill in favour of the Ministry of Defence.

The rest of our amendments in the group introduce the same third factor: the rights of the victim in all the other contexts and jurisdictions in Scotland and Northern Ireland in which this bias in favour of the MoD appears in the Bill. I beg to move.

Baroness Chakrabarti (Lab) [V]: My Lords, I cannot hope to improve on the powerful and compelling forensic critique of Part 2 that has just been offered by the noble Lord, Lord Thomas of Gresford, but perhaps I may lend my support to his general approach and that of his noble friend Lady Smith of Newnham in these amendments. They probe and highlight the problems with interfering with judicial discretion in the manner proposed in Part 2.

A lot has been said about the Bill in general being about providing reassurance to our veterans. Reassurance can be important, particularly where it is a practical improvement on problematic law. But when reassurance is more political and is provided against a false problem that has been raised in political rhetoric, we all need to be far more concerned about interfering with judicial discretion. In the other place—although not so much in this place the last time we met—there has sometimes been the language of claims being used in relation to Part 1 and Part 2. Part 1 is about prosecution which, understandably, veterans will fear in certain difficult contexts. However, this is about civil claims, where the presumption of innocence that must and should apply in criminal proceedings does not apply. This ought to be as fair a contest as possible between two civil parties.

Invariably in the context of these claims, as the noble Lord, Lord Thomas, has set out so clearly, we are talking about the MoD, a great and well-resourced department of state which is the defendant. Sometimes claimants will claim to be the victims of war crimes, but there will also be no small number of veterans themselves. That has been lost in parts of the public discourse and certainly in the debate in the other place. I am therefore grateful to the noble Lord, Lord Thomas, for bringing this forward.

The false war between veterans on the one hand and lawyers on the other is particularly pernicious in the context of Part 2 when veterans' groups and the lawyers who represent them are in concert in their concerns about the way that Part 2 protects the MoD not from false claims, against which the department is well protected, but from genuine claims where, sometimes because of the problems of overseas conflict and the difficulties that veterans themselves have faced in those dangerous situations, six years is too short a time. Some open and well-applied judicial discretion is what is required.

Without further ado, I shall make way for my noble friend Lord Hendy, who I understand has direct experience of representing at least one veteran's mother.

Lord Hendy (Lab) [V]: My Lords, I cannot improve on the powerful contributions made by the noble Lord, Lord Thomas of Gresford, and my noble friend Lady Chakrabarti. However, perhaps I may add one point of legal detail which might assist. If I make the point now, I will not need to do it in my later contributions.

Section 7(5)(b) of the Human Rights Act 1998 to which these amendments relate provides a one-year time limit or

"such longer period as the court … considers equitable having regard to all the circumstances".

As regards any application to extend that time period, Clause 11 of this Bill seeks to require the court to have regard to the ability of witnesses in Her Majesty's forces to remember or to have recorded events and to the impact of the litigation on the mental health of any HM forces witness.

Amendment 21 merely seeks to redress the balance by reference also to the interests of the claimant. It is a modest amendment. The movers might have gone a lot further and brought limitation under the Human Rights Act into line with the parallel provisions of the Limitation Act 1980 in civil cases. I will remind the House briefly of those provisions. They impose a limit of six years for claims in tort or contract, but in Section 3 this is reduced to three years for personal injury claims; that is, three years from the date of the accrual of the cause of action or from the date of knowledge if later. There is much jurisprudence on the date of knowledge, as the noble Lord, Lord Faulks, alluded to on Tuesday. However, the period can be extended. This is an area of law that is very familiar to anyone who has practised in the field of personal injuries.

Section 33(1) of the Limitation Act 1980 permits a court to allow an action to proceed out of time, if it

"appears … that it would be equitable",

having regard to the prejudice if it were to do so to the defendant and to the claimant. In addition, Section 33(3) specifies that the court, in making a determination,

"shall have regard to all the circumstances of the case".

In particular, it must have regard to certain specified factors:

"(a) the length of, and the reasons for, the delay on the part of the plaintiff; (b) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is or is likely to be less cogent than if the action had been brought within the time"

limits set out in the Act;

"(c) the conduct of the defendant after the cause of action arose, including the extent (if any) to which he responded to requests reasonably made by the plaintiff for information or inspection for the purpose of ascertaining facts which were or might be relevant to the plaintiff's cause of action … (d) the duration of any disability of the plaintiff arising after the date of the accrual of the cause of action; (e) the extent to which the plaintiff acted promptly and reasonably once he knew"

he might have a claim; and, finally,

"(f) the steps, if any, taken by the plaintiff to obtain medical, legal or other expert advice and the nature of any such advice".

If the Minister is not minded to concede the modest amendments sought, I commend to him altering the Bill to incorporate these familiar provisions of the Limitation Act, which has worked well in all manner of cases over the last 40 years. No justification appears for imposing harsher limitation provisions for actions in respect of personal injuries or death that relate to overseas operations of the Armed Forces.

This provision in the Bill may save the MoD a few bob, but it will give no reassurance to military personnel who are claimants or to members of their families, such as the lady for whom I acted some years ago, as I explained at Second Reading. Her son had been killed by a shell fired at his tank by another British tank outside Basra. The claim was based on the MoD's failure to fit the tanks with adequate and available identification kit and to adequately train tank commanders. The case was ultimately settled by the MoD, after many years.

The noble Baroness, Lady Goldie, kindly wrote to me after Second Reading to explain the time limits proposed in the Bill for cases such as this, but I regret to say that, in spite of her clarity in elucidating the Bill, I was not reassured. Military personnel on overseas operations need to know that they—and, if they die, their mums, dads and children—can make a claim against the MoD, if it turns out to be at fault. They should not be subject to hurdles to which other claimants are not subject. The Government need not fear vexatious claims. Anyone who has practised law in this field from bench or bar knows that the courts are astute enough not to permit vexatious claims. The Bill, unamended, will time-bar some vexatious claims, but it will equally time-bar meritorious claims. That is not forgivable. It is no answer to say that there will be few of them; there should be none.

A final point arises from an argument advanced by the Minister in response to Amendment 29, moved by my noble and learned friend Lord Falconer, late on Tuesday night. The Minister suggested that the amendment would result in an unjustifiable difference in treatment between different categories of claimants and that this, therefore, would offend against the European convention. Presumably he had Article 14 in mind, which prohibits discrimination on grounds including "other status".

Yet these provisions in the Bill impose a difference in treatment between those making a claim for personal injuries or death that relate to overseas operations of the Armed Forces and those who make such a claim that does not relate to overseas operations of the Armed Forces. I and, it appears, many Members of your Lordships' House regard that as unjustifiable. I would be interested to hear how the Minister justifies that difference in treatment under Article 14 or, indeed, Article 2, which protects life by law.

2.15 pm

Lord Faulks (Non-Afl) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Hendy, not least because he has helpfully set out the provisions in the Limitation Act to which I would have made reference. He also made reference to Section 7(5)(a) of the Human Rights Act, which deals with the limitation period for human rights claims.

The purpose of limitation periods is to provide that it is public policy that there should be an end to litigation, but some people have perfectly good reasons to delay bringing cases. It is important that any limitation period strikes an appropriate balance between those who bring claims and those who are the recipient of or witnesses to claims. There is plainly an interest in bringing an end to cases.

The noble Lord, Lord Thomas, suggests that there is a degree of bias as a result of the amendments to the limitation periods provided for by the Bill. I hope that that is not the case, because it is clearly not desirable. The additional provisions that are written into limitation periods specifically for our Armed Forces are questionable. The existing limitation periods under the Limitation Act and Human Rights Act are perfectly adequate to deal with the considerations that are specifically averted to in the Bill.

For example, Section 33 of the Limitation Act, to which the noble Lord, Lord Hendy, referred, recites various matters that should be taken into consideration. He helpfully drew the House's attention to them. The relevant subsection begins,

"the court shall have regard to all the circumstances of the case and in particular to—"

and then the various factors are listed. There is a slight difference between having regard to all the circumstances, which is a general discretion, and identifying particular factors. The Bill superimposes factors, as it says that the courts must have "particular regard". There is a difference between "particular regard" and "regard in particular". I do not think that that is merely a lawyer's point because, as I said during the debate late on Tuesday, it is important that, although these factors may reasonably be taken into consideration, there should not be any form of trump.

My view is that these additional provisions do not provide a bias, but it is important to allay even the risk of them seeming to provide a bias. With respect, I do not agree with the noble Lord, Lord Hendy, about amending the Human Rights Act on discretion. In fact, in the London Borough of Hackney v Williams in 2017, the Supreme Court said that the court should not rewrite the statute. The words of the statute, in both the Human Rights Act and the Limitation Act, give the court a broad discretion. That will inevitably include these matters—the importance of securing a claim, from the claimant's point of view, being one of them. All the others set out in both the Limitation Act and the additions provided by the Bill should also be taken into consideration. It is not a trump card, but I understand the noble Lord's concerns.

Baroness Smith of Newnham (LD) [V]: My Lords, I enter this set of amendments as a lead signatory but as somewhat of an interloper, being the only speaker in this set of amendments and the subsequent two who is not a lawyer and does not have legal training. I will defer to my noble friend Lord Thomas of Gresford and his excellent opening remarks, but I want to add a couple of points and reasons why this set of amendments is so important.

As the noble Lord, Lord Hendy, pointed out, this is a minor amendment—essentially, the four amendments are doing the same thing in the various parts of the United Kingdom—but I believe that it is a necessary amendment. That is precisely because Her Majesty's Government have spent a lot of time telling us that this Bill is about the interests of service men and women and veterans, and yet, if one looks at the briefing, which I suspect other noble Lords have received, from the Royal British Legion, there is particular concern about Part 2 of the Bill. There is a whole set of representations that has been sent to me, and I assume to other noble Lords who are participating—for example, from the Association of Personal Injury Lawyers, which is urging Peers to accept the amendments in my name and that of my noble friend to Clause 11 and Schedules 12 and 13.

Also, this is very much in line with the evidence received by an inquiry undertaken by the All-Party Parliamentary Group on the Rule of Law and the All-Party Parliamentary Group on Drones. I declare a prospective future interest in that my name has been put forward to become a vice-chair of the APPG on Drones. I took no part in the work that it has been doing, but it has produced an excellent briefing. It is important to reiterate from that evidence that, as the noble Baroness, Lady Chakrabarti, pointed out, in Part 2 we are talking about claims brought against the MoD. This looks as if it is a protection for the MoD rather than supporting claimants. I believe very strongly that, if our concern is to support our Armed Forces and veterans, then we should be looking to protect them and not the MoD. That point was also made by Emma Norton, the director of the Centre for Military Justice, in her briefing:

> "In terms of impact on soldiers which the MOD states it wants to minimise, it is worth remembering that all of these civil claims – whether brought by a civilian or a soldier - are brought against the MOD as defendant, not individual soldiers, though of course soldiers may have to give evidence."

Our modest amendment is very much about securing the rights of claimants, and as the noble Lord, Lord Hendy, pointed out, there should be no cases where service men and women and veterans are being disadvantaged, and yet as the Royal British Legion pointed out, even in the Government's own impact assessment of the Bill, a minimum of 19 injured and bereaved members of the Armed Forces communities would have had their claims blocked if the limit being proposed had been in place. And that is just for operations in Iraq and Afghanistan. Therefore I would like the Minister in his response to consider whether it would not be appropriate to balance the two subsections already proposed for "particular regard" for our amendment to be added as paragraph (c).

Lord Falconer of Thoroton (Lab) [V]: This has been a very significant debate, and one should not lose sight of the important changes that will take place in the ability of people to sue the MoD in respect of human rights claims, tort claims and contract claims arising out of overseas operations. The underlying problem, which the noble Lord, Lord Thomas, identified in his very clear and effective opening remarks, is that you do not want a situation where, when a court is considering whether to extend the limitation period beyond the primary limitation period, there is a bias in favour of the defendant, the Ministry of Defence.

What the noble Lord is saying, in effect, is that it should be approached in the way that these cases are approached in every other piece of civil litigation where there is an application to extend a period of limitation beyond the primary limitation period: the judge comes to a conclusion as to what he or she thinks—this is not quite the line in the statute—is just and equitable in all the circumstances. One of the really important things that one is looking at is the fact that the claimant will have a claim, and the claimant may be losing what would otherwise be a just claim because of the passage of time—and it may well be in particular that the passage of time beyond the primary limitation period could not properly be described as the fault of the claimant.

Over the years, the courts have become quite expert at exercising a discretion in relation to this, both under the Limitation Act 1980 and under the Human Rights Act 1998. My noble friend Lord Hendy, in his very helpful and compelling remarks about how the limitation period works, and the noble Lord, Lord Faulks, were basically in the same place. They were both saying that we should strike the balance in an even-handed way. I hope that it is not the case that there is going to be a bias in favour of the MoD, because, as the noble Lord, Lord Faulks, said, that is not desirable. My noble friend Lord Hendy said that there should not be bias. I completely agree with that. The purpose of this first group of amendments advanced by the noble Baroness, Lady Smith, and the noble Lord, Lord Thomas, is to make sure that there is not such a bias. I agree with my noble friend Lord Hendy and the noble Lord, Lord Faulks, that it has to be clear that there is not going to be a bias.

I believe, therefore, that amendments to the Bill are required. Whether or not the proposals of the noble Baroness, Lady Smith, and the noble Lord, Lord Thomas, are the best way to do it in group 1—there might be another way of doing it—the sentiment that underlies these amendments and the fact that they have been supported by both my noble friend Lord Hendy and the noble Lord, Lord Faulks, is significant. I very much hope that the noble and learned Lord, Lord Stewart of Dirleton, will have listened and may perhaps reassure us that he will come back with some amendments to make sure that there is not that undesirable bias.

The Advocate-General for Scotland (Lord Stewart of Dirleton) (Con): My Lords, I have listened with care to the remarks advanced by noble Lords in relation to this proposed amendment. At the outset, may I note and associate myself with remarks made by noble

Lords as to the tenor of the speech introducing this part of the debate by the noble Lord, Lord Thomas of Gresford. This seems to me, drawing on my short experience in your Lordships' House, to be of a kind with contributions which we hear from that source, from the noble Lord, Lord Thomas of Gresford, concerned as it was that the principles which underpin the legal systems in the jurisdictions of our United Kingdom should apply universally, irrespective of whether claimants are British subjects or not—underpinned also by that confidence in the ability of our courts and our system to do justice among all forms and manners of people.

In considering this amendment, I note that we have already discussed first of all the three factors that this Bill is introducing which the courts must consider and to which they must have particular regard when deciding whether to allow claims connected with overseas operations to proceed after the primary limitation periods have expired. I will not rehearse the arguments that I have already made as to why we are introducing these new factors, though I will necessarily, in answering your Lordships' points, touch upon them.

However, the additional factor that these amendments propose to add is not, I submit, necessary. That is not because it is not right for the courts to consider the importance of proceedings in securing the rights of the claimant—of course it is—but because this is already something that the courts will take into account when they consider whether it is equitable in all the circumstances to allow a claim to proceed. The court would inevitably be assessing the right of the claimant in determining whether or not an extension to the time limit should be granted. The additional factor in terms of the amendment proposed does not enhance the policy aim of the Bill, which is to help provide service personnel with greater certainty. It would however, I submit, increase legal complexity in a way that is unnecessary.

2.30 pm

The noble Lord, Lord Thomas Gresford, the noble Baroness, Lady Chakrabarti, the noble Lord, Lord Hendy, and the noble and learned Lord, Lord Falconer of Thoroton, in particular were concerned that the Bill as framed may risk presenting the appearance of bias in favour of the Ministry of Defence against an individual claimant. I suggest that it is better to look to the rationale behind the measures proposed in the Bill and the reflection that, unlike domestic litigation, litigation arising out of overseas operations should reflect these three factors which do bear on overseas operations in a manner in which they do not in a domestic context.

I am also grateful to the noble Lord, Lord Hendy, for his rehearsal of the terms of the legislation in the Human Rights Act and the Limitation Act 1980 and for his account of the case arising out of the tragic circumstances of the matter in Iraq, in which he represented a complainant. But I also urge on your Lordships the views of the noble Lord, Lord Faulks. These provisions do not place a trump card in the hands of the Ministry of Defence; rather, in my respectful submission, they do what noble Lords speaking in favour of the amendment have accepted must be done—they strike a balance. I submit that they create a better balance by acknowledging the context of overseas operations, which otherwise do not appear in our legislation.

Because the amendment will risk introducing additional legal complexity and because the Bill as it stands seeks rather to redress the balance by acknowledging the circumstances of overseas operations, I urge the noble Lord to withdraw the amendment.

Lord Thomas of Gresford (LD) [V]: My Lords, I am most grateful to the Minister for his response. This is one of those unusual situations where I can thank every single Lord, including him, who has spoken in this debate. The noble Lord, Lord Faulks, in particular, gave very interesting support in spirit to what we seek to do. We just do not want these additional factors to be given statutory force. It undoubtedly gives the impression of bias to pay "particular regard" to matters in favour of only one party, the Ministry of Defence. I do not want to see those there, and if they are not there, there is no need for the amendment I am putting forward in an attempt to balance the biased effect of what is in the Bill.

It is extremely important that we should not pay "particular regard" to matters in the interests of one party. If we think about an application to extend the limitation period brought to the court, the claimant would be represented and would argue the reasons for delay. As I said on Tuesday, it is not a foregone conclusion that their argument will be accepted but, on the other hand, the Ministry would be entitled to put forward: "Well, it's been such a long time, nobody can remember anything." That might be right in a particular case, but it is not right as a matter of principle that should appear as a factor to which particular regard must be given in this statute. An important point of principle is involved in this and I shall certainly return to the issue on Report. For the moment, I beg leave to withdraw.

Amendment 21 withdrawn.

The Deputy Chairman of Committees (Lord Alderdice) (LD): We now come to the group beginning with Amendment 22. Anyone wishing to press this or anything else in this group to a Division must make that clear in the debate.

Amendment 22

Moved by ***Lord Thomas of Gresford***

22: Clause 11, page 7, line 30, leave out from "before" to end of line 34 and insert "the end of the period of 6 years beginning with the date of knowledge."

Member's explanatory statement

This amendment is one of a series that change the relevant date from which the six-year longstop starts to run so as to account for legitimate and explicable delays commonly experienced by persons bringing claims under the HRA arising out of overseas operations.

Lord Thomas of Gresford (LD) [V]: [*Inaudible*]—that date will be either the date on which the act complained of took place or, alternatively, the date of knowledge of the cause of the action; for example, where a person is unaware of his right to sue or of the negligence

[Lord Thomas of Gresford]
which caused his injuries. Clause 11 introduces the concept of a cut-off date, whereby the judge loses any power to extend and the cause of action is extinguished for good.

This will be unique in the British system of justice, as we have discussed. A new category of claims arising out of overseas operations will be created. The rule set out in the Bill is that proceedings must be brought before the later of

"the end of a period of six years beginning on the date on which the act complained of took place"

or

"the end of the period of 12 months beginning with the date of knowledge".

Whatever the cause of delay in starting proceedings may be, such as brain injury received by an injured serviceman, or the inherent problems that would face a victim living in some dusty village in Iraq or Afghanistan, about which I spoke at length on Tuesday and will not repeat, the rule is to apply not only in the courts of England and Wales, but in Scotland and in Northern Ireland.

Remember that the judge has power to strike out vexatious claims and that we are talking about claims against the Ministry of Defence, not the individual serviceman, who will never be called upon, whatever he has done, to pay the damages awarded. The worst that can happen to him is that, in the event of non-settlement of the case—I believe that over 90% of claims regarded as valid are settled—he might have to give evidence in the witness box and recall what he has done.

Amendment 24 refers to the definition of the date of knowledge. The Bill says that

"the 'date of knowledge' means the date on which the person bringing the proceedings first knew, or first ought to have known, both … of the act complained of, and … that it was an act of the Ministry of Defence or the Secretary of State for Defence".

Our amendment adds further definitions of the date of knowledge—first, the date of

"the manifestation of the harm resulting from that act",

and secondly, the knowledge that the claimant was eligible to bring a claim under the Human Rights Act in the courts of the United Kingdom.

Amendment 47 and the other amendments in this group are consequential or extend that principle to Scotland and Northern Ireland. I beg to move.

Lord Morris of Aberavon (Lab) [V]: My Lords, I have little to add to the brief but very pertinent analysis in the most persuasive speech by the noble Lord, Lord Thomas of Gresford. I support Amendment 22 in particular as one of a series of amendments that change the relevant date from which the longstop starts to run to account for explicable delays commonly experienced by bringing claims under the HRA arising out of overseas operations.

I shall be brief. My experience of overseas operations in the Cold War was limited. As an infantry subaltern, my tour of duty in Germany was very brief, taking part in exercises over German planes and Gatow airport in Berlin and being in charge of the overnight train from Hanover to Berlin to emphasise our rights to go through the Russian zone to the British sector in Berlin.

Given my very limited experience, which I emphasise, I can quite see the circumstances for delay when advice and witness are not readily available. When active service is involved, in very different and hazardous conditions overseas, the timing of knowledge that is the basis of this amendment goes to the heart of the matter. The mover of Amendment 22, the noble Lord, Lord Thomas, seeks to put into the Bill some statutory flexibility around the date of knowledge. There is nothing that I can usefully add, but I support with great pleasure this amendment, because knowledge is vital.

Baroness Chakrabarti (Lab) [V]: It is always a pleasure to follow my noble and learned friend Lord Morris of Aberavon, who is ever youthful and eloquent, but of course it is the noble Lord, Lord Thomas, who is on a particular roll with these amendments, one that I do not want to impede for too long—save to say that Amendment 22 in particular reveals and reflects what a terrible disservice Part 2 does to veterans in the context of difficult and complex overseas operations. In particular, it highlights that it is not just the date of the harm that is an issue but the date of knowledge of causation, which can be so complex in the course of overseas operations. In the practical reality of a legal aid landscape, where most people including, tragically, veterans, have no ready access to advice and representation, it could be a very long time before a troubled veteran even knows that they had the right to bring a claim. That is a problem for everyone in a legal aid landscape that has been virtually decimated, but it is particularly shameful for any Government to be making it harder for their own veterans to claim redress against the MoD where appropriate and put an absolute bar up at six years.

The point about causation is so important; the noble Lord, Lord Thomas, describes it as

"the manifestation of the harm resulting from that act which is the subject of the claim".

A veteran may well know that they are injured and know that they have, for example, experienced a number of different traumatic and potentially harming events in a complex situation of warfare, but causation can be a very difficult thing to discover. This will be even more problematic in the context of psychological harm and, possibly, other physical harms—to hearing, for example. It may be very difficult to learn, let alone to prove, that it was friendly fire and not enemy fire, or that it was negligence in provision of equipment that caused the harm.

The absolute six-year bar put up in relation to veterans against their former employer would be shocking enough in the context of factory workers domestically. Given the Minister's remarks on the previous groups, that we should be particularly sensitive to the difference between what he described as domestic litigation and the special issues around overseas operations, it seems to me that the noble Lord, Lord Thomas of Gresford, has really hit the nail on the head in this group and some of those that follow.

Lord Hendy (Lab) [V]: My Lords, I have practically nothing to add to the contributions of the noble Lord, Lord Thomas of Gresford, and my noble friend Lady Chakrabarti. Their arguments are powerful and appear irresistible.

I just add one small point. I mentioned a case in which I was involved for the mother of a serviceman killed in a tank because of friendly fire. That case in fact took more than 12 years from his death until the payment of an award by way of settlement by the Ministry of Defence. There was no delay on any side; there was litigation in the meanwhile, and the test case went to the Supreme Court, and so on. But there were inordinate difficulties in pursuing that claim—in finding out what had happened, what the MoD record was on the fitting of identification kit, what the training programmes were and whether they were defective, obtaining expert evidence on these points, and so on—to know whether the case was meritorious, as it turned out to be.

These cases are not easy. As I say, the logic of the proposal from the noble Lord, Lord Thomas, is irresistible.

2.45 pm

Lord Faulks (Non-Afl) [V]: My Lords, once again, it is a pleasure to follow the noble Lord, Lord Hendy. In considering all these amendments, we should bear in mind that not all the claims that this legislation is concerned with—in fact, only a small proportion—are actually brought by veterans. The majority of the claims that have given rise to this litigation are brought by those who allege that they have been the victims of wrongs done to them by the military. One advantage of trying to put an end finally to litigation is that those members of the military who might be involved in this litigation, potentially as witnesses for the defendant or, indeed, for the claimant, can put an end to the matter in their minds. Nobody would be concealing anything deliberately but, once you have left theatre—overseas operations come to an end—it is a considerable burden to be troubled by some incident, about which there may be little corroboration or evidence, and to have to go to court, if necessary, to deal with allegations more than six years after the event.

These amendments are, of course, concerned with date of knowledge, and the legislation provides for an extension from the six-year long-stop period for date of knowledge. Incidentally, long-stop periods are not only in this Bill; they exist in other fields of law—for example, in the Latent Damage Act. As I said previously, and as the noble Lord, Lord Hendy, acknowledged, the date of knowledge is a difficult matter for courts, but they have shown themselves—helped by provisions in Sections 11 and 14 of the Limitation Act—able to find a proper response to difficulties that individuals may have in being aware that they have a cause of action.

The real issue is when the clock starts ticking. In the normal event, it starts ticking when the incident that gives rise to the claim occurs; in these cases, the possibility for litigation will end after six years, unless there is an extension of one year because of an extended date of knowledge. The provisions in the Limitation Act dealing with personal injury claims do not actually provide for a six-year period from the date of knowledge, as these amendments do; they provide at the maximum for three years. In other words, the clock starts ticking for three years after the incident occurs, in the normal case, and three years if there is a postponed date of knowledge. So this six-year extension is in fact wider than exists in conventional limitation periods for negligence cases. There is no equivalent of a date-of-knowledge provision in Human Rights Act cases; it is all dealt with under the provisions of Section 7 of the Human Rights Act.

One must be careful not to make too close a comparison between claims in negligence and claims under the Human Rights Act. As Lord Bingham said in a famous case, the Human Rights Act is not a tort statute. For the most part, these claims for personal injuries are much better brought in negligence. In fact, the claims under the Human Rights Act were usually advanced on the basis of an investigative duty that tends to be attached to these claims, which is one of the reasons why they were relied upon.

I respectfully suggest, although I understand what lies behind them, that these amendments go into territory that they should not go into and extend the period longer than it is desirable that anybody concerned in these types of cases should have to endure.

Baroness Smith of Newnham (LD) [V]: My Lords, in this suite of amendments we are focusing on a relatively narrow area. On this occasion, I should be slightly relived that the noble Lord, Lord Faulks, does not entirely agree with the movers of the amendment, because at least it gives me some additional points to respond to.

I take the point that there might be a shorter period within civil law and domestically, but there is a very clear difference between overseas operations and the civilians and military who might have to bring claims, and what might happen in a civilian context in the United Kingdom. As Emma Norton pointed out in her evidence to the All- Party Groups on Drones and on the Rule of Law, if something happened

"within the UK more than 6 years ago, courts would remain able to extend time limits",

but if something happened overseas the courts would not have that right. As my noble friend Lord Thomas of Gresford pointed out, what is being proposed is unique in the British justice system—a new category of claims arising from overseas operations in respect of which the courts would have no right to give an extension.

It is clearly right that claims should be brought expeditiously and dealt with expeditiously, but sometimes it will not be possible for cases to be brought within the time limits the Government are suggesting. It is surely right to look for ways to ensure that claimants who may have not been in a position to bring a claim within a year of date of knowledge can bring the claim, and further discretion can be brought.

As with amendments in the previous and subsequent groups, if the Minister does not feel able to accept the language of our amendments, perhaps he might suggest how claimants who have cases arising from overseas operations will not be disadvantaged by Part 2 of the Bill.

Lord Falconer of Thoroton (Lab) [V]: I will first pick up on a point made by my noble friend Lord Hendy in the last group, which in fact relates to a group debated on Tuesday. It concerns the validity or otherwise of the point advanced by the Government: that they cannot make special exceptions for military personnel

[Lord Falconer of Thoroton]
only suing the Ministry of Defence—in other words, treat them as if they are governed by the normal limitation periods—because there would be discriminatory concerns under Article 14 of the European Convention on Human Rights.

As I indicated on Tuesday, I disagree with that proposition, as does my noble friend Lord Hendy. It is significant for this group of amendments because real concern is being expressed by practically all of your Lordships—I say practically because the noble Lord, Lord Faulks, is not—about members of the military not being able to bring claims in accordance with what I describe as the "normal law". I do not ask the noble and learned Lord, Lord Stewart of Dirleton, to respond to the legal point now, but I ask him to write to us indicating the legal basis for the proposition that you cannot have a provision stating that military personnel suing the Ministry of Defence will be governed by the ordinary rules of limitation.

The amendments in this group do two important things. First, the current proposal in the Bill is that the limitation period on civil claims should be

"the later of … the end of the period of 6 years beginning with the date on which the act complained of took place",

or

"the end of the period of 12 months beginning with the date of knowledge".

The position is that the claimant who discovers that they have a claim only at the end of six years has only 12 months to make that claim. The first amendment in this group from the noble Lord, Lord Thomas of Gresford, says that it should not be 12 months from the date of knowledge, but six years. I am sympathetic to that idea and I would like to know why a period of 12 months was chosen in relation to service personnel. I would be interested to know why, having regard to the circumstances that arise on overseas operations, the Government thought it appropriate to have what might be seen as a very short period.

The second significant amendment from the noble Lord, Lord Thomas, would add certain additional elements to what is meant by the "date of knowledge". At the moment, the Bill treats you as knowing if you knew of the act complained of and that it was an act of the Ministry of Defence. The noble Lord, Lord Thomas, proposes amending Clause 11, so that you also have to know of the harm you suffered as a result of the act complained of. If, for example, the harm was mental illness, you might not know for some considerable time. In addition, the amendment says that you do not have to know only that it was an act of the Ministry of Defence, but that you might have a legal right to bring a claim too.

Taking the example given by my noble friend Lord Hendy, if you knew that your son was killed because of an act of the Ministry of Defence—friendly fire—but you did not know there was negligence and that you had a right to bring a claim, then knowing of the act complained of and that it was an act of the Ministry of Defence does not do you much good. These additional factors seem legitimate ones to take into account when considering what is meant by "date of knowledge". These are important amendments and I am interested to hear the Minister's answer.

Lord Stewart of Dirleton (Con): These amendments relate to the date of knowledge provisions in Part 2 of the Bill. Before I address the substance of the amendments, I wish to issue a clarification regarding a statement I made in the previous sitting on Tuesday evening. I said that, while 94% of service personnel already bring their claims within the relevant time,

"it must be the case that many of the remaining 6% will come under the state of knowledge provisions"—[*Official Report*, 9/3/21; col. 1596.]

Your Lordships may recollect that that issue came up in the course of submissions by the noble and gallant Lord, Lord Stirrup. In fact, we assessed that the 94% figure relates to claims brought by service personnel and veterans within six years of either the date of incident or the date of knowledge. We will endeavour to educate service personnel and veterans about these new provisions to ensure that more, if not all, claims are made within the new time limits in future.

I now move to the amendments in this group, which would increase the time period which runs from the date of knowledge for Human Rights Act claims from 12 months to six years. They would also change how limitation time periods are calculated by allowing claims to run only from the date of knowledge and not also from the date of the act or incident.

The date of knowledge provisions in Part 2 are an important aspect of the Bill. Because we are introducing hard time limits for certain claims, it is right that the longstop period can start from the date of knowledge. Of course, the Limitation Act 1980 already includes a date of knowledge provision which works, and we should not be amending that in this instance. However, the Human Rights Act does not have such a provision. We are therefore seeking to mitigate any unfairness that might arise from the imposition of a hard time limit by allowing claims to be brought late if the date of knowledge is later than the date of the incident.

3 pm

The time period, which runs from the date of knowledge provision, is 12 months for Human Rights Act claims, because this mirrors the primary limitation period that already exists for Human Rights Act claims. We should consider why the primary limitation period for Human Rights Act claims is one year, as opposed to three years for personal injury claims, as we have heard already from the noble Lord, Lord Hendy. I believe that this is because it was considered, at the time, that 12 months was a sufficient period to bring a Human Rights Act claim. Your Lordships will recollect the submission of the noble Lord, Lord Faulks, on what these claims, as opposed to claims in tort, tend to involve. We feel that in situations where the date of knowledge provision is engaged because knowledge is gained later than the date of the incident, 12 months provides enough time to bring such a claim. Claimants will still have at least six years from the date of the incident to bring a claim if they are able to persuade the court that it is fair and equitable in all the circumstances to extend the primary limitation period of 12 months.

While I accept all that the noble Baroness, Lady Chakrabarti, had to say about the potential difficulties of such claims, and while I acknowledge all the observations made by the noble Lord, Lord Thomas

of Gresford, about the provenance of such claims and the fact that they might arise from people in the theatre of operations, nevertheless these are circumstances with which the courts are familiar. All noble Lords who have spoken, including the lawyers, have considered that limitation periods are necessary. They are accepted throughout the world in all legal systems, because finality in litigation is desirable. Those speaking in support of the Bill differ from those on this side only in saying where the line should be drawn.

These amendments also propose changing the date of knowledge definition. We consider that the definition in Clause 11 is comprehensive and fair both to claimants and to the Ministry of Defence. It does not replicate Section 14 of the Limitation Act 1980, because parts of the definition there do not make sense in the context of Human Rights Act claims. For example, in Human Rights Act claims, it is not necessary to show that a significant injury has been sustained as the result of an act or an omission alleged to constitute negligence. Similarly, these changes would add a new element to the date of knowledge definition—

"knowledge … of the manifestation of harm—"

that does not work in the context of Human Rights Act claims, where a victim simply needs to show a causal link between an unlawful act of a public authority and the resulting adverse outcome.

Lastly, these amendments would remove the date of incident or act as a reference point and rely only on the date of knowledge for calculating the limitation period. The date of knowledge would already be the relevant point in time for the limitation period to start from situations where knowledge arises after the date of the incident or act.

The noble Baroness, Lady Smith of Newnham, acknowledged that these matters will arise in the special context of overseas operations, and I maintain what I said earlier about the difference between that and the domestic context, which is more familiar. The noble and learned Lord, Lord Falconer of Thoroton, referred to aspects of Tuesday's debate on Amendment 29, as have others, and to the Government's justifications for arguing against that. I gratefully accept the noble and learned Lord's invitation to write to him on the legal basis upon which that argument was founded rather than taking up the time of the House with an amendment that we discussed on Tuesday.

For all the reasons I have advanced, I recommend that the amendment is withdrawn at this stage.

Lord Thomas of Gresford (LD) [V]: My Lords, I am most grateful to all noble Lords who have contributed to this interesting and important debate. I cannot help taking myself back to RAF Gatow, to which the noble and learned Lord, Lord Morris of Aberavon, referred, because I once stayed there on a rugby tour and subsequently played rugby for the combined clubs of Berlin. I need not go into the circumstances, but it was in the 1938 Olympic stadium. I thank him for reminding me of that.

Finality is an important principle, but it is not a principle that should work in the interests of only one party; I am yet to see it discussed or suggested, in relation to this Bill, that finality is for anyone other than the Ministry of Defence. Of course, references are made to the stress of giving evidence and so on, but I have already commented on that and will not repeat my comments. I do not think the principle of finality in favour of one party does anything more than increase the feeling of bias in favour of the Ministry of Defence which runs through this Bill, and that is what makes it so very objectionable. I heard the Minister refer to the fact the Human Rights Act is not affected but would not be involved in one of my amendments. These are not intended to be cumulative but to be considered separately; the date of knowledge can vary depending upon the circumstances of the case.

I simply adopt the words of the noble Lord, Lord Hendy, for whose speech I am grateful, when he said these amendments are "irresistible." I agree, and I shall pursue them on Report. For now, I beg leave to withdraw the amendment.

Amendment 22 withdrawn.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): We now come to the group beginning with Amendment 23. Anyone wishing to press this or anything else in this group to a Division must make that clear in debate.

Amendment 23

Moved by ***Lord Thomas of Gresford***

23: Clause 11, page 7, line 34, at end insert—

"(4A) The court may disapply the rule in subsection (1)(b) where it appears to the court that it would be equitable to do so having regard to the reasons for the delay, in particular whether the delay resulted from—

(a) the nature of the injuries,

(b) logistical difficulties in securing the services required to bring a claim, so long as the claimant was making all reasonable attempts to secure such services, or

(c) any other reasons outside the control of the person bringing the claim."

Member's explanatory statement

This amendment introduces a discretion for UK courts to allow a HRA claim arising out of overseas operations to proceed in prescribed circumstances so as to account for legitimate and explicable delays commonly experienced by persons bringing such claims.

Lord Thomas of Gresford (LD) [V]: My Lords, this group is concerned with the total cut-off of the right to bring proceedings, as contained in the Bill. As I have said, this is unique in the British justice system and limited to claims arising from overseas operations. You could call it the cliff edge, the blank wall, or hitting the buffers. We are dealing not with vexatious claims but all claims brought against the Ministry of Defence, whether by members of Her Majesty's Forces, by victims whose claims arise by breaches of the Human Rights Act, such as torture, or by families whose claims arise because someone has been killed or injured. What is the policy behind this blank wall?

It is noticeable that this Bill does not cover Northern Ireland. I should be very interested and surprised if, when a Bill involving Northern Ireland appears, there was such a cut-off—such a blank wall—in relation to

[Lord Thomas of Gresford]
claims arising out of those deployments. I imagine that there might be considerable controversy. If it would not apply in Northern Ireland, why should a soldier suffering from long-term trauma as a result of service there be able to apply to extend the limitation period, in an appropriate case, but a soldier deployed to Iraq should not? What difference could be drawn between innocent victims of brutality in Northern Ireland or in Iraq? Their ethnicity? Is this not where Article 14 of the Human Rights Convention would bite?

I cannot believe that this is a policy to save the MoD money. What Liberal Democrat would ever make the bold statement of the noble Lord, Lord Hendy, that it is to save "a few bob"? What worries me is whether it is fuelled by a concern to prevent reputational damage. British forces have an admirable reputation worldwide for fairness and exemplary behaviour. Allegations of brutal conduct aired in the courts would not help, but it is essential to our reputation that, where there is wrongdoing, it is confronted and punished. There should be no suggestion that we sweep things under the carpet. I hope that that is not what lies behind this blank wall preventing claims after six years.

There is certainly a public interest in finality, but there is also a public interest in justice. These amendments are brought forward to get rid of the blank wall and to put claims from overseas operations on the same footing as all other claims brought before the British courts and tribunals. I ask again: what is the policy behind these unique, blank-wall provisions? I beg to move.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): The noble Lord, Lord Hendy, has withdrawn from this debate, so I call the noble Baroness, Lady Chakrabarti.

Baroness Chakrabarti (Lab) [V]: My Lords, once more I can only speak in complete support and admiration for the noble Lord, Lord Thomas of Gresford, and what he is trying to express in these amendments. The Minister pointed out that there is considerable consensus in this debate on the value of limitation periods and of finality. That is right, but he went on to say that the only difference between us is where the limitation lines should be drawn. That is, of course, not quite right. There is also an important difference of principle between us about whether there should be any residual discretion at all for the courts, in the interests of justice and to avoid terrible injustice, particularly in relation to these dangerous, complex, messy overseas operations.

Other noble and noble and learned Lords eloquently set out all the reasons why sometimes an absolute bar of six years, or even longer, would just not be enough. This is not necessarily because of the act itself, but because of causation, or because the condition means that someone has not been able to think about advice or damages, or, in the current landscape, they have not been able to get access to advice.

In the debate on the previous group, the noble Lord, Lord Faulks, I think, said that we should not worry too much because there must be finality, that we are really trying to bar these overseas victims and that a much smaller number of veterans would be barred. The first answer to the noble Lord is that there is no finality for someone suffering terrible and life-changing injuries or bereavement, who has had no access to justice because of what the noble Lord, Lord Thomas, described as "a blank wall" or an absolute time bar. For someone suffering in that way, be they a victim of torture or a brave veteran put in harm's way by the very Ministers and department that now bar their access to justice, there will be no finality, just a great deal of continued pain and suffering.

The second point that I make to the noble Lord, Lord Faulks, is from the perspective of Article 14 and of human decency. It is particularly pernicious for a Government to send veterans to war and then to bar them from compensation after a particular, absolute point with no judicial discretion. In the case of terrible abuses of power, it is also wrong to have an absolute bar with no discretion for victims of torture or other abuses that sometimes take place in periods of conflict. Absolute rules without discretion, especially when they are imposed by Governments to protect government departments, are particularly unjust. Let us not continue with the canard that this is just about protecting veterans from the anxieties of giving evidence. It is not just about that. This is barring, in absolute terms, claims against the MoD from people who will, inevitably, include some veterans or people such as my noble friend Lord Hendy's client, the bereaved mother of a veteran.

3.15 pm

Lord Faulks (Non-Afl) [V]: My Lords, I make it clear that I do not take the view, as the noble Baroness, Lady Chakrabarti, seemed to suggest, that we should not worry too much about limitation periods because this would impact more on victims who were not in the military. That is not my view at all and I do not think that I expressed it. I do not believe that there should be any distinction between categories of claimants on what the limitation period should be.

The question is whether, as a matter of public policy, whoever is the claimant, there is a public interest in litigation coming to an end. That is what underlies all limitation periods in all sorts of circumstances. Six years, which at the moment is the longstop, has been taken as reasonable, having regard to all the difficulties that may exist in bringing claims. However, the particular challenges of overseas operations, for whoever the claimant is, are such that that is a fairly lengthy period.

I do not believe that many of the claims that have been brought would in any way fall foul of either the primary period in negligence of three years or even the one-year period under the Human Rights Act. Six years is quite a long period. In my experience of personal injury actions in other fields, it is very unusual for a court, in its discretion under Section 33, to disapply limitation for such a long period, except in very unusual circumstances. Those circumstances tend to be in cases that are, in any event, covered by date- of-knowledge provisions—for example, latent disease or something of that sort. I am absolutely not concerned to bias anyone, but simply ask whether there is a public interest in there being an end to litigation.

The noble Lord, Lord Thomas, raised a good question about Northern Ireland. As I understand it, there is likely to be a separate piece of legislation dealing with Northern Ireland in due course and I wait with interest to see what that is. My feeling about the provisions on limitation remains the same. I am not entirely sure that they are necessary, because the existing limitation periods are sufficiently sensitive to deal with some of the injustices that could arise from late claims. This is part of the agenda that the Government have to reassure veterans. The idea that it is entirely designed to protect the MoD is a somewhat cynical response. Reassurance for the veterans is a not unworthy aim but not, I entirely accept, if it runs the risk of causing injustice. For the moment, I am not convinced that it does.

Baroness Smith of Newnham (LD) [V]: My Lords, I am glad to hear that the noble Lord, Lord Faulks, does not want to bias anyone; I am sure that is absolutely right and we are all on the same page on that. However, he talked of a public interest in having a period of limitation. Clearly, there is a public interest here, but there is also a private, individual one. The amendments in my name and that of my noble friend Lord Thomas of Gresford, try to get that balance right. The noble Baroness, Lady Chakrabarti, put the point very well by saying that we should not be talking about taking the role of the courts out of this entirely: there needs to be some discretion. Amendment 23 begins to rebalance this.

The noble Lord, Lord Faulks, is right that, clearly, there is a period in which people can bring cases but, if our previous set of amendments, which would extend the point from one to six years after the date of knowledge, were not accepted, we would need some mechanism that allowed a bit of discretion because, at the moment, there would be none for the courts. As such, Amendment 23 is desirable in its own right, but it is even more important if other amendments are not accepted, either now or when they are put forward by the Government, or when they are moved on Report.

Could the Minister give a further response on the date of knowledge? In opening his remarks on the previous set of amendments, clarifying a point he made on Tuesday, he said that the 94% of cases that were brought within—or what would be within—time were within six years not just of the incident but of the date of knowledge. If that is the case, does that not make it even more incumbent on the Government to look again at the date of knowledge as a relevant time point to have in the Bill—and not one but six years?

Lord Falconer of Thoroton (Lab) [V]: In effect, these amendments once again reintroduce the normal approach to limitation, which is that if you do not bring your claim within 12 months under the Human Rights Act or, if it is a personal injuries claim, within three years—based on tort or a breach of an implied contract—then the court can extend indefinitely, in effect, if it is just and equitable to do so. The courts have applied sensible approaches to those issues, and the longer you are away from the primary limitation period expiring, the better the reason you must have for extending the time.

The noble Lord, Lord Thomas of Gresford, made a very powerful point, asking why there should be special rules for the Ministry of Defence in relation to overseas operations. The answer that the Ministry of Defence gives is that military personnel involved in overseas operations should know—indirectly, because they will not normally be sued personally—that no litigation will arise from their conduct after a specified period, which is six years or one year from the date of knowledge, whichever is later.

That approach does not seem to me or veterans' organisations to be legitimate in relation to claims being brought by soldiers or veterans in respect of negligence or breaches of human rights by the Ministry of Defence. Military veterans or existing soldiers should be subject to the same rules in relation to limitation as apply in any other claims. There is no evidence that the reassurance that individual members of the military are looking for—in relation to ongoing litigation out of overseas operations—is coming from fear of claims being brought by veterans against the Ministry of Defence for personal injuries caused normally by negligence on its part.

As such, in so far as the new rule about limitation in respect of overseas operations applies to prevent claims being brought by veterans or existing soldiers, I am against it. The proposal made by the noble Lord, Lord Thomas of Gresford, which, in effect, applies the normal rules, should be applied to veterans and existing soldiers who want to bring claims arising out of negligence or breaches of human rights in an overseas operation, just as much as if they bring a claim with the normal rules applying if the injury had occurred to them in the UK. The soldier injured by the provision of a negligent piece of equipment—body armour or a vehicle—can bring a claim with the normal rules applying if it happened on Salisbury Plain, but he or she cannot if the same act of negligence had occurred in an overseas operation. That is profoundly wrong.

Lord Stewart of Dirleton (Con): My Lords, the limitation longstops provide service personnel with a greater level of certainty that they will not be called on to give evidence in court many years after an event. The uncertainty that the Bill proposes to address can have a significant effect on service personnel and veterans. It prevents them from drawing a line under certain traumatic experiences, always knowing that there is a possibility that the events of the past may be dug up again. This is why it is important to have finality and why the limitation longstops need to have a clear end.

In moving the amendment, the noble Lord, Lord Thomas of Gresford, asks for the policy that underlies this measure; that is the policy. For the reasons that I have discussed, it is important that limitation longstops have a clear end, one that cannot be overcome. Were it to be overcome by the existence of some residual discretion, such as the noble Baroness, Lady Chakrabarti, would seek to have imposed, that would negate the benefits to service personnel of greater certainty that they will not be called on to give evidence many years after the event. Let us remember that, in claims such as can be anticipated, it will most likely not be Ministers standing in the witness box and accounting for decisions taken; it is likely to be the very comrades of service personnel themselves.

[Lord Stewart of Dirleton]

Six years provides enough time to bring a claim: to echo the words of the noble Lord, Lord Faulks, it is a fairly lengthy period. The vast majority of service personnel and veterans already bring relevant claims within six years of the date either of the incident or of knowledge. As I say, giving discretion to the courts to allow claims after the expiry of the longstops will negate the benefits, and we want to provide service personnel and veterans with those benefits which flow from greater certainty.

The noble Lords, Lord Thomas of Gresford and Lord Faulks, adverted to a contrast with the situation that may arise in relation to Northern Ireland. That is indeed a special context, and, echoing the words of the noble Lord, Lord Faulks, this is a matter to be dealt with in separate legislation.

The longstops apply to all Human Rights Act and death and personal injury claims connected with overseas operations. We believe that six years is a sufficient period to commence proceedings, regardless of who is bringing the claim. Where claims cannot be brought within the relevant timeframe because the claimant was not aware that their injuries were caused by the actions of UK Armed Forces, the date-of-knowledge provisions help to mitigate any unfairness that might otherwise be caused.

3.30 pm

Rather than extending the discretion of the courts indefinitely, I submit that we must accept that it is reasonable to have a line drawn after a particular period of time. This principle of finality was accepted in Stubbings v United Kingdom from 1996, a judgment that has been confirmed repeatedly. Here, the European Court of Human Rights upheld an absolute six-year limitation period. The court noted the need in civil litigation for limitation periods because they ensure legal certainty and finality, avoid stale claims, and prevent injustice where adjudicating on events in the distant past involves unreliable and incomplete evidence because of the passage of time—the very considerations which inform the Bill before this House.

We also need to provide the right level of training and communication to our Armed Forces to ensure that our service personnel are aware of their rights and can bring claims, if necessary, in a timely fashion. With the right level of communication, we would hope to see that those claims from service personnel which historically have been brought more than six years after the event would be brought earlier should they arise in future.

We must remember that all claimants already need to convince the court to extend the primary limitation period of three years or one year, and that these arguments are not certain to succeed. The later the claims are brought, the more difficult they are to prove, as well as to defend. It is therefore in the interests of all claimants to bring their claims as soon as possible. In situations where claimants are unaware of who was responsible for their injury, or where an illness is diagnosed many years after an incident or operational tour to which it is attributable, the date of knowledge provision will help to mitigate the impacts of the longstops.

However, I submit that we must move towards providing that greater certainty which will reassure service personnel and veterans. Therefore, while I acknowledge the words of the noble Lord, Lord Thomas of Gresford, that these matters will be returned to, I recommend that these amendments are not pressed.

Lord Thomas of Gresford (LD) [V]: My Lords, I am most grateful to the Minister for his definition of the policy behind these provisions in the Bill. He said that we have a blank wall in the Bill because of concern for witnesses. Let us just pause for a moment and think about that. The prime witness is the person who perpetrated the act that is the cause of the claim. I refer to the reversal of the victim and perpetrator situation that I mentioned earlier this afternoon. The perpetrator must be protected from having to relive the violence that he inflicted on the claimant. What about witnesses—his "comrades", the noble and learned Lord described them as? I am in a rugby mood at the moment, and I cannot help thinking of the out of order principle on the rugby field. A degree of violence is accepted, but when you see a member of the team stamping on the face of a person in the opposition, yards away from the ball, the out of order principle comes into effect. So the policy behind these provisions is so that the comrade, who may very well think that it was all out of order—that is why he is giving evidence—must be protected in case he suffers stress. It is a topsy-turvy world, it is not? Surely it is the victim's interest that is the most important thing.

I am very grateful to the noble and learned Lord, Lord Falconer, for his contribution. He is a former Minister of State in the Ministry of Justice and he said, in terms, "I don't really see the purpose of these provisions". I agree with him. All the provisions relating to limitation are unnecessary, and the Limitation Act, with all those particular matters to which the noble Lord, Lord Hendy, referred in reminding us of its contents, is quite sufficient to deal with all the problems. What is not acceptable is the blank wall which prevents, in this single category, the continuation of proceedings if the six-year limitation period is attained. As the noble Baroness, Lady Chakrabarti, said, war is dangerous, complex and messy, as are the situations around it. What we should not have, in particular where it is complex and messy, are barriers to justice, and that is what these provisions do. Why? To prevent people going into the witness box. The whole concept of justice is turned topsy-turvy.

I hope I will return to this, with the support of other noble Lords—I welcome that of the noble and learned Lord, Lord Falconer, in particular—on Report. I beg leave to withdraw the amendment for the moment.

Amendment 23 withdrawn.

Amendments 24 and 25 not moved.

Clause 11 agreed.

Clause 12: Duty to consider derogation from Convention

Amendment 26

Moved by ***Lord Falconer of Thoroton***

26: Clause 12, page 8, line 20, at end insert—

"(1A) No order may be made by the Secretary of State under section 14 following consideration under this section unless a draft of the order has been laid before, and approved by, each House of Parliament."

Member's explanatory statement

This amendment would require significant derogations regarding overseas operations proposed by the Government from the European Convention on Human Rights to be approved by Parliament before being made.

Lord Falconer of Thoroton (Lab) [V]: My Lords, this introduces a new topic, namely the purpose of Clause 12. Its effect is to impose, in relation to

"any overseas operations that the Secretary of State considers are or would be significant",

that

"the Secretary of State must keep under consideration whether it would be appropriate for the United Kingdom to make a derogation under Article 15(1)"

of the European Convention on Human Rights. Why has that been introduced? Is it worthwhile? As noble Lords will know, when states sign up to the human rights convention they agree not to violate or take any steps in breach of it. States are entitled to derogate from the human rights convention:

"In time of war or other public emergency threatening the life of the nation".

That is Article 15.1. No state has derogated from the convention due to war with another state. Most derogations have been in response to internal conflicts and terrorism. In these cases, states relying on the power to derogate have tended to rely on a

"public emergency threatening the life of the nation".

The courts will give states a wide margin of appreciation when it comes to deciding whether there is a public emergency. The UK derogated from the human rights convention in 1970 following terrorist attacks relating to Northern Ireland, and in 2001 after 9/11.

As noble Lords will know, there are very considerable limits on derogating measures. First, states can take measures derogating from the human rights convention only

"to the extent strictly required by the exigencies of the situation".

That is in the article itself. Secondly, states can never derogate from non-derogable rights; that is in Article 15.2. That means they can never derogate from Article 2 or Article 3, from the articles that prohibit slavery, or from the right not to be convicted of a criminal offence for acts which were not criminalised at the time, and nor can they subject people to greater penalties for a criminal act than existed at the time the offence was committed. What is more, derogations must be consistent with the state's other obligations under international law. In the context of overseas operations, that means that we in the United Kingdom could never derogate from international humanitarian law.

To some people, new Section 14A might seem a recipe for the state to get away, in relation to overseas operations, from human rights obligations that have been unpopular in some quarters—absolutely not. In effect, all that the right to derogate does is to allow the state—in certain, very unusual circumstances—in practice to detain people without what would otherwise be regarded as a due process, because of the public emergency. Although there are other rights that could be derogated from, in practice that is the only one that would ever genuinely be in consideration in relation to the sort of situation we are dealing with in this Bill.

My concern is that Clause 12, which would add Section 14A to the Human Rights Act, is a totally phoney piece of human rights bashing by the Government, put in only to try to say that we are really "taking on the Human Rights Act" in relation to overseas operations. The only effect of this clause is that consideration would have to be given to the question of whether there should be detentions without trial. I cannot imagine circumstances in which a Government, if that was a possibility, would not consider it without the need for this clause.

I hope that the Minister will be able to reassure me that this is not a completely phoney and empty provision made for bad reasons. On any basis, if a derogation is considered and given effect to because of this clause, an explanation should be given immediately to Parliament, and it should be given effect to only with the approval of Parliament. That is why I put my name to the first of the amendments in this group. I beg to move.

Lord Faulks (Non-Afl) [V]: My Lords, the then Human Rights Bill came to Parliament without a Green Paper or a White Paper or any consultation paper preceding it. It did so shortly after the Labour Government came to power in 1997. Although there were no detailed debates in Parliament about the extraterritorial reach of the then Human Rights Bill, a number of concerns were expressed at the time about whether the convention —the ECHR—was really appropriate in the case of armed conflict abroad. There were those who took the view that there should be an express carveout in those circumstances, but that is not what happened. There was, however, a power in the HRA 1998—as it became—which permitted the Government to derogate from the European convention. It is important to note that the power was not used in Iraq or Afghanistan.

The inclusion in this Bill of an obligation to consider derogation might be regarded as rather unnecessary, since the power exists anyway. I suppose it might be considered to be part of the reassurance agenda vis-à-vis our Armed Forces. In any event, I respectfully ask the Minister about the Government's interpretation of Article 15. I find it hard to disagree with much of what the noble and learned Lord, Lord Falconer, said about the right to derogate, and I ask her to clarify for the Committee the relevance of this obligation vis-à-vis overseas operations. My Amendment 27, which is supported by the noble and learned Lord, Lord Garnier, is an attempt to grasp a nettle. He would have liked to address the Committee but unfortunately is unable to do so.

3.45 pm

I think it will be broadly accepted that vexatious claims and repeated investigations arising out of overseas operations, principally in Iraq and Afghanistan, lie behind this legislation. There is an old saying that generals always fight the last war. There is a similar risk with legislation, and I acknowledge that lessons will have been learned and that there should in the future be an improvement in investigations, as compared with those that went so badly wrong in Iraq and

[Lord Faulks]

Afghanistan. But the ability to bring claims under the Human Rights Act, including the so-called investigative duty, principally under Article 2, was undoubtedly a significant factor in the vexatious claims brought against the military. In turn, they often led to investigations leading to potential—if not very often actual—prosecution. I think it would be broadly accepted that the investigations and their failure contributed significantly to the proliferation of often vexatious claims, with all the human damage of ruined reputations and lives that followed, accompanied sometimes by prolonged and expensive litigation.

For some time, the think tank, Policy Exchange, has called into question the wisdom of claimants being allowed to rely on the Human Rights Act in relation to overseas operations. Noble Lords may be familiar with the publications *The Fog of Law* and *Clearing the Fog of Law*—among others—which discuss the way in which the law has often fallen short in protecting our military from vexatious claims.

It may also be worth reminding noble Lords of what the Explanatory Notes to the Bill say:

"This Bill seeks to address issues that have partly arisen from the expansion of the European Convention on Human Rights … to cover overseas … operations where the UK had assumed that international humanitarian law had primacy."

That was certainly an assumption which existed until the case of Al-Skeini. Jack Straw told the House of Commons Defence Select Committee in 2013 that

"to the very best of my recollection it was never anticipated that the Human Rights Act would operate in such a way as directly to affect the activities of UK forces … abroad"

and that, if so,

"there would have been a very high level of opposition to its passage, on both sides, and in both Houses".

The case of Al-Skeini concerned the issue of whether the Human Rights Act had extraterritorial application. Lord Bingham—probably the outstanding judge of my and perhaps other generations—came to a clear view on the matter. He was not, incidentally, a judge with anything other than considerable enthusiasm for the protection of human rights in law. But his careful analysis was based on statutory construction and was a clear reflection of precedent. He set out in his judgment the relevant principles, and concluded as follows:

"I would accordingly hold that the HRA has no extra-territorial application. A claim under the Act will not lie against the Secretary of State based on acts or omissions of British forces outside the United Kingdom. This does not mean that members of the British armed forces serving abroad are free to murder, rape and pillage with impunity. They are triable and punishable for any crimes they commit under the three service discipline Acts already mentioned, no matter where the crime is committed or who the victim may be. They are triable for genocide, crimes against humanity and war crimes under the International Criminal Court Act 2001. The UK itself is bound, in a situation such as prevailed in Iraq, to comply with The Hague Convention of 1907 and the Regulations made under it. The Convention provides (in article 3) that a belligerent state is responsible for all acts committed by members of its armed forces, being obliged to pay compensation if it violates the provisions of the Regulations and if the case demands it. By article 1 of the Geneva IV Convention the UK is bound to ensure respect for that convention in all circumstances and … to prohibit (among other things) murder and cruel treatment of persons taking no active part in hostilities. Additional obligations are placed on contracting states by protocol 1 to Geneva IV. An action in tort may, on appropriate facts, be brought in this country against the Secretary of State: see Bici v Ministry of Defence … What cannot, it would seem, be obtained by persons such as the present claimants is the remedy they primarily seek: a full, open, independent enquiry into the facts giving rise to their complaints, such as articles 2 and 3 of the Convention have been held by the Strasbourg court to require. But there are real practical difficulties in mounting such an enquiry."

I hope noble Lords will forgive me for quoting Lord Bingham's speech at some length, but it is most important for me to emphasise that my amendment in no way means that war is, or should be, a law-free zone. As Lord Bingham set out, there is a vast number of different restraints on unlawful activity, including, of course, claims in negligence.

The Secretary of State, in his submissions before the House of Lords in al-Skeini, had argued that the HRA had no application to public authorities outside the borders of the UK. That, presumably, was the view of the then Labour Government. To the surprise of many, the judgment of the European Court of Human Rights in al-Skeini was at variance with the views of Lord Bingham.

Thereafter, the Government were, in their view, constrained to set up an inquiry, with all the consequences that ensued. The final sentence of Lord Bingham's speech about the practical difficulties in mounting such an inquiry was indeed prescient. It was this inquiry which generated much of the mischief that lies behind this legislation. There is no right, for example, to an inquiry attendant upon the right to sue for negligence, although such a cause of action will continue to exist, whatever view your Lordships take of this amendment.

Enthusiasm for the al-Skeini decision is not universal among the judiciary here. Mr Justice Leggatt, as he then was—he is now Lord Leggatt in the Supreme Court—said in 2014, in the Serdar Mohammed case, with masterly judicial understatement, that it was

"not obvious why Afghan citizens should be able to assert European Convention rights on Afghan territory."

But he felt bound by al-Skeini.

I have mentioned the government submission in the al-Skeini case. I respectfully ask the Minister whether that is still the Government's view. I acknowledge that Sir Peter Gross and his committee have been asked to consider, among other issues, whether or not claims should be brought based on the Human Rights Act in respect of overseas operations. The Minister may in response to this amendment say simply that the Government are awaiting Sir Peter's report. But surely the Government must have at least a preliminary view. What if Sir Peter were to recommend no change, or were he to suggest that it was essentially a matter for the Government, and then for Parliament, whether there should be the appropriate amendment in the Human Rights Act to clarify the position? What then?

Another response that I anticipate may come from the Minister is that whatever the Government may think about the matter, we have our international obligations as a result of being a party to the convention, and we do not want to be in breach of those obligations or to encourage people to have to go direct to Strasbourg rather than seek remedies in our courts.

May I anticipate that argument? The first point is that there is always the possibility that Strasbourg will change its mind on this particular point, as it has done before in the light of a better understanding of the effect of one of its rulings, or because further evidence has come before it in one form or another. Take, for example, the reversal of the well-known decision in Osman v UK by the European Court of Human Rights in Z v UK. Al-Skeini itself marked something of a departure from the decision in Bankovic v Belgium. It must also be emphasised that Strasbourg does not have a system of binding precedent in the way that our courts have, so it is perfectly free to take a different view.

Finally, I mention the fact that, although our courts initially took to the Strasbourg jurisprudence with, some would say, unnecessary enthusiasm, we have now reached the position where our courts are prepared to depart, if appropriate, from a decision by the Strasbourg court. So it is perfectly open, I suggest, to the Government to accept this amendment.

We joined the European Convention in 1953, and for 40 years, before the Human Rights Act, there were rights under the convention which could be sought by individuals in Strasbourg. We were not in breach of our treaty obligations for 40 years by failing to provide for a domestic remedy. What the Human Rights Act did was, in that memorable phrase "to bring rights home". It was not—and this is made clear in the al-Skeini Lord Bingham judgment—an obligation on the part of the Government to incorporate the convention. Rather, the Government chose to do so, and Parliament, with a massive majority, endorsed that decision.

Now, in the light of the woeful history of vexatious litigation, it is, I respectfully submit, entirely appropriate for the Government, and for Parliament, to think again. The passage of this Bill is plainly the right time and provides a suitable opportunity to do so. I ask the Minister to seriously consider and accept this amendment.

Lord Hope of Craighead (CB) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Faulks. Before I say a word or two in the light of what he just said, I should explain that I put my name to Amendment 26 and support what the noble and learned Lord, Lord Falconer of Thoroton, said about it, but I also have my name to the Motion to oppose Clause 12—in other words, to propose that it should not stand part of the Bill.

I add just a word to what the noble Lord, Lord Faulks, said about the al-Skeini decision. As he will appreciate, if the decision of the Appellate Committee over which Lord Bingham presided had remained without further recourse to Strasbourg, we would not be discussing Clause 12 at all. I did not sit on al-Skeini, but I sat on a later case called Smith, which I know the noble Lord is aware of, where we had to consider a decision by the Strasbourg court in effect to reverse Lord Bingham's decision. Indeed, the noble Lord referred to it. It was a very difficult decision for us because we had to analyse exactly what the Strasbourg court was talking about. One thing that emerged from our study of that decision was that it did not really believe that the whole of the convention rights could apply in a situation such as arose in Iraq. There were rights there that simply have no point whatever. It talked about it being a slightly tailored approach to the convention for the particular situation in which our Armed Forces were placed.

We considered the matter very carefully, and one of the features of Smith is that, although we were divided on the issue as to the application of the Human Rights Act invoked by relatives of deceased servicemen, we were unanimous in the view that we could not escape the decision of the Strasbourg court. The current state of play, which the noble Lord, Lord Faulks, very rightly calls in question, is that, for the moment, there is a decision by the Supreme Court that we must follow the al-Skeini decision in Strasbourg and the Human Rights Act—the convention rights, in effect—so far as relevant, applies in the case of operations offshore.

I cannot escape from the fact that in the other part of the Smith decision, we, by a majority, declined to strike out the claims of the servicemen, one of which was referred to earlier this afternoon by the noble Lord, Lord Hendy, and, eventually, those claims were settled. Had we struck them out, we probably would not be as troubled by Clause 12 as we are now, but Clause 12 is there, so we must address it.

That brings me to my real point. I find it hard to know what to make of Clause 12. At first sight it is simply unnecessary. As has been mentioned, the power to derogate from our obligations under the European convention by means of a derogation order under Section 14(1) and (6) of the Human Rights Act 1998 already exists. It has been exercised from time to time, notably in 2001, by an order which would have allowed the indefinite detention of non-national suspected terrorists who could not be deported.

I use the words "would have allowed" because that order was set aside on an appeal to this House. That was because it unjustifiably discriminated against non-nationals on nationality grounds in comparison with UK nationals who were suspected of terrorism. We did not think it right in any way to interfere with the Secretary of State's decision that the overall test of a state of an emergency affecting the life of the nation was set aside, but we did think that it was a disproportionate exercise of the power.

4 pm

I mention that case because it serves as a warning that derogation orders are open to judicial review, so the power is not something to be exercised lightly. But that is not the real point that I wish to concentrate on today, because I question the need for this clause. Where there is a power, as there is here, there is already a duty to consider whether, should circumstances require, it should be exercised. So why should the clause refer to that duty? It adds nothing to the existing law—so why is it there?

The Explanatory Notes shed little light on this mystery. They do make the point that there is a threshold that must be crossed if the order is to meet the criteria in Article 15 of the convention. Clause 12 says that this is where the operations "are or would be significant". Article 15, on the other hand, says—as the noble and learned Lord, Lord Falconer of Thoroton, has reminded us—that derogation may be resorted to only:

"In time of war or other public emergency threatening the life of the nation".

[Lord Hope of Craighead]

I found it rather hard to see how conducting operations overseas in themselves, if that is what we would be doing, could satisfy that test, even if they were or would be significant. The fact that the clause shrinks from using the words of Article 15 makes one wonder whether the meaning and effect of Article 15 has been properly analysed. There was no such problem in the case of the 2001 order. The suspected terrorists presented a very real risk to the safety of the public, and thus to the life of the nation, if they were not capable of being detained. For the moment it is enough to say that I wonder whether this clause is really facing up to what would be needed to justify derogation in this kind of case where we are operating overseas.

There is no sign either in the wording of the clause or in the Explanatory Notes that the Government have appreciated the other limitations in Article 15, to which the noble and learned Lord, Lord Falconer, referred. That provision states that no derogation from Article 2, the right to life, can be made except in respect of deaths resulting from lawful acts of war, or from Article 3, the prohibition of torture and inhuman and degrading treatment, or from Article 4.1, the prohibition of slavery, or from Article 7, no punishment without law.

There remains Article 5, the right to liberty and security—the only reasonable situation in which the power referred to in the clause could be exercised. That is what the 2001 case was about. Is this the purpose of the clause? Is it there so that our Armed Forces can lock up any people whom they happen to detain during their operations without trial indefinitely? If so, why does it not come out into the open and confine its scope to that article, which is really all that can be achieved?

As for vexatious claims, I suspect that almost all of them were directed to the ground covered by Article 3, the prohibition of torture and inhuman or degrading treatment—and, of course, that is something from which no derogation is permitted.

I therefore ask the question: is Article 5, the right to liberty, what this clause is all about? Or is there some other purpose? Is it there simply to send a message? If so, to whom, and why, and what is the message? These are vital questions and, unless the Minister can give clear and convincing answers to them, I suggest that the clause should be removed from the Bill.

Lord Thomas of Gresford (LD) [V]: My Lords, it is always a pleasure to listen to the analysis of the noble and learned Lord who has just spoken. I am very impressed by his view, and I agree with him. I have written extensively and admiringly about the first Earl of Minto—a significant but forgotten governor-general of India in Napoleonic times. He oversaw overseas operations in 1811, he drove the French out of the Indian Ocean at Martinique and Reunion and captured Java from the Dutch at the Battle of Cornelis. He could boast to Spencer Perceval, the Prime Minister, that the French and their allies had been banished all the way from the Cape of Good Hope eastwards to Cape Horn. He abolished slavery wherever he found it, and cast instruments of torture into the sea.

The radical MP and pamphleteer William Cobbett was not enthusiastic. Writing from prison, where he spent more time than he did in the House of Commons, he warned that the conquest of Java was of no value. It was a country of the same extent as Britain but with 30 million people—nearly twice the population of this country at the time. He said that it placed upon the British

"the trouble of governing, especially in those two important particulars, the administration of justice and the collection and disposal of the revenues; that is to say, the absolute power over men's lives and purses."

So it was in Basra and in Helmand Province. It was precisely those considerations—power over men's lives—that caused the Grand Chamber of the European Court of Human Rights unanimously to conclude that one of the exceptional circumstances in which the European Convention on Human Rights would apply extraterritorially was when a state bound by the ECHR exercised public powers on the territory of another state. In Iraq the UK had assumed the powers normally to be exercised by a sovereign Government—in particular, responsibility for the maintenance of security in south-east Iraq.

In a later case, in 2011, the European Court of Human Rights held that the UK's power to detain prisoners in Iraq gave jurisdiction to a finding that the UK had violated Article 5 of the ECHR, the right to liberty and security. In July 2013 the Supreme Court here upheld a claim on behalf of British service personnel who were killed as a result of friendly fire—the case to which the noble Lord, Lord Hendy, referred. The claim was founded on both a violation of human rights and civil liability for negligence in the provision of training and equipment.

The Supreme Court held that a soldier had the protection of Article 2 of the ECHR, the right to life. The Equality and Human Rights Commission commented that the ruling of the Supreme Court had provided

"a reasonable balance between the operational needs of our armed forces and the rights of those serving in our armed forces to be protected in the same way as we expect them to protect the rights of civilians abroad".

This upset Conservative elements in the coalition Government, but they could do nothing with their Liberal Democrat colleagues at their side. However, in March 2016, when the Liberal Democrats had gone, the noble Lord, Lord Faulks, then Minister of State for Justice, said that the Defence and Justice Secretaries were preparing a legislative package to "redress the balance".

Indeed, in the 2016 Conservative Party general election campaign, a strident call was put out to scrap the Human Rights Act. That had been watered down by the 2019 election manifesto into a call for a committee —chaired, I thought, by the noble Lord, Lord Faulks, but perhaps there is another chairman now. We await the committee's deliberations breathlessly.

I was, therefore, rather surprised to observe the cautious nature of Clause 12. It imposes statutory duties on the Secretary of State to "consider" whether to derogate under Article 15. One would expect him to consider that when deploying forces in overseas operations. The problem is that Article 15 gives power to derogate only

"in time of war or other public emergency threatening the life of the nation."

The power to derogate may be exercised only where strictly required by the exigencies of the situation. As noble Lords have said, it is not possible to derogate from Article 2—the right to life,

"except in respect of deaths resulting from lawful acts of war."

It is also not possible to derogate from Article 3, on the prohibition of torture; Article 4, on the prohibition of servitude or forced labour; or Article 7, on no punishment without law. I realise that I am repeating what has already been said.

The UK gave notice of derogation in relation to the situation in Northern Ireland in the 1970s, so that it could take powers of arrest, detention and internment without trial. In 2001, following 9/11, we issued a notice of derogation concerning the power to detain foreign nationals without trial. France similarly exercised the power to derogate following the terrorist attacks in Paris in 2015. Other countries, such as Ukraine, have also done so when the life of the nation was threatened.

On investigating Clause 12 of the Bill, however, one sees that the circumstances in which the Secretary of State must consider derogation are not at all those as set out in Article 15. The clause provides for a scenario for operations

"outside the British Islands in the course of which members of those forces may come under attack or face the threat of attack or violent resistance".

Of course, those circumstances do not, of themselves, give rise to a power to derogate. Can the Minister please explain why the preconditions in Article 15(1) do not appear in the Bill as the trigger for the Minister's consideration of whether to derogate?

One academic lawyer described the cry in the 2016 Conservative manifesto to scrap the Human Rights Act as clickbait. That is all this clause amounts to. If your Lordships require confirmation, they have only to turn to the amendment in the name of the noble Lord, Lord Faulks, and the noble and learned Lord, Lord Garnier. For them, the trumpet sounds with an uncertain note in the Bill as promoted. In their amendment we see the red meat. "Do not bother about derogating from the ECHR, just say 'No claim can be brought under the Human Rights Act, derogation or no derogation'—that's it." I can only assume that the clarion call of Mrs May to scrap the Human Rights Act is about to emerge from the independent commission, chaired by the noble Lord, Lord Faulks.

If the two leading lawyers on the Conservative Benches think this is a useless provision, perhaps they will join the rest of us in throwing it out.

Baroness Chakrabarti (Lab) [V]: My Lords, once more I have the daunting privilege of following the noble Lord, Lord Thomas of Gresford. I will avoid repetition and begin by dealing briefly with the amendment in the name of the noble Lord, Lord Faulks.

First, I will deal with my own moral position in relation to human rights in overseas operations. I am quite clear that, in a wartime situation, in the heat of conflict, there will and must be a very tailored and limited application of rights and freedoms as we normally understand them domestically, in peacetime. However, the Bill covers all overseas operations, such as peacekeeping, covert operations and the policing and rule of law-establishing operations of an occupying force.

4.15 pm

Many times, in recent years, people have come to these Houses of Parliament and urged interventions overseas on the grounds of human rights. They have wept hot tears over various human rights abuses perpetrated by dictators elsewhere and suggested that we had a responsibility to intervene. In moral terms, this amendment from the noble Lord, Lord Faulks, and—rather surprisingly to my mind—from the noble and learned Lord, Lord Garnier, would mean that, even where our forces were involved in peacekeeping or policing operations or in detaining prisoners, there would be no application of the Human Rights Act. We are not talking about bullets flying in a battlefield; we are talking about rule of law operations—whether covert or overt—in which the Human Rights Act would not apply.

They are also suggesting that there should be no Human Rights Act claims by our own military personnel overseas. No doubt, the noble Lord, Lord Faulks, might say that they still have claims of negligence—up to the absolute six-year bar. There have been many times during the years when the ECHR—first without and then with the benefit of the Human Rights Act—has enabled serving personnel and veterans to improve their lot and obtain fair and dignified treatment by their employers. It is not always the case that people are seeking damages. Quite often, they are seeking a vindication of their rights and a finding that they have been subjected to degrading treatment, whether in a barracks or elsewhere. There have been cases of women in the military who have been raped, but those crimes have not been adequately processed. There have been questions about the fairness of courts martial and so on.

It seems equally wrong that, just because these personnel are overseas, the Human Rights Act should have no reach. It is the closest we have to a modern Bill of Rights. Any amendment of it should be approached with considerable care. I am slightly concerned that there are so few speakers on this group. So that is my moral position on whether the Human Rights Act should or should not apply in relation to overseas operations.

There is a practical point for those who disagree with me, such as the noble Lord, Lord Faulks, and perhaps even the Minister. It is about the relationship between our domestic courts and the Strasbourg court as a result of our Human Rights Act. The noble Lord, Lord Faulks, foreshadowed this when he said, "Oh people will say that if the Human Rights Act has no reach on overseas operations, people will just trot off to Strasbourg—but, of course, Strasbourg can change its mind." He is quite right. Strasbourg has changed its mind—more than once—in relation to the activities of the UK state but, more often than not, it has done so because of the expert and grounded interventions of our domestic courts and our greater expertise and knowledge of our own systems and processes.

Were the amendment from the noble Lord, Lord Faulks, to pass, no claims would be possible domestically under the Human Rights Act in relation to overseas operations. It would mean that our judges—all the way up to the Supreme Court—would not be able to comment on any human rights claims in relation to overseas operations, whether brought by British personnel and veterans or by those who might claim to be their

[Baroness Chakrabarti]
victims. That would mean that both the veterans and the other alleged victims of the UK state would go straight to the Strasbourg court, which takes the view that the ECHR has some reach in relation to overseas operations, and those cases would be considered without the benefit, the wisdom and the interventions of our judges. The dialogue model, which was set up under the Human Rights Act so that our courts are to take account of the jurisprudence of the Strasbourg court—only take account of it; they are not bound by it—would be broken, so that the Strasbourg court would no longer have the benefit in ECHR or HRA cases of the wisdom and experience of our highest courts.

That would be a practical, logical and tactical error that would only set up a collision course between the UK courts, potentially the UK Government and the Strasbourg court. If that is a collision that the noble Lord, Lord Faulks, and others are seeking, perhaps they should just be as honest as some Conservatives—not all, by a long chalk—have been in recent years with their desire not only to scrap our Human Rights Act but to leave the Council of Europe altogether. That, to me, is a terrifying prospect, but that is the collision course that is being set up by the noble Lord, Lord Faulks, and others. Perhaps they should just say so, but it is a mistake in my view.

Turning to the main event, so to speak, which is the Clause 12 duty to consider derogation from the convention through a new Section 14A of the Human Rights Act, my noble and learned friend Lord Falconer, the noble and learned Lord, Lord Hope, and the noble Lord, Lord Thomas of Gresford, have described the question marks over this clause very well. Is it necessary? Is it wise? What is it trying to achieve? Is it, as my noble and learned friend Lord Falconer put it so pithily, just phony human-rights bashing for political purposes, because this Bill is so much about signal sending? That is one possibility, which was less flamboyantly, perhaps, but none the less considered in Part 5 by the noble and learned Lord, Lord Hope.

As the noble Lord, Lord Thomas, indicated, given that this Bill in general works so hard to suggest in various places what considerations and tests should be applied by courts, prosecutors and other decision-makers, it must be worthy of note that the new Section 14A of the Human Rights Act proposed by Clause 12 does not replicate the test for derogation under Article 15. Why is that the case? Why does it appear to create this duty to constantly consider derogating but not set out the strict tests that derogation requires? It must be that the derogation would be strictly necessary in time of war or other public emergency threatening the life of the nation, which, of course, is going to be far from the case in many covert or overt operations in the modern world—some short, some longer, some peacekeeping. Why has the Article 15 test not been replicated? Is it again, as happened with other legislation, such as the Internal Market Bill, an attempt to create tension, a collision course or a divergence between domestic law and international law duties? That would be very worrying indeed.

Is there a third possibility, that by creating a new legal duty on the Secretary of State to consider derogation, the Government are inviting litigation on the part of those who want the Secretary of State to derogate in a situation where the Secretary of State has chosen not to do so, not least on the basis of advice that a derogation would not be justified? It would be a bitter pill indeed if this legislation actually invited vexatious litigation from anti-human rights groups, when so much of the Bill is supposedly about limiting vexatious claims.

I am very concerned about the signals in respect of human rights that are being sent by Clause 12. I am hugely persuaded, of course, by the noble and learned Lord, Lord Hope, in his view that Clause 12 should have no place in this legislation.

Baroness D'Souza (CB) [V]: My Lords, I am pleased to speak on this Bill for the first time in Committee. The Bill seems so far to have divided the House into at least two camps: those who oppose the Bill altogether and those who seek to amend it radically. I am of the latter camp. Amendment 26, to which I have attached my name, introduces yet another safeguard, one that upholds and supports the UK's human rights obligations under the two main conventions on human rights. Briefly, as has been said time and again, the Government should not be further enabled to derogate significantly from these conventions in the absence of parliamentary approval.

The emptiness of this clause has already been addressed by the noble and learned Lord, Lord Hope. I would support the removal of the clause altogether. In case that does not happen, however, Amendment 26 serves as an important safeguard and should prevail. The question of derogation in this context, as we heard from the noble and learned Lord, Lord Hope, is somewhat contradictory. We all know that torture is a grave breach of the Geneva conventions, with corresponding obligations and sanctions, and, as we have learned, commission of the act of torture in any shape or form is a non-derogable offence.

By including this clause, the Government are acknowledging the extraterritorial application of the European Convention on Human Rights, something that they have hitherto declined to acknowledge. If the clause is included, there will be those who will welcome it precisely due to its support of the extraterritorial application of the European Convention on Human Rights. That said, its inclusion in its current form appears to go against the absolute prohibition on torture and is therefore a dangerous hostage to fortune and should not be in the Bill.

4.30 pm

Baroness Whitaker (Lab) [V]: My Lords, I speak in support of Amendment 26 and against Clause 12 stand part. My noble and learned friend Lord Falconer of Thoroton and all who have spoken have set out the case exactly with force and clarity, so I will just add that clearing with Parliament any proposal to derogate from the European Convention on Human Rights makes proper acknowledgment of the role of Parliament in such a serious decision, although it is not always honoured in the same way by this Government. In any case, the idea of derogation in the circumstances posited by the Bill is not only misconceived and ineffectual, as noble and noble and learned Lords have said, it undermines the basis of our standing in the world as advocates and practitioners of an international order.

The international rule of law is not the same creature as the national one. Enforcement comes up against sovereignty and is not strong. This is reflected in the part played by the veto, so it depends even more on consent, and it is that consent which is sabotaged by the multiple breaches of international law on torture, genocide, war crimes and crimes against humanity in a set of national legislative proposals as unfocused as this provision. The Bill's aim of clarity, fairness, certainty and speed of judicial action for our Armed Forces is admirable; the blunderbuss means of ineffective and probably unachievable derogation from the ECHR is not. It betrays our long and distinguished role as one of the founders in creating the instruments for the international rule of law.

Baroness Smith of Newnham (LD) [V]: My Lords, the noble Baroness, Lady D'Souza, suggested that this Bill divides your Lordships' House into two parts: those who wish to see the Bill disappear in its entirety and those who wish to amend it substantially. I think that the situation might be a little more nuanced than that, but like the noble Baroness, I would place myself in the camp who believe that the Bill should probably go through, but heavily amended.

On this occasion, I want to associate myself with the suggestion that Clause 12 should not stand part. Obviously, my noble friend Lord Thomas of Gresford has signed that he will suggest that it should not stand part, alongside the noble and learned Lord, Lord Hope of Craighead. On Tuesday, the noble Baroness, Lady Jones, rather hoped to kill the Bill. I think that removing this clause is important. It is neither necessary nor desirable, as almost all noble and noble and learned Lords who have spoken already have pointed out.

Some severe issues are raised by this clause, in part about what message we are sending internationally. The United Kingdom left the European Union last year. We have said that, as a country, we still respect human rights and the rule of law and that we wish to play a global role. We are still an active player in NATO and in the United Nations, but what message are we sending if we say, "We might want to derogate from the European Convention on Human Rights"? Do we really want to derogate from human rights laws? Is this not a siren call? Is there not a danger that this is trying to speak to a domestic audience? I know that the Minister does not like the concept of lawfare and that she does not care for the term. However, in some ways, the clause as it stands and the amendment tabled by the noble and learned Lord, Lord Garnier, and the noble Lord, Lord Faulks, seem to suggest that this is about speaking to an audience that wants to say, "We should not be too worried about human rights. Let us strike down some of these rules." Surely our role in the international arena should be precisely that of supporting human rights. We will not do that by derogating from the European Convention on Human Rights.

As various noble and noble and learned Lords have already pointed out, in particular the noble and learned Lords, Lord Falconer of Thoroton and Lord Hope of Craighead, this clause is unnecessary because it is already possible to derogate. Can the Minister explain why she feels that it is necessary? If there is no good reason, the Liberal Democrat Benches will certainly not support the clause.

However, there is always a danger that, however much we might want to remove a clause, it cannot be done and amendment to it might be more appropriate or feasible. To that end, it is clear that Amendment 26 tabled by the noble and learned Lords, Lord Falconer and Lord Hope, my noble friend Lord Thomas and the noble Baroness, Lady D'Souza, is important. If derogations were to be proposed, it is clear that the appropriate people to make that decision are parliamentarians. It is hugely important that the Government should remember the appropriate relations between the institutions of the Executive, the legislature and the judiciary. At times over recent months and years, it has appeared that Her Majesty's Government seem to think that only the Government should make decisions. If any derogations were to take place, they should be brought forward for a decision on an affirmative vote by both Houses of Parliament. I strongly support Amendment 26.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I thank the noble and learned Lord, Lord Falconer of Thoroton, for the informed proposal in his amendment and other noble Lords for their genuinely thought-provoking contributions. I will try to address them in detail, although I realise that to the perception of some I may do so inadequately.

Amendment 26 would require designated derogation orders proposed by the Government in relation to overseas operations to be approved by Parliament before being made. It is important to begin by repeating the fact that, as some noble Lords have noted, the Government already have the power to derogate some aspects of the ECHR without reference to this Bill, and the Bill will not change that. The noble and learned Lord, Lord Falconer, is correct that the bar is set high to justify derogation, but it can still be done. It is important to remind noble Lords that Parliament already has a crucial role in approving any derogation decision. It is not the intention of this Bill to change the existing robust processes which the Government and Parliament follow if and when a decision to derogate has been made.

The noble and learned Lord, Lord Falconer, and my noble friend Lord Faulks asked why we have Clause 12. The clause merely ensures that all future Governments will be compelled to consider derogating from the ECHR for the purpose of a specific military operation. There is no sinister or malign agenda here, as was implied by the noble Baroness, Lady Chakrabarti. This does not create new law in relation to the ECHR or the procedures for designating a derogation order. In effect, it puts the intent of the 2016 Written Ministerial Statement on to a statutory footing and it will ensure that operational effectiveness can be maintained, for example, by enabling detention where appropriate for imperative reasons of security in a time of war or other public emergency threatening the life of the nations.

It is worth reflecting on the procedure that attends a derogation from the ECHR. If such a decision is ever made, the Human Rights Act requires that the Secretary of State must make an order designating any derogation by the UK from an article or a protocol of

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the ECHR. The Secretary of State must also make an order amending Schedule 3 to the Human Rights Act to reflect the designation order or any amendment to, replacement of or withdrawal from that order. Crucially, for those concerned that Parliament does not have a say in the process, I would remind noble Lords of the procedures that are already in place. A designation order to derogate ceases to have effect—it evaporates effectively—if a resolution approving the order is not passed by each House of Parliament within 40 days of the order being made. This means that both Houses will always be able to approve or reject any derogation order within 40 days of a decision. That is the process and these are the procedures.

In addition to the requirements laid out in the Human Rights Act 1998, the Government must also communicate a decision to derogate to the Secretary-General of the Council of Europe. This should include details of the measures taken and the reasons for taking them. The Secretary-General should also be informed when derogations have ceased. These existing measures provide for the appropriate level of parliamentary debate and approval of a decision to derogate. To the best of my knowledge, successive Governments have not sought to change that. I am sure that the noble and learned Lord, Lord Falconer of Thoroton, and the noble Lord, Lord Thomas of Gresford, will correct me if I am mistaken.

However, requiring a parliamentary debate on a decision to derogate ahead of time, instead of after it is made, as Amendment 26 proposes, could undermine the operational effectiveness of MoD activity or compromise covert activity that we would not wish hostile operators to be aware of. It is generally accepted, without reference to derogation powers, that military action must at times be taken without gaining the prior consent of Parliament—for example, in situations where the Government's ability to protect the security interests of the UK must be maintained, and in instances when prior debate and disclosure of information could compromise the effectiveness of our operations and the safety of British service personnel. I submit that the same principles apply here: requiring a debate before an order is made could, similarly, have a detrimental impact upon operational effectiveness. It would effectively shackle the MoD, preventing it from doing what it needs to do, when it needs to do it. It would defeat the purpose of derogation in relation to overseas military operations, which should enhance operational effectiveness. I cannot believe that the noble and learned Lord, Lord Falconer of Thoroton, would wish to impose that stricture. I therefore urge him to withdraw his amendment.

Although I have argued against the proposal from the noble and learned Lord, Lord Hope of Craighead, that Clause 12 should not stand part of the Bill, it has more logic than Amendment 26. I wonder if it is a mischievous stratagem to make the Government look at Clause 12 again. I listened to the noble and learned Lord with great care and I will look at his arguments again. When they are advanced with the lucidity with which he is rightly associated, they have an allure.

Amendment 27, in the name of my noble friend Lord Faulks, is intended to prevent claims connected with overseas operations being brought in England and Wales under the Human Rights Act, whether from service personnel, local nationals or any other claimant. I thank my noble friend for an incisive analysis of the ECHR and the Human Rights Act. He rightly identified the need to bring clarity to an issue that has been dogged by uncertainty and the divided opinion of senior legal personnel. His analysis and conclusions richly inform the debate around the ECHR and the Human Rights Act, but I will comment on his amendment, which I thought was unfairly characterised by the noble Lord, Lord Thomas of Gresford. The noble Baroness, Lady Smith, was a little more charitable. I detect that she is warming to the Bill, albeit with reservations.

In relation to Amendment 27, the Human Rights Act's extraterritorial application mirrors the scope of extraterritorial jurisdiction under the European Convention on Human Rights. Therefore, it is important to note that, whatever the position under domestic legislation, as a signatory to the ECHR, to which the UK remains committed, we would still be under an obligation to ensure compatibility with the convention. My noble friend acknowledged that. We would still need to provide an effective route for people to bring claims in the United Kingdom in relation to any alleged breach of their convention rights. This was recognised by Professor Ekins during the House of Commons committee's evidence-gathering session for this Bill.

4.45 pm

I reassure the noble Baroness, Lady Chakrabarti, of how mindful of our obligations we are. The issue of extraterritorial jurisdiction under the ECHR has been the subject of complex legal debate, and it continues to be addressed and developed through European Court of Human Rights case law. This case law has led to some uncertainty about the ECHR's application and has extended the territorial scope of convention obligations beyond what was understood when the ECHR was originally drafted.

My noble friend Lord Faulks has courageously recognised and gripped the reality. In recognition of that uncertainty, he acknowledged that the Government have committed to a review of the Human Rights Act. That manifesto commitment of the Conservatives was put before the electorate prior to the last general election. We have now launched the independent Human Rights Act review to examine the framework of the HRA, how it is operating in practice and whether any change is required. As part of this, the panel will examine the circumstances in which the Human Rights Act applies to acts of public authorities taking place outside the territory of the United Kingdom. It will consider the implications of the current position and whether there is a case for change.

I know that my response will disappoint my noble friend, but I do not want to pre-empt the review's conclusions. It is the ministerial responsibility of the Ministry of Justice, not the MoD, but I anticipate and hope that my noble friend will be an informed and powerful contributor to the review.

The review does not change the commitment of the United Kingdom to the ECHR and human rights. We will continue to champion human rights at home and

abroad. The review is expected to conclude in the summer, and we will consider its recommendations then. Given that current process, I respectfully request that my noble friend withdraw his amendment; that the noble and learned Lord, Lord Falconer of Thoroton, withdraw his; and that Clause 12 stand part of the Bill.

The Deputy Chairman of Committees (Lord Russell of Liverpool) (CB): I have received two requests to speak after the Minister, one from the noble and gallant Lord, Lord Craig of Radley, and the other from the noble Baroness, Lady Chakrabarti. I will call them in that order.

Lord Craig of Radley (CB) [V]: My Lords, the Minister has reminded us that, when Defence Secretary, Michael Fallon said:

"before embarking on significant future military operations, this government intends derogating from the European Convention on Human Rights, where this is appropriate in the precise circumstances of the operation in question."

In her letter of 26 February, the Minister indicated that Clause 12 was included to reflect this undertaking. Significantly, Clause 12 does not give the same weight to a decision to derogate as was indicated by Mr Fallon. If that is what is intended, should it not say so in words that reflect the commitment explained by Mr Fallon? What is the Government's intention? Is it to seek to have in place an effective form of combat immunity for active operations overseas? That would be welcome but, at present, as many noble Lords have said, Clause 12 seems worthless and should not form part of the Bill.

Baroness Goldie (Con): The Bill has been drafted to reflect the overall policy intentions to try to reassure our service personnel that, before overseas operations are committed to, careful thought is given to them. As the noble and gallant Lord understands, because of the deliberate way that the Bill is drafted, the impact of Clause 12 is merely to consider, not to compel, derogation. I simply repeat my undertaking to the noble and learned Lord, Lord Hope of Craighead: I will look very carefully at these arguments.

Baroness Chakrabarti (Lab) [V]: My Lords, I apologise to the Minister for not putting this short question clearly enough in my earlier remarks. Do the Government agree that the new duty in Clause 12, which would become the new Section 14A of the Human Rights Act, on the Secretary of State to consider derogation a judicially reviewable duty? Will it be, as I suspect it will, open to challenge in relation to the Secretary of State's considerations, so that litigants will be able to judicially review the adequacy of the considerations, whether or not the operations were significant, and the Secretary of State's decision not to derogate—or, indeed, to derogate—in relation to every single potential overseas operation?

Baroness Goldie (Con): The way in which I anticipate Clause 12 operating is that it is simply an ex facie reminder on the face of the Bill that a Secretary of State, if he were contemplating an overseas operation, should consider derogation. I suggest to the noble Baroness that thereafter, the existing law would govern whatever subsequent activity took place and whether or not the designated derogation order was deployed. The law is there and it is clear as to what is to be done. I think the acceptance of ministerial power to make these decisions is understood. As I have said before, that is with reference to parliamentary scrutiny, which has a very public capacity to call Ministers to account. I therefore merely ascribe to Clause 12 a reassurance that a Minister will give thought to this, but is not obliged to derogate.

Lord Falconer of Thoroton (Lab) [V]: [*Inaudible.*] The noble Baroness, Lady Chakrabarti, asked an incredibly clear question and I think the House is entitled to an answer. Would an exercise of the power to derogate in accordance with this new section of the Human Rights Act be judicially reviewable? Although the Minister gave a long answer, she did not answer the question directly. I can understand why she feels uneasy about answering it without a clear steer from officials, but I think it would be appropriate if she wrote to the noble Baroness, Lady Chakrabarti, and the rest of us with the answer to that very important question.

I thank the noble Lord, Lord Thomas of Gresford, the noble Baroness, Lady Chakrabarti, the noble and learned Lord, Lord Hope, and the noble Baronesses, Lady Whitaker and Lady Smith of Newnham, for their support for Amendment 26 or for the clause not standing part. I also note that the Minister said on behalf of the Government that they would consider the allure of the argument of the noble and learned Lord, Lord Hope, that this clause should not be part of the Bill at all. I am grateful for that and I think the House will be interested to hear her conclusions.

The speech of the noble Lord, Lord Faulks, was interesting but broadly irrelevant to Amendment 26 and whether the clause should stand part. I understood him to say that actually, the problems that have arisen in relation to overseas operations will never be addressed in any real form by any sort of possible derogation under the Human Rights Act, and that he could not therefore see what derogation has to do with the problems the overseas operations Bill is addressing. He then went on, in an interesting speech which I profoundly disagree with, to say that the problem is not whether or not derogation is possible but whether or not the Human Rights Act should extend to overseas operations generally.

The noble and gallant Lord, Lord Craig of Radley, absolutely put his finger on it when he asked the Minister, if derogations are not intended—if derogations cannot give combat immunity—what is the point of them? As the noble and gallant Lord pointed out, it is plain from what the Government are accepting has been said in this debate that combat immunity is not on offer from derogation. I strongly urge the Minister to drop this clause, because it is a pretend clause. It pretends that derogations can help with the problem this Bill seeks to address, when they plainly cannot.

I beg leave to withdraw Amendment 26.

The Deputy Chairman of Committees (Lord Russell of Liverpool) (CB): Before we do that, does the Minister wish to respond?

Baroness Goldie (Con): I am grateful for the opportunity to comment. When I responded to the noble Baroness, Lady Chakrabarti, I did not have before me specific information relating to her question. I am now informed by my officials that if there were a derogation under Clause 12—or, presumably, a decline to derogate—this could be subject to a judicial review. I thought it preferable to share that with the House at this stage. That is without prejudice to my previous remarks that I undertake to consider everything that has been said in the debate, perhaps most significantly by the noble and learned Lord, Lord Hope of Craighead.

Amendment 26 withdrawn.

Amendment 27 not moved.

Clause 12 agreed.

Amendments 28 and 29 not moved.

The Deputy Chairman of Committees (Lord Russell of Liverpool) (CB): We now come to the group beginning with Amendment 30. Anyone wishing to press this amendment to a Division must make that clear in the debate.

Amendment 30

Moved by ***Lord Tunnicliffe***

30: After Clause 12, insert the following new Clause—

"Access to legal aid for service personnel in criminal proceedings

Within 12 months of this Act coming into force, the Secretary of State shall commission an independent evaluation of access to legal aid for members and former members of the regular and reserve forces and of British overseas territory forces to whom section 369(2) of the Armed Forces Act 2006 (members of British overseas territories' forces serving with UK forces) applies, in relation to criminal legal proceedings in connection with operations of the armed forces outside the British Islands, and lay a copy of the evaluation report before each House of Parliament."

Member's explanatory statement

This new Clause would require the Government to commission and publish an independent evaluation of service personnel's access to legal aid in relation to the criminal proceedings covered by the provisions in the Bill.

Lord Tunnicliffe (Lab) [V]: My Lords, Amendment 30 in my name asks the Government to commission an independent evaluation of access to legal aid for members and former members of the Regular Forces and Reserve Forces and lay a report before Parliament. This important amendment is a result of the evidence given in Committee in the other place, which repeatedly demonstrated the lack of proper support and advice personnel have received when seeking justice.

This evidence was not only from outside contributors. Johnny Mercer himself said that the MoD has a policy whereby,

"where a service person or veteran faces criminal allegations in relation to incidents arising from his or her duty, they may receive full public funding for legal support."

However, also he said:

"That was not the case when I first came here".—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 22/10/20; col.351.]

We are a country of fairness, with a legal justice system founded on the right to a fair trial. But I wonder how many men and women have struggled to get the justice they deserve. There have been serious cracks in the system, and people have not got the right support and guidance in accessing the right to due process and a fair hearing.

Major Campbell raised the importance of having access to legal aid and advice and the importance of wider pastoral support, both for dealing with things when they happen and to ensure that cases such as his never happen again. When asked if the MoD had offered him any support when he was facing the eight criminal investigations that he was subjected to, Major Campbell said:

"No, there was none…in the early investigations under the Royal Military Police we were told just not to think about it and to get on with stuff. No concession was given to us in our day-to-day duties."

5 pm

A lack of resources and proper guidance risks breaching the Armed Forces covenant and undermines the reputation of our legal system. Does the Minister agree that there was a problem but the current Armed Forces Minister has fixed it? I do not mean to question the Minister's ability; I seek only clarity as to whether the issue has been resolved.

The Armed Forces Minister also said that government legal services were not being funded but they are now. Can the Minister confirm whether the legal aid system for personnel has mirrored the cuts to the national legal aid system, or is it a system without these financial constraints?

As well as this, Mercer said:

"We … aim to provide legal aid case management and funding for those who are, or were at the time of an alleged incident, subject to service law."—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 22/10/20; col. 351.]

There is a big difference between an aim and a guarantee. Can the Minister confirm whether it is an aim or whether the MoD will guarantee to provide legal aid case management?

My Amendment 30 simply seeks to ensure that those personnel or veterans who need to access legal aid can do so, but there is also a serious concern about personnel not receiving the proper pastoral care and mental health and well-being support that they need when required. This is not acceptable—and why we will be supporting the important amendment of the noble Lord, Lord Dannatt, in the following group. I beg to move.

Baroness Chakrabarti (Lab) [V]: I am speaking in support of my noble friend Lord Tunnicliffe and his amendment. Of course, it would be open to the Minister not just to embrace this amendment but to go further; and not to wait for 12 months, but assure your Lordships that the Government will provide legal advice and support and, if necessary, representation to any member of Her Majesty's Armed Forces who has need of it as a result of an overseas operation—whether they are an anxious suspect, an anxious defendant, an anxious witness to civil proceedings or, indeed, whether they are suing the MoD. It seems an absolute no-brainer,

given speech after speech in both Houses about the anxiety that the interaction between law and war is causing our personnel. Why would the Government bring forward a Bill that causes such controversy and restricts the reach of the law without first giving the assurance that we would all like to hear from the Minister? Can the Government do this? Can the Government honour our existing service personnel and veterans with an automatic right to advice and representation, whenever they have need of it, as a result—from whatever perspectives I have described—of serving the Crown?

Lord Thomas of Gresford (LD) [V]: My Lords, this is a very important amendment and I support it thoroughly. I should declare to your Lordships that I am still chairman of the Association of Military Court Advocates. Although I am not in receipt of legal aid in respect of any case at the moment, I have received legal aid on many occasions in the past. In my experience, the legal aid authority was excellent, probably ahead of its civil counterparts in supporting counsel and solicitors who were defending servicemen, whether in this country or abroad.

There are particular circumstances that apply in this field which do not apply in ordinary civil practice. First, there are a limited number of military court advocates, mostly people who have some experience of the service. Secondly, the courts are at a distance. Catterick and Bulford—or occasionally Colchester—are at opposite ends of the country. There is also a very experienced military lawyer in Northern Ireland who deals with issues that derive there. In addition to court appearances, it is necessary to give protection to soldiers facing charges and to Air Force and Navy personnel. It is necessary to be in at the beginning, which requires driving long miles to various bases to be present at interviews, to be present when a person is charged and to give advice. There are particular exigencies in this type of practice. Full support from legal aid, which in my experience has been given in the past, is essential for the system to work well. As in every part of the justice system where people are properly represented, a fair result is likely to be arrived at.

Baroness Goldie (Con): My Lords, again I thank the noble Lord, Lord Tunnicliffe, for raising this issue. I have looked at his proposed new clause in Amendment 30, which would indeed require the Government to commission and publish an independent evaluation of legal aid for service personnel and veterans in relation to the criminal legal proceedings covered by the Bill. I repeat the assertion to which the noble Lord himself referred: the MoD has a long-standing policy that, where a serviceperson or veteran faces criminal allegations in relation to incidents arising from his or her duty on operations, the MoD may fund their legal support and provide pastoral support for as long as necessary. We offer this because it is right that we look after our Armed Forces, both in the battlefield, where they face the traditional risk of death or injury, as well as in the courts, particularly if they face the risk of a conviction and a possible prison sentence. Because of the risks our service personnel and veterans face, our legal support offer is very thorough. I will set out some of its provisions.

The legal aid provided by the Armed Forces legal aid scheme provides publicly funded financial assistance for some or all of the costs of legal representation for defendants and appellants who, first, appeal against findings and/or punishment following summary hearings at unit level, including applications for extensions of the appeal period by the Summary Appeal Court, for leave to appeal out of time. Secondly, it covers those who have a case referred to the Director of Service Prosecutions for a decision on whether the charges will result in a prosecution. This includes offences under Schedule 2 to the Armed Forces Act 2006 referred directly to the Director of Service Prosecutions by the service police, as well as matters referred to the Director of Service Prosecutions by the commanding officer. Thirdly, it covers those who are to be tried in the court martial of the Service Civilian Court; fourthly, those who wish to appeal in the court martial against the finding and/or sentence after trial in the Service Civilian Court; and, fifthly, those to be tried in a criminal court outside the UK.

If I have not responded to all the questions asked by the noble Lord, I apologise, and I shall look at *Hansard* and attempt to respond further. I will explain that the legal aid scheme applies equally to all members of the Armed Forces, including the Reserve Forces when they are subject to service law, as well as to civilians who are or were subject to service discipline at the time of an alleged incident. Importantly, this system is based upon the same basic principles as the civilian criminal legal aid scheme in England and Wales. The Armed Forces scheme is designed to mirror the civilian scheme while making necessary adjustments to take into account the specific circumstances and needs of defendants and appellants in the service justice system.

As a result of that system, I am confident we already ensure service personnel and veterans are properly supported when they are affected by criminal legal proceedings. A review of legal aid, as proposed by the amendment, is unnecessary, given how comprehensive our legal support package is. In these circumstances, I urge the noble Lord, Lord Tunnicliffe, to withdraw his amendment.

Lord Tunnicliffe (Lab) [V]: My Lords, I thank my noble friend Lady Chakrabarti and the noble Lord, Lord Thomas of Gresford, for their support in this area. Turning to the speech by the noble Baroness, Lady Goldie, which I shall read with care, it seems we are not grasping the circumstances of this Bill. The situation is about overseas operations and the problems of defending oneself against criminal action in some overseas theatre—vastly more difficult than in the parallel civilian situation in the UK. I note she said the support "may" be provided. The Minister may mean "always", but for servicemen that word sounds like "perhaps," like some or all of the necessary support only "may" be provided.

We should think back to who we are talking about. Service personnel are different from ordinary citizens. I was involved, when Labour was in power, with drawing up the first statutes to cover slavery. When we had got over the shock that we had to try and define slavery, we suddenly realised that we had to have some

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exceptions. One of them was the Armed Forces, because we expect absolute loyalty from our Armed Forces, including to the point of dying. That is a very special loyalty. Surely, when they are caught up in difficult situations, there should be almost absolute support in defence of them to make sure, in all the subsequent legal action and the necessary support—which will be coming in the next group—that they lack for nothing, ensuring both that they are pastorally supported and that there is sufficient legal support for there to be a genuine equality of arms.

I will look at the noble Baroness's response with care and listen to her response to the next group. In the meantime, I beg leave to withdraw the amendment.

Amendment 30 withdrawn.

The Deputy Chairman of Committees (Lord Alderdice) (LD): We now come to the group consisting of Amendment 31. Anyone wishing to press this amendment to a Division must make that clear in debate.

Amendment 31

Moved by ***Lord Dannatt***

31: After Clause 12, insert the following new Clause—

"Duty of care to service personnel

(1) The Secretary of State must establish a duty of care standard in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigation arising from overseas operations, as defined in subsection (6) of section 1.

(2) The Secretary of State must lay a copy of this standard before Parliament within six months of the date on which this Act is passed.

(3) The Secretary of State must thereafter in each calendar year—

(a) prepare a duty of care report, and

(b) lay a copy of the report before Parliament.

(4) The duty of care report is a report about the continuous process of review and improvement to meet the duty of care standard established in subsection (1), in particular in relation to incidents arising from overseas operations of—

(a) litigation and investigations brought against service personnel for allegations of criminal misconduct and wrongdoing;

(b) civil litigation brought by service personnel against the Ministry of Defence for negligence and personal injury;

(c) judicial reviews and inquiries into allegations of misconduct by service personnel;

(d) such other related fields as the Secretary of State may determine.

(5) In preparing a duty of care report the Secretary of State must have regard to, and publish relevant data in relation to (in respect of overseas operations)—

(a) the adequacy of legal, welfare and mental health support services provided to service personnel who are accused of crimes;

(b) complaints made by service personnel or their legal representation when in the process of bringing or attempting to bring civil claims against the Ministry of Defence for negligence and personal injury;

(c) complaints made by service personnel or their legal representation when in the process of investigation or litigation for an accusation of misconduct;

(d) meeting national standards of care and safeguarding for families of service personnel, where relevant.

(6) In subsection (1) "service personnel" means—

(a) members of the regular forces and the reserve forces;

(b) members of British overseas territory forces who are subject to service law;

(c) former members of any of Her Majesty's forces who are ordinarily resident in the United Kingdom; and

(d) where relevant, family members of any person meeting the definition within paragraph (a), (b) or (c).

(7) In subsection (1) "duty of care" means both the legal and moral obligation of the Ministry of Defence to ensure the wellbeing of service personnel.

(8) None of the provisions of this section may be used to alter the principle of combat immunity."

Member's explanatory statement

This new Clause will require the Ministry of Defence to identify a new duty of care to create a new standard for policy, services and training in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigations arising from overseas operations, and to report annually on their application of this standard.

Lord Dannatt (CB) [V]: My Lords, in seeking to move Amendment 31, I pay tribute to the tireless and detailed way in which the Minister and the noble and learned Lord, Lord Stewart of Dirleton, have been responding to the extensive and detailed sequence of amendments to this Bill in the last two days in Committee.

That the list of proposed amendments is so lengthy indicates a considerable degree of concern about the Bill as drafted, but my concern does not extend as far as the concerns of those who would wish to see this Bill thrown out completely. Many noble Lords, myself among them, have been arguing for some years to have a Bill introduced that would provide better protection for serving and veteran soldiers, sailors, airmen and marines from vexatious, extensive and recurrent investigations arising from their actions in past operations. This Bill seeks to meet that aim, so I do not want to see it fail, but I do want to see it meet that honourable objective more effectively.

5.15 pm

Amendment 31 sets out to do this by seeking to require that the Ministry of Defence identifies a new duty of care as described in the explanatory statement to this amendment. I raised this aspiration in my speech on Second Reading in your Lordships' House on 20 January. I believe a clearly stated duty of care has important benefits not only for individual service people, be they serving or veteran, but for the Ministry of Defence itself. If the MoD wants to see this Bill through to Royal Assent, the opportunity Amendment 31 provides is to state in clear and unequivocal terms how it will support better the individual service man or woman. Here is the opportunity to spell out what support will be given to a serviceperson under investigation. How often can they be questioned and over what time period? What legal, pastoral and mental health assistance should be afforded a person under investigation? How should a person under investigation be regarded by

the chain of command? These questions and many more can be addressed in a comprehensive statement of the duty of care. Moreover, the amendment would require the Secretary of State, in each calendar year, to prepare a duty of care report and lay a copy of that report before Parliament.

With the greatest respect to the Minister, I have heard the argument made in challenge of some other amendments, that things have changed for the better in recent years. In some areas, that may be so, but not in this area. Were that so, the treatment of Major Bob Campbell would not have dragged on from 2003 until last year. I have raised his case, which the noble Lord, Lord Tunnicliffe, has just referred to, in your Lordships' House on more than one occasion. He and his two colleagues are broken men. When asked whether the MoD had offered any support when he was facing the eight criminal investigations that he was subjected to, Major Campbell said:

"No, there was none … we were told just not to think about it and to get on with stuff."—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 6/10/20; col. 24.]

That is just not good enough, and the MoD must accept that.

It is not just concerned members of this House who want to see change. General Sir Nick Parker, a former Commander in Chief Land Command, has said:

"one of the key things that we have to do is to produce mechanisms that establish a really effective duty of care for those who are placed under the spotlight by malicious claims. Of course, if you deal with these things quickly, that will help, but anything that drags out, even for two or three years, puts individuals under massive pressure. If the chain of command does not have the ability to look after them, because it somehow distances itself from them, then we have got to address that as well."—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 8/10/20; col. 96.]

This amendment will address those issues.

Time is short, and other noble Lords wish to speak to this amendment, but I will make one further point; again, it is one I raised on Second Reading. It relates to the sensible presumption against prosecution set out in Part 1 of the Bill, which, if understood correctly, is intrinsically related to this issue of duty of care. It has been argued that this presumption against prosecution is not needed because there are very few prosecutions. But that is not the point. The point is that there have been an outrageous number of allegations and investigations that have proved to be groundless, resulting, quite properly, in very few prosecutions. It is well recorded that a virtual industry to pillory British soldiers was set up following the unpopular intervention in Iraq in 2003. As the present Secretary of State for Defence has said, for example:

"In 2004, Phil Shiner, a lawyer, went fishing. He fished for stories, he fished for victims and he fished for terrorists."—[*Official Report*, Commons, 23/9/20; col. 984.]

A carefully thought through and properly worded statement of the duty of care would prevent such outrageous behaviour.

I have a final word on this understanding of a presumption not to prosecute. It will help investigators and possible victims to get to the truth, because soldiers will know that they can answer questions designed to establish the facts of the matter without fearing that the questioning will inexorably lead to a prosecution. Of course, if there is new and compelling evidence against someone, that is a different matter—but most investigations merely set out to establish the facts of an incident. That is a right and proper process, which in the majority of cases should be conducted free from the shadow of prosecution. I beg to move.

Lord Thomas of Gresford (LD) [V]: My Lords, it is a real privilege to follow the noble and gallant Lord, Lord Dannatt, whom I greatly respect. He has raised some of the issues that we have been discussing over the last two days. I have made my views well known on those aspects, and I do not propose to challenge what he has just said. He is absolutely right in requiring there to be a duty of care set out in statute—a touchstone whereby the ways in which service personnel are dealt with can be tested.

In our own way, those who have practised in courts martial have seen the sort of improvements to which the noble and gallant Lord referred. I recall that, at the first court martial that I went to, there was a lot of swishing of swords—swords pointed at the guilty man when the decision was announced, and so on. Also, I think I played some part in the abolition of the process whereby an accused in a Navy court martial was marched into the court with a cutlass at his back. I put down a Question questioning that particular practice and, when I got up to hear the Answer from the noble Lord, Lord Bach, he announced that the practice had been abolished. But that is only symbolic of the very considerable changes that have taken place in the court martial system, which I believe have brought greater fairness and fewer problems of what one might call "shock and awe"—of a soldier going in to stand trial before a court martial of senior officers. In that way, we have sought I think to modernise the old court martial system, and we have been successful in that. If that sort of movement could be applied generally and not just in the very narrow area to which I have referred, it would be a very good thing. I wholly support the noble and gallant Lord in his amendment.

Lord Stirrup (CB): My Lords, I speak in support of this amendment, to which I have attached my name. In doing so, I convey the apologies of my noble and gallant friend Lord Boyce, whose name is also on the amendment but who is prevented by a medical issue from speaking this afternoon.

To explain why my noble and gallant friend and I support the amendment, it is necessary for me to go back to the very purpose of the Bill. It is in the Minister's own words to reassure service personnel and veterans that the Government have their back and that they will be offered a degree of protection from the pressures and strains of malicious prosecutions. But the Government know that prosecutions are not the issue; that much has been widely acknowledged during debates on the Bill to this point. It is the seemingly endless cycle of accusations and investigations that is casting such a shadow over our service personnel and veterans, not the prospect of being brought to trial.

It is a principle of our legal system that an accused person is innocent until proved guilty—but this is true only in a narrow legal sense. It simply means that the

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burden of proof lies with the accuser, not the defender; it does not mean that an accused person is treated as innocent. For example, they may be held in detention. They are certainly subject to the wondering if not outright suspicion of observers, and they certainly suffer the agonies of uncertainty and the mortification of being suspected of and, in the minds of some, guilty of a criminal offence. The strain on them and their families is immense. Can anyone doubt the anguish that assailed those accused as a result of Operation Midland, despite the fact that not only were there no prosecutions but their accuser was shown to be lying? Can anyone deny that they suffered acutely—and in some cases still do?

Accusations must certainly be investigated, but such investigations will bring pain to guilty and innocent alike. How much more is this the case when the investigations are repeated and protracted? That is the evil that this Bill should address. The Government's view seems to be that it is not possible to legislate on investigations since that would almost certainly increase the risk of UK service personnel and veterans coming under the scrutiny of the International Criminal Court. They have therefore taken an indirect approach to the problem, in the hope that codifying the factors that must be considered by a prosecutor will discourage speculative and malicious accusations. Of course, this is a wholly untested thesis; it may work to an extent, but equally it may have little impact.

For my part, I believe that the Government have by their own lights set themselves an impossible task in this Bill. They have recognised that they cannot address the real problem directly, so has come at it obliquely with a proposition that will have dubious benefits and poses real presentational risks—risks that could harm the reputation of our Armed Forces. Meanwhile, the underlying issue remains: the pressure of investigations. If that cannot be addressed legislatively, it is surely incumbent on the Government to ensure that those accused are supported appropriately during their ordeal—hence this amendment.

If we cannot entirely prevent the suffering, at least let us do all that we can to ameliorate it. The Government may say that they do so already, and there is no need to legislate on the matter, but I would find such a view puzzling. The Government have accepted that prosecutors already take into account the considerations set out in the Bill, but they regard their codification in law as necessary for the reassurance of our military personnel. If they take that view on something that they admit is not the real problem, how can they take a contrary view on something that is? That would seem to me to be an extraordinary contradiction.

The many amendments proposed to this Bill so far have sought largely to ameliorate the harmful effects that it might have. This amendment, on the other hand, seeks to tackle as far as possible the root of the problem that the Bill is intended to address, and I commend it to the Government.

Baroness Chakrabarti (Lab) [V]: My Lords, what a privilege to have heard, let alone to follow, the speech of the noble and gallant Lord, Lord Stirrup, so much of which I completely agreed with. One thing I would say is that, while legislators are limited in what they can do in this regard—and he and his noble friends have had a very good go at using a probing amendment to try to get the Government to stand by veterans and service personnel in real terms—the Government can actually do more.

They could do more even now to address the problem of investigations. Of course, they could not do so by legislation alone, but they could throw resources at it and redesign the nature of investigations, and they could include the noble and gallant Lord and his colleagues, among others, in creating a new investigation system that would inspire the confidence of the public at large, of wretched human rights lawyers like me and, crucially, of veterans and personnel. They could do what we have said in recent days is essential, which is to ensure that investigations are robust, independent and speedy, and not repeated. That could do a great deal to avoid the kind of anxiety that we have heard so much about in consideration of this Bill.

That is not something that any mere legislators can do, so we have to probe in this way and table amendments, such as the previous one from my noble friend Lord Tunnicliffe about laying reports, and this more extensive one from the noble Lord, Lord Dannatt, the noble and gallant Lords, Lord Stirrup and Lord Boyce, and my noble friend. These amendments are, of course, necessarily limited by the scope of the Bill. I therefore understand why, for example, the noble Lord could not include in the duty of care to service personnel chronic issues of housing and of mental health problems beyond just those caused by litigation.

5.30 pm

If the noble Lord is to return with a further amendment of this kind on Report, subject of course to the response from the Minister, he might add some provision in the duty of care for those veterans who have claims against the MoD. The focus of this amendment is, understandably, on the anxieties of those who are subject to suspicion and accusation through these lengthy investigations. I do so agree with his wider point about our society, in which the presumption of innocence as a societal concept has been chipped away at for so long. We now live in a world, exaggerated by the internet, for example, of "no smoke without fire", which is very far indeed from the principle of the presumption of innocence. I wonder whether there is room in the noble Lord's duty of care and duty of care report to think about veterans who are victims and who are struggling to get access to legal advice and representation in their claims against the MoD. Aside from that, I fully stand with the noble Lord and look forward to the Minister's reply.

Lord Burnett (LD) [V]: My Lords, I draw attention to my entries in the register of interests. I had the honour to serve in the Royal Marines, during which time I served on overseas operations. I support the thrust of this proposed new clause and congratulate and thank the noble Lord, Lord Dannatt, and others for tabling it.

The new clause would provide for the establishment of

"a duty of care standard in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigation arising from overseas operations".

It also provides for an annual report on the duty of care to be laid before Parliament. This is a satisfactory solution to some of the matters I raised at Second Reading, when I stated that

"when charges such as these are contemplated, no expense should be spared in mentoring and assisting a defendant, who will need an experienced individual to guide him through the maze of criminal law and procedure. The defendant should have access to the very best legal team available and be able to access medical assistance to engage with the effect of the stress of operations, including being in mortal danger most of the time, and often in searing heat. This should all be at public expense."

As soon as an individual comes under investigation, it appears that his colleagues are forbidden to contact him and he starts to feel isolated and abandoned. The defendant should have someone of experience from his own corps, regiment or service as a supporter he can rely upon. That supporter should be properly trained, independent and have access to the defendant at all times. As I said at Second Reading, the defendant will need the best legal team available. The Bar Council and the Law Society should be asked to co-operate with the Ministry of Defence in providing a list of suitably qualified and experienced barristers and solicitors, with their curricula vitae, to assist the defendant in his decision on who is going to represent him. The Ministry of Defence should liaise with the appropriate professional body to provide a list of experienced mental health professionals. These are just some of the steps that should be taken; others have been outlined by the noble Lord, Lord Dannatt, and other speakers. There will be more.

The Committee should bear in mind that these matters of culpability and responsibility are riven with difficulty. Soldiers engage in warfare not only for their country but for their comrades. They fight for their comrades and their comrades fight for them, often in the most appalling and hazardous conditions. Matters such as provocation should be gone into in great detail. We rightly respect, and have to comply with, the laws and conventions of war. Regrettably, some of our enemies do not. It would serve no useful purpose for me to give examples of some of the terrible atrocities that our troops have had to suffer. Suffice to say that the bonds between comrades forged by and in war are immensely strong.

Provocation is not the only factor to be borne in mind when determining culpability and responsibility. An individual's state of mind will change when he is deployed on operation. He will have to be alert at all conscious times. He is in mortal danger most of the time and sleep is light and constantly disturbed. Sleep deprivation is one of the most mentally and physically debilitating conditions. The individual knows that he must keep going at all costs—he owes it to his comrades, and they owe it to him. The foregoing is the reason why I stated, at Second Reading, that I believed that

"there should be a duty on the Judge Advocate-General to bring the possibility of battle fatigue and diminished responsibility to the attention of the panel." —[*Official Report*, 20/1/21; col. 1191.]

I look forward to hearing from the Minister in response to this debate, and in relation to matters I raised at Second Reading when I outlined changes that should be made to the system of courts martial. I appreciate that, on the latter matter, I will have to wait for a letter.

Lord Dodds of Duncairn (DUP) [V]: My Lords, I am very grateful for the opportunity to take part in this important debate. I thank the noble Lord, Lord Dannatt, and others for bringing forward Amendment 31 which would require the Government to

"establish a duty of care standard in relation to … support provided to service personnel".

I believe that one of the most important duties of the state is to ensure that we do everything in our power to provide for the welfare and well-being of those who serve us all in the military and those who have served us in the past. That obligation also extends, of course, to their families. The recent move to give much greater statutory standing to the Armed Forces covenant, across the whole of the United Kingdom, is very welcome in that respect.

The amendment would create specific duties on the Government in relation to service personnel caught up in investigations and litigation on overseas operations. I have had the opportunity in recent times, in my capacity as a Member of Parliament, to meet with some of the ex-service men and women who have been involved in this type of case. Some of them spoke to me in the context of Operation Banner in Northern Ireland. This Bill clearly does not extend to that operation or to Northern Ireland and some of the issues relating to that were explored at Second Reading. We obviously listened carefully to the Minister's comments during the passage of the Bill through this House and the other place and we look forward to legislation covering Northern Ireland very soon. I hope that the Minister can confirm that again today.

The experiences and feelings of the veterans that I spoke to in the context of Northern Ireland will mirror in many respects the concerns and anxieties of those who will be subject to investigation and litigation in respect of theatres overseas. It is the long process of investigation which causes most problems—a point that has been made by other noble Lords. Very often, those being investigated are elderly. The knock on the door, or the fear of the knock on the door, after many years out of service can be extremely upsetting and difficult to cope with. One spoke to me about his feelings of being very much alone, abandoned to his fate with no one to turn to, no one to whom he could really express his feelings or from whom he could seek sound advice. Those being investigated are suddenly plunged into a legal nightmare, with the potential for years of long, drawn out legal process.

I very much welcome the fact that the amendment talks about the duty of care standard in relation to legal as well as pastoral and mental health support. This is an extremely important aspect given the complexity of these cases and the passage of time. I also welcome the fact that the amendment covers civil as well as criminal claims and, for that matter, proceedings to do with judicial review. It is important that all these aspects are covered. There is a feeling that things are being looked at now with the benefit of hindsight and with the application of standards which were not applicable at the time.

There are often big financial implications. One person I spoke to cited a total lack of resources or capacity, compounded by ill-health, exacerbating the

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enormous stress and strain that had been inflicted on them and their family. One man who was undergoing very serious medical treatment was finding the financial as well as the medical implications very hard to bear. People feel extremely frustrated. There is understandable anger at the fact that they are being picked out or targeted in some way while, certainly in the case of Northern Ireland, many of those political voices championing prosecutions and investigations were themselves some of the biggest supporters of the abuse of human rights by terrorists and do not want any investigation into their nefarious activities.

Finally, the fact that the amendment covers the family of ex-servicemen and women and serving members of the military is also important. The families are vital and often feel the same level of stress and strain when such investigations are launched. I wish the amendment well and it has my full support.

Lord Faulks (Non-Afl) [V]: My Lords, I have considerable sympathy with what lies behind the amendment moved by the noble Lord, Lord Dannatt, and supported by the noble and gallant Lord, Lord Stirrup. I cannot help thinking that it is a great pity that it was felt necessary to table the amendment at all. The reason for it, however, is the way in which we as parliamentarians and the law generally have let the military down; that is, after all, what this legislation as a whole is about. For there to be an obligation to state a duty of care standard of the sort envisaged by the amendment is a woeful acknowledgement of that. I do not think there is any equivalent in relation to our duty towards the fire brigade, the police or the NHS. Things have come to a pretty poor pass where we as a House can find so much to sympathise with in this amendment.

However, a statement to the House about the duty of care and how the standard of that duty should be reflected can do no more than state what the law is. As the noble Lord, Lord Dodds, just pointed out, there are specific provisions to deal with litigation and investigation, civil as well as criminal, and judicial reviews. But all a statement would do was say what the state of the law was. Depending on the passage of this Bill, there may be some, little or no change to the existing state of the law. What has repeatedly come through our debates is what lies behind so much of the understandable discontent: these repeated and late investigations.

5.45 pm

Although the Bill is divided between criminal prosecutions and civil actions, the reality is that there is a blurring of the two, because the investigative duty arising from the Human Rights Act—there is no general duty to investigate in connection with a cause of action—is what precipitated many of the investigations, such as IHAT, where there were vexatious claims and even preliminary investigations leading to potential prosecutions. So it is not quite as divided as it might be. Whatever statement came before the House, it could say only, "Since there is an obligation in overseas territories to comply with the convention, if an allegation is made against a service person, there may well be an obligation to investigate". That is what the Human Rights Act jurisprudence suggests. That means all the problems with investigations that have been encountered will continue, and it will continue to be the case even if the Bill is passed.

Where, unusually, I entirely agree with the noble Baroness, Lady Chakrabarti, is that I think something can be done about investigations, which is that the Ministry of Defence and those responsible for investigations can be better equipped and prepared for them. IHAT was such a failure because those charged with investigation were underequipped and had little knowledge of the theatre, the language, the culture or anything of that sort. If there are to be repeated investigations, they should be much speedier and better done.

So I am very sympathetic to the amendment but wonder how much it will actually achieve. Before I conclude, I refer to just one particular aspect of it, which concerns the principle of combat immunity. The Ministry of Defence has been asked a number of times to clarify its position on combat immunity. It used to be a common law concept. Quite understandably, the courts decided that they were unable to decide whether, in the heat of battle, A had been disproportionate in his or her response to B's activities—that this was a field which was really not justiciable. However, following the decision in Smith v the Ministry of Defence, referred to earlier by the noble and learned Lord, Lord Hope, there is some doubt about the question of combat immunity, and the case was, by a majority, not struck out. The case arose out of claims of damage in respect of Snatch Land Rovers, but presumably it would acquire to in any allegation of inadequate equipment provided to our forces.

I ask the Minister to tell the Committee precisely what the Government's position is on combat immunity. Of course, if this amendment is successful, the Government will have to do so in any event. I am very sympathetic to the amendment; I am sorry that it is necessary, and I repeat my observation that the reason it is necessary is that we as Parliament and the judges, I am afraid, have failed the military.

Baroness Smith of Newnham (LD) [V]: My Lords, like other noble Lords—and noble and gallant Lords—across the Chamber, I welcome the amendment, even if, like the noble Lord, Lord Faulks, I regret that it is necessary. As the noble and gallant Lord, Lord Stirrup, pointed out, it is in many ways necessary to try to deliver what the Minister said the Bill was intended to do, which is to demonstrate to all our service men and women, and veterans, that the MoD and the Government have their backs. The amendment seems to be delivering on the stated aims of the Bill in a way that much of the content of the Bill does not quite seem to do.

Perhaps I have misread the amendment and the noble Lord, Lord Faulks, has read it perfectly, but my reading of it is a little different from his. The first point is:

"The Secretary of State must establish a duty of care standard".

It does not say, "The only purpose of this amendment is to write a report"; the report comes later. The really crucial thing is that the Secretary of State is to establish the "duty of care"; the annual reports are then supposed to look at certain things, but it is the duty of care itself that matters.

So the amendment does not say, "There's got to be a report every year"—which, I agree, might look a bit like window-dressing. This really gives the opportunity for the Secretary of State—hopefully with advice from the leading members of the military and taking into consideration the evidence from the many organisations that have been lobbying the Government and Parliament over this Bill—to begin to ensure that we have an appropriate duty of care and that support is given to service men and women under investigation. As my noble friend Lord Burnett said in his powerful speech, there is a whole set of issues that might affect people acting overseas on operations that would not necessarily be the case when people are in normal circumstances.

So this is an important amendment. I very much hope that the Minister will be able, for once, to consider supporting an amendment. If she cannot, I hope that she can look for ways of delivering in the Bill the sort of support for our service men and women that is the intention of this amendment.

Lord Tunnicliffe (Lab) [V]: My Lords, we stand four-square behind our troops and, therefore, four-square behind Amendment 31. We want to work with government and colleagues from across the House to get this legislation right. Our country owes a huge debt to our service personnel, yet many have not got the pastoral, mental and well-being support that they require when it is most needed.

Troops and their families who have been through the trauma of these long-running investigations have too often felt cut adrift from their chain of command and the Ministry of Defence. As the noble Lord, Lord Dannatt, said, this gap was clearly identified by multiple people in Committee in the other place, but it has not been identified in the Bill.

When asked if the MoD had offered any support when he was facing eight criminal charges, Major Campbell said: "No, there was none". General Sir Nick Parker said that

"one of the key things that we have to do is to produce mechanisms that establish a really effective duty of care for those who are placed under the spotlight by malicious claims."—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 8/10/20; col. 96.]

He stated that, as drafted, the Bill does not do this.

When asked if the MoD does enough to provide a duty of care to those service personnel who go through investigations and litigations, BAFF executive council member Douglas Young said:

"In our opinion, the answer is no ... we are simply appalled by the experiences of some people who have absolutely been through the wringer for many years."—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 6/10/20; col. 5.]

Lieutenant Colonel Chris Parker said that there was certainly a need for

"a broad duty of care with some resourcing for the impact on families and the individuals themselves … It is something that the MoD would have to bring in."—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 8/10/20; col. 108.]

The MoD has let down too many personnel with a lack of pastoral, mental health and legal support when they face investigations and pursue rightful compensation. For every member of the Armed Forces who does not receive the proper support and advice during an investigation or litigation, it is not only sad but a failure of the MoD's responsibility to its employees. We cannot deny that the MoD has lost trust among our brave service personnel, and a statutory duty of care, with regular reporting to Parliament, is a key step in rebuilding that trust. Only then will personnel have the confidence that the MoD will be on their side and support them through the difficulties and stress of an investigation or litigation.

We owe it to our excellent Armed Forces to do better. The MoD owes it to them to provide a statutory duty of care standard for legal, pastoral and mental health support, and that is why we strongly support this amendment.

Baroness Goldie (Con): My Lords, this has been an important debate, and I want to thank the noble Lord, Lord Dannatt, for his careful presentation of his amendment, which covers a very important issue. I also thank him for his supportive commentary on the Bill.

Amendment 31 proposes that the Ministry of Defence should establish a "duty of care standard" for current and former service personnel and, where appropriate, their families, and that the Secretary of State should be required to report on this annually. I have looked at the specific components of the amendment, and I hope that I may be able to provide some reassurance to the noble Lord and those other noble Lords who raised genuine concerns.

I start by saying that we take extremely seriously our duty of care; the noble Baroness, Lady Smith of Newnham, rightly identified that important component of how the MoD deals with its personnel. We do take it extremely seriously; we have a duty of care to our personnel, and pastoral and practical support will always be available to them. In particular, veterans of events that happened a long time ago may have particular support requirements and concerns, in which case we can put in place special arrangements for them.

The noble and gallant Lord, Lord Stirrup, spoke eloquently about the effect on personnel of repeated investigations and accusations, as did the noble Lord, Lord Dodds of Duncairn, my noble friend Lord Faulks and, just recently, the noble Lord, Lord Tunnicliffe. We have a responsibility to take reasonable care to ensure the safety and well-being of our personnel.

I covered the comprehensive legal support that we already provide to service personnel and veterans in relation to legal proceedings during our previous debate, so I will not repeat them here. I noted that the noble Lord, Lord Burnett, was rightly concerned about such provision, but I trust that, if he looks at the remarks that I made in the earlier debate, he may feel reassured.

In terms of mental health, welfare and pastoral care, a range of organisations are involved in fulfilling the needs of personnel, which will vary according to individual need and circumstance. The potential impact of operations on a serviceperson's mental health is well recognised; the noble Lord, Lord Burnett, spoke powerfully about that. There are policies and procedures in place to help manage and mitigate these impacts as far as possible.

[Baroness Goldie]

Despite the clear processes for categorising personnel as medically suitable for deployment, it is recognised that an operational deployment can result in the development of a medical or psychiatric condition. Therefore, specific policy and mandated processes exist for the management of mental health and well-being before, during and after deployment. These provide overarching direction on the provision of deployment-related mental health and well-being, with briefings designed to provide enough information about deployment-related mental ill-health to allow individuals, peers and family members to take steps to avoid such an outcome, to recognise the early signs of mental ill-health and to facilitate help-seeking from the right source at the right time.

We also regularly seek opinions from Armed Forces personnel and their families about the level of support. It is important to refer to that, because the MoD is not operating in some kind of vacuum; we actually have very good communication strands with our Armed Forces personnel, and I will cover a number of them. The Armed Forces continuous attitude survey—AFCAS—is an annual survey of a random sample of service personnel. The 2021 survey was conducted from September 2020 to February of this year, and the results are due to be published in May. There are no specific questions relating to legal proceedings, but questions related to welfare support are asked.

Within the welfare section of the survey, questions are asked on satisfaction with the welfare support provided by the service for both the serviceperson and their family, as well as the support that the serviceperson's spouse or partner receives while the serviceperson is absent. Questions are also asked about operational deployment welfare package for service personnel.

Questions on satisfaction levels with the variety of welfare support systems in place are also asked, with the list unique to each service—for example, families federations, welfare teams, officers, community support teams, et cetera. Further questions within the deployment section ask for satisfaction levels with welfare support received by both service personnel and their families when the serviceperson returns from their last operational deployment. We also have the annual families continuous attitudes survey—FAMCAS—for the spouses and civil partners of service personnel. It is in field from January to April and the 2021 report is scheduled for release in July. Again, there are no specific questions on legal support.

6 pm

Another avenue is available to all MoD personnel, whether Armed Forces or civilian: the regular all-staff dial-ins. Some of your Lordships may be unfamiliar with this; I must confess that, until I became a Minister, I had not heard of them. Having now participated in a couple of these, I have to say that they are an incredibly popular forum. They attract participants from the Armed Forces and the civilian staff, and the contributors are uninhibited in expressing their views and concerns. I think that over 3,000 participants were on my last call. That is another way of quickly getting feedback on how morale is and what people are feeling.

It is not just serving members of the Armed Forces who require and receive such support. As I have mentioned, our veterans also get such support. Veterans UK is the official provider of welfare services and support to former service personnel throughout the UK. It will often act in partnership with service charities or other third-sector organisations towards which veterans are directed—for example, the Royal British Legion, Combat Stress and SSAFA, which is the Soldiers', Sailors' and Airmen's Families Association.

Very often, the regimental association of a veteran's parent regiment will be the most familiar and accessible link through which the individual can maintain a link to the military hierarchy, which allows any issues of concern to be raised with the Army chain of command or the MoD outside of legal channels. This is often the most relied on and effective means of providing pastoral support. Of course, veterans can also access help and support 24/7 via the Veterans' Gateway, which has been a very important innovation.

In addition, we fund charities and organisations through the Armed Forces Covenant Trust. Examples include the Veterans' Mental Health and Wellbeing Fund, the One is Too Many programme, which has been awarded grants of up to £300,000, the Tackling Serious Stress in Veterans, Carers and Families programme and the Ex-Forces in the Criminal Justice System programme.

I am happy to reassure your Lordships that, in the context of many of the areas listed in the amendment of the noble Lord, Lord Dannatt, we already publish the comprehensive annual report on the Armed Forces covenant—the Armed Forces Bill currently progressing through the other place is giving statutory import to the Armed Forces covenant. I am grateful to the noble Lord, Lord Dodds of Duncairn, for reminding the House of that. I reassure him in relation to his further question that the legacy issues of Northern Ireland are being addressed by the Northern Ireland Office and progress will be reported on as soon as possible. In relation to service complaints, there is a well-established process through which service personnel can make complaints. The Service Complaints Ombudsman reports annually to Parliament on this.

These are all well-established policies and processes and, of course, we continually review them to ensure that they provide the best support and care possible for our personnel. I hope that the detail that I have provided has reassured your Lordships about the way in which the MoD both acknowledges and specifically addresses our duty of care and provides an environment for personnel to express and raise concerns. We are clear on our responsibilities to provide the right support to our personnel, both serving and veterans, and to seek to improve and build on this wherever necessary. I do not believe, therefore, that setting a standard for duty of care in the Bill is necessary, nor does it require an annual report to Parliament. I therefore urge the noble Lord to withdraw his amendment.

Lord Dannatt (CB) [V]: My Lords, I thank all noble Lords and noble and gallant Lords who have taken part in this debate for their helpful contributions. At the heart of Amendment 31 is a simple issue: to get back to the original purpose of the overseas operations Bill, which is to better protect our servicepeople against a recurrent, extensive and vexatious series of investigations. The intent behind the amendment to ask the Secretary

of State to lay down a duty of care is to answer some of the questions that I put in my opening speech. How many times is it reasonable for someone to be investigated and over what period? What should the attitude of the chain of command be?

I am grateful to the noble Baroness, Lady Goldie, for her response to the debate but, with the greatest respect to her, its principal part was to list the wider welfare provision for the Armed Forces provided by the Ministry of Defence and service charities. I know all that; I was head of my service through difficult times. With Bryn Parry, I co-founded Help for Heroes. I know what we are trying to do but, with the greatest respect, that part of the speech of the noble Baroness, whom I admire enormously, misses the point behind this amendment, which is simply to lay down a duty of care to bring to an end these recurrent, vexatious and almost unending—in Major Campbell's case, there were eight—investigations.

I am grateful for the support that has been voiced for this amendment by the noble and gallant Lord, Lord Stirrup, and on behalf of the noble and gallant Lord, Lord Boyce. Both are former Chiefs of the Defence Staff and each is a former head of the Royal Navy or the Royal Air Force. Bear in mind that I am a former head of the Army. I am grateful for the support that has come from Members of all political parties in this House, but I am deeply disappointed that the Minister does not see the opportunity that this amendment poses. It gives the Ministry of Defence an opportunity to say, in simple and plain terms, how it can solve the problem of incessant vexatious investigations.

I regret that I decided not to press this amendment to a Division at this stage. I note that the Minister did not invite me to have further conversations with her, with her officials or with Johnny Mercer, the Minister for Defence People and Veterans. If she wishes to extend that invitation, I will gladly accept it. But I am quite certain that, with the support of the representatives of the armed services who have spoken and from all political parties, we will return to this on Report. If I do not feel that we have reached satisfaction in getting to the nub of the purpose of the Bill, which I have repeated several times, we will press this to a Division on Report. In advance of that, I beg leave to withdraw this amendment at this stage.

Amendment 31 withdrawn.

The Deputy Chairman of Committees (Lord Russell of Liverpool) (CB): We now come to the group consisting of Amendment 32. Anyone wishing to press this amendment to a Division must make that clear in debate.

Amendment 32

Moved by ***Lord Browne of Ladyton***

32: After Clause 12, insert the following new Clause—

"Liability for using novel technologies: review

(1) Within 3 months of this Act being passed, the Secretary of State must commission a review of the implications of increasing autonomy associated with the use of artificial intelligence and machine learning, including in weapons systems, for legal proceedings against armed forces personnel that arise from overseas operations, and produce recommendations for favourable legal environments for UK armed forces operating overseas, including instilling domestic processes and engaging in the shaping of international agreements and institutions.

(2) The review must consider—

(a) what protection and guidance armed forces personnel need to minimise the risk of legal proceedings being brought against them which relate to overseas operations in response to novel technologies,

(b) how international and domestic legal frameworks governing overseas operations need to be updated in response to novel technologies, and

(c) what novel technologies could emerge from the Ministry of Defence and the United Kingdom's allies, and from the private sector, which could be used in overseas operations.

(3) Within the period of one year beginning on the day on which the review is commissioned, the Secretary of State must lay a report before Parliament of its findings and recommendations."

Lord Browne of Ladyton (Lab) [V]: My Lords, Amendment 32 stands in my name and in the names of the noble and gallant Lord, Lord Houghton of Richmond, and the noble Lord, Lord Clement-Jones. It raises a very different matter from those with which we have been dealing until now in Committee. At first sight, the amendment may appear out of place in this Bill. I hope, however, to persuade your Lordships that, far from being irrelevant, it is directly relevant to many personnel who are, or will be, engaged in overseas operations, and that the numbers of those to whom it is relevant will only increase.

The amendment focuses on the protection and guidance that Armed Forces personnel need to ensure that they comply with the law, including international humanitarian law; the best way of minimising the risk of legal proceedings being brought against them; and explaining how international and domestic legal frameworks need to be updated. These are all as a consequence of the use of novel technologies which could emerge from or be deployed by the Ministry of Defence, UK allies or the private sector. In this day and age, the private sector is often deployed with our Armed Forces in overseas operations as part of a multinational force.

The amendment imposes an obligation on the Secretary of State, within three months of the passing of this Act, to commission a review of the relevant issues; sets out what that review must consider; and obliges the Secretary of State, within a year of the date from which it is commissioned, to lay a report before Parliament of its findings and recommendations.

It is remarkable that almost all the debate in Committee so far—both on the first day and today—has been about deployment of military force and the risk to which it exposes our forces, based on past experience. Little or no mention has been made of the changing face of war. I may have missed it, but I cannot recollect any mention being made of that element.

We often criticise armies who train "to fight the last war". The real problem, however, is that training is based on mistaken notions of what the next war will be like. We have a fair idea of what a future conflict will be like, so we should not be a victim to that mistaken notion. I can easily think of a relatively straightforward current example of modern warfare which encapsulates the challenges that will be generated for our military.

[Lord Browne of Ladyton]

The provisions of Clause 1(3) set out that the presumption against prosecution applies only in respect of alleged conduct which took place outside the British Isles and when the accused was deployed in overseas operations. If a UAV operator works from a control room here in the UK, in support of troops on the ground in a country beyond the British Isles, are they deployed on overseas operations for the purposes of this legislation? Is their conduct taking place beyond the British Isles? Consequently, are the protections afforded by this legislation offered to them? How can this legislation for overseas operations be kept up to date with the blurring of lines between what is and is not the battlefield, without provisions of this nature being made in the Bill?

On the face of it, these may appear simple questions, but I expect the answers are complex. At some time in the future, it is at least possible that a court will disagree with an answer given by a Minister today.

Next week, the integrated review will finally be published. This is the third defence and security review since 2010. It promises to be forward facing, recognising both current and future threats against the UK and describing the capabilities that will need to be developed to deter or engage them.

When the Prime Minister made his Statement on the review last November, he said that

"now is the right time to press ahead"—

with a modernisation of the Armed Forces, because of

"emerging technologies, visible on the horizon."—[*Official Report*, Commons, 19/11/20; col. 488.]

The CGS, General Sir Mark Carleton-Smith, recently said that he foresees the army of the future as an integration of "boots and bots". The Prime Minister has said that the UK will invest another £1.5 billion in military research and development designed to master the new technologies of warfare, and establish a new centre dedicated to AI. He rightly stated that these technologies would revolutionise warfare, but the Government have not yet explained how legal frameworks and support for personnel engaged in operations will also change—because change they must.

6.15 pm

The noble and gallant Lord, Lord Houghton of Richmond, has, in interventions in your Lordships' House, warned about the risks posed by the intersection of artificial intelligence and human judgment, and has spoken wisely about the risks posed by technology interacting with human error. As military equipment gets upgraded, we do not know how the Government plan to upgrade legal frameworks for warfare, both on the domestic and the international level, what this will mean for legal protection for our troops, and where accountability will lie if mistakes are made. There is nothing in the Bill that reflects the forward-facing nature of the integrated review.

I am sure the Minister will have been briefed on the provisions of Article 36 of Protocol 1, additional to the 1949 Geneva conventions, which commits states to ensure the legality of all new weapons, means and methods of warfare by subjecting them to rigorous and multidisciplinary review. Unfortunately, as we, the United Kingdom, are not one of the eight nations in the world that publish their review of legal compatibility, and I have not been able to source a copy of such a review, I am unable to see just how up-to-date that process presently is. I have no doubt that we have complied with our legal obligations in that respect, and if they are tendered today, I will accept the Minister's reassurances in that regard. If she is unable to comment, will she commit to write about this?

It is right that we tackle vexatious claims and improve investigations, but what happens when claims focus on personnel who were operating drones? The Government have said that they have no plans to develop fully autonomous weapons, but what if claims target the chain of command in charge of them? There remain many unanswered questions which could result in legal jeopardy for our troops. My assessment is that our engagement in future international conflict is more likely to involve military operatives of new technology than it is boots on the ground.

The seminal report of the Committee on Artificial Intelligence—ably chaired by the noble Lord, Lord Clement-Jones—expressed this concern:

"The Government's definition of an autonomous system used by the military as one where it 'is capable of understanding higher-level intent and direction' is clearly out of step with the definitions used by most other governments."

The committee recommended that

"the UK's definition of autonomous weapons should be realigned to be the same, or similar, as that used by the rest of the world",

but that has not happened. That, of course, generates serious questions, not only about interoperability but about the implications for the responsibilities of our troops when they are deployed in a multinational context. My expectation is that the noble Lord, Lord Clement-Jones, will expand on this aspect.

The UN chief, António Guterres, argues:

"Autonomous machines with the power and discretion to select targets and take lives without human involvement are politically unacceptable, morally repugnant and should be prohibited by international law."

Does the Minister agree? If not, why not?

The final report of the US National Security Commission on Artificial Intelligence, helpfully published on 1 March, states:

"The U.S. commitment to IHL"—

international humanitarian law—

"is long-standing, and AI-enabled and autonomous weapon systems will not change this commitment."

Do the Government believe the same?

In its consideration of autonomous weapons systems and risks associated with AI-enabled warfare, the commission came to several judgments and recommendations. I shall refer to only three of them. In its first judgment, it says:

"Provided their use is authorized by a human commander or operator, properly designed and tested AI-enabled and autonomous weapon systems have been and can continue to be used in ways which are consistent with IHL"—

international humanitarian law. Have the Government reached the same judgment and, if so, are they willing to share their reasoning with Parliament? Publication of the current Article 36 review of legal compatibility,

as the US does, would be a good first step. Is the Minister willing to at least consider doing so, and if not, why not?

Secondly, the commission concluded:

"Existing DoD procedures are capable of ensuring that the United States will field safe and reliable AI-enabled and autonomous weapon systems and use them in a manner that is consistent with IHL."

Is the noble Baroness in a position to share a similar judgment in respect of MoD procedures and to explain why she has reached it?

Finally, among the commission's recommendations was that the US

"Work with allies to develop international standards of practice for the development, testing, and use of AI-enabled and autonomous weapon systems."

In the event that such an invitation is extended to the UK by the US, would the Government welcome it and participate in such a discussion?

We should not underestimate that drone operators face a worryingly high chance of developing post-traumatic stress disorder. In 2015, Reaper squadron boss Wing Commander Damian Killeen told the BBC that staff operating drone aircraft in Iraq and Syria may be at greater risk of mental trauma. Does the Minister recognise this effect of machines on their operators, despite the fact that they may be physically far away from the action? The Government have said that they want the Bill to protect service personnel from repeated investigations and vexatious claims. Do service personnel who operate UAVs not deserve to be protected, and will they be by this legislation?

No legislation designed to deliver on an overall policy intention to reassure our service personnel in the event that they are deployed overseas can deliver on that intention in this part of the 21st century without engaging the issues which this amendment addresses. Without this or a similar amendment, I fear that this legislation will be out of date as soon as it receives Royal Assent. I beg to move.

Lord Clement-Jones (LD) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Browne of Ladyton, in supporting his Amendment 32, which he introduced so persuasively and expertly. A few years ago, I chaired the House of Lords Select Committee on AI, which considered the economic, ethical and social implications of advances in artificial intelligence. In our report published in April 2018, entitled *AI in the UK: Ready, Willing and Able?*, we addressed the issue of military use of AI and stated:

"Perhaps the most emotive and high-stakes area of AI development today is its use for military purposes",

recommending that this area merited a "full inquiry" on its own. As the noble Lord, Lord Browne of Ladyton, made plain, regrettably, it seems not yet to have attracted such an inquiry or even any serious examination. I am therefore extremely grateful to the noble Lord for creating the opportunity to follow up on some of the issues we raised in connection with the deployment of AI and some of the challenges we outlined. It is also a privilege to be a co-signatory with the noble and gallant Lord, Lord Houghton, who too has thought so carefully about issues involving the human interface with technology.

The broad context, as the noble Lord, Lord Browne, has said, is the unknowns and uncertainties in policy, legal and regulatory terms that new technology in military use can generate. His concerns about complications and the personal liabilities to which it exposes deployed forces are widely shared by those who understand the capabilities of new technology. That is all the more so in a multilateral context where other countries may be using technologies that we would either not deploy or the use of which could create potential vulnerabilities for our troops.

Looking back to our report, one of the things that concerned us more than anything else was the grey area surrounding the definition of lethal autonomous weapon systems—LAWS. As the noble Lord, Lord Browne, set out, when the committee explored the issue, we discovered that the UK's then definition, which included the phrase

"An autonomous system is capable of understanding higher-level intent and direction",

was clearly out of step with the definitions used by most other Governments and imposed a much higher threshold on what might be considered autonomous. This allowed the Government to say:

"the UK does not possess fully autonomous weapon systems and has no intention of developing them. Such systems are not yet in existence and are not likely to be for many years, if at all."

Our committee concluded that, in practice,

"this lack of semantic clarity could lead the UK towards an ill-considered drift into increasingly autonomous weaponry."

This was particularly in light of the fact that, at the UN Convention on Certain Conventional Weapons group of governmental experts in 2017, the UK opposed the proposed international ban on the development and use of autonomous weapons. We therefore recommended that the UK's definition of autonomous weapons should be realigned to be the same or similar with that being used by the rest of the world. The Government, in their response to the report of the committee in June 2018, replied that:

"The Ministry of Defence has no plans to change the definition of an autonomous system."

They did say, however,

"The UK will continue to actively participate in future GGE meetings, trying to reach agreement at the earliest possible stage."

Later, thanks to the Liaison Committee, we were able on two occasions last year to follow up on progress in this area. On the first occasion, in reply to the Liaison Committee letter of last January which asked,

"What discussions have the Government had with international partners about the definition of an autonomous weapons system, and what representations have they received about the issues presented with their current definition?"

The Government replied:

"There is no international agreement on the definition or characteristics of autonomous weapons systems. Her Majesty's Government has received some representations on this subject from Parliamentarians".

They went on to say:

"The GGE is yet to achieve consensus on an internationally accepted definition and there is therefore no common standard against which to align. As such, the UK does not intend to change its definition."

[Lord Clement-Jones]

So, no change there until later in the year in December 2020, when the Prime Minister announced the creation of the autonomy development centre to,

"accelerate the research, development, testing, integration and deployment of world-leading AI,"

and the development of autonomous systems.

In our follow-up report, *AI in the UK: No Room for Complacency*, which was published in the same month, we concluded:

"We believe that the work of the Autonomy Development Centre will be inhibited by the failure to align the UK's definition of autonomous weapons with international partners: doing so must be a first priority for the Centre once established."

The response to this last month was a complete about-turn by the Government, who said:

"We agree that the UK must be able to participate in international debates on autonomous weapons, taking an active role as moral and ethical leader on the global stage, and we further agree the importance of ensuring that official definitions do not undermine our arguments or diverge from our allies."

They go on to say:

"the MOD has subscribed to a number of definitions of autonomous systems, principally to distinguish them from unmanned or automated systems, and not specifically as the foundation for an ethical framework. On this aspect, we are aligned with our key allies. Most recently, the UK accepted NATO's latest definitions of 'autonomous' and 'autonomy', which are now in working use within the Alliance. The Committee should note that these definitions refer to broad categories of autonomous systems, and not specifically to LAWS. To assist the Committee we have provided a table setting out UK and some international definitions of key terms."

6.30 pm

The NATO definition sets a much less high bar for what is considered autonomous, which is a

"system that decides and acts to accomplish desired goals, within defined parameters, based on acquired knowledge and an evolving situational awareness, following an optimal but potentially unpredictable course of action."

The Government went on to say:

"The MOD is preparing to publish a new Defence AI Strategy and will continue to review definitions as part of ongoing policy development in this area."

I apologise for taking noble Lords at length through this exchange of recommendation and response but, if nothing else, it demonstrates the terrier-like quality of Lords Select Committees in getting positive responses from government. This latest response is extremely welcome. In the context of the amendment from the noble Lord, Lord Browne, and the issues that we have raised, we need to ask a number of further questions. What are the consequences of the MoD's thinking? What is the defence AI strategy designed to achieve? Does it include the kind of inquiry that our Select Committee was asking for? Now that we subscribe to the common NATO definition of LAWS, will it deal specifically with the liability and international and domestic legal and ethical framework issues which are central to this amendment? If not, a review of the type envisaged by this amendment is essential.

The final report of the US National Security Commission on Artificial Intelligence, referred to by the noble Lord, Lord Browne, has taken a comprehensive approach to the issues involved. He has quoted three very important conclusions and asked whether the Government agree in respect of our own autonomous weapons. Three further crucial recommendations were made by the commission:

"The United States must work closely with its allies to develop standards of practice regarding how states should responsibly develop, test, and employ AI-enabled and autonomous weapon systems",

and the

"United States should actively pursue the development of technologies and strategies that could enable effective and secure verification of future arms control agreements involving uses of AI technologies."

Finally, of particular importance in this context,

"countries must take actions which focus on reducing risks associated with AI-enabled and autonomous weapon systems and encourage safety and compliance with IHL when discussing their development, deployment, and use".

Will the defence AI strategy or indeed the integrated review undertake as wide an inquiry, and would it come to the same or similar conclusions?

The MoD seems to have moved some way towards getting to grips with the implications of autonomous weapons in the last three years but, if it has not yet considered the issues set out in the amendment, it clearly should as soon as possible update the legal frameworks for warfare in the light of the new technology, or our service personnel will be at considerable legal risk. I hope it will move further in response to today's short debate.

Baroness Chakrabarti (Lab) [V]: My Lords, I can only commend my noble friend Lord Browne of Ladyton and the noble Lord, Lord Clement-Jones, on two of the most powerful, if terrifying, contributions to this Bill's proceedings so far. In particular, I shall be having nightmares about their projections for the potential dissonance between varying international approaches to the definition of autonomous weapons and the way in which their deployment and development matches, or does not match, traditional approaches to humanitarian law.

Regarding the Bill, my noble friend has a very good point. He makes a specific observation about the fact that a drone operator in the UK will suffer many of the traumas and risks of a traditional soldier in the field but, on the face of it, that is not covered by this legislation at all. I look forward to the Minister's response to that in particular, but also to the broader questions of risk—not just legal risk in a defensive way to our personnel but ethical and moral risk to all of us. In this area of life, like every other, the technology moves apace, but the law, politics, transparency, public discourse and even ethics seem to be a few paces behind.

Lord Houghton of Richmond (CB) [V]: My Lords, I am delighted to follow on from the noble Baroness, Lady Chakrabarti, who always seems to be a great source of common sense on complex moral issues. I am similarly delighted to support the amendment in the name of my one-time boss, the noble Lord, Lord Browne of Ladyton. I will not seek to repeat his arguments as to why this amendment is important, but rather to complement his very strong justification with my own specific thoughts and nuances.

I will start with some general comments on the Bill, as this is my only contribution at this stage. At Second Reading I made my own views on this Bill quite clear. I felt that it missed the main issues regarding the challenges of Lawfare. Specifically, I felt that the

better route to reducing the problem of vexatious claims was not through resort to legal exceptionalism, but rather rested on a series of more practical measures relating to such things as investigative capacity, quality and speed; better training; improved operational record keeping; more focused leadership, especially in the critical area of command oversight; and a greater duty of care by the chain of command. On this latter, I wholly support the amendment of my noble friend Lord Dannatt.

Having listened to the arguments deployed in Committee, I am struck by the seeming inability of even this sophisticated Chamber to reach a common view as to whether the many provisions of this Bill offer enhanced protections or increased perils for our servicemen and women. This causes me grave concern. How much more likely is it that our servicemen and women—those whose primary desire is to operate within the law—will be confused; and how much more likely is it that are our enemies—those who want to exploit the law for mischief—will be encouraged?

I hold to the view that the law, in any formulation, cannot be fashioned into a weapon of decisive advantage in our bid to rid our people of vexatious claims. Rather, the law will increasingly be exploited by our enemies as a vector of attack, both to frustrate our ability to use appropriate force and to find novel ways of accusing our servicemen and women of committing illegal acts. The solution to this problem is a mixture of functional palliatives and better legal preparedness. This amendment addresses one element of this preparedness.

As we have already heard, one area of new legal challenge will undoubtedly be in the realm of novel technologies, particularly those which employ both artificial intelligence and machine learning to give bounded autonomy to unmanned platforms, which in turn have the ability to employ lethal force. We are currently awaiting the imminent outcome of the integrated review, and we understand that a defence command paper will herald a new era of technological investment and advancement: one that will enable a significant reduction in manned platforms as technology permits elements of conflict to be subordinated to intelligent drones and armed autonomous platforms.

However—and this is the basic argument for this amendment—the personal liability for action in conflict to be legal will not cease, although it may become considerably more opaque. We must therefore ask whether we have yet assessed the moral, legal, ethical and alliance framework and protocols within which these new systems will operate. Have we yet considered and agreed the command and control relationships, authorities and delegations on which will rest the legal accountability for much new operational activity?

Personally, I have a separate and deep-seated concern that a fascination with what is technically feasible is being deployed by the Government, consciously or unconsciously, primarily as the latest alchemy by which defence can be made affordable. It is being deployed without properly understanding whether its true utility will survive the moral and legal context in which it will have to operate. I therefore offer my full support to this amendment, in the hope that it will assist us in getting ahead of the problem. The alternative is suddenly waking up to the fact that we have created Armed Forces that are both exquisite and unusable in equal measure.

Lord Tunnicliffe (Lab) [V]: My Lords, I thank my noble friend Lord Browne, the noble Lord, Lord Clement-Jones, and the noble and gallant Lord, Lord Houghton, for bringing forward this important amendment and debate. I understand my noble friend Lord Browne's concerns about the mismatch between the future-focused integrated review, which has had long delays but will be hopefully published next week, and the legislation we have in front of us.

Technology is not only changing the kinds of threats we face but changing warfare and overseas operations in general. In Committee in the other place, Clive Baldwin of Human Rights Watch neatly summed this up by suggesting that

"we are seeing a breakdown in what is the beginning and the end of an armed conflict, what is the battlefield and what decisions are made in which country … The artificial distinction of an overseas operation with a clear beginning, a clear theatre and a clear end is one that is very much breaking down."—[*Official Report*, Commons, Overseas Operations (Service Personnel and Veterans) Bill Committee, 6/10/20; col. 67.]

How is this reflected in the Bill?

When the Prime Minister gave his speech on the integrated review last year, he rightly said that "technologies …will revolutionise warfare" and announced a new centre dedicated to AI and an RAF fighter system that will harness AI and drone technology. This sounds impressive but, as my noble friend Lord Browne said, as military equipment gets upgraded, we do not know how the Government plan to upgrade legal frameworks for warfare and what this means in terms of legal protection for our troops.

We must absolutely tackle vexatious claims and stop the cycle of reinvestigations, but how will claims against drone operators or personnel operating new technology be handled? Do those service personnel who operate UAVs not deserve to be protected? And how will legal jeopardy for our troops be avoided?

As new technology develops, so too must our domestic and international frameworks. The final report of the US National Security Commission on Artificial Intelligence stated that the US commitment to international humanitarian law

"is longstanding, and AI-enabled and autonomous weapon systems will not change this commitment."

Do the Government believe the same?

I would also like to highlight the serious impact on troops who might not be overseas, but who are operating drones abroad. A former drone pilot told the *Daily Mirror*:

"The days are long and hard and can be mentally exhausting. And although UAV pilots are detached from the real battle, it can still be traumatic, especially if you are conducting after-action surveillance."

The RUSI research fellow Justin Bronk also said that, as drone operators switched daily between potentially lethal operations and family life, this could be extremely draining and psychologically taxing. What mental health and pastoral support is given to these troops currently? Drone operators may not be physically overseas, but

[Lord Tunnicliffe]
they are very much taking part in overseas operations. With unmanned warfare more common in future conflicts, I would argue that failing to include those operations in the Bill may cause service personnel issues down the line.

I would like to hear from the Minister how this legislation will keep up to date with how overseas operations operate, and whether she is supportive of a review along the lines of Amendment 32—and, if not, why not?

Baroness Goldie (Con): My Lords, first, I thank the noble Lord, Lord Browne of Ladyton, for tabling this amendment, which is fascinating and raises substantial issues. One only had to listen to the informed but very different contributions from the noble Lord himself, the noble Lord, Lord Clement-Jones, and the noble Baroness, Lady Chakrabarti, then to a different perspective from the noble and gallant Lord, Lord Houghton of Richmond, and, finally, the noble Lord, Lord Tunnicliffe, to get a flavour of both the depth and the technical complexity of these issues.

There is no doubt that the increasing adoption of new and innovative technologies on the battlefield is changing how military operations are conducted. Gone are the three domains; we are now in the five domains. Military effects can now be delivered in cyberspace, and precision weapons systems can now be operated remotely from the UK and from third countries. I appreciate that the noble Lord, Lord Browne of Ladyton, is motivated by a genuine interest in these new technologies, how they influence military operations and the implications for our Armed Forces personnel involved in overseas operations—and that is an important question to ask.

6.45 pm

However, I suggest to the noble Lord that it is not within the remit of the Bill to consider the effect that developing technologies might have on the future international and domestic legal frameworks of the battlefield. At this early stage I am perhaps going to give him a slightly disappointing response: I am not persuaded that it would be appropriate to insert a prescriptive provision for such matters into the Bill. I know he is slightly pessimistic about the fortunes of the Bill without that added dimension, but I am not sure that I share his pessimism. I assure your Lordships that emerging technologies are subject to a rigorous review process for compliance with the law of armed conflict, and we adjust our operating procedures to ensure that we stay within the boundaries of the law that applies at the time.

The noble Lords, Lord Browne and Lord Clement-Jones, had a wide range of complex questions covering many diverse issues on which—I am being quite frank—I do not have information, so I cannot respond to them from the Dispatch Box. However, I found their points compelling, and I offer to write to them.

We invest consistently in research and development through NATO. The UK is a world leader in innovation in areas of new capability like cyber and, if I may say so, in our response to new world threats such as climate change. Because we place NATO at the heart of our defence, we set interoperability at the core of our developments. We very much do this in tandem and in partnership.

Having said all that, I am aware of the expertise that the noble Lord, Lord Browne of Ladyton, has in these technologies and new domains, conjoined, importantly, with his legal background. I should very much welcome a meeting with him in order to be further briefed on how he sees their potential impact on Armed Forces personnel and the law of armed conflict, and to hear his thoughts on the nature of that important component of engagement with international institutions. That is an invitation I extend to him with sincerity and in good faith, and I very much hope, in light of that overture, that he is persuaded to withdraw his amendment.

Lord Browne of Ladyton (Lab) [V]: My Lords, I thank the Minister, for whom I have as much respect and regard as anyone else in this debate. She has been showered with this compliment throughout the whole course of this Committee—quite rightly, in my view. I welcome her invitation to a meeting as much as I welcome the undertaking she has given to write to answer the many questions that have been posed to her. I look forward to all of that information.

I say at the outset that whether it is appropriate for this Bill to contain a provision of this nature should be tested against the proxy question I asked, which is whether a UAV operator in this country controlling a UAV or a drone over another country in an overseas operation is covered by the provisions of this Bill. If that cannot be answered in the affirmative, it is appropriate to do exactly what has been proposed in Amendment 32, if not in this fashion then somehow before this Bill becomes law, because we are asking and will continue to ask people to operate machinery in that way and we should not expose them to risks that others are not exposed to. This amendment seeks to future-proof this Bill. It expects the Government not to have all the answers now but to carry out a review of the implications of the increasing autonomy associated with AI and machine learning for legal proceedings against Armed Forces personnel arising from overseas operations.

I thank all noble Lords and noble and gallant Lords who spoke in this debate. I thank the noble Lord, Lord Clement-Jones, who has an enviable reputation, well deserved, for understanding one of the most difficult issues that face our country for the future, and in the security and military environment in particular; that is, artificial intelligence and autonomous weapon systems of machine learning. His contribution was full of rich information about the nature of the challenges we face, and I thank him for his support for this amendment.

I thank my noble friend Lady Chakrabarti for her support, and I am grateful that she suggested, or perhaps implied, that my interpretation of the Bill as it stands is probably correct. I am reinforced in my desire to see this through because of her support. The noble and gallant Lord, Lord Houghton of Richmond, in his own characteristic way, made a clear argument for engagement with these issues. He has a record of service to our country, an experience which has informed his advice to your Lordships' House. I would be interested

to explore further with him his conclusion that we may end up with forces that are exquisite and unusable in equal measure.

My noble friend Lord Tunnicliffe clearly understands this issue and shared with the Committee on a human level why this matter is important. In a sense, the test that he set for the Minister is a test that she has set herself: that this legislation must deliver on the Government's policy intention to reassure service personnel in the event they are deployed. It will not do so unless these issues are dealt with properly and openly, so that those whom we send on these operations and engage with understand our appreciation of the legal implications.

I will seek leave to withdraw this amendment, but I warn the Minister that it may come back again—maybe in a slightly different form—at the later stages of this Bill. I also warn her this is but a preface to an issue that will come back before the Government in this form and other forms—that is, debates in this House—because this is going to be the reality of our security and military operations of the future. I say as a caution to her that the committee report that both I and the noble Lord, Lord Clement-Jones, referred to is almost 800 pages long. This is a complicated and difficult subject. I beg leave to withdraw the amendment.

Amendment 32 withdrawn.

Amendment 33 not moved.

The Deputy Chairman of Committees (Baroness Henig) (Lab): We now come to the group beginning with Amendment 34. Anyone wishing to press this, or anything else in this group, to a Division must make that clear in debate.

Clause 13: Power to make consequential provision

Amendment 34

Moved by ***Lord Craig of Radley***

34: Clause 13, page 8, line 36, at end insert—

"( ) In particular, regulations may amend the Armed Forces Act 2006 for the purpose of consolidating the provisions of Part 1 and this section in that Act."

Lord Craig of Radley (CB) [V]: My Lords, I will speak to Amendment 34. The noble and gallant Lord, Lord Boyce, is a co-signatory and supporter of this amendment, but he had a clinical appointment that could not be changed.

What is immediately striking about the Bill is that it is an amending Bill to others for limitations and for the Human Rights Act, but it does not attempt to amend the overarching Armed Forces Act, though I believe that with a little ingenuity in drafting it could be done. In my amendment, I have suggested a post-enactment approach, because it would have been complicated to attempt to rewrite the first part of the Bill in a series of amendments. The reason for my approach is, of course, to bring all legislative matters of direct import for, and impact on, Her Majesty's Armed Forces under the cover of the Armed Forces Act.

I have been advocating this approach for many years, going back to the problems that have arisen of conflicting legislation for the Armed Forces in their Acts and the Human Rights Act 1998. When that was being debated, I urged, without success, that human rights matters that the Armed Forces must follow were spelled out in their own legislation. Subsequently, I ensured that the Armed Forces covenant received its own part in the Armed Forces Act. Other legislation of direct impact on the Armed Forces and their discipline has been incorporated, in addition to the melding together of the three single-service discipline Acts into the current Armed Forces Act 2006.

As the services get smaller and are liable to be engaged in operations, their legislation under the umbrella of one Act not only makes for tidier legislation but enables those who have to live under and operate the laws that govern the Armed Forces, and to produce manuals of service law to guide individual commanders, to have a much easier task. Certainly for the particular topic of overseas operations, there is a cast-iron case for the relevant content of this Bill to be part of the Armed Forces Act 2006, just as the clauses on limitations and human rights are transcribed to the appropriate Acts.

This a probing amendment, but I am hoping for an acknowledgment of the benefit that this would bring. I beg to move.

Lord Lancaster of Kimbolton (Con): My Lords, I remind the Committee of course of my interests and say what a pleasure it is to follow the noble and gallant Lord, Lord Craig of Radley. He makes a very important point, which is tied to some of the points I am making, about how there has been, at times, an inconsistency in the way that we have dealt with defence matters through a series of different Acts. He made the powerful point that potentially it would help if we were to bring them together into a single Act.

I will speak to the very simple amendment in my name, which seeks to extend the territorial application of the Bill to include the Crown dependencies and overseas territories. In much the same vein as the amendment in the name of the noble and gallant Lord, Lord Craig, this would align the Bill with the Armed Forces Act, which this Bill references throughout. The Bill currently applies to a member of the regular or reserve forces, or a member of a British Overseas Territory force, as defined by Section 369(2) of the Armed Forces Act 2006, but it does not extend to the territories themselves. This creates ambiguity in its application and my amendment seeks to remove this. I am grateful to my noble friend the Minister for writing to me since I tabled this amendment. Her letter, a copy of which she has placed in the Library, addresses some, but not all, of my concerns.

I will take a moment to explain why this inconsistency concerns me. It stems, frankly, from a mistake I made as the Minister responsible for taking the last update of the Armed Forces Act through Parliament in 2016. At the time, I questioned why the territorial extent of the Bill applied to all overseas territories and Crown dependencies with the exception of Gibraltar. I was told that Gibraltar wanted to pass its own mirroring legislation and that officials did not anticipate a problem.

7 pm

Gibraltar did not pass mirroring legislation, and just over a year later, in February 2017, the Royal Gibraltar Police arrested three senior military officers at Gibraltar Airport, including the station commander, in a stand-off over jurisdiction while the MoD was attempting to repatriate a member of the Armed Forces who was under investigation. The Royal Gibraltar Police also seized MoD computers. While Gibraltar has now passed legislation, albeit three years later, the reverberations over this very public spat continue to be felt and resented on both sides. This incident would have been avoided had the Armed Forces Act extended to Gibraltar along with other overseas territories.

Therefore, when I see in the letter to me from my noble friend in response to some of my concerns that her officials have written that

"in practice, we consider this situation unlikely to arise"—

words very similar to those said to me five years ago—she will understand why I would urge caution. My noble friend's letter also says that overseas territories can choose to legislate themselves. Yes, they can, but capacity is at a premium, responsibility for defence is a retained power for the UK Government, and the precedent for this Parliament to legislate on behalf of overseas territories in defence matters is set with the Armed Forces Act. What, for example, is the position with the unique status of the sovereign base areas in Cyprus? Should they at least not be covered by the Bill?

My concern is that new overseas territory forces are being created. We have recently created both the Cayman regiment and the Turks and Caicos regiment, and with good reason, to try to offer greater national resilience and deliver humanitarian assistance and disaster relief in the region. Their establishment has been an undoubted success and I am unashamed in my desire to see members of those forces offered the same protection by the Bill as their UK counterparts.

My noble friend's letter makes clear that these forces are covered by the Act when serving alongside UK forces. However, what happens when, as is very much the intention, they are not; for example, when they offer mutual support to each other during hurricane season and are not serving alongside UK Armed Forces but another overseas territory force, or indeed if they are offering support to other nations in the region? Why in this situation should they not fall under the proposed provisions of the Bill?

Situations of civil unrest are also covered by the Bill. What would happen if a situation that occurred during Hurricane Irma in 2017 was repeated, when military support was considered—although in the end not used—to support police in controlling looting? If serving alongside UK forces, overseas territory forces would be covered by the Bill, but if serving on their own, they are not. How can that be right?

While very different in nature, albeit due to the same cause over the inconsistency of territorial application, in the press the incident in Gibraltar was blamed on it being a "grey area of the law". My amendment simply seeks to prevent ambiguity and ensure consistency in the Bill's application for all members of Her Majesty's Armed Forces.

Baroness Chakrabarti (Lab) [V]: Noble Lords will forgive me for not having discovered the letter to which the noble Lord, Lord Lancaster of Kimbolton, just referred. My only brief observation on his concerns is my own concern that the Bill relates to access to justice in the courts of the jurisdictions to which it extends. I ask only that perhaps the Minister might, in her reply, indicate the extent to which the jurisdictions to which the amendment refers—the overseas territories, the Channel Islands and the Isle of Man—have been consulted about their wishes with regard to these significant changes to the rule of law extending to their legal systems as well. As this is, I believe and hope, the last group today, I want to record my thanks to all noble Lords but to the Minister in particular for her patience and forbearance in the lengthy but important consideration of all these amendments.

Baroness Smith of Newnham (LD) [V]: My Lords, both these amendments are important but quite different. They come together as a final hurrah for the Committee stage of the Bill. Amendment 34, in the names of the noble and gallant Lords, Lord Craig of Radley and Lord Boyce, makes perfect sense as a tidying-up measure. As I understand it, we are expecting the next Armed Forces Bill after Prorogation, which would become the 2021 Armed Forces Act. I wonder whether the Minister could indicate whether that would be the time to bring together all relevant legislation on the Armed Forces. Assuming that the Bill that we are debating at the moment is passed—I hope, in a seriously amended form—it may be appropriate to put it within the purview of the 2021 Armed Forces Act.

Beyond that, I had initially thought that the British Overseas Territories, the Isle of Man and other places seemed slightly tangential. The noble Lord, Lord Lancaster, made it absolutely clear why that amendment is so important. On Monday evening, I was speaking to officer cadets at Sandhurst about the challenges of leadership in civilian life. I cited, from my time in local government, the dangers of being a new executive officeholder—equivalent to being a Minister—listening to what officials say. Saying "We consider this situation very unlikely to arise" is not something that a Minister or elected politician should necessarily listen to. I hope that the Minister listens to the noble Lord, Lord Lancaster, and considers this amendment carefully.

As the noble Baroness, Lady Chakrabarti, pointed out, this appears to be the last group of amendments in Committee. Like her, I thank the Minister, her noble and learned colleague on the Front Bench and other noble Lords for participating. I look forward to the next stages of the Bill.

Lord Tunnicliffe (Lab) [V]: My Lords, I do not know whether it was a sense of exhaustion but, until the noble and gallant Lord, Lord Craig, and the noble Lord, Lord Lancaster, set out what their amendments meant, I did not fully understand them. I understand them a little better now, and we will give them consideration. The noble Baroness, Lady Smith of Newnham, said that they may find a better home in the 2021 Armed Forces Act. The Minister may give an indication of whether that is sensible.

As this is the last group, I will use it to ask this of the Minister. She has committed to writing a positive library of letters; it would help if she could copy them electronically to all noble Lords who have taken part in Committee so that we can all share her wisdom. With that, I thank her and her colleagues, and all noble Lords, for making this a civilised and thoughtful debate over the last two days.

Baroness Goldie (Con): I thank your Lordships for your kind comments and the noble Lord, Lord Tunnicliffe, for his helpful and kind observation. Yes, I will undertake to distribute electronically any letters that have been copied to the Library. I am sorry if that was overlooked and it would have helped him and the noble Baroness, Lady Smith, to be aware of the correspondence that I have entered into.

The amendment of the noble and gallant Lord, Lord Craig of Radley, seeks to consolidate the provisions found in Part 1 of the Bill into the Armed Forces Act 2006. I quite accept that, while consolidation can have real and practical benefits for those who work with the law by making the statute book more accessible, there are many significant factors to consider before drawing together different legislation into a single Act.

One of the principle considerations has to be whether the law concerned is suitable for consolidation into a particular Act. The Armed Forces Act 2006 established a single system of service law that applies to the personnel of all three services, wherever in the world they are operating. It covers matters such as offences, the powers of the service police and the jurisdiction and powers of commanding officers and the service courts, particularly the courts martial.

In contrast to the Armed Forces Act 2006, Part 1 of the Overseas Operations (Service Personnel and Veterans) Bill covers matters relating to the wider civilian criminal justice system and is about decisions made by territorial prosecutors. As we are all now aware, the intent of the Bill is to bring in measures to help reduce the uncertainty faced by our service personnel and veterans in relation to historic allegations and claims arising from overseas operations. For that reason, it is more appropriate to have it as a standalone Act; I feel that that makes clearer the issues to which it is directed and that it seeks to address.

I also observe that, as we are aware, the procedure for the Armed Forces Act is one of regular renewal: a quinquennial renewal by Parliament and, in the interim years, a renewal by a statutory instrument. A consolidation of Bills could make that renewal much more complex, and we have to be cognisant of the implications of that because the last thing that any of us wants is to obstruct or make more obtuse, in any sense, legislation that we believe in—I know that there is universal support for the Armed Forces Act, and I have always enjoyed the renewal debates. We want to make sure that we are keeping our issues clearly distinct and encompassed within appropriate statutes, so that there is a clear identification of what it is that these individual Acts are trying to do.

The noble and gallant Lord, Lord Craig of Radley, has been committed to this objective, and he has been very determined in bringing the matter before your Lordships' House. I hope that, by my explaining the genuine difficulties and challenges that I anticipate would accompany such consolidation, he will understand that there is more to this than meets the eye. In these circumstances, I trust that he would be prepared to withdraw his amendment.

I will move on to Amendment 35, in the name of my noble friend Lord Lancaster of Kimbolton. It seeks to extend the territorial extent of the Bill to the Isle of Man, the Channel Islands and overseas territories, thereby mirroring the territorial extent of the Armed Forces Act 2006. I know that this is a matter of some importance to my noble friend, and, as he indicated, I have written to him to respond to his concerns about the territorial extent of the Bill. However, I am grateful that he has tabled this amendment because it gives me the opportunity to address this issue with your Lordships.

I say to my noble friend and, in turn, reassure the noble Baronesses, Lady Chakrabarti and Lady Smith—whom I thank for their very kind comments; at this stage in the day, the Minister gets weary and such encouragement is very much appreciated—and all noble Lords that careful consideration has been given to the ways in which the Bill will impact on the British Overseas Territory forces. Some legal background might assist with this.

7.15 pm

It may help the Committee to know that it is Section 369 of the Armed Forces Act that provides that where British Overseas Territory forces personnel are serving with our Armed Forces, they will be subject to service law as set out in that Armed Forces Act—although the position is slightly different in respect of Gibraltar, as my noble friend Lord Lancaster has said. I am happy to confirm that the Bill does not change anything about how or to whom the Armed Forces Act 2006 currently applies.

In respect of its territorial extent, the Bill extends to England, Wales, Scotland and Northern Ireland. This is because it is intended to address concerns in relation to historical allegations facing UK Armed Forces personnel on overseas operations.

Part 1 of the Bill places obligations on the Service Prosecuting Authority and other UK prosecutors, and in all cases these prosecutors will be based in the UK. We did not think it appropriate to place obligations on prosecutors who are based in the British Overseas Territories. However, if a British Overseas Territory wishes to give protections equivalent to those in the Bill to their territory forces who deploy independently of our Armed Forces, they can of course legislate to do that under their own legislative powers.

The extent provisions in the Bill do not mirror the broader extent provisions in the Armed Forces Act 2006, and the Part 1 protections will not apply to prosecutors who consider criminal allegations made against British Overseas Territory forces personnel who deploy independently of UK Armed Forces. As I said, if they deploy with us they are protected. In that situation, where British Overseas Territory forces are deploying independently, these personnel will be subject to the civil and criminal law of their own overseas territory.

[Baroness Goldie]

We were clear that we felt that British Overseas Territory forces should receive the same protection under Part 1 as other members of the Armed Forces when they are serving together with UK Armed Forces, and subject to the same service law. The Bill achieves that aim.

I turn briefly to the definition of "overseas operation", and the concern that there could be an inconsistency between UK Armed Forces and British Overseas Territory forces in relation to overseas operations. British Overseas Territory forces deployed in support of a UK Armed Forces operation that meets the definition in Clause 1(6), but in an operation within their own home territory, would be within the scope of Part 1, as the operation would be considered to be "overseas".

In contrast, UK forces serving in their home territory —within the UK—are not covered by the measures in the Bill. That is, of course, because the Bill is aimed at UK Armed Forces on operations outside the British islands. Likewise, in the unlikely situation that British Overseas Territory forces deployed alongside UK forces operating in the UK, they would not be covered by the provisions of the Bill either.

We felt that it was important to ensure that, when there are joint UK Armed Forces and British Overseas Territory forces operations outside the British Isles, all personnel would be covered in the same way by the Part 1 measures in the event of allegations of historical offences on these operations—although in practice we consider any allegations of this nature unlikely to arise. I hope that, with the benefit of that slightly fuller explanation, my noble friend will not press his amendment.

Lord Craig of Radley (CB) [V]: My Lords, I thank the noble Lord, Lord Lancaster, the noble Baroness, Lady Smith of Newnham, and the noble Lord, Lord Tunnicliffe, for their support for my probing amendment. At the close of two heavy days in Committee, this is not of prime importance in the spread of amendments, but the Bill does offer an opportunity to press for this as a default approach to legislation for the Armed Forces.

I also thank the Minister and will look very closely at what she said in defence of the current arrangements. She raised one point which could be argued both ways when she referred to the fact that the Armed Forces Act has a quinquennial review. It seems to me that these overseas operations would very much benefit from some form of review. Several amendments in the course of the last two days have suggested a review process for this Bill, however it eventually turns into legislation.

I conclude by thanking the Minister again for her considered approach, which I will study very closely. In the meantime, I beg leave to withdraw the amendment.

Amendment 34 withdrawn.

Clauses 13 agreed.

Clause 14 agreed.

Amendment 35 not moved.

Clauses 15 and 16 agreed.

Schedule 1: Excluded offences for the purposes of section 6

Amendments 36 to 45 not moved.

Schedule 1 agreed.

Schedule 2: Limitation periods: England and Wales

Amendments 46 to 56 not moved.

Schedule 2 agreed.

Schedule 3: Limitation periods: Scotland

Amendments 57 to 62 not moved.

Schedule 3 agreed.

Schedule 4: Limitation periods: Northern Ireland

Amendments 63 to 69 not moved.

Schedule 4 agreed.

House resumed.

Bill reported without amendment.

Supply and Appropriation (Anticipation and Adjustments) (No. 2) Bill

First Reading

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

Contingencies Fund (No. 2) Bill

First Reading

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

House adjourned at 7.22 pm.

Grand Committee

Thursday 11 March 2021

The Grand Committee met in a hybrid proceeding.

Arrangement of Business

Announcement

2.30 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person, respecting social distancing, others are participating remotely, but all Members will be treated equally. I must ask Members in the Room to wear a face covering except when seated at their desk, to speak sitting down, and to wipe down their desk, chair, and any other touch points before and after use. If the capacity of the Committee Room is exceeded, or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes.

International Women's Day

Motion to Take Note

2.30 pm

Moved by ***Baroness Scott of Bybrook***

That the Grand Committee takes note of International Women's Day and the United Kingdom's role in empowering women in the recovery from the impact of the COVID-19 pandemic.

Baroness Scott of Bybrook (Con): My Lords, it is an honour to open this debate on behalf of my noble friend Lady Berridge, but I begin by saying that my thoughts and prayers are with the family and loved ones of Sarah Everard at this very difficult time for them. As the Home Secretary said today,

"every woman should feel safe to walk our streets without fear of harassment or violence."

This Government have committed to protecting women and girls.

It is 110 years since the first International Women's Day was marked. I am sure that today we will hear many inspiring examples of women who have advocated for gender equality. I thank particularly the many women working tirelessly in the response to Covid-19 around the world. Covid-19 is the biggest challenge that the UK has faced in decades, and everyone across the country has been hit by its impact. We know that much of the extra pressure of balancing work with childcare and home schooling has fallen on women, and we are working to ensure that opportunities such as the increase in flexible working open up new possibilities as we move forward. Women have been at the forefront of the fight against the virus, and we will ensure that they are at the centre of the Covid-19 recovery as we build back better.

Throughout Covid-19, the Government have worked hard to provide a comprehensive package of support to protect businesses and individuals during this unprecedented time. Across almost all areas of economic policy, we are providing comparable or even greater support than all our international peers. The Coronavirus Job Retention Scheme has been extended until the end of September 2021 for all parts of the UK, and the Government have provided generous support to the self-employed during the Covid-19 pandemic through the Self-employment Income Support Scheme.

As I noted, we recognise that this has been a challenging time for parents balancing work, childcare and remote learning. We continue to support families with their childcare costs, and we have set out to spend more than £3.6 billion on early years entitlements in 2020-21. Furthermore, last November the Chancellor announced a £44 million investment in 2021-22 for local authorities to increase hourly rates paid to childcare providers. We have taken action to align key tax-free childcare and 30 hours' free childcare entitlements with government coronavirus job support schemes, ensuring that parents receiving support through these vital schemes remain eligible for support with childcare costs, even if their income falls below the normal minimum limit.

We have also supported disadvantaged children and young people. The Government are investing over £400 million to support access to remote education and online social care, including securing 1.3 million laptops and tablets. As of 7 March, 1.2 million laptops and tablets have been delivered to schools, trusts, local authorities and further education providers.

We also recognise the hard work of carers, who are continuing their caring responsibilities during these challenging times. We acknowledge that women deliver a greater share of caring in our society. Carer's allowance is available to provide a measure of financial support and recognition for people who give up the opportunity of full-time employment to provide regular, substantial care for severely disabled people. We have also introduced two important measures until May 2021 to help unpaid carers through the pandemic. The first is the ability to continue to claim carer's allowance if they have a temporary break in caring because they or the person they care for gets coronavirus, or if either has to isolate because of it. The second is clarification that providing emotional support to a person in need of care can also count towards the carer's allowance threshold of 35 hours of care a week.

Alongside support for parents, children and carers, the health of women and girls continues to be a priority. It is important to highlight that women have been at the forefront of the fight against the virus, whether that is working to keep people safe in the NHS or keeping the country provided for in the retail sector, with 77% of the NHS workforce and 82% of the social care workforce being female. Throughout the pandemic, women have been at the front line, ensuring that people stay safe and receive the care they need.

As for vaccines, overall, we have been encouraged by the Covid vaccine uptake, with, as of today, 22.8 million people in the UK having now received their first vaccination. We appreciate, however, that work still needs to be done to address the inequalities of take-up,

[Baroness Scott of Bybrook]
particularly with certain groups around race, religion and sex. As a result, we have developed the UK Covid-19 vaccine plan, which has four key factors to increase uptake: working in partnership; removing barriers; data and information; and, just as important, conversations and engagement.

Alongside this, we are working hard to support pregnant women in the workplace. Employers should regularly review their risk assessments for all pregnant workers and implement any controls needed to support employees. If the employer cannot put in place necessary controls identified by their risk assessment, they should ask the pregnant worker to remain at home on full pay, in line with the long-standing health and safety law. The Covid-19 outbreak has not changed the law on pregnancy and maternity discrimination, and there is no place for it under any circumstances.

We are also aware of the inequalities for women and babies from different ethnic backgrounds and socioeconomic groups. That is why, in September 2020, the Minister for Patient Safety, Suicide Prevention and Mental Health established the Maternity Inequalities Oversight Forum, bringing together experts from key stakeholders to address issues such as disparities in maternal mortality. The Race Disparity Unit has also met a number of stakeholders over the past few months, including academics, midwife practitioners from regional trusts and public health experts, to develop joint solutions to this issue.

On women's mental health, it is okay not to feel okay during this difficult time, and we will support everyone in getting the help they need. We encourage everyone to make use of the resources that are out there; for example, Every Mind Matters. The NHS has worked hard to keep mental health services open throughout the pandemic, using technology where needed, but also face-to-face appointments where appropriate. We have invested over £10 million in supporting national and local mental health charities to continue their vital work in supporting people across the country. The well-being and mental health support plan includes a commitment, backed by £50 million, to ensure good-quality discharge for mental health service users from in-patient settings. We also announced in the spending review that the NHS will receive around an additional £500 million next year to address waiting times for mental health services, giving more people the mental health support they need, and to invest in the NHS workforce.

As we look to build back better, we must consciously reflect how Covid-19 has presented an opportunity to reform and improve our approach to how work is organised and accessed. We must retain the positive cultural shifts around flexible working, including in workforces where it was previously unthinkable. As part of this, we want to see more employers offering measures such as flexible working and returners programmes, which we know can improve career prospects for both women and men.

Our behavioural insights research with Zurich, which made every job available on a flexible or part-time basis, showed a 16% rise in female applicants for all jobs and a 20% rise for senior roles. We will be building on that insight in our further work on women's economic empowerment. That includes supporting our female entrepreneurs. The Government have set an ambitious target of increasing the number of female entrepreneurs by half by 2030, equivalent to 600,000 new entrepreneurs. When we meet young women in schools around the country, we see aspirational, motivated and hard-working people driven to succeed.

The Government are committed to making the UK the best place for women to start and grow a business. That includes the launch of a new voluntary Investing in Women Code to increase the transparency of support given to female entrepreneurs and expose the gender gap in investment. The Future Fund has committed over £1 billion to supporting 1,055 high-growth companies across the country, of which 77 have mixed-gender management teams, compared with the Female Founders report, which found that only 10% of venture capital was going to mixed-gender teams in 2019. We are continuing to look at ways in which we can reach out to all aspiring female entrepreneurs across the country and provide the support and advice that they need to grow their business.

We are also ensuring that our trade policy addresses the barriers that women face in trading internationally. Central to our approach is co-operating with our trading partners to advance women's economic empowerment through our free trade agreements and beyond.

We know that there is much more to do to improve the lives of women and girls around the world. That is why we have committed to putting gender equality and fairness at the heart of our G7 presidency, driving progress on educating girls, empowering women and ending violence against women and girls. We will use the G7 presidency to unite leading democracies in helping the world to build back better from coronavirus to create a fairer, greener and more prosperous future for all.

We announced earlier this week that our presidency will also see us convening an independent gender equality advisory council to bring new voices to the heart of the G7 discussions. My honourable friend the Member for South West Norfolk will be the ministerial lead. We want to bring together individuals with diverse experiences and perspectives on gender equality, with a key theme for the council being "women fixing the world". The G7's continued global leadership on gender equality is integral to our values at home and is a global force for good. I look forward to the council ensuring that the core principles of freedom, choice, opportunity and individual humanity and dignity are integrated across our international agenda.

Through our COP 26 presidency we will champion inclusivity and amplify the voices of those who are most marginalised, and we will support a green, inclusive and resilient recovery. Our co-leadership on the Generation Equality Action Coalition on Gender-Based Violence will make clear that gender-based violence is both unacceptable and, crucially, preventable, and so we must act with urgency.

I will take a moment to highlight our 12 years of education commitment. Twelve years of quality education for girls around the world is one of the most transformational development interventions, and it is

a major priority for this Government. Between 2015 and 2020, the UK supported at least 15.6 million children in gaining a decent education, over half of whom were girls. We will use our G7 presidency this year to rally the international community to step up support for girls' education, and the UK, along with Kenya, will host the financing summit of the Global Partnership for Education in July.

I say again that I am proud to participate in today's debate with so many advocates of equality for women. I am proud to be part of this Government. It is an honour to play my part in the work that we are doing to build back better, fighting for equality for women both here in the UK and across the world.

2.45 pm

Baroness Gale (Lab) [V]: It is pleasure to follow the Minister who opened the debate, and I am sure that we all associate ourselves with her remarks regarding Sarah Everard. Our thoughts are with her and her family today.

As we mark International Women's Day, I believe it is crucial that we recognise the contribution of older women and do more to raise awareness of the challenges and issues they face in their daily lives.

The United Nations and the Commonwealth take these matters seriously. The Commonwealth charter commits its members to core principles of mutual respect and inclusiveness and is opposed to all forms of discrimination, including ageism. The United Nations is working towards a convention for older people as a means of strengthening older people's rights, showing how seriously it regards the matter.

Nearer home, I want to draw attention to the position in Wales, where, thanks to a Welsh Labour Government, we have had a commissioner for older people since 2008. This is a world first. The commissioner, Heléna Herklots, is independent of government and is a strong voice for older people; her voice has been crucial during the pandemic.

Older women make an enormous contribution to our economy as taxpayers, to our communities as volunteers, and to our families by providing much needed unpaid care and childcare, which often goes unheralded. Despite this contribution, many older women continue to live in poor health, in poverty or to experience abuse. In addition to facing discrimination on the basis of their age, many older women continue to face the sexism they have experienced throughout their lives.

Covid has exasperated this state of affairs. Thousands of older women experience abuse: a single or repeated act, or lack of appropriate action, which causes harm or distress. In 2018-19, over 25,000 incidents of suspected abuse or neglect were reported to local authorities in Wales, of which 52% related to people over the age of 65. This data suggests that older people experience higher levels of abuse than other groups.

It is essential that older women at risk of or experiencing abuse can access the support they need to ensure they are safe and protected. However, previous polling undertaken on behalf of the commissioner found that one in five older women would not know where to go to get support if they were being abused.

Lockdown has been a particularly difficult time for older people who experience abuse. The prevalence of abuse has probably increased during this period, as older women have been spending more time confined to their homes and have seen significant changes to their normal routines

I have drawn attention to how older people in Wales benefit from having a commissioner providing a strong, independent voice. Anyone who cares to look can see the advantages of that. Unfortunately, older people in England do not have such a voice. I have asked the Government what plans they have for appointing a commissioner for older people in England. I have been told there are no such plans, and it seems to me that they are not even thinking about it.

I ask the Minister today, as we celebrate International Women's Day, to do all in her power to inform the Government how beneficial a commissioner for older people would be. It would be such a support, especially for older women during this pandemic, and would empower them in the recovery from the impact of Covid-19.

2.49 pm

Baroness Benjamin (LD) [V]: My Lords, I welcome the opportunity to speak in this important International Women's Day debate, as it comes at a troubling time. I too spare a thought for Sarah Everard's family and their loss.

When we consider the impact of the pandemic on women, we must also consider the impact on children, because the experiences of children and their mothers are intertwined. As I always say: childhood lasts a lifetime. We women need to nurture and protect children, now more than ever. Yet many vulnerable women are being subjected to exploitation and domestic violence, or suffering from mental health problems which affect their children too. Will the Government create a Cabinet-level Minister for children, because this pandemic will come to define today's generation of children, just like the Second World War defined an earlier generation?

Even before the pandemic there was a crisis in our children's mental health. Last year, official figures from NHS England showed that one in six young people had mental health problems. Children have been out of school for many months, away from friends and family, and unable to play or take part in sports. Some children, especially those from black, Asian and minority communities, have suffered bereavement. Many have experienced their parents becoming increasingly anxious about finances, the virus, and balancing work and childcare.

Some 76% of Barnardo's front-line workers said that they were supporting families who needed to use food banks, community kitchens or welfare. As a vice-president of Barnardo's—here I declare an interest—I am proud that the charity, along with many others, has played a role in addressing these issues, distributing £350,000-worth of food packages, helping to pay families' electricity and gas bills, paying for laptops so that children can learn from home, plus providing well-being packs to help with mental health issues.

Another effect of the pandemic on children is the loss of learning and, in particular, the widening of the education gap for the most vulnerable. Home learning

[Baroness Benjamin]
is fine if you have your own room and your own computer, with parents who are able to help, but it is very different if you are sharing a room and have one smartphone among three siblings.

There is also a heightened risk of harm to children at home, both online and in the community. Many are trapped at home with adults who are abusive to them or to each other. With both children and predators spending more time online, more children are at risk of grooming or of being coerced into sharing naked images of themselves. On top of this, we have children not feeling safe at home and so hanging out on the streets, at the mercy of gangs looking to exploit them.

During the pandemic, Barnardo's led a Department for Education-funded programme called See, Hear, Respond. The programme worked with over 80 partners, including small and community-led charities, reaching over 65,000 vulnerable children and young people who do not qualify for statutory support. It carries out vital work: 60% of referrals relate to mental health issues and the focus is on helping children reintegrate into education, keeping them well and safe from gangs. So why have the Government decided not to fund the programme beyond the end of this month? It could play a vital role in helping vulnerable children to adapt back into school and stay safe from harm.

Covid has taken a huge toll on women and the children they love. It is absolutely vital that the Government put families at the heart of the recovery, which must include long-term funding for vital services. It should also mean working differently with partners, including charities, to use our combined resources more effectively to make sure that we deliver the support our communities need to thrive and bring optimism into people's lives.

2.54 pm

Baroness Jenkin of Kennington (Con): My Lords, on Sunday I received an email from a young friend to let me know that one of her closest friends from university was missing and asking whether there was anything I could do to help. Tragically, we now know what has happened to that friend and I cannot start my speech without acknowledging the agony that Sarah Everard's family and friends are experiencing today—and the fear so many more women are now experiencing as a result of this awful tragedy.

I made my maiden speech in the International Women's Day debate 10 years ago. The Chamber was a very different place—nerve-wracking—but some things do not change. I think I have spoken in every International Women's Day debate since then: often, depending on the electoral cycle, on women in Parliament; fairly regularly on the struggles faced by women in the developing world; always counting my blessings to have been born a free woman here in this wonderful, generous country.

However, this year's topic—empowering women in the recovery from the impact of the pandemic—takes me to a different focus. There is no question that women have had a disproportionately difficult time during the pandemic. Many of the household burdens have fallen more heavily on their shoulders, and more of them have lost jobs and taken on additional caring duties. On top of this, the pressures of home schooling have stretched many women to breaking point. The Library briefing for today's debate paints a gloomy picture. Yet women's natural resilience will play a valuable role when the bounce-back comes, as it surely will soon.

Many people's health, both mental and physical, has suffered over the last year, but I will focus my remarks on the particular health issues that women have suffered, largely in silence, for generations, in part because we have lived with a healthcare system designed by men, for men. Women across the country will be delighted by the first government-led health strategy for England, announced on Monday in the other place by the Health Minister. I also welcome plans for a new sexual and reproductive health strategy, to be announced later this year.

Despite women making up 51% of the population, we still know little and talk even less about some female-specific issues. The average woman's life cycle from birth, through puberty, childbearing and menopause, can include miserable health experiences. An end-to-end look will include, and this list is far from exhaustive: painful and heavy periods; premenstrual stress; cystitis; thrush; endometriosis, which can take up to eight years to diagnose; painful sex; and pregnancy-related and postnatal issues, including the fact that one in four pregnancies ends in miscarriage—crippling in pain and grief. Then there are the common female cancers such as breast, ovarian and cervical, and then the menopause.

Over 30 years ago, when I was pregnant and my own hormones were in turmoil, I ran a charity focusing on the menopause and research into HRT—such a blessing for so many women whose lives were blighted by the symptoms of the menopause. I was shocked to attend a meeting recently at which it became clear that the situation in terms of knowledge and support is no better today than it was then. The life cycle then moves on to osteoporosis, linked to oestrogen deficiency—a miserable broken-bones end to what can be a horrible life for so many women in terms of their health. This is about not just individual health but the cost to communities and to our economy, which will be so crucial as we move forward out of the pandemic.

The call for evidence for the health strategy, running until 30 May, is based around six core themes, which cut across different areas of women's health, and seeks to examine women's experiences of the whole health and care system, including mental health, disabilities and healthy ageing. I think this is a first in my lifetime. The form is easy to fill in. I urge women to do so and to benefit from this very welcome initiative.

2.58 pm

Baroness Coussins (CB) [V]: My Lords, I will focus on the international dimension of International Women's Day and talk about the work of the UK development agency Voluntary Service Overseas—VSO—and its work with women and girls in the context of the Covid pandemic. I declare my interest as a former volunteer for VSO's Parliamentary Volunteering programme, for which I completed a placement in Peru, working with women's organisations on domestic and sexual violence.

VSO has been working throughout the pandemic to reach marginalised women and girls, ensuring that they are not doubly disadvantaged by the effects of the pandemic and that they are at the centre of Covid response and recovery work. The pandemic has seen an increase in gender-based violence around the world. VSO's networks of community volunteers have been able to mobilise quickly to raise awareness of the rights of women and girls not to experience such violence, using social media platforms, which also help victims seek access to justice and support. This has led to increased rates of reporting, as well as helping to build their resilience so that they can contribute more broadly to post-Covid recovery.

But VSO faces an immediate, urgent problem, as its funding is now under threat from the aid cuts at the FCDO. Over the past four years, VSO has received a major volunteering for development grant to support work in global health, inclusive education and resilient livelihoods. The current phase ends on 31 March, so noble Lords will appreciate the urgency here. A renewed grant would allow VSO to continue and expand its work supporting girls' education, sexual and reproductive health rights and building inclusive global health systems, but despite its A+ rating, confirmation from the FCDO on future funding has not yet been forthcoming. This does not seem aligned with the repeated statements we frequently hear from Ministers in the Chamber that girls' education and combating gender-based violence are of the utmost priority in the FCDO.

VSO is a British institution, embodying the values of UK aid, and UK volunteers showcase the best of UK values. If the grant was not renewed it would mean in practice that the UK Government would, in effect, be closing down their support for international volunteering action, just at the time when volunteering has been shown to be an effective means of enabling highly contextualised local responses to complex global challenges, including the Covid-19 response and the delivery of the sustainable development goals. It would bring to a sudden and abrupt end a 60-year strategic partnership between VSO and the UK Government. Covid-19 response work in 18 countries would have to cease, closing up to 14 country programmes and making nearly 200 staff redundant.

Will the Minister undertake to look at the specific case of VSO's grant? More broadly, will she set out how the Government intend to support the UK volunteering for development sector in its work to empower women and girls to be part of the Covid recovery and response around the world?

3.02 pm

Baroness Armstrong of Hill Top (Lab) [V]: My Lords, I am really sorry for you all, but I will follow on from the noble Baroness, Lady Coussins. VSO changed my life. It gave me opportunities to learn about myself and the world, and to commit myself to a lifelong interest in the developing world and how we change things, particularly for girls and women. I went on VSO when I was 21 and spent two years in Kenya. I have subsequently done other things with VSO: I also did the parliamentary scheme in Tanzania in 2008 and I served in VSO's governance for over 10 years until a couple of years ago.

VSO is the primary development agency used by this Government for volunteering. It is the primary development agency for pushing volunteering around the world. I had the honour to be in Addis Ababa in Ethiopia for the signing of the first memorandum of understanding with the African Union two years ago. The African Union recognised the sustainable development goal on volunteering and saw, with so many young people in Africa without jobs and almost without opportunity, that volunteering was critical.

As the noble Baroness, Lady Coussins, said, despite the pandemic, VSO's work has continued on tackling Covid and those things that women and girls have been particularly susceptible to in recent months and years. There are some remarkable examples of the work it has done. I have talked to volunteers who were back from the ICS programme but still keeping in contact with people in the developing world, and to some of the national volunteers in those countries where VSO works. Those national volunteers were working in their own communities, reaching out to women and girls about gender-based violence, and reaching out to their local communities about what Covid really meant, trying to demystify all the myths that had grown up. We know about them here too.

The reality is that young national volunteers are transformed by their experience of being trained and supported by VSO to work in their local communities. I have met groups of women, mainly from east Africa, but also from other places in Africa, who are now absolutely determined to make a difference and to be leaders in their own communities and countries. The Government are in danger of throwing this away because they do not recognise the importance of making a decision quickly. This decision has been hanging on for more than a year; VSO was expecting to get approval in January 2020. Now the money will run out at the end of this month—and nothing. There is no commitment, just, "Oh, we don't want to close you down but we're not ready to take a decision."

VSO will go by default if the Government do not take a decision because it needs the money to do the work. That will have enormous consequences for people involved in the developing world who work on this, but also for Britain's reputation because VSO is, rightly, working with Governments around the Commonwealth: in Africa and India, Pakistan, Bangladesh and elsewhere, including Nepal. It is very well respected and loved there, and the Government are not ensuring its continuation. I suspect they will say, "We are not closing you down, we're just putting it on pause"—

Baroness Scott of Bybrook (Con): I remind the noble Baroness of the four-minute speaking time.

Baroness Armstrong of Hill Top (Lab) [V]: I am sorry I have gone on. It matters to me; I hope it matters to the Government because they are making a real problem for themselves but they could sort it.

3.07 pm

Lord Addington (LD): My Lords—or should I say "my Ladies and Lords" in this debate?—I feel a little like the forlorn hope on the outside here, being the

[Lord Addington]
first of the male of the species to speak. The subject that brings me to this debate is one which I have touched on over many years, and I remind the Committee of my interests. It is those with neurodiverse conditions. These start with dyslexia, which is the biggest group, but there is an impressive list to run down: attention deficit disorder, the various parts of the autism spectrum, dyscalculia, dyspraxia—the list goes on.

What has happened traditionally is that the diagnoses among males were far greater than among females. These were seen in the past to be male-dominated conditions. We now know that this is not true. Indeed, with dyslexia, we have touched a little barrier since we are now getting almost as many females diagnosed as males. The Government might take some pride from that but we should realise that we are still missing the vast majority, even while doing it in a gender-balanced way.

The real problem comes with the other conditions such as autism, dyscalculia and dyspraxia—try saying all of those without stumbling. Many of the conditions and the ways that people express them tend to be more prominent in males, especially when it comes to people who are higher functioning—the condition does not impair them quite so much. We think this is not because of the male or female brain but because that is taught behaviour.

Somebody with ADHD who is male tends to act out; they tend to be seen and will disrupt the classroom, where we would first hope to spot that. It has been said that a girl with this condition has been told, "You don't—you internalise it and keep things down." She may express the problem by doing things such as playing with her hair, or little tics such as constantly organising her desk. A boy with autism who puts a train set across the middle of his floor, where everybody can see it, in exactly the right order is obvious; a girl who brushes the hair of her dolls 100 times each and every night, obsessively, is not.

Again, the odd thing about it is that where the condition is milder and intervention can enable them to interact with society better is also where you miss it. This is because we are not training people to spot it, or spot it well enough; they wait until something comes out and shouts at them. It has been described to me as like someone saying "Pick out the equine quadrupeds" when you are trained only to recognise zebras: you only see the obvious.

I can go on about this issue at considerable length but I have only 40 seconds left—less now. I hope that the Government will pay attention to this. During lockdown, restrictions have been placed on education. There will be more, shall we say, misdiagnosis and a greater lack of awareness about this problem than there is now. I hope that the Government will take this on board and start to address it because it is vital, for these people to function in later life and avoid things such as mental health problems, for them to be spotted and told about the condition so that they can put coping strategies in place.

3.11 pm

Baroness Sugg (Con) [V]: My Lords, as we have heard, the Covid-19 pandemic, like all emergencies, has affected women and girls disproportionately. There are worrying signs that the hard-won gains on gender equality we have seen in recent years are being reversed. There has been a huge increase in the burden of unpaid care work. Across the world, millions of girls will not return to school, and we are witnessing a terrible rise in child marriage and gender-based violence. We are seeing this here in the UK and across the world. Today, I will focus my remarks on the UK's important role in empowering women internationally.

We have seen some good global news for the rights of women and girls in recent months, including the legalisation of abortion in Argentina and, in the US, the swift and welcome progress on sexual and reproductive health and rights. Sadly, however, this progress has not been universal. For example, Poland has seen the imposition of a near-total ban on abortion. We know that making abortion illegal does not reduce the number of abortions—it just makes them less safe. Can my noble friend the Minister tell me what representations the UK has made on this issue to the Polish Government, and what support our embassy in Poland has been giving to the people fighting for their basic right to have control over their own bodies?

The UK has been globally recognised as a development superpower and a strong champion for gender equality in all corners of the world. However, this work and reputation is at risk as the Government plan to cut their aid budget by 30%, breaking our manifesto and legal commitment. The amount being saved is less than 1% of what the Chancellor is rightly spending on the Covid-19 response, but these cuts will cause irrevocable harm to millions of the most marginalised women and girls in the world. Existing projects that have proven effective and excellent value for money face huge cuts or closure. These programmes provide access to life-changing contraception and invest in women's economic empowerment; we have heard powerful speeches from the noble Baronesses, Lady Coussins and Lady Armstrong, on the brilliant work of the VSO for women and girls. Unless it gets an answer soon, VSO could be a terrible victim of these cuts; surely the Government need to react urgently to this.

New initiatives, such as the expansion of the UK's globally recognised work that proves what ends violence against women, or a desperately needed new fund that would invest directly in women's rights organisations, may never start. I am pleased that education remains a priority but, unless we continue our investment in the broader policies around gender, we will not achieve the ambitious goals that the Government have set. Can my noble friend the Minister tell me whether any analysis has been made of the gendered impact of the aid cuts? At the very least, I hope that there has been proper consideration of the impact that these huge cuts will have on the lives of millions of women and girls.

I am pleased to hear the Government confirm their commitment to DfID's Strategic Vision for Gender Equality, and I warmly welcome the convening of the gender equality advisory council for the G7. We need a similar focus at COP 26. We must ensure that gender policy is at the centre of our efforts.

The rights and the futures of women and girls all around the world are under threat from the pandemic. The Government must seize the opportunity to be a

genuine force for good and a key part of the solution, rather than part of the problem. We must keep our promise to women and girls around the world.

3.15 pm

Baroness Deech (CB) [V]: My Lords, we have heard many complaints this week about the effect of the pandemic on women's potential. The men who have made the relevant decisions are likely to have non-working wives and nannies, and have been oblivious to the reality. However, there is also much to celebrate. There has been a surprising coming to the fore of women's skills in science and leadership, previously unseen but present. History may look back on this pandemic era as one that was a turning point for women.

If Captain Tom deserved a knighthood for his support for the NHS then Professor Sarah Gilbert, the Oxford vaccine pioneer, should be beatified. She took up her post in 1994, looking at the genetics of malaria, and became a professor at the Jenner Institute, researched flu, then Ebola, Middle East Respiratory Syndrome and now Covid. Her team is two-thirds female and she, a mother of triplets, is now working to understand the barriers to promotion to senior levels that women face at Oxford. I also congratulate Dr Jenny Harries, and Kate Bingham, who was responsible for the great vaccine procurement.

Then there is Özlem Türeci, co-founder of BioNTech, which produced the Pfizer vaccine. Women make up 54% of her total workforce and 45% of top management. She is reported as thinking that being a gender-balanced team has been critical to developing the vaccine so quickly. The WHO chief scientist is a woman, Soumya Swaminathan, and the senior vice-president at Pfizer is Kathrin Jansen, who also worked on an HPV vaccine. Time does not permit me to mention many others who have taken the lead, despite the fact that Covid restrictions have impinged on women's research and publication time. Happily in this past year more women have applied to take science, technology, engineering and maths courses. The number applying to higher education for health-related courses rose by 27%, mostly women, and it is the same for nursing.

Mostly, but not in every case, countries led by women have handled Covid better than those led by men: Jacinda Ardern in New Zealand, PM Jakobsdóttir in Iceland, Taiwan's President Tsai Ing-wen and Prime Minister Marin of Finland. Of course, this is not universal: we have the walking disaster of Ursula von der Leyen, and vaccine has been Mrs Merkel's nemesis. However, the typical female approach of caution, care for the elderly, empathy, appreciation of schooling and risk aversion have certainly proved winners for some. Those women are in countries that expect women to be independent and to have careers, which has to be contrasted with the default position in this country, especially in family law, that once a woman has found a partner she is exempt for ever more from supporting herself.

In the future we need to highlight how well women scientists have done and that the career is compatible with family life. We need to concentrate on how diseases may affect women differently from men, a topic explored in Criado Perez's book *Invisible Women*. We need affordable—ideally free—childcare to be at the top of the list. We must give women free rein, which historically they have been given only when there is a war and they are needed or can work at home. Covid is a war and women have won it.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): The noble Baroness, Lady Donaghy, has withdrawn, so I call the next speaker, the noble Baroness, Lady Jolly.

3.18 pm

Baroness Jolly (LD) [V]: I have a confession to make: until I came to this place I had never heard of International Women's Day, but I am now happy to celebrate it each year none the less. Our decisions are based on our experiences, and I want to discuss this issue from a personal perspective. I went to a girls' grammar school in the Midlands, where most of my teachers were women. I did A-levels in maths and physics and wanted to be an engineer. My teachers were hugely supportive, and it was only last year that I learned that many of them were at Bletchley Park. I was the first in our family to go to university.

After my degree I decided to get a job in engineering, but with a new mortgage there were only so many times I could take, "We do not employ women", so I trained to teach maths and the new subject of the time, computer studies. After children and a move to Cornwall, I was appointed as a non-executive director of an NHS trust, and I never looked back. I was empowered in one teaching job by a head teacher, a man, who accepted without question my recommendation that we bought 15 mini-computers, which was a huge chunk of his budget at that time, and by another head teacher, a woman, who regularly posted in my pigeon hole ads that she had cut out of the *Times Educational Supplement*, which was her way of ensuring that we looked to move on. These were all the nudges I needed as a self-starter, and several jobs in the not-for-profit sector later I find myself here.

So how do we best support those who need more than a nudge? I am a great believer in networks, formal and informal. Inviting a young woman where you work to a networking meeting could be all she needs to give herself confidence. With envy, I watch my children, who, thanks to social and professional online networks, have worldwide contacts. Since Covid, as I am briefed via meetings by hugely bright up-and-coming female civil servants sitting in their homes with a laptop on a table, I wonder how I could have coped juggling a job and home-teaching in lockdown. I hope that they keep their contacts as they move from job to job. LinkedIn and similar databases have really taken off in the pandemic, and I know that many young women have found work just that way.

What have we learned from the epidemic about empowering women? What could we do better in the future? We could accommodate flexible working and working from home. We could promote online and in-person networks. We could give start-up grants to female online business and work networks. We could put more women in the boardroom. We need to look at examples from elsewhere—who does it better? We could give young women who are jobseeking a mentor and pay them the same as men doing the same job.

[Baroness Jolly]

What makes a woman come across as empowered? A sense of self-confidence; holding her own in any situation or in front of any audience; knowing what she is about and what she wants, and doing what she can to achieve it; being approachable and personable; having a presence. We all know that she probably did not get there on her own—behind her was a mentor or two who pointed her in the right direction. I know I valued those who pointed me there, shared a few home truths and watched from afar. I try to do for others what they did for me.

3.22 pm

Baroness Brady (Con) [V]: My Lords, it is a privilege to once again address this House on the subject of International Women's Day and celebrate the progress that we continue to make on our long march to empowerment and equality.

This year has seen the emergence into the public consciousness of some remarkable female role models for us all to look up to. Take, for example—as so eloquently put by the noble Baroness, Lady Deech—Professor Sarah Gilbert, the leading vaccinologist from Oxford University who helped to develop the vaccine that is fast-tracking the UK out of lockdown. I reflected that, while some of us were working out how to sneak into pubs in our misspent youth, Professor Gilbert was at home studying her chemistry books, and we must all be thankful that she was.

In my own industry of sport, this year's Super Bowl headlines may have been about Tom Brady's record seventh triumph, but the story that caught my eye was about Sarah Thomas, the first woman to officiate at a Super Bowl. This comes at a time when rewards for participants in sport are finally becoming more equal. A recent BBC study found that, of 37 sports offering prize money, only three did not offer comparable amounts to men and women in major tournaments—progress indeed, but we all need to do more.

In public service, we now have the first ever female director-general of the World Trade Organization, Dr Ngozi Okonjo-Iweala, alongside Christine Lagarde, head of the European Central Bank, and Ursula von der Leyen, the European Commission President. But what about in business, the heartbeat of our political economy? On 1 March, Jane Fraser became the first female head of a major US bank, Citigroup, and Rosalind Brewer became the third black woman to run a Fortune 500 company, Walgreens Boots Alliance. These are all fantastic role models, and their success must be celebrated. Without their trail-blazing efforts, it would be much harder for other women to aspire and reach their potential.

However, these remarkable exemplars should not lead to any sense of complacency or the conclusion that the job is done. There is mounting evidence that this pandemic is setting back the cause of female economic empowerment. Half of women in the UK do not have sufficient childcare to enable them to work and 70% have had to work fewer hours, according to a recent survey of 20,000 women. Lean In and McKinsey's recently released annual *Women in the Workplace* report showed that as many as 2 million women were either deprioritising their careers or exiting the workplace entirely as a result of the pandemic.

Even as we celebrate the ascent of these wonderful women to the highest echelons of public and commercial life, we must make sure that this pandemic does not render them the exception rather than the rule. We must use their success to inspire but also to change policy, culture and attitudes. Many of them are the first to do what they have done, but we must make sure that they are far from the last.

3.25 pm

Lord Patel (CB) [V]: Noble Baronesses and noble Lords, today I wish to pay tribute to the women scientists who literally have saved the world. The noble Baroness, Lady Deech, has given me a lead by mentioning two of them.

SARS-CoV-2—a virus and the disease it causes—was first identified in China just over a year ago. The world did not know then how serious a pandemic was about to follow. It is an incredible feat for scientists to have developed vaccines against the virus in less than a year. The story of the science that led to that is remarkable.

While Brenner and Watson—two Nobel Prize winners—and others identified messenger RNA, it was hard to programme it and to get it into human cells. In 2005, Katalin Karikó, a Hungarian émigrée to the USA, showed how to tweak synthetic mRNA and get it into human cells. Her research was not thought important and she was not granted a professorship at the University of Pennsylvania. She was hoping to develop treatments for cancers, and her research excited many to try to develop cancer therapies. Among them was Özlem Türeci, a Turkish émigrée to Germany, a scientist and a doctor who, with her husband, founded the company BioNTech. A young scientist at Stanford University, on hearing of Karikó's work, founded a company called Moderna—the name says it all—to develop cancer therapies. Karikó's research also led to gene editing and earned Nobel Prizes for two women, Jennifer Doudna and Emmanuelle Charpentier.

With the outbreak of Covid-19, Türeci in Germany and Moderna in the USA switched their research to try to develop vaccines using messenger RNA. A young African-American woman scientist, named Kizzmekia "Kizzy" Corbett, working with Dr Fauci at the NIH laboratory, joined the team at Moderna, working to develop a vaccine for Covid-19. Türeci, BioNTech and Pfizer in Germany, and Kizzy and Moderna in the USA, developed the two mRNA vaccines.

As we have heard, before that, Professor Sarah Gilbert at Oxford—mentioned by the noble Baronesses, Lady Deech and Lady Brady—with experience of developing vaccines related to Ebola and MERS, started working day and night to develop a vector-based vaccine as soon as the genome of Covid-19 was known. It is said that she worked from 4 am until late at night. Her ambition was to develop a stable and cheap vaccine for Covid-19, so that the poor countries of the world could benefit. She achieved this in record time, with a vaccine now known as the Oxford/AstraZeneca vaccine. I have personally benefitted from it, having had my first dose. Professor Sarah Gilbert is a remarkable scientist.

The science behind the development of these vaccines underpins other vaccines that are developed in other countries. These four women are the saviours of the

world through the vaccines they helped develop. I hope they will all share a Nobel Prize.

Of course, there are many other remarkable women who have helped and continue to help the recovery from Covid—Professor Sharon Peacock from the University of Cambridge for one, and I hope she does not mind me calling her the "queen of genomic sequencing". Her contribution to identifying mutations cannot be overstated. The fact that the UK leads in the genomic sequencing of Covid-19 is thanks to her.

Time does not allow me to speak about the many other women scientists and their contributions. We need more women to do STEM subjects and to go into science research, and more women in leadership positions in research. Currently, the numbers are less than 30%. What plans do the Government have to increase the number of girls doing STEM subjects and to increase the number of women in science research?

3.30 pm

Lord Rooker (Lab) [V]: My Lords, I watched the International Women's Day address to the European Parliament by the New Zealand Prime Minister. She made some very clear points, including that

"Covid makes clear we are interdependent… no country is safe until all are safe…. the team is not five million New Zealanders but 7.8 billion worldwide… the pandemic has exacerbated structural inequalities between men and women",

and that

"there is a 'shadow pandemic' of domestic violence".

Here in the UK, before Covid, over 4 million children were living in poverty, which is 30%, or nine in a class of 30. The pandemic has caused jobs losses and insecurity. The poorest are suffering the most. Cardiff Women's Centre reports that there is a clear relationship between gender and poverty, with women overrepresented in the poverty statistics. The Fawcett Society points out that 64% of the low-paid are women, that there are four times more women in part-time work than men, that women are more likely to receive lower rates of pay, that women are more likely to be single parents—that is nine out of 10—and that there are more child responsibilities and less chance of full-time employment. Department of Work and Pensions statistics reveal that 52% of children in single-parent families are poor, and, as the New Zealand Prime Minister stated, there is a shadow pandemic of domestic violence. We know from research by Refuge that an extra 1.6 million women in the UK suffered economic abuse during the pandemic.

During Covid, clearly women are suffering most. Household food insecurity was on the increase before the pandemic, according to the Food Foundation's report, *The Impact of Covid-19 on Household Food Security*. Covid has left more struggling to afford or access a nutritious diet. The Food Foundation states:

"Households with children have been hit hard, with many children still falling through the cracks in support."

The foundation also found evidence that:

"Covid-19 has dramatically widened inequalities in food security".

The current picture is that 4.7 million adults—9%—experienced food insecurity in the past six months. There are 2.3 million children living in these households, which is 12% of households with children, and 41% of households with children on free school meals have experienced food insecurity in the past six months. From my earlier points it is clear that women are in more than a shadow pandemic of domestic violence; along with their children, they are also in one of food poverty.

The recent report *Build Back Fairer: The Covid-19 Marmot Review* made the point, in figure 2 on page 13, that the ratio of deaths of those limited due to longstanding health issues compared to those who were not meant that deaths were 2.4 times higher for females and 1.9 times higher for males from 2 March to 15 May 2020. That says an awful lot.

Before I finish, I have two international points regarding women. The Government pulling aid out of Afghanistan will lead to women being denied schooling and careers once the Taliban is back in charge. Is that what the British Armed Forces made sacrifices for? I was also very impressed to see the up-to-date briefing from MAG, the Mines Advisory Group. The effect of landmines on women and girls is catastrophic, be they directly affected or as a result of being widowed or carers. A growing number of MAG staff are women, over 1,000—more than 25%—across 25 countries. Will the Government commit to maintaining their investments in mine action?

3.34 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I gave the Minister advance notice that I will speak about the need for a feminist UK foreign policy. She may be expecting me to major on the cutting of foreign aid below the 0.7% of GDP that is set in our law, but I assume that the Government will eventually have to stop breaking the law and bring a Bill to the House. While I am often thinking of the desperate women, men, and children of Yemen, pounded by our weapons and denied our aid, for the moment I will put that issue to one side.

Since this is the International Women's Day debate, I want to think and speak more conceptually, particularly in the light of the announcement from the Biden Administration that their intention is to:

"Protect and empower women around the world".

Across the channel, the French Government declare explicitly that they have a feminist foreign policy. I am not hearing the same terminology from the UK. But it is not really terminology that I am interested in, but policy and action.

Around the world, women and girls are increasingly using human rights law to try to force climate justice, from the Union of Swiss Senior Women for Climate Protection going to the European Court of Human Rights to the case that 16 children are taking to the UN Committee on the Rights of the Child.

However, a feminist foreign policy goes well beyond protective action and positive action. It goes beyond steps such as those outlined to me earlier today by the noble Lord, Lord Goldsmith, in supporting access to modern methods of contraception. It is about a transformation of our economic and political systems. It is not just a case of doing some positive things but of reversing centuries of damaging choices and policies; millennia of assuming that humans and the natural world exist to serve that creation of a few—mostly

[Baroness Bennett of Manor Castle]
male—humans: the market. It means not operating for the military-industrial complex, or the fossil fuel-finance complex, but making a world that creates a decent life for every individual, from every newborn baby to every centenarian, and that allows ecosystems to flourish and wildlife, for a start, to survive. A feminist foreign policy must be guided by Kate Raworth's *Doughnut Economics*. It means ending what the academic Karen Warren has called the "logic of domination".

Some global progress is being made, notably in the increasing operationalisation of the rights to universal healthcare which have long been contained in the UN Universal Declaration of Human Rights—not, however, in the UK, where access to healthcare has been taken backwards for many non-citizens. But there is a growing understanding that we need to go beyond medicine and talk about the need for care societies—a concept with enormous potential, as demonstrated by the Women's Budget Group's plan for a care-led recovery from coronavirus.

I have talked largely in big abstract terms. What does all this mean in practice? It means caring for and welcoming refugees as survivors of our disastrous policies, large parts of their wealth having been robbed from them, rather than treating them as threats. It means stopping pumping vast quantities of arms into a world choked with them. Last year the UK was the world's second-largest arms exporter: £11 billion of exported destruction. Many women, children and men will die as a result. It means acknowledging the historic and continuing massive damage of colonialism, and paying reparations for it; the frame of "loss and damage" at the COP 26 talks provides an important potential way forward.

What has been called the malestream—millennia of thinking of the planet as a mine and a dumping ground and people as an exploitable asset—has produced a maelstrom of destruction and a world on the edge of disaster. A feminist world can be one that lives within the physical limits of this one fragile planet while caring for all. Caring is key.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): I call the next speaker, the noble Lord, Lord Bradshaw. Please can you unmute, Lord Bradshaw? We still cannot hear you. I will move on to the next speaker while we try to sort you out. I call the noble Lord, Lord Bourne of Aberystwyth.

3.39 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a great pleasure to follow the noble Baroness in this important debate marking International Women's Day on Monday, focusing particularly on the social and economic impacts of the coronavirus pandemic. I also thank my noble friend Lady Scott for her introduction.

I want particularly to say something about the challenge that the pandemic has posed to women's mental health. I hope that, in closing, my noble friend the Minister will have something to say about this, and particularly about the resources that are being made available.

On average, even prior to the pandemic, women were more likely than men to experience mental health challenges. This has of course been accentuated by the pandemic. During the pandemic, woman have been more likely than men to experience being furloughed, which, although often necessary and on occasion welcome, will mean lower earnings than from the job that is furloughed. Women are more likely to have experienced loss of employment during the pandemic, with some sectors particularly vulnerable, such as retail, hospitality and food services. The switch of employment from shops to warehouses is, in practice, something that is unlikely to help women. All this of course contributes to mental health pressures. This is also true of additional caring responsibilities, which are likely to fall on women, whether for children at home or looking after older relatives. Pressures on finances during the pandemic also have to be factored in.

Your Lordships' House is currently taking great pride, and rightly so, in the pioneering legislation that is making its way through the House, as referenced by the noble Lord, Lord Rooker: the Domestic Abuse Bill. It is truly a remarkable landmark Bill, and it is much needed. Women—and it is generally, though not always, women who are the victims of domestic abuse—suffer horribly, and that situation has got far worse during lockdown and the pandemic. Often, women victims have been obliged to relive their experiences. This too contributes to mental health pressures. In the light of the importance of this legislation and the pioneering work we are doing, I would be grateful if my noble friend could say something about the resources that will be made available to deal with this accentuated problem.

I also want to take this opportunity to say something about the position beyond our shores, where we are committed to certain global challenges—although it has to be said that they are more challenging with reduced aid. One of them is girls' education, which the Prime Minister has championed, committing our country to preventing exploitation and unlocking potential around the world. Indeed, we are set to co-host a major international summit in June, to seek to provide global action to educate all children. This is very welcome and, again, I would be grateful if my noble friend could tell us something about the preparatory work for this and the international commitments that we hope to get from the conference.

Action at home and abroad to end inequality globally is both necessary and welcome. I look forward to my noble friend the Minister's response.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): I call again the noble Lord, Lord Bradshaw.

3.43 pm

Lord Bradshaw (LD) [V]: My Lords, my association with public transport, road and rail, extends back over nearly 70 years. When I first came to the railway, there were hardly any women employees, except in the roles of clerks and typists. It was the same on the buses, except there were clippies selling tickets. Public transport jobs were very dirty, and often either hot or cold. They were also oily and greasy and, in the case of the

railways, sooty. During the past 50 years, there has been an accelerating transformation. That is what I want to celebrate today. There are woman right at the top of the industry and in all areas, such as civil and mechanical engineering. There is a wide range of entry routes, which enable the new entrant to reach the top, if they wish to do so.

Earlier this week, in the papers, we saw a young female train driver set off on her first intercity train, watched by her father, who was also a driver. She can progress, if she wishes, through the industry. The bus industry is the same, with the managing director of Stagecoach, our largest bus company, a female.

When I recently took my granddaughter, who was considering what she wished to do when she left school, to the Siemens training centre, I was amazed by the technology and by the fact that Siemens was prepared to offer her training that could lead her to chartered engineer status and to pay her while she was trained. The industry has wide training schemes at all levels and premises that you would be proud to work in. It has diagnostic tools that are able to spot defects and weaknesses wherever they occur in the track or the rolling stock. It has retained its furloughed staff, who are anxious to welcome passengers back. During the slack time, training and refresher training have continued to make the staff ready—not to welcome foreign visitors, unfortunately, or so many commuters, but for the burst of activity when people are free to travel again. Much effort is also spent by the industry on the recruitment of ethnic minority people.

I wanted to speak today because we should not talk ourselves into the position of believing that nothing can be changed. It can; I have seen it change, and nowhere more so than in the position of women in the transport industry.

3.46 pm

The Earl of Devon (CB) [V]: The convention is to address this House collectively as "my Lords". Given the topic of this debate, in which over 70% of the participants are female, excuse me if I open with "my Ladies".

Covid-19 has tested our society to its limits. It has closed schools, factories, offices and high streets, and the repeated lockdowns have thrust us all into our homes for month after interminable month. That has placed an enormous additional burden on those who manage the home and those who take the lead in home schooling and other domestic matters. Despite huge advances in equality over recent decades, that burden has unquestionably fallen upon women more than men. Statistically, the Covid-19 virus has afflicted men worse than women. However, the nurses and carers who tend to the sick and the elderly are predominantly female, thus the exhaustion, stress and sheer horror of care in the midst of this terrible pandemic have afflicted women far more than men.

Last week the Chancellor delivered his Budget, reporting the precipitous decline in GDP caused by the pandemic, with economic output collapsing in ways unseen for centuries. In the principal sectors impacted, such as retail and hospitality, most employees are women. There is a dichotomy here. Economic indicators tell of an unprecedented decline in output, yet the output of carers, nurses, mothers, wives and daughters has increased exponentially. Nowhere is that outpouring of love and care found in the Government's data. Why is that? As a society, we are simply not measuring that output and thus we are not valuing it. In 2019 New Zealand introduced a well-being budget, the first western country to base its entire budget on well-being priorities, with a focus on mental health, family violence and child well-being. Will the UK Government consider the same?

As a lawyer, I have many female colleagues, and I know first-hand that their burden increased much more than that of their male colleagues. It was not lost on me that the return to school coincided with International Women's Day, and that back-to-school cheers from exhausted parents over social media were predominantly in a feminine voice. What steps are the Government taking to encourage fathers to take a more active role in the home and in childcare? Will the Government increase the availability of paternity leave, allowing fathers to bond better with their children in those crucial early months?

Finally, I turn to equality. This House needs to set the standard but it does not. Only 28% of our membership is female, compared with 34% in the other place. That needs to change. The Lords Spiritual (Women) Act is changing the composition of the Bishops and life peerages are increasingly bestowed on women, but the most shocking gender imbalance is found among us 92 male hereditary Peers. As the youngest child of a youngest child, I am a poster child for patriarchal gender discrimination. I am the 38th Earl of Devon since the title was created by our first female monarch, Empress Matilda, and only one of us has been female—the fiercely independent Countess Isabella de Fortibus, who refused to sell the Isle of Wight to King Edward I until the bishops stole it from her on her deathbed.

This discrimination must cease and eldest children, whatever their gender, must be permitted to inherit hereditary titles. Will Her Majesty's Government introduce a hereditary titles (female succession) Bill in the forthcoming Queen's Speech?

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): The noble Baroness, Lady Thornton, has withdrawn, so I call the noble Baroness, Lady Bakewell of Hardington Mandeville.

3.50 pm

Baroness Bakewell of Hardington Mandeville (LD) [V]: This is the first time I have participated in an International Women's Day debate, but not the first time I have engaged in supporting international women. International Women's Day coincides with the Women's World Day of Prayer, which takes place annually on the first Friday in March. This is a woman-led, global, ecumenical movement organised by a different country each year.

In normal circumstances, a service would be held in churches and benefices up and down the country and over the rest of the world. There is great comfort in knowing that we are engaging in this service with thousands of others all over the world on the same day. I have attended that service for over 30 years,

[Baroness Bakewell of Hardington Mandeville] when my commitments have allowed. The collections raised go to the country "hosting" the service and are used to educate many young women and girls. Sadly, the service locally had faltered for lack of someone to do the organising.

Last year, it was the turn of the women of Zimbabwe to organise this service. A small group of us from our benefice of seven parishes decided to revive the custom and organised a very successful service in one of our churches. Last autumn, we met again to start planning for this year. After Christmas, it became clear that Covid was against us. We considered postponing until later in the year, but we wanted to join with other women all over the world on the same day—so we opted to tackle a Zoom service.

This year, the service was planned by Vanuatu. As many will remember, Vanuatu was devastated by Cyclone Pam in March 2015 and again in April 2020 by Cyclone Harold, the latter hitting while the country was in a state of emergency due to the Covid-19 pandemic. Despite these difficulties, the women were able to organise their service so that, all round the world, women could lead and participate in this important service, which raises much-needed money for their community. Our service was a great success and enjoyed by the women attending, with one even zooming in from Spain. Covid did not defeat us.

The women and girls of Vanuatu, as in many other countries that have met similar challenges, need a ready supply of clean water to prevent the spread of waterborne disease. Many girls and young women do not have access to adequate sanitation and fresh water. As a result, monthly, they feel unable to participate in their education and often drop out altogether. Surely in 2021 we ought to be able to provide fresh water worldwide. Some 80% of people displaced by climate change are women, and therefore more likely to become victims of violence.

Like others, I have received many briefings for today, including some from Zimbabwe, where three women activists have been arrested. Zimbabwe will be one of the countries suffering a cut in UK aid. The noble Baroness, Lady Sugg, spoke knowledgably on this aspect. I urge the Minister to do all she can to make representations to her colleagues to reverse many of these aid cuts.

We have had many questions in our Chamber about the plight of Yemen, where, daily, women are watching their children die, as well as battling the spread of Covid. This is a tragedy that, as a country, we could help to alleviate. Covid is affecting women in all countries but it falls the hardest on those living with poverty, famine, and war. Can the Minister give reassurance that she is taking these matters seriously and will speak up for the oppressed?

3.54 pm

Baroness Altmann (Con) [V]: My Lords, I too express my condolences to the family of Sarah Everard. I congratulate my noble friend on her powerful introduction to this debate. As we celebrate International Women's Day, there is still some way to go to create a female-friendly environment where gender discrimination and sexual harassment have been eliminated, and where all women, including those who decide to become mothers, can thrive. I pay tribute to my right honourable and honourable friends Liz Truss and Kemi Badenoch, two excellent Ministers who have consistently stood up for women's rights. I have been very sad to see them facing undeserved threats and intimidation.

Fifty years after it became illegal to pay women less than their male counterparts, it is indeed a sign of progress, but not perfection, that the gender pay gap has reduced to around 17%. However, a far worse gap exists when we reach retirement. Recent NEST research estimates suggest that women's pensions are worth over £40,000 less than men's. Other research reports that the gender pensions gap is more than 40%. This significant difference will not go away on its own. There remain nearly 2 million pensioners in poverty in the UK, the majority of whom are women. It is vital that the Government increase their efforts to improve take-up of pension credit.

The reason for the massive gender pensions gap is partly because of the ongoing gender pay gap, which was obviously wider in the past—when today's pensioners started their careers—but women also have shorter working lives than men, with career breaks, caring responsibilities and part-time work being more prevalent. Some of the lowest-paid occupations are dominated by women: care workers and NHS workers are mostly female. Pay levels in these sectors are much lower than average, as they are in retail, leisure and hospitality, as other noble Lords have said. Even with significant improvements in gender pay gaps, the pandemic has left more women vulnerable to both lower pay than men of the same age and lower pensions.

A related issue is the lingering age discrimination in the labour market, which impacts more on women than on men. Encouraging more flexible working and ensuring that the needs and contributions of older workers are not ignored is vital. Employers should be encouraged to retain, retrain and recruit more older workers, especially women, and offer caring leave so that older women can increase their working lives, otherwise they would have to retire sooner than they should. Of course, women dominate the lower-earning professions. Can my noble friend assure the Committee that even though women may be in lower-earning professions, the programme of auto-enrolment will be extended so that the contribution rules include all workers, and contributions beginning from the first pound of earnings?

Even with the state pension, the UK sees women having much less than men. The state pension is still dependent on how much women earn, or credits received during time off for parenting or caring, with only full years counting. Women often do not know that they needed to claim, rather than it being credited to them automatically. This is not just about gender; it is also about getting more women to feel confident in their own ability and self-worth, including the ability to make financial plans for their future and improve their financial education.

3.59 pm

Lord Singh of Wimbledon (CB) [V]: My Lords, the Covid pandemic has highlighted the disadvantage suffered by women in balancing the needs of childcare, home

schooling and managing the home while working unsociable hours and contributing to the family income. There seems to be a curious belief that social improvement can be brought about by impressive declarations and by appointing commissions, but such displays of commitment do little to tackle the root causes of social discrimination, including continuing discrimination against women throughout the world.

Before we can cure a malady, we need to look at its cause. We should look particularly at the role of religious texts in putting forward negative attitudes towards women. Eve is blamed for the expulsion of the innocent Adam from the garden of Eden. An ayatollah in Iran suggests that women have smaller brains than men. Marriage vows remind us that women must obey. In other texts, evidence, laws and rights to property disadvantage women. Despite Sikh teachings of the full equality of women, negative subcontinental attitudes towards women percolate into some Sikh homes.

I was over the moon when, while living in India, I became the proud father of a beautiful girl. A Sikh neighbour offered congratulations, adding, "Never mind, it will be a boy next time." I was not then the mild-mannered individual that I am today and I was almost tempted to punch him in the face. Does the Minister agree, as the noble Lord, Lord Ahmad of Wimbledon, did earlier in the week, that for real progress on gender equality we need to look at attitudes towards women embedded in religious texts in the context of today's times? Although some of the negative attitudes are a distinct improvement on the society of hundreds of years ago, they are miles from full gender equality.

A Christian verse reminds us:

"New occasions teach new duties; Time makes ancient good uncouth;

They must upward still, and onward, who would keep abreast of Truth".

In looking at religious texts in the context of today's times, we should also look at words such as "heathen" or "kaffir"—negative attitudes towards other people and women are not the word of God.

4.01 pm

Baroness Nye (Lab) [V]: My Lords, the past 12 months have undoubtedly been difficult for everyone, but women everywhere have shouldered much of the burden and have faced greater difficulties because of the systemic inequality that they face. So, like others who have spoken, I pay tribute to all the women on the front line and to women with caring responsibilities who have home schooled while working or who have lost jobs or opportunities through no fault of their own.

It is critical, therefore, that the Government recognise that in planning for the recovery to build back better, we do as the UN suggests and "plan for equal". That means attention must be paid to the needs of the vast numbers of women most affected by the economic and social fallout. Covid-19 has shown the importance as well as the fragility of the care economy by exposing how reliant the economy is on women's unpaid and underpaid labour. I ask the Minister: why have the Government decided not to award a £20 a week supplement, like the universal credit supplement, to carers entitled to the carer's allowance? That would help them manage both the higher costs of caring and the lack of services available to help them stay in work.

Many reports have highlighted the adverse effects of the pandemic on women but I will mention just one: a report by the Young Women's Trust, a charity that works with women aged 18 to 30 who are living on low or no pay. *Picking Up the Pieces* highlights the need to listen to young women, especially those who face additional discrimination and barriers, such as young women of colour and young disabled women. It found that an estimated 1.5 million young women lost income over the past year and over two-thirds of young women claiming benefits said that they did so for the very first time. The findings also show that they are increasingly worried about their mental health, and feel ignored by politicians and that their voice is not heard. For those young women employed in sectors most affected by the pandemic, such as retail and hospitality, the uplift in universal credit and the furlough scheme are important lifelines, but with both schemes coming to an end at the same time in September, many women face an uncertain future. Perhaps the Minister can explain what measures the Government are considering to alleviate that concern.

In a debate on International Women's Day it is also important, as others have done, to look outside our borders to see what is happening to woman globally. Some of the issues facing women are universal, such as domestic violence, but in fragile economies the life chances of women and girls are being dealt even greater long-term blows. It is estimated that 11 million girls may not return to school due to Covid-19, with huge consequences for wider society. With the UK hosting the G7 and COP 26 summits, we have a unique opportunity to place girls' education centre stage.

Finally, as we speak in this debate in the mother of all Parliaments, we should also pay tribute to the brave activists who, following the military coup in Burma, are risking their lives to defend their democratic right to have their vote upheld. As tension increases throughout the country following the coup, women of all ages have flooded the streets in major towns and cities across Myanmar to call for the reinstatement of Aung San Suu Kyi's democratically elected Government. Among the many who have died at the hands of the Tatmadaw, we should remember 20 year-old Mya Thwate Thwate Khaing, and 19 year-old Ma Kyal Sin, known to her friends as "Angel", who died wearing a T-shirt bearing the slogan "Everything will be OK". As parliamentarians, we should stand with those women and with the brave women fighting for equality everywhere.

4.05 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Nye.

It is the very internationalism of this 2021 International Women's Day that highlights its significance now. Like Covid-19, women are everywhere in the world. Each individual invaded by Covid is unique but the virus does not discriminate between them. Covid has no national or gender barriers, nor does it favour the wealthiest or

[Baroness Ritchie of Downpatrick]
the weakest. However, there is a disproportionate impact on BAME communities and those in lower-income groups.

I want to celebrate the women who care—the women who have made such huge sacrifices for their families in the midst of this pandemic. Stress levels for women have soared. So has domestic abuse, with its particular obscenity. Women have had to stop working and have often had to compromise their careers to protect their families and the wider community. However, personal appreciation is not enough. We need the Government to recognise the role of women in the pandemic. Women deserve to be noticed for the immense but silent contribution that they have already made and continue to make. I give notice to the Minister that I would like to see a permanent sculpture to the role of women in the pandemic from across all communities.

From the highest echelons of research to cleaning hospital floors—more meagre, perhaps, but crucial—women contribute to the common weal. Female nurses make up a major section of our caring community. They have been slapped in the face by the government recommendation of a 1% pay rise. Once again, the Government have failed to recognise either the contribution that these professionals make or the public esteem in which they are held. I urge that that independent review be concluded, and that the Government increase the level of the pay rise for nurses.

Research already carried out by academics shows that working-class women endure the greatest impact from Covid. As men had their working hours cut, more female carers increased theirs and exposed themselves more to the virus. Women are more likely to lose their jobs than men in the Covid-19 world. They are taking on more of the home-schooling demands and the needs of elderly parents. It is time for a real root-and-branch review of the whole social security system so that the status of the poorest and most needy in our society is lifted and their incomes made realistic. The £20 uplift in universal credit must be made permanent, for a start. I ask the Minister to talk to her colleagues in the DWP about that.

As we celebrate the role of women across the world today, let us do so meaningfully. Let us move more rapidly to ensure that employment and financial rights are protected, and that dedicated funds are allocated to the enhancement of women's health and opportunities.

4.09 pm

Lord McNally (LD) [V]: Colleagues, I would like to use my time to raise how the criminal justice system responds to the needs of women in prison. It is now 14 years since the ground-breaking report by our colleague the noble Baroness, Lady Corston, which called for a distinct, radically different, visibly led, strategic, proportionate, woman-centred, integrated approach to how we treat women offenders. Ten years on from the Corston report, in March 2017, the charity Women in Prison reported only mixed progress. Its report stated:

"What is required is a joined-up approach that takes into account the root causes of women's offending. This approach must encompass an understanding of the compelling opportunities for change that appropriate housing, mental health support and gender-specific women's community support services can offer."

Four years later again, the Prison Reform Trust has recently completed a five-year piece of work entitled *Transforming Lives: Reducing Women's Imprisonment*. That report points out that women in prison are highly likely to be victims as well as offenders, with over half of them having experienced domestic violence and many of them having dependent children.

My final quote is from the Ministry of Justice when announcing in January plans to build 500 new cells in women's prisons. Andrew Neilson, director of campaigns at the Howard League, commented at the time that

"today's announcement shows that ministers are looking at the issue down the wrong end of a telescope."

I spent seven years at the MoJ, between 2010 and 2017, and must share my part of the responsibility for the glacial progress made in achieving the changes necessary.

I do not expect the Minister to be fully acquainted with the sayings of Aneurin Bevan, but he once said, "Why look into the crystal ball when you can read the book?". This is especially true in the case of women in prison. From Corston onwards, there have been reports which point in the right direction of travel but need resources spent in the right way to promote diversionary measures and alternatives to prison, which could create the opportunity to reduce by two-thirds the number of women in our prisons.

4.12 pm

Baroness Bottomley of Nettlestone (Con) [V]: It is always a privilege and a pleasure to take part in this debate and hear the campaigns and concerns of so many enlightened Peers, and even a number of other Peers as well. Tribute has been paid to the magnificent scientists who have really shown the way during the Covid crisis: Sarah Gilbert and Kate Bingham, and Dr June Raine at the Medicines and Healthcare products Regulatory Agency, which has swiftly, rapidly and effectively approved the new vaccines. Of course, it was the great reputation of the Medicines Control Agency for its work that won us the European Medicines Agency, which we have now had to return. However, Dr Raine's work suggests that there is hope for the future.

It was not ever thus. I remind noble Lords that James Barry, the first woman doctor, had to pretend that she was a man throughout her career, and had a very good record of clinical work. Elizabeth Garrett Anderson managed to qualify only at a school which later changed its rules to ban women, and found it so difficult to get work. She may have founded a hospital and finally became mayor of Aldeburgh, but her path was difficult. Marie Curie suffered from the Matilda effect—women doing the work, but men taking the glory—and only with great difficulty did she get her work recognised alongside her husband Pierre. More recently, there was the wonderful Dame Jocelyn Bell Burnell, a fellow of the Royal Society and a declared woman who suffered from impostor syndrome. She found the first radio pulsars in 1967, but the 1974 Nobel Prize in physics did not mention her. The men got the credit, and only with a challenge and a fight was she given her recognition.

So I celebrate the changes in my lifetime, and the global female leaders: Janet Yellen—an LSE graduate, I am pleased to say—was the first female chair of the

Fed and is now the first female Treasury Secretary, in President Biden's Government; Christine Lagarde has been spoken of. And then there is the wonderful Ngozi Okonjo-Iweala, the first woman and first African DG of the WTO, and a great expert in public health, as well as in development economics. How well does that speak for the future?

I believe that women are changing and challenging stereotypes, and we are seeing change in society and in the workplace. In the past month alone, we have seen the Tokyo Olympics chief resign over patronising, sexist comments that employees found unacceptable. He has been replaced by a female, and 12 women have joined the team. In the past month alone, the UK boss of KPMG resigned over an internal team call in which he made comments to colleagues which they loudly challenged. He was swiftly replaced by two highly respected women, Mary O'Connor and Bina Mehta. UK Athletics made international headlines for the sexist, pervasive, oppressive culture of coaches. The new female CEO demanded a zero-tolerance approach. This is different. It was not like this in the past.

There have been changes in the boardroom. In 2011, 12% of FTSE 100 roles were held by females. Now, as a result of the challenge of the Hampton-Alexander review, and following Mervyn Davies's work, we are up to 33% of FTSE 100, 250 and 350 boards. My noble friend Lady Brady gave another encouraging example. In the public sector, there are more female judges, bishops, doctors, solicitors and vice-chancellors. Only one in four vice-chancellors are female, and I am pleased that one is at the University of Hull, but 10 years ago it was only one in 12—to go from one in 12 to one in four is progress indeed. And we have seen more female Lords spiritual in our House.

Of course there are areas where there have been difficulties and where women have had the greater burden of Covid. The LSE produced a report the other day. I also hope that people have learned more about flexible working and online working, which will enable women to pursue their career and combine it with their domestic responsibilities.

Internationally, I applaud the work of my noble friend Lady Sugg. Provision for gender equality was confirmed by my noble friend Lord Ahmad only this week as part and parcel of our policy of the combined department—

Baroness Scott of Bybrook (Con): I remind the noble Baroness about the timing.

Baroness Bottomley of Nettlestone (Con) [V]: We celebrate success and ask for more progress.

4.17 pm

The Deputy Chairman of Committees (Baroness Garden of Frognal) (LD): I call the next speaker, the noble Baroness, Lady Falkner of Margravine. Lady Falkner?

Baroness Falkner of Margravine (CB) [V]: My Lords, forgive me; I had trouble unmuting. I am more used to physical participation now than to virtual participation. That is my excuse.

In the debate today, we have had powerful testimony about the impact of the pandemic on women. I declare an interest as chair of the Equality and Human Rights Commission. At the commission, we stand not only for women's rights but for all those who experience discrimination, and with nine protected characteristics, we have a lot on our hands. Today I want to speak specifically to our work on women.

In this House we recently passed the Ministerial and Other Maternity Allowances Bill, where the drafters of the Bill decided to describe those who benefit from its very welcome provisions as "persons" rather than as "women" or "mothers". I mention this as it is pertinent to our work at the EHRC. At the commission, it is becoming increasingly clear to us that the most contentious work that we have to do is around the critical issue of balancing different rights. As we seek to reduce discrimination, and sometimes even hate, we do not want to see one group pitted against another, but we are also clear that we must not shy away from difficult judgments of balance in the name of political correctness and must not appear to be in one camp versus another. We stand for all the protected characteristics, but we also judge every policy issue on its merits and with guidance from the Equality Act. Hence we look forward to the review of the guidance on legislative language promised by the Government in this regard, and we were very pleased with the successful amendments moved by the noble Lords, Lord Lucas and Lord Winston—I note they are both speaking in the debate today—that got the Bill through this House satisfactorily.

Turning to the impact of the pandemic, evidence so far suggests that the economic impact is likely to be very significant. Women already face a range of inequalities and barriers to work: an overconcentration on low-paid or part-time work, limited flexible working opportunities and responsibility for the majority of unpaid and often undervalued care work. While men have experienced more severe health outcomes and faced greater unemployment, many lockdown restrictions, such as the closure of certain sectors and of schools and childcare settings, have particularly affected women's equality in the workplace.

The workplace is the area about which I have the greatest concern for the future. If the statistics are correct as to the impact of a loss of women from the workplace, which is what the survey evidence points us to, that has grave implications well into the future. Take key workers: ONS figures show that nearly three-fifths of all key workers in the UK are women, at 58%. The IFS estimates that women were more likely to work across all the sectors that were shut down during the first national lockdown. As of July last year, more women than men had been furloughed; mothers were more likely to ask to be furloughed than men, and found it harder than fathers to work productively at home. A TUC survey indicated that 71% of working mothers were refused furlough. There is evidence of potentially unlawful and discriminatory practices towards pregnant women and those on maternity leave.

Research published on International Women's Day by the *Guardian* and Mumsnet found that more than half of women across the UK believe that women's equality is in danger of going back to the 1970s. In our work as a regulator, we at the EHRC will use our compliance and enforcement powers to carry out strategic as well as specific litigation, to push back against any

[Baroness Falkner of Margravine]
diminution of women's equality. As advocates, we will campaign for improvements in women's welfare. We know that both are critical at this point in time.

4.22 pm

Baroness Crawley (Lab) [V]: It is a pleasure, always, to follow the noble Baroness, Lady Falkner of Margravine, and to be a veteran of these International Women's Day debates.

We clapped for carers, most of whom of course are women, so perhaps at least this week we can whoop for women. As we all come out from under another Covid lockdown, we know that it is women who have had to shoulder so much of the mental burden over the past 12 months. The ONS confirmed as much this week. As that TUC report of January 2021 put it:

"Working mums … were struggling with the strain of being expected to carry out their jobs as normal, while balancing childcare and home-schooling."

Nine out of 10 mothers responded to the TUC by saying that

"the disruption had a negative impact on their mental health, with increasing levels of stress and anxiety."

An earlier IFS report showed that, when it came to home-schooling, mothers were able to do only one hour of uninterrupted work for every three hours done by fathers. How quickly we have reverted to gender stereotypes, as we see women doing more housework and more childcare in all households, except for those in which the man has stopped doing paid work.

The TUC calls on the Government to act to stop the reversal of decades of progress that women have made in the workplace. I am sure we can all amplify that call and, this year, give a big shout-out for women in science and engineering particularly.

This week, we welcome the Government's Statement on women's health, and not a moment too soon. I know the Minister does not need me to tell her that the pent-up trauma of women over the past 12 months will have to be faced with unprecedented policy and resources for mental health services, with young women and teenage girls being particularly affected.

Many of us in this debate are also involved in the very important Domestic Abuse Bill. Its coming into law is eagerly awaited by us all, not least by those thousands of women who have been trapped in violent homes during Covid-19. As Women's Aid puts it in its report *A Perfect Storm*, abusers have used the pandemic "as a tool for abuse".

Calls to women's specialist services and helplines have surged at times during the pandemic. This is not only the pattern in the UK: the United Nations has described the worldwide increase in domestic abuse as a "shadow pandemic" alongside Covid-19—my noble friend Lord Rooker referred to that. It is thought that, worldwide, cases have increased by at least 20% in lockdowns internationally. I ask the noble Baroness the Minister: how is enfeebling our development budget going to help?

As always, there is so much left to win as far as women's equality is concerned. The legacy issues of unequal pay and pensions, as the noble Baroness, Lady Altmann, has set out, have not gone away. British women were paid an average of £25.73 a week less than men in the state pension last year.

For those who might be ambiguous these days about the word "woman", and believe that it can be replaced by "person", I whoop for women more than ever this year.

4.26 pm

Baroness Eaton (Con) [V]: My Lords, I start by declaring my interest as chairman of the charity Near Neighbours. It is a pleasure to follow the noble Baroness, Lady Crawley, and so many eloquent speakers.

The pandemic has certainly provided challenges to individuals, organisations, communities and Governments across the world. Living in a democracy, we are fortunate to be able to see, and challenge where necessary, the responses of our institutions. Our debate today, as we know, focuses on empowering women in the pandemic, and I am pleased to be able to highlight some exceptional activities by women and for women. But, before I do so, I cannot let the opportunity pass without asking all noble Lords to have in their minds the additional suffering felt by women throughout the world who live under repressive regimes.

There is perhaps no better example of the suppression of women than the Islamic Republic of Iran. The Islamic Revolutionary Guard Corps has wealth of over $1,000 billion, but only $500 million has been allocated by the mullahs for tackling Covid. Buying American and English vaccines is forbidden—and this at a time when hundreds die each day.

The United Kingdom Government, in addition to its role in managing the health and economic issues associated with Covid, have also recognised the value of the charity sector in helping to improve public health communications to hard-to-reach groups and has provided funding for such projects. Near Neighbours, which I chair, is one such charity and has worked to dispel myths, reduce fear and build confidence among ethnic minorities. Its projects have aimed at rebuilding trust in government messaging, tackling misinformation and anti-vaccination narratives and encouraging engagement with NHS services.

The funding supports practical projects, many designed and delivered by women. Projects vary from support to those suffering isolation and poor mental health to promoting physical activity and tackling domestic violence. Projects such as the Punjabi Theatre Company engage with south Asian women both to take to the vaccine and to encourage those within the communities to do so. The Peterborough Lithuanian Community project plans domestic abuse awareness workshops and buys comfort packs for women fleeing domestic abuse.

As we begin to address the scars of Covid, it must be a priority to integrate disabled women back into society so as to ease higher levels of loneliness and isolation, which in turn would lead to improved health and well-being. One project to be funded by Near Neighbours will provide accessible creative craft workshops that will engage disabled women alongside other women in the Jewish community so that they benefit from shared experiences.

Women from the refugee and asylum-seeking communities often face the challenge of financial difficulties. One project has three strands of work: first, to relieve isolation and build self-confidence and, secondly, to provide skills training so that, thirdly, women are able to establish a women's social enterprise.

The pandemic has enabled us to focus on social ills that existed before but were often unnoticed, the sufferers invisible. Regrettably, even in modern democracies we are sometimes guilty of overlooking very marginalised people. Let us hope that the pandemic has made sure that we do not continue to do so.

4.31 pm

Baroness Janke (LD) [V]: My Lords, this debate gives us an opportunity to reflect on women's roles in the pandemic as well as on how any recovery must address the injustices and harms that it has revealed. Women make up 82% of care workers, who have played a vital role in caring for the vulnerable, disabled and sick. When I was a council leader I visited care homes in my city, and when I spoke to the staff one of the things they told me was: "Even though we do much of the same work as nurses, they are the angels but we are seen as the skivvies. People only change their minds once they see what we actually do."

We have seen that lack of value reflected in government attitudes and the lack of wider support for this sector. Has there been weekly clapping for care workers, special arrangements in supermarkets for the social care workforce or outrage that care workers are not receiving a substantial pay increase, like for the nurses? Let us not forget the scandal of hospital discharges to care homes, where patients had not even been tested for the virus before being installed among vulnerable people and their carers, with the catastrophic results that we all know about.

Yet so many people depend on care workers just to be able to live their lives, whether independently or in care homes. Social care is a 24-hours-a-day, 365-days-a-year activity but in return for that level of commitment its workforce receives pretty poor recompense. The latest data shows that in April 2020 the average care worker was paid just £8.50 an hour, the same as most supermarkets pay. Last year there were 112,000 vacancies at any one time, while turnover rates showed 430,000 staff—30.4%—leaving their jobs in any one year. The care sector has been starved of cash through systematic and deep cuts to the local government funding on which it depends. A senior care worker is now paid just 12p more per hour than a new starter.

Proposals for better care worker pay must include practical ways of requiring better pay when commissioning services. Linking training and qualifications to pay and creating proper career pathways across health and care are also well overdue to help much-needed recruitment. Recovering from the pandemic must include a new settlement for a properly resourced and valued care service. It must recognise and value the huge sacrifices made by the social care workforce during the pandemic, caring for elderly and vulnerable people with great professionalism and often at great personal risk, often in a context of desperately stretched services, sometimes in facilities that were not suitable for isolation, sometimes without adequate PPE and, until September, often without proper access to regular testing. There is an urgent need for appropriate pay, professional career structures and parity of esteem with NHS colleagues.

The Government must step up to their responsibilities and create a service that does not depend on the sacrifice of poorly paid and undervalued workers but instead is properly resourced and fit for purpose for ever-growing future needs.

4.35 pm

Baroness Uddin (Non-Afl) [V]: My Lords, it is a privilege to take part once again in this debate. I thank the Minister for detailing the work of the Government. I also wish to recognise the contribution of my noble friend Lady Gale, whose long-standing leadership to improve women's political participation is worth all our salutes.

Alongside other noble Lords, I am indebted to the 70% of the NHS workforce and the 80% of the retail workforce who are women. We are also indebted to the teachers who have kept the schools open. All noble Lords have rightly acknowledged the direct and indirect effect of the Covid pandemic on women. It has brought into sharp focus the regressive impact on gender equality, or the lack of it.

It is also worth reflecting on the women deeply affected, referred to in the reports and surveys by the TUC and Mumsnet. I appreciate the difficult choices some of these women are having to make about leaving the workforce or managing family and caring responsibilities.

Valuing women means that every aspect of the work of Parliament and government must be determined to embed social, cultural, political and economic justice. We are not the best example, as has been stated. All political parties are culpable and need to be more serious about achieving parity. The lack of equal representation in Parliament and in public and private organisations where decisions are made means that women remain largely absent from the decision-making process. Hence the endemic violence against women, which remains a catastrophic shame of our generation.

The Government have announced measures about more listening and reporting, including on the health impact on women and on race disparity. Progress on the devastating impact and the consequences of Islamophobia on Muslim women throughout all parts of society is disappointing, hampering opportunities in employment and public office.

All noble Lords have spoken passionately about inequality and I echo, salute and honour all noble Baronesses, in particular, for their history and contribution as well as their call for a women-centred transformation of our political system and structures. This was so eloquently stated by the noble Baroness, Lady Bennett.

Does the Minister agree that while listening and consulting exercises are very important, it is time for action which empowers half of humanity and ensures that women in this country have the opportunity to fully participate at all levels of decision-making, and that nothing else is good enough for gender justice?

4.38 pm

Lord Loomba (CB) [V]: My Lords, today's debate on International Women's Day is important and timely. I want to focus on women who have lost their loved ones achieving an equal future in a Covid-19 world.

As I look back, 2020 was an unprecedented, unpredictable and unforgettable year. The Covid-19 pandemic has killed many thousands of people and

[Lord Loomba]
destroyed economies all over the world. It has spared no country. Sadly, more than 120,000 people have died in the UK as a result of Covid-19. I suspect that more than 50% of those left behind are women, as Covid widows. They are now lonely, insecure and victims of bereavement grief.

The dreadful coronavirus has killed more people from BAME backgrounds. They are poor and face a double burden that is likely to burden their and their children's lives for years to come. They need financial help and support for their bereavement grief and their unique stories deserve to be heard. It is our moral duty, particularly at this moment when so many women need empowerment and championing. The former UN Secretary-General, His Excellency Ban Ki-moon, has said:

"Despite the many difficulties widows face, many make valuable contributions to their countries and communities … we can reduce the suffering that widows endure by raising their status and helping them in their hour of need. This will contribute to promoting the full and equal participation of all women in society."

Our Government have left no stone unturned to tackle the coronavirus pandemic. They have invested billions of pounds to support the NHS and research for the vaccine to save lives. The Government have also spent billions more to save jobs and the economy, through furlough for millions of people and through grants to numerous businesses. The vaccine rollout is an exemplary achievement, as more than 20 million people have already received their first dose.

I urge the UK Government to set up a Covid-19 widows support group to provide financial support and practical help to overcome their bereavement grief. By setting up such group, the UK Government will be not only setting an example for other countries to follow, but commemorating International Women's Day in its truest sense.

4.42 pm

Baroness Nicholson of Winterbourne (Con): My Lords, it is a very great pleasure to follow the noble Lord, Lord Loomba, whose work is incredibly wonderful and inspiring for widows, particularly in India but also elsewhere. I am followed by one of the most eminent Members of our House, the noble Lord, Lord Winston, whose speech a week ago on the amendment tabled by my noble friend Lord Lucas on the maternity Bill was truly outstanding and exceptional. It is a pleasure to speak this afternoon.

I raise the challenge of single-sex wards in hospitals, and specific female-only medical treatment in hospitals, special schools and homes. Sir Simon Stevens's guidance, now over two years old, wrongly informed hospitals that patients may choose their treatment and wards according to gender self-selection. Annexe B of Sir Simon's guidance seems to have interpreted the equal opportunities Act incorrectly—one of a raft of government institutional statements that followed the same misunderstanding of the Act. In fact, hospitals are excluded from the Act, as prisons are. Therefore, to attempt enforcing inaccurate guidelines piles Pelion on Ossa, to the serious detriment of the good, professional care for which the NHS is rightly famous.

Natal males demanding, and nurses be threatened with expulsion if they do not carry out, the most intimate female treatments on males—vaginal smears and chestfeeding are just two of the many examples I have been given over the last two years—has led to unacceptable challenges for the medical staff and negative outcomes for females. The reverse is true, of course, for young people who are female. I have had some cases with mental health problems where it is clear that a natal male is deemed to be a female for the purpose of offering the most intimate of personal care relating to periods. It cannot be right.

I ask the Minister to meet me on this unique issue and to agree an assessment of guidance from Sir Simon, which may be flawed. Indeed, I heard on 11 March 2020, exactly one year ago today, from the Minister for Public Health, the Member of Parliament for Bury St Edmunds, that there was going to be a review of these guidelines. Has that review happened? I have written a couple of times to the Minister, my noble friend Lord Bethell, and I have not heard that anything has happened—my last letter was in October last year.

We have a wonderful Minister in the noble Baroness, Lady Berridge, and I was very happy indeed to have read the wonderful statement about her in this week's *Evening Standard* outlining the splendid work that she has done. We have two Ministers for Equalities, the Members of Parliament for South West Norfolk and for Saffron Walden, both outstanding people, but perhaps their work should be more supported. This falls fairly and squarely within the Covid debate, since males seem to be more affected than females, and the gender versus sex identification is therefore even more strongly relevant in healthcare than in this week's census wording judgment, where the judge definitively ruled that sex and gender are not one.

I congratulate all who work in this very difficult area, but I believe the time has come to follow the science. Public health provision must follow the science, a lesson we have all well learned.

4.47 pm

Lord Winston (Lab) [V]: My Lords, I do not deserve that very kind mention—even a remote mention—by either of the noble Baronesses, Lady Falkner or Lady Nicholson. In that debate last week I declared an interest in the Genesis Research Trust, which I am very fortunate to chair. It is a large research organisation that looks at the problems that women face related to reproduction.

I want to draw attention to women who miscarry. Some 880,000 babies are lost by miscarriage annually in the United Kingdom alone. This loss of life within has an impact that is much more serious than is generally understood. There is no funeral. Nobody refers to it or talks about it. Years ago, I remember just how frightened we were when my wife had a small bleed during pregnancy. Fortunately, the baby was safe. Often, women are admitted to hospital, where everybody is preoccupied with a more important medical condition. They are given an anaesthetic, the uterus is scraped out by a junior doctor and, because they are not "urgent" and are usually at the end of a long waiting list, they are alone and starved a long time. Then, sad and worried, they are released from hospital

without explanation and told to try again, with no understanding of what has happened and no tests to see what is wrong. So often, I am afraid, general practitioners do not pay enough attention to this very common condition—some, of course, do, but many do not. This, of course, has been a problem during the pandemic, as some women who are greatly worried about their pregnancy get little information about the virus and whether it might affect their baby.

Furthermore, there is an issue with repeated miscarriage. This is more common when people are infertile. So often, little or no serious attempt at a diagnosis is made. Such women have a diagnosis attached to them of "unexplained infertility", which, of course, is an excuse for no diagnosis at all. This leaves, at best, treatments such as IVF without a diagnosis. As good doctors affirm, treatment without a diagnosis, and no attempt to make one, is or leads to bad medicine. Because miscarriage is so common, pregnant women miscarrying are often treated with what seems like indifference.

All this increases the drive for them to seek private in vitro fertilisation. What women are never told is that even after six cycles of treatment by expensive IVF, the figures show that only 43% of women have a live baby—something never mentioned by the HFEA. That is after six cycles, and they may have had more than one miscarriage during that treatment.

Of course, the pandemic has had another effect. One in 10 couples suffer from infertility, and this is much more likely over the age of 38. Virtually all fertility treatment has been halted and IVF has been impossible in most cases. A crucial year has been lost. As they age, these women face a rapidly decreasing chance of having a baby.

I have great respect for the noble Baroness, Lady Berridge, so it is a pleasure to pay her this tiny compliment. I think that the pandemic offers a real opportunity. When we revisit the structure of the NHS, as has been promised, may we learn from the pandemic and may the Government give much more consideration to the problems—these common, apparently trivial problems—that I emphasised. In view of the extra money that she announced for research, how much will be earmarked for diseases that women commonly experience during pregnancy?

4.50 pm

Baroness Fox of Buckley (Non-Afl): In following on from the noble Lord, Lord Winston, I want to thank him on behalf of so many people for his work on IVF. Women everywhere are in his debt.

It has been stated here as though it is incontestable that Covid has hit women harder than men. However, despite a lifetime of fighting for women's rights, I wonder how helpful it is to see every issue through the prism of gender. Earlier this week, I reflected on this question in a debate in the House on the women's health strategy. The noble Baroness, Lady Thornton, said that although older men have a higher risk of death from Covid, this unfairly means that older women experience a "higher level of grief", which affects their mental health. Concentrating on women grieving seems such a perverse way of viewing the issue of more men dying. Women's rights campaigners must try to avoid putting too much emphasis on victimhood and grievance. I would prefer a more positive approach that emphasises women's agency and what they can achieve, while avoiding a divisive agenda—particularly one that pits men and women against each other as competitors.

In that context, I was disappointed to read the House of Commons Women and Equalities Committee's complaint that the Government's

"priorities for recovery are heavily gendered in nature".

It complained about the investment in

"science, technology, engineering and maths (STEM) and construction"

and suggested a more women-friendly investment in the care sector instead. That seems far too fatalistic. I want women to be engineers and builders. We should invest in the care system but as a social priority, not just because women work there. If anything, I want the Government to get on and kick-start more productive economic growth, creating jobs for everyone. Focusing on gender can be a distraction in that instance.

I was disappointed to read some of the "build back better" literature that we were sent for this debate. Again, in the name of gendered employment opportunities, it argued that one silver lining of the pandemic is working from home, which could become normalised. I assume that it was written by researchers with big houses and gardens and the kind of broadband I can only dream of. Here is a warning: women have historically fought long and hard to escape the private sphere and gain the right to work in workplaces and join the public sphere. After all the work done by women and trade unionists to get women into a position of equality at work, I dread us coming out of this pandemic and people saying that being confined to the home is a victory.

Indeed, our coming together today recognises that we stand on the shoulders of those women—those giants—who fought for us in the past. I was really glad to be lobbied on the subject of the matchgirls' strike. Sarah Chapman and Alice Francis were mentioned. These people in the past were dissident women. They were not victims; they were fighters, campaigners and trade unionists, and we owe so much to them. Long may the dissidents win.

Finally, it is important that we recognise that we are celebrating International Women's Day as though there are no issues around the fact that you cannot say "I am a woman" without it causing problems. There needed to be a fight in this House to turn "pregnant person" into "mother" as a compromise because "woman" was too radical. If we do not want to look like we are just ticking boxes and going through the motions, we must recognise that the gender-critical debate needs to be had out. I know that many women—we have heard from the noble Baroness, Lady Nicholson, who has been wonderfully inspiring on this issue—have said that we should do something about this when you have to fight to get women or biological sex mentioned in the census. Let us lead on that rather than just ticking the International Women's Day box.

4.55 pm

Lord Lucas (Con) [V]: My Lords, I am so conscious that Sarah Everard could have been my daughter or, indeed, any of our daughters. To be subject in that way

[Lord Lucas]
to random male violence is a terrible thing. I recommend to everyone Kate McCann's short and extremely punchy description of what it is like to be a woman walking home at night.

As Ecclesiastes would doubtless have said if he had been taking part in this debate, "Let us now praise famous women, and our mothers that begot us." I shall start with Margaret Cavendish—born Lucas, my many times great-aunt—who hammered hard on the doors of the Royal Society and was repelled by the men. When Westminster Abbey celebrated the women who were buried there, her name was left out, but she has the last word: she has been in print ever since she died. There are not many who can say that over 400 years. I also celebrate Olympe de Gouges. To write as she did to Robespierre, with the obvious consequences, is something one should shout out in praise of, as one should for women in Iran today who are doing much the same to the ayatollahs.

Like the noble Baroness, Lady Fox, I wish to remember the members of the strike and union committees of 1888 matchgirls' strike, and I will name them all: Eliza Martin, Louisa Beck, Julia Gambleton, Jane Wakeling, Jane Staines, Eliza Price, Mary Naulls, Kate Sclater, Ellen Johnson, Sarah Chapman, Mary Driscoll, Alice Francis and Mary Cummings. I must also mention Annie Besant, a fellow theosophist of my grandmother, who very much supported them and made their victory possible.

Let us all play our part in the cause of equality of women. It has been a long struggle where each grain of progress matters, so today in this cause I make a plea and have a suggestion. My plea is: Stonewall, please climb out of the hole of misogyny and bullying that you have dug for yourself. The needs of trans people, which are pressing, are not best served by adding to the disadvantages of women. Join the conversation. Let us find a way through that works for all of us.

My suggestion is: it is a large impediment to equality that we impose penalties for the time out that women take to have children. In the pandemic, working part-time from home seems to have become common. Many organisations that I speak to expect this to remain a strong feature in future. My local council is selling its offices because people have been so much more productive working from home. Having children and looking after them well is a role that has value to all of us, especially those of us with mothers. We should do our best to make sure that those who fulfil that role are not at a disadvantage when they return to the workforce. We have learned how well part-time at-home work works. It will be easy in a company which maintains that to fit in parents with care and to keep them involved, up to speed and part of the team so that when they return to the world of work they do so without disadvantage and without having missed out on 10 or 15 years. I say to my noble friend the Minister that the place this should start is the Civil Service because so many of the jobs civil servants do are entirely suitable for part-time home working. The Civil Service should take a lead and make this big step forward for women to take advantage of all we have learned in the pandemic.

4.59 pm

Lord Bhatia (Non-Afl) [V]: My Lords, this year's International Women's Day is like no other. As countries and communities start to slowly recover from a devastating pandemic, we have the chance to finally end the exclusion and marginalisation of women and girls. Women must have the possibility to play a full part in shaping the pivotal decisions being made right now, as countries respond to and recover from the pandemic. These choices will affect the well-being of people and the planet for generations to come.

To do this, we must break down the deep-seated historic, cultural and socioeconomic barriers that prevent women taking their seat at the decision-making table, while ensuring that resources and power are more equitably distributed. However, having a seat at the table also leads to problems. The question is whether the women are heard or not. Unless the table has equal numbers of men and women, having a seat will not work.

Different countries have different attitudes to women. Disappointingly, there is a known attitude in some families that, if a girl is born, it is considered as a problem. Science now enables families to find out early in pregnancy whether it is a boy or a girl. The women are often encouraged, and in some cases forced, to abort. I came across an article written by a prominent lady researcher in India. She talked about a family who had a boy and a girl; as they grew up, the girl related to the researcher: "If you look at me or my mother, we are both weak and not in good health. My father and brothers are very healthy. If they are ill, the best doctors or hospitals are used. If I or my mother are ill, only the local untrained person is called in. At mealtimes, my brother and father are served first. My mother and I get the leftovers".

Unless such attitudes are dealt with, women will always be second-class citizens in their families—and unless legislation is in force, things will not change. I hope that this International Women's Day will highlight such problems and get Governments to give equal rights to women.

5.02 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I am delighted to participate in this debate, which has been very wide-ranging, covering as it has VSO to IVF. I congratulate my noble friend Lady Scott on introducing it, and for choosing the theme.

I would like to pause for a moment to remember the family and friends of Sarah Everard. I would also like to remember the family and friends of Claudia Lawrence, who was also from York. She went missing in March 2009, and she has never been found. Her mother Joan and the rest of her family live day by day, hoping that she will return, but unsure. Her father's funeral took place today; he passed away without knowing whether she was alive or not.

I congratulate the Government on the progress made so far, particularly on equality and non-discrimination. Our generation has benefited much more than my mother's or my grandmother's generation did, but there is still a long way to go. I recognise that government funds to help during the pandemic have

been extremely generous and well received. But if we really are to empower women and enable them to play their part in recovering from the pandemic, we must address one issue as a matter of priority. I invite my noble friend Lady Berridge, when she sums up this debate, to address the gender gap and particularly the position of working women.

Women now have to work until they are 66, or in future 67 and older, before they can claim their state pension, yet it is extremely difficult for older women to find work in the marketplace. The Government must address that as a matter of urgency.

My noble friend Lady Altmann touched on issues regarding pensions, but one that was not addressed was the position of part-time women workers, particularly their inability often to auto-enrol in pensions when they have more than one part-time job but quite possibly are not admitted to an auto-enrolment pension in any of them. That leaves them excluded from a pension that could contribute to keeping them in a comfortable position in later life. I very much support the campaign that Scottish Widows has launched to close a particular gender pay gap: a woman in her 20s starting work today will expect to retire on a pension that is £100,000 less than that of a man of the same age. That is unacceptable and must be addressed as a matter of urgency.

So while I recognise that the Government have taken many measures, both during the pandemic and more generally, equality in pensions and regarding women in the workplace, particularly for older women, has a long way to go. I recognise the economic impact that Covid has played, particularly with thousands of jobs being lost in retail, most of them women's jobs. It will be extremely difficult to place them in the marketplace immediately.

I pay tribute to role models that I have worked with, particularly those I served with in the European Parliament—many noble Lords will know the history of Simone Veil, who suffered under French occupation by the Germans during the Second World War. But perhaps on a more entertaining note, many will not appreciate that Nana Mouskouri served in the European Parliament. And I am fortunate to have served in both Houses with our own inimitable former Speaker of the Commons, Betty, the noble Baroness, Lady Boothroyd.

5.07 pm

Baroness Wheatcroft (CB) [V]: My Lords, if women are to flourish in society, it is essential that they should play a full part in politics. That is as true in our country as in the developing world. Here I pay tribute to—I still think of her as my noble friend—the noble Baroness, Lady Jenkin of Kennington, who has worked tirelessly to get more women into Westminster. She has succeeded: the 2019 general election returned a record number of women, 220, to Parliament. However, that still amounts to only 34% of MPs and, sadly, some excellent women MPs decided to leave politics at that election. There is no mistaking that discrimination, both in Westminster and without, was one of the reasons.

Allegations of sexism within Parliament are being addressed, not least in the Valuing Everyone programme. Things have certainly improved since the first female MP to sit in the Chamber, Lady Astor, took her seat in 1919. Sir Winston Churchill is said to have described her arrival as being "as embarrassing as if she had burst into my bathroom when I had nothing with which to defend myself, not even a sponge". Lady Astor retaliated that he was not handsome enough to have worries of that kind.

However, it is now much harder for women politicians to brush off some of the attacks to which they are regularly subjected. That is the result of technology, both a blessing and a curse. The noble Baroness, Lady Morgan, when an MP, was told that her days were numbered. Antoinette Sandbach, when an MP, faced such threats that the police advised her no longer to hold open surgeries in her constituency. These were only extreme examples of a common problem. Can the Minister assure me that more will be done to stop female politicians being subjected to such anonymous online threats? It is not impossible to do away with anonymity online; it just takes the will. I believe that doing so would encourage more women not just into politics but into public life generally.

The more women there are in politics, the more policies will take account of their needs—and the Covid pandemic has highlighted that they indeed have special needs. Others have pointed out that women have carried more of the burden of coping with childcare and home-schooling than have men. That generalisation does not give due credit to the many households where there is genuine sharing of care. My older son, for instance, is married to a hospital doctor. We are immensely proud of her hard work during the pandemic, but it was her working-from-home husband who had to become home teacher.

Nevertheless, there is overwhelming evidence that women around the world have shouldered most of the childcare during Covid. The recent TUC survey, for instance, showed that many women, unable to get furlough, have been forced to use their annual leave in order to cope. They now face the lengthy school holidays that lie ahead without any paid leave to take to look after their children. Germany have decreed an extra 10 weeks of paid leave for parents and 20 weeks for single parents. Italy has a similar scheme. I ask the Minister, how will the UK help working women through this impending crisis? Without extra help during the school holidays, many women may be forced to relinquish their jobs.

5.10 pm

Baroness Blower (Lab) [V]: My Lords, there is so much to be said about women, here in the UK and globally, in the context of the pandemic. I begin by referring, as did the noble Baroness, Lady Wheatcroft, to the TUC report on the impact on women in the recent period. The Covid-19 pandemic has had a disproportionate impact on women, as seen in differential job loss, increased levels of maternity and pregnancy discrimination, exposure to unsafe working practices, the stress of home schooling—often juggled with working from home—and, tragically, heightened risk of domestic abuse.

There are so many fronts on which women still need to struggle to make progress towards equality in this society, and if that is the case here in Britain, those struggles are even more urgent globally. An estimated

[Baroness Blower]

70% of the global health and social care workforce are women. These frontline workers in many places face increased pressures and exposure to the virus, often with little personal protective equipment, let alone vaccination. Yet they are much less likely to be involved in decision-making about equipment and funding. This global figure of 70% is lower than the 77% of female staff employed in the NHS and the 82% of the adult social care workforce here which is female.

These are the very same women workers whom we have stood applauding week after week for their incredible work during the pandemic, and yet, when it comes to recognising their work, we see them paid, in the case of social care workers, at barely the minimum wage, as the noble Baroness, Lady Janke, said. Our nurses—here I agree with the noble Baroness, Lady Ritchie of Downpatrick—were offered a paltry and frankly insulting pay increase of 1%, not an increase at all given how much nurses' pay has declined in recent years, and this at a time when there are enormous levels of vacancy in the NHS and in social care, frankly imperilling the effective functioning of these services.

Applause for these key workers was great but, as my mother used to say, "You can't spend 'Thank you very much'." She was of course right. Perhaps, given the outcry against this pay proposal for nurses, the Government will think again and perhaps also think about the need—indeed, the requirement—to carry out and take into account gender equality impact assessments, both before the implementation of policies and thereafter.

Perhaps by International Women's Day 2022 we will be able to celebrate fewer girls out of education globally and a reduction in the gender pay gap here at home or at least, in contradistinction to the ONS report of this week, see fewer women in higher levels of anxiety and depression, and even perhaps more men taking a fairer share of household work and childcare. Finally, but so importantly, let us not wait until International Women's Day 2022 to see the end of violence against women everywhere. We must act with urgency on this, as the Minister said when opening.

5.14 pm

Lord Sheikh (Con) [V]: My Lords, it gives me great pleasure to contribute to this important debate, as I believe in gender equality and the empowerment of women in my business, political and social work. International Women's Day is an important opportunity to highlight the many achievements of women in various fields while paying tribute to the important role they play in society.

I must, however, touch upon some of the challenges still facing women today. A number of experts have stated that the impact of Covid-19 will fall disproportionately on women and the most vulnerable members of our society. The coronavirus pandemic has had an adverse impact on gender equality and threatens to reverse the progress made in this area. Data from the United Nations suggests that approximately 47 million women and girls could fall into poverty as a result of the pandemic. Gender parity is vital to achieving the UN sustainable development goals by 2030. Women are overrepresented in the informal economy, where they tend to have fewer labour rights. Furthermore, mothers and women with caring responsibilities have been disproportionately furloughed or made redundant as a result of the economic downturn.

It is unacceptable that many women in various occupations are still being paid less than their male counterparts. I therefore welcome Her Majesty's Government's commitment to introducing policies which promote fairness in the workplace and address the gender pay gap.

The importance of addressing the devastating effects of domestic abuse on females in households experiencing prolonged periods of unemployment has become even more urgent. Phone calls to the National Domestic Abuse Helpline increased by 49% during the first national lockdown last year. There is an unfortunate correlation between economic downturns and increases in domestic abuse. The imminent Domestic Abuse Act sends a clear message that this evil will not be tolerated any more.

The pandemic reminds us all of the debt of gratitude that we owe to the women in our families and communities. Women account for approximately 77% of the NHS workforce and are overrepresented in a number of essential areas, including childcare and nursing homes. It is their strength and resilience that makes women such invaluable members of our communities. Every effort must be taken to empower women and ensure that every female is given the opportunity to reach their full potential.

We know that women in developing countries experience many forms of discrimination. However, in conflict-affected countries, they often face additional risks, in some cases from landmines and ordnance. This issue concerns me a great deal, as I have personally seen mine clearance being carried out effectively in two countries. Can my noble friend the Minister explain how the UK will contribute, through both its diplomatic channels and foreign aid, to reducing the awful damage inflicted by these weapons on women and girls globally?

5.18 pm

Lord Young of Norwood Green (Lab) [V]: My Lords, I, too, express my sympathy to the family of Sarah Everard.

I was glad to see that nobody, even Stonewall, suggested that today's debate should be entitled "International Persons Day". I congratulate the noble Lords who, during the recent debate on ministerial maternity allowance, exposed the nonsense of "pregnant persons", getting the Government to accept the amendment to "pregnant mothers".

Many Peers have rightly paid tribute to women scientists. I want to pay tribute to other women, such as Hibo Wardere, who speaks up for women and girls who, like herself, have suffered and continue to suffer from female genital mutilation and says

"I'm a woman. Get over it".

Greta Thunberg has shown young people that their voice is important in the biggest challenge we face: saving the planet; while our own Malala Yousafzai, the youngest Nobel Prize winner ever, fights with tremendous courage and determination for young girls' education.

If you watched the Biden inauguration it gave you tremendous hope to see Kamala Harris, the first black woman Vice-President, who I hope will go on one day to be President, and to see Amanda Gorman, the young black Poet Laureate, deliver her tremendous poem, "The Hill We Climb". We have a long way to go on equality. My daughter, Laura, a higher-grade nurse in A&E, is twice as qualified as her brother but earns half the pay. That shows us what we think about equal pay for work of equal value. I hope the Government recognise that if we want to create a fairer, equal society post Covid then affordable childcare, as many Peers have said, is essential.

As an apprenticeship ambassador, I am getting more young girls to recognise that careers in engineering, science, construction and IT are worthwhile and necessary for the economy. It is also about getting schools to offer career guidance that shows girls that an apprenticeship is a viable alternative to university.

I want to conclude on the problem of the increased violence towards women and children taking place during Covid. We need to ensure that we protect safe spaces for women in hostels, refuges, hospitals and prisons. Physical threats to women, including rape, by transgender men are a terrible indictment on our society. I want to make it clear that I believe in fair rights for transgender people. I am not transphobic, although no doubt I will be accused of it after this contribution. As the noble Lord, Lord Lucas, said, I hope that we will be able to have a reasonable debate on this issue. I hope that in replying, the Minister will recognise the importance of protecting safe spaces for women.

5.22 pm

Baroness Verma (Con) [V]: My Lords, I refer noble Lords to my interests in the register as chair of UN Women UK, as co-chair of the APPG for UN Women, along with Maria Miller, and as an adult social care provider. I want to focus most of my time on women from the minority communities. Covid has really magnified issues facing women across the country but more so, I believe, it has demonstrated how little we know about accessing those women from the minority communities who have probably faced greater challenges being in communities where there are language constraints, social isolation and often little access to separate disposable income. There is also a general lack of understanding of BAME issues across many agencies.

I have looked at issues concerning women for as long as I can remember but, over this last year or so, some of the phone calls and emails that I have received have really worried me. I have urged the House every time I can to raise the issue of people from minority communities, particularly women, although we all know that the incidence of violence against women has risen during this period. Women who have no voice or do not know how to access services are unreported, so we do not really know the numbers. We do not know how many people from minority communities are going to come out of the pandemic with huge mental health issues, and with huge problems in just readjusting their lives if they have had to try to home-school without being able to understand fully whether they are providing enough support for their children.

I remember a case not that long ago where I saw a couple from a minority community living in a multi-generational household. After the woman had given birth, she unfortunately became very sick and was unable to communicate verbally or to walk and she had uncontrollable movements. That meant that her husband was left to raise their new baby and manage a disabled wife and an elderly mother. This man was carrying his wife up and down the stairs on his back because he did not have the skills to understand how to access services. There are a lot of issues around minority communities that concern me.

I thank the noble Baroness, Lady Janke, for raising the issue of care workers. As an adult social care provider, I want to pay tribute to care workers across the country. They have worked tirelessly and, as often as not, have been the quiet unsung heroes who will continue to work long after this wretched pandemic has gone. We need to facilitate better recognition of care work as a profession rather than looking at it as having a low-paid, unskilled workforce. Care workers are among the most skilled people I know, and I hope that after the pandemic we will have a decent, detailed discussion on how we manage people who work in the care sector.

5.26 pm

Lord Desai (Non-Afl): My Lords, I was going to speak on women prisoners, but the noble Lord, Lord McNally, spoke on the same subject, so I had to quickly change gear and invent a new speech, but that is no problem. I shall just say one thing about Covid and women prisoners. I tried to put a question, but I did not win the ballot. Pregnant women who are prisoners require early release, if possible, under the current circumstances. If there is still scope for changing the policy, I urge Her Majesty's Government to think about it, along with the early release of those on the end of custody temporary release scheme or on special purpose licences—that is the detailed description—if it is possible. I have tried to do that.

I want to make one remark on what the noble Baroness, Lady Wheatcroft, said about women MPs getting anonymous tweets and things on social media. She asked whether anonymity could be dealt with. In the past fortnight, I have read that the Government of India have sent a notification to all providers of social media that if somebody complains, they have to reveal the name—not particularly the message but the name. That is being taken to court in India, so there may be a legal problem. If there is anything that we can do to make these things anonymous, especially when a complaint is received from the recipient of an email, that will be a great step forward.

Lastly, I want to make a suggestion which has been bothering me for all the time I have been a professional economist. It is the injustice of the welfare state. If you are a woman living on your own, you get a certain sum of money from the welfare state. Under the universal credit system it is around £342 if you are under 25 and £409 if you are over 25; but if you are with a man, it is £488 instead of £342 and £594 instead of £409. This means that two people do not get double what one person gets, so the state actively encourages the breaking up of a couple's relationship. This is a very peculiar thing.

[Lord Desai]

People claim we are a Christian country with the sanctity of marriage and all that, but the welfare state actively discourages people living together, and this injustice has been going on for a long time. One thing that we can do—as far as possible, since money right now is flowing like nothing on earth—would be to correct that anomaly. It would make a lot of women's and poor men's lives much better; they would not have to pretend to be living separately just to get £50 more. I suggest that the Chancellor should look at that reform urgently.

5.30 pm

Lord Hendy (Lab) [V]: My Lords, a year ago the TUC found that 52% of women had experienced sexual harassment at work. For young women aged between 18 and 24 the figure was 63%, nearly two-thirds. That is disgraceful.

As the UK gets back to work after the ravages of the pandemic, I propose three steps to the Minister for tackling harassment at work. The first is to suggest an amendment to the Equality Act 2010 to impose a duty on every employer to maintain every workplace free from harassment, violence and bullying. Currently an employer may be vicariously liable but the constraints of the law on vicarious liability make that difficult to establish. A duty on the employer would place a responsibility on its shoulders to take positive steps to prevent, investigate and penalise such conduct.

The second step would be for the amendment to broaden Section 26 of the Act to specify bullying as well as harassment as unacceptable conduct. Bullying might be defined as unwanted conduct at or connected to work, whether or not related to a relevant protected characteristic, where the conduct has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the victim, and where the perpetrator has or reasonably appears to have a more powerful position than the victim whether by reason of status, authority, apparent capability to harm or reward the victim or otherwise. I appreciate that this issue is not confined only to women but women certainly suffer more bullying than men at work.

Thirdly, on Tuesday I asked the Minister's colleague, the noble Lord, Lord Ahmad, if consideration had been given to the UK ratifying the International Labour Organization's convention 190 on violence and harassment, which was adopted on 21 June 2019. He said that he would write to me about it. The convention is directed against violence and harassment at work, particularly gender-based violence and harassment, and stresses the importance of a work culture based on mutual respect and dignity of the human being. It would be an important symbol of commitment at home and abroad if the UK were to ratify this important convention. Will the Minister bring her pressure to bear?

5.34 pm

Baroness Cumberlege (Con) [V]: My Lords, it is a great pleasure to follow the noble Lord, Lord Hendy, in this debate. Harassment at work is a real issue and I hope the Government might consider the three steps that he mentioned. For me, International Women's Day has taken on a greater significance than ever, and its theme, "Choose to challenge", resonates very strongly with me.

I was the chair of the Independent Medicines and Medical Devices Safety Review and we spent two and a half years just listening and learning from many hundreds of people who have suffered avoidable harm resulting from medications and one medical device. Those people were overwhelmingly women, and my team and I discovered that, while every story we heard was different and deeply personal, there were some common themes linking them all together. These themes were really disturbing—actually, they were shocking. Women told us that they were not informed about the risks. Without being informed of the risks, they could not actually make informed decisions. That, in turn, meant that they could not give their informed consent and, when problems and painful complications arose, we heard that women were routinely ignored or dismissed.

There are many thousands of these women and they have been feeling powerless, helpless and deeply hurt. Many are in great physical pain and tremendous mental anguish. Too often, they have been treated in a cavalier fashion by a healthcare system that is disjointed and seems to have lost its raison d'être. This is not just a UK phenomenon; it is international. I have been contacted by women as far away as Australia and New Zealand who have been going through the same nightmare. Listening to women is not merely something that is nice to do, it is the starting point for good policy and good care.

Five years ago, I chaired the national maternity review. Our starting point was to listen to women and their families, and our report, *Better Births*, reflected what we were told. We have been putting these recommendations into being, but listening is only one step in the right direction. The second vital step is to act and, in our report, *First Do No Harm*, my review team said, "We urgently need an independent patient safety commissioner, someone whose role it is to listen to patients' views and concerns, and who says, 'Stop, this does not look right. We need to look into this. We need a pause.'"

We need someone who listens, but also someone who makes things happen. The Government have accepted the need for the commissioner and have legislated to establish the role. That is absolutely great, and I thank Ministers and officials for helping to make this happen. We now need to put this person in place. The need is urgent, because we know that avoidable harm still happens. So, in the spirit of International Women's Day, I choose to challenge. I choose to challenge the Government: you have made a good decision by legislating to create a patient safety commissioner; for the sake of those who have suffered enough already, and for those who may be at risk right now, let us move at speed. Let us put the commissioner in place. Let us listen to patients, to women. Let us learn. Let us act. Let us improve safety and let us improve the quality of their care. What better commitment, and what better way to mark International Women's Day?

5.38 pm

Baroness Massey of Darwen (Lab) [V]: My Lords, I thank the Minister for introducing this debate. By this point in the debate. I have listened to many informative,

passionate speeches from colleagues. They demonstrate commitment to post-Covid recovery within the UK and globally. I am proud to be part of such debates, and proud to follow the noble Baroness, Lady Cumberlege, who has done so much work for women and who has listened, learned and made things happen.

The wording in the title of the debate, "empowering women", is positive and rightly linked to women's rights. What happens after Covid is of the utmost importance, and we must build on what we have learned. I hope the Government will vigorously promote women's rights, and not just with rhetoric. Women—and children and men—need to know their rights and how to get support to access those rights. Women's rights are human rights and contribute to national and global development. Human rights are not just individual, but encourage us to fight for the rights of others, as recently demonstrated in the Black Lives Matter action.

Covid has laid bare inequalities of many kinds, for many people. But the situation before Covid was not satisfactory, especially for women, those with disabilities and mental health problems, those from black and minority-ethnic groups, young people and children, and older people. Some people are of course in more than one of those categories, and women have suffered in disproportionate ways, which have been described by others. Cuts to local authority funding and services such as mental health services were having devastating effects, particularly on young people, long before Covid. It will take huge efforts to reverse a downward spiral.

There are many international conventions on women's rights. Treaties and conventions are of course useful in their aspirations and practical suggestions, but we know that they must be implemented at a local level. We need countries to react and implement. We need nations to embody these laws and policies in practice. For example, how do local government and the public and private sectors respond? How are grass-roots movements and NGOs supported to add to their knowledge and hands-on capabilities in consolidating the rights of women and girls? Is gender equality really respected?

These rights impinge on all elements of society. We may ask how women are encouraged to stand for office or apply for senior roles. We may ask how many schools have programmes which encourage both girls and boys to examine the issue of human rights and the part that they can play. During the Covid pandemic, citizens have become more aware of rights in general. Wales and Scotland have supported the incorporation of the UN Convention on the Rights of the Child into legal frameworks and into school curricula. Will England follow the same path?

Women's rights begin with girls and boys knowing their rights and responsibilities, having the confidence to stand up for them and learning how to access what they deserve. We must develop a culture where women's rights and human rights are understood and enacted, and not just for ourselves. Supporting women in other, less developed countries is vital; I am glad that this has been demonstrated so well today. I envisage—and this is beginning to happen—global networks to empower women, not just those who are already powerful but those who could improve their lives with support such as mentoring and role models, becoming successful in whatever way that they choose.

I ask the Government to take a strong lead on human rights and make the direction clear with a high profile. Will they set out a vigorous programme to tackle the problems, identifying rights which are being abused? I ask for a declaration of intent. How does the Minister respond?

5.42 pm

Baroness Mobarik (Con): My Lords, it is a pleasure to take part in today's debate. On International Women's Day we celebrate the numerous achievements and successes of women, but alongside the victories there are countless statistics and reports about the disadvantages, discrimination and gender-based violence that women face around the world. For all the very welcome advances, the pace of change on women's rights, as enshrined by the UN 73 years ago, is staggeringly slow.

This past year, during the Covid-19 pandemic, women have often been the first to lose their jobs, and they may well be the last to be re-employed once things return to normal. The burden of childcare, home-schooling and domestic chores has all been overwhelmingly borne by women during this crisis, as noble Lords have acknowledged today. Women make up 39% of global employment; they account for 54% of job losses. If no action is taken in this gender-regressive scenario then, according to McKinsey, estimated global GDP could be $1 trillion lower in 2030.

As my noble friend Lord Bourne stated, Prime Minister Johnson has been a strong advocate for the empowerment of women and girls through education. He has demonstrated his commitment by an initiative to get 40 million more girls into primary and secondary school in developing countries by 2025. If they are reading by the age of 10, they are more likely to go to secondary school, marry much later and have financial independence.

Later this year, the UK will co-host with Kenya the Global Partnership for Education summit here in the UK. It is an opportunity to work collaboratively in this post-pandemic world. Kids have been out of school everywhere; it is important to get them back to school, both here and around the world. We are all in this together. Cuts in our aid budget are understandable due to recent challenges but it is vital that we maintain support for lifting countless children around the world out of poverty through education. It is crucial for our own security and is an important aspect of our diplomacy and influence. To honour our commitments, we will have to find new and creative ways of funding large-scale programmes for the delivery of education.

I want to make one further point. The situation of women in the developing world will not change until we tackle the root causes. Poverty is one but it does not explain everything. We agree that education for girls is key but, in addition, a concerted global effort is required to place specific emphasis on educating men to see women as equals. I must qualify that there are many enlightened men across the developing world who do support women and have been instrumental in bringing about progress.

However, a total shift in cultural mindset is needed, and this will not happen of its own accord. It needs a universal curriculum, if you like, led by the UN or the Commonwealth, which will aim to change the attitudes

[Baroness Mobarik]
of future generations in a positive way—sustained efforts in getting more girls into school, parallel with educating boys on the very specific subject of gender equality, and so much can be done online. Centuries of cultural history will not be easy to shift, but this is not religious. As the noble Lord, Lord Singh, stated, most religions—whether it is Christianity, Islam or Sikhism—espouse equality. This is about a cultural mindset. It may take a generation or two to bring about the desired result but if we do not act now then, at the current pace, we may achieve our goals in 100 to 150 years' time. That is simply not acceptable.

5.46 pm

Baroness Goudie (Lab) [V]: My Lords, I declare my interests as in the register.

Fifty per cent of the world are women. This year's theme for International Women's Day is "Choose to challenge". With that in mind, I want to use this opportunity to remind us all of the key areas that cannot slip off the agenda—especially in a year in which the world continues to face so many obstacles.

Included among those forgotten during this pandemic is the Yazidi community. This community, which was subjected to genocide, rape and torture by the Islamic State group, has been forgotten. The Islamic State's 2014 genocide created adversity long before the pandemic ever did. Many people from the community were displaced and have been living in camps for six years. Can you imagine what it is like for those children and their mothers who are trying to educate them? The aid budget for this desperate group has been cut by not only the United Kingdom but other countries as well. The British Government had promised that 92% of their aid would be spent in Yemen on nutrition, health and education for the Yazidi community. Now we realise that this has been cut back significantly. This community needs our attention consistently. These people deserve justice, jobs and the support to return home. We cannot forget their sacrifices.

Then there is the refugee crisis. Across the world, millions of people have been driven from their homes as a result of climate change, which is not their fault. According to the Internal Displacement Monitoring Centre, at the end of 2019, around 5.1 million people in 95 countries and territories were living in displacement as a result of disasters that happened not only in 2019 but in previous years. The countries with the highest number of internally displaced persons were Afghanistan, with 1.2 million, India, Ethiopia and the Philippines.

During the pandemic, asylum seekers are also being displaced by war. They are waiting for their cases to be considered, which often takes years, despite the promise of assistance from countries. The pandemic is making this much worse. These families live in barely adequate, unsanitary tent cities, with both elderly family members and young children. In these circumstances, how can they be protected? We must ensure that they get vaccinated as soon as possible. There will be generations of children whose lives were dictated by their lack of education, healthcare and the right nutrition. Despite the pandemic, we cannot turn our backs on these victims. They have found themselves refugees not through any fault of their own but as a result of war and climate change.

At the same time, there is a global human trafficking crisis. The traffickers are having a great time at the moment because nobody is watching what is happening. We have seen cases of human trafficking, particularly in the garment industry, again and again, where many countries, including the UK and US which have legislation in place, turn a blind eye to women producing garments in factories where workers are not paid a decent wage and are working under deplorable conditions. The Government must enforce the law and ensure for consumers that garments and other household goods are from factories with a stamp of approval to ensure that those goods are not developed through human trafficking.

Another problem is the trafficking that exists. Women and young children are often taken by traffickers. What protection is there for them, who will not have the opportunity to have the vaccine, who are being sold as sex slaves and whose babies are sold on the illegal, underground market? I have previously asked the Minister and the Government to follow the money, which is the only long-term way to tackle this. This is the key way to inhibit this. As we come out of the pandemic, this is one of the key issues we must look at.

Time and again we have seen how women have led the charge in successfully navigating challenging situations, especially this year. I take this opportunity to celebrate leading women who are driving us all forward, including Professor Sarah Gilbert, Ngozi Okonjo-Iweala, who I am so proud to know—

Baroness Scott of Bybrook (Con): Will the noble Baroness please wind up?

Baroness Goudie (Lab) [V]: I thank everybody who has spoken today, including myself, and the Minister. I am sorry I overran.

5.52 pm

Lord Mann (Non-Afl): My Lords, the role models we have heard about are incredibly powerful for young girls out there, but they are also incredibly powerful role models for young boys. In the past 15 years, the world we live in has been totally transformed. Young boys are not being brought up in the era of surreptitiously passing around dodgy magazines, but are having an extremist male perspective on sex and sexuality thrust upon them in their pockets. We have not adjusted society, our laws or our intervention virtually at all to deal with this situation.

Gender-based violence is about power and its misuse, and power imbalance. The internet gives the additional weapon of revenge porn, but the normality of what the internet is doing is the most insidious of all. With the online harms Bill we will have the opportunity, if we chose, to do something about it. Will we be focused enough to do things that will have an impact and will we be courageous enough to take the necessary step to redress the balance? The time bomb is not to just ticking; it has been ticking. It is enacting.

I have done an awful lot of work representing survivors of child abuse. I still represent men and women who were severely abused. Just one of the conclusions from the significant number who come to

me is that men are more comfortable reporting childhood abuse when it is non-sexual but is violent. I have not had a single case where the violence against a girl was not sexual, and often very violent. The level of unreported cases is what really frightens me. I know from the work I did, and from the people who came up to me on doorsteps and in the street and reported things to me, how child abuse is phenomenally unreported.

We have another problem. I also became frighteningly familiar with cases of sexual assaults on young women by their acquaintances. These cases were not being reported—not to the police, not to any authorities, not to family and often not even to partners. The assaults were discussed just within small, tight-knit groups of women. Hence I was able to find the frightening scale. The projections I got are extraordinary.

The world we live in has changed. The internet is a key part of that change but it is more than that, of course. We are not adjusting to it in our own place of work. When I spoke in the Commons about this sort of thing a significant number of men and women came forward with their experiences. Some had complained before and some had not. What was egregious was that, when people complained, the attitudes of the parties and the authorities were excruciating. There has been a slight shift but we have hardly moved on this. Let us get our own back yard in order and let us have courage when it comes to the online harms Bill.

5.57 pm

Baroness Gardner of Parkes (Con) [V]: My Lords, as the grandmother of the House in age and coming up to 40 years sitting on the red Benches—more like the virtual Benches this last year—I speak from some years of experience. However, I take this opportunity to praise my colleagues in this House across all Benches for their tireless work, the mentoring offered and the examples set to others, as well as the years of experience to help make others' lives better. For together we are stronger than individually, and International Women's Day recognises this on a global scale.

My daughter recently shared with me that I was one of only 27 women Peers out of the 201 Peers made by Margaret Thatcher when she was Prime Minister. I am glad to say that our representation has improved significantly since then, but it remains an uphill struggle in this House and the other place. In a world of alleged equals we find that many things are anything but equal. It means that we in this House and those like us need to shout all the louder and make our presence felt in fighting for what is right, or for what others merely take for granted.

From my work as the UK representative on the United Nations Commission on the Status of Women and later as chairman of Plan International, I saw at first hand how so many countries rely on the women of the family. I saw the success of small loans to women. For example, a woman bought one chicken and from that one chicken grew her business by selling eggs and investing in more chickens. She was able to feed her family and provide a stable income. It may not be much in the western world but it showed me that women, wherever they are, can be wonderfully entrepreneurial.

Covid has had a massive impact on all our lives, most markedly for women. Whether it is juggling working from home with children's online schoolwork, or housework on being furloughed, women have borne a disproportionate burden of Covid and its impact. Therefore, it is critical that we help women to get back on their feet through employment and restoring their confidence and self-belief. So much of the past year has been spent coping, thinking about others or fretting about finance that we need to empower women, both practically and mentally, for the future.

The ClementJames Centre in north Kensington runs a women's confidence programme. It is a six-week course that allows local women the opportunity to focus on themselves, their needs, their aspirations and the ways in which they can successfully achieve their goals. It is even more important now, as we gradually come out of lockdown.

Another key aspect, which others may have touched on, is the importance of women in leading by example and encouraging others to have the Covid vaccines. The matriarch in the family sets the tone for the others to follow.

I wish noble Lords well in all that they do for women both now and in the future.

6.01 pm

Baroness Brinton (LD) [V]: My Lords, I declare my interest as a recent trustee of UNICEF. Like the noble Baroness, Lady Jenkin, I also made my maiden speech in this debate 10 years ago. She and I have had coffee a few times, discussing how to promote women into winnable seats within our parties, and I am personally delighted that a number of the women on the Lib Dem leadership programme now sit in the House of Commons.

Ten years ago, my disability was much less visible than it is today. I have been privileged to join the excellent Peers on the "mobility Bench", as my noble friend Lady Thomas of Winchester describes the wheelchair spaces. She and I have the privilege of sitting alongside two outstanding disabled women: the noble Baronesses, Lady Campbell of Surbiton and Lady Grey-Thompson. They are absolutely outstanding disability campaigners—and my personal heroines—giving a voice to disabled women across the country. Their example is significant and historic in a world where women's voices, let alone disabled women's voices, are sometimes drowned out.

I also want to mention a young disabled woman who is changing the way in which women with learning disabilities are supported and encouraged to take up the services that they are entitled to. Ciara Lawrence, an ambassador for Mencap, promotes having cervical smear tests to others like herself—but she has done so much more. She is teaching staff in the NHS how to work with learning disabled women like herself, and works closely with the Eve Appeal and Jo's Cervical Cancer Trust. She also has her own regular podcast, "Ciara's Pink Sparkle Pod".

We heard that, during the pandemic, too many people with learning difficulties had "do not attempt resuscitation" orders put on their files without their or their families' consent. A very high number have died

[Baroness Brinton]
of Covid because of their underlying health conditions. Despite that, they had to fight to get vaccines along with other clinically vulnerable people; I delight that that has now happened.

I want Ciara's voice to be heard by more non-learning disabled people, because she is such a brilliant advocate for what those with disabilities can achieve. I ask the Minister: how can the Government encourage more wonderful ambassadors like Ciara?

Other noble Lords have already mentioned access to women's medical services, but disabled women say that access to family planning services can often be harder too. Will the Government's review of health inequalities make sure that these issues for disabled women are addressed specifically? They are not "hard to reach" but, unfortunately, they are often at the back of the queue.

The noble Baroness, Lady Jenkin, talked about some of the medical issues that women face, as highlighted in the women's health inequality consultation, which launched on Monday. I was diagnosed with endometriosis well over 40 years ago, and I am pleased to say that treatment in hospitals has advanced considerably since those days. However, I agree with the noble Baroness that what seems not to have changed is diagnosis and referral, which is often too slow and dismissive. Can the Minister say what support there is to train all GPs, primary care nurses and even employers to recognise when women have these problems? They should not be dismissed as a bit of a bother because all women have a problem at that time of the month. Endometriosis is agonising.

This is not just an information issue about women themselves recognising it. We need professionals and the business community to understand that endometriosis is a very serious illness and, if not treated early enough, can lead to serious fertility problems. The noble Lord, Lord Winston, spoke movingly of repeated miscarriage; as someone with endometriosis, I also experienced this later on. However, I was extremely lucky 36 years ago to be referred to the wonderful Lesley Regan, who was then starting one of the first research studies into repeat miscarriage. She is now the secretary-general of the International Federation of Gynecology and Obstetrics and is the immediate past president of the Royal College of Obstetricians and Gynaecologists. To my astonishment, she is only the second woman to hold that post, and the first in 64 years. I am afraid that the body that looks after women is still too often mainly run by men. I look forward to more women in that role.

My noble friend Lady Benjamin spoke about the importance of a Minister for children. I agree, especially in order to encourage girls to have ambition. My 90 year-old mother-in-law desperately wanted to be a doctor like her brother, but her father said no. I want there to be no cultural barriers for my granddaughters.

The noble Lord, Lord Addington, spoke movingly of girls and women with neurodiversity and how they are judged by society. I think we are slowly learning that there are differences and that we need to treat women with neurodiverse issues in a different way from men.

The noble Baroness, Lady Sugg, noted the worrying changes in access to abortion and family planning in Poland at the moment. I admire the many thousands of young women protesting in the streets about the changes in the law there.

My noble friend Lady Janke spoke of 82% of care staff being women and the Government's catastrophic treatment of care homes during the beginning of the pandemic. The most important issue for our care homes is: where is the White Paper? Will it ensure that the care workforce is valued as much as the NHS one? That is vital. These are not just minor aides; my mother spent her last two years in a home, and I saw the professionalism with which she was looked after.

The health inequality consultation notes that 77% of the NHS workforce is also women. Earlier this week, I asked the noble Lord, Lord Bethell, to ensure that all hospital trusts and CCGs publish their staff gender ratios and pay gaps at each pay grade on an annual basis, as we ask large companies to do, because, despite women being an overwhelming part of the workforce, the ratios are not so good at the top.

More generally in the workforce, the pandemic seems to have acted as a cover for the furloughing of many more women than men and, worse, the appalling treatment of some pregnant women, including summary dismissal. The charity Pregnant Then Screwed has run an excellent advice hub, but the women who have turned to it are probably only a few of those affected. It was encouraging to hear the noble Baroness, Lady Scott of Bybrook, say that this treatment of pregnant women is dreadful. What steps will the Government take to ensure that companies follow the rules for maternity and parental rights?

A number of noble Lords have spoken of issues around our LGBT community. This week, the focus has been on whether the Government will follow up their strong words condemning conversion therapy and now ban it. In the Commons, the Minister has refused to do so. On top of the concerns about the attacks on trans people, there is now a real concern that the equalities rights granted over many years are being rowed back on. Over the last two days, three government advisers have resigned over this issue, the Conservative LGBT+ organisation is demanding an investigation and many Back-Bench MPs are worried. All major counselling and psychotherapy bodies, as well as the NHS, say that conversion therapy is dangerous but government Ministers will not move to ban it. Will there be a firm statement that there is no place for conversion therapy in the UK? Being LGBT is not a mental illness that can be cured.

I was somewhat surprised by the assertion of the noble Lord, Lord Young, that women's refuges were dangerous places because of the threat of trans women being there. I am not aware of any such cases, and for the Domestic Abuse Bill, a number of women's refuges and other organisations made it plain that they are trans-inclusive. In fact, a 2017 survey showed that the reality is that one in six trans women experience domestic abuse themselves.

The noble Lord, Lord Bradshaw, commented on women in transport, particularly on the growth of the number of women in key roles on the railways. I could

not get into the Lords when not shielding without the help of many brilliant women staff on trains and in stations.

My noble friend Lady Bakewell of Hardington Mandeville spoke of the Women's World Day of Prayer. Each year, I find it inspiring to hear of women of faith in another part of the world.

My noble friend Lord McNally spoke—

The Deputy Chairman of Committees (Lord Bates) (Con): We seem to have lost the sound of the noble Baroness, Lady Brinton.

Baroness Brinton (LD) [V]: I am sorry, it muted itself. I have not quite finished.

My noble friend Lord McNally spoke of the Corston review and how progress is slow. Covid has raced through our prisons and work has been done to get prisoners home safely with electronic tags. I hope that this lesson will be used now to reduce the number of women in prison.

The noble Baroness, Lady Scott, also talked about the UK chairing the G7, and making gender equality and building back better from coronavirus an absolute priority. That is good to hear, but I echo the points made by the noble Baroness, Lady Sugg. How on earth will the cuts to the international development budget help women, given that much aid is targeted at girls and women? We know that women are much more affected by violence, and by domestic violence.

As the noble Lord, Lord Mann, said, politics is a particularly difficult place for women to be online at the moment. There is an enormous amount of targeting of women on social media at a very high level, but black and ethnic minority women face much higher levels of abuse. Black and ethnic minority MPs, in particular, are highly targeted. What has gone wrong in our society that people, often mainly men, feel it is acceptable to spew out the most hateful statements, day in and day out? I hope that the online harms Bill, when it is published, will address this.

My noble friend Lady Jolly referred to the women at Bletchley Park. I had the privilege of knowing Dr Lucy Slater who, in the early 1950s, having worked throughout the war teaching trigonometry to soldiers, helped devise the precursor to modern computing operating systems. Subsequently, she helped develop computer programmes for econometrics, working for much of the time with UK government officials. I remember her coming to talk to our primary school girls about how exciting maths was. She really challenged girls never to say that maths was not for them. She was a real inspiration.

As a young woman, my noble kinsman Mary Stocks—later Baroness Stocks—sat in the Public Gallery of your Lordships' House to hear their Lordships attacking the very idea that women should have the vote. She was also one of the early women life Peers and someone who I admired greatly. She spent her life fighting for women's access to education, family planning and other medical services. She would be horrified that my four year-old twin granddaughters are likely to be in their 80s before the House of Commons becomes 50% women. Today's wonderful debate has been a chance to celebrate the role of women in our society, but much change is still needed to get the equality that most of us women still aspire to.

6.14 pm

Baroness Wilcox of Newport (Lab) [V]: My Lords, I begin by expressing my sincere condolences to Ms Everard's family and friends, who will be experiencing appalling grief today. No woman should walk home with fear or threat. There must be a recognition of the intimidation and misogyny that women and girls suffer on a daily basis, and until we confront it—unless we speak it out loud—we cannot begin to deal with it.

My noble friend Lady Goudie reminded us that the theme of this year's International Women's Day is "Choose to challenge", and I take up that theme determinedly through my contribution to what has been an excellent debate today from across the Committee. Yesterday, I asked the Minister what steps the Government are taking

"to ensure that … women, and … groups which represent women, are included in the development of their policies responding to the Covid-19 pandemic."

In her response, the Minister said that the Government

"continue to listen to the experiences of women as we respond to the Covid-19 crisis … and … carefully consider evidence on how different people have been affected by the pandemic".—[*Official Report*, 10/3/21; cols. 1606-07.]

I am sure that listening has taken place in this important debate today, and I recommend to the Minister that action upon that listening is translated into workable policies. Clearly, some people working on equalities issues within this Government do not feel listened to, as the noble Baroness, Lady Brinton, has just noted. Three equality advisers quit their roles on the Government's advisory panel yesterday, accusing Boris Johnson's Administration of creating a hostile environment for LGBT+ people. Jayne Ozanne said that she resigned over concerns that the Government are backing out of a promise to ban conversion therapy, a range of harmful practices that attempt to reverse someone's sexual orientation and/or their gender identity. She said that she has been increasingly concerned about what is seen to be a hostile environment for LGBT+ people among this Administration and has seen an increasing lack of engagement. The actions of Ministers have been against their advice, and it felt as if she was dealing with Ministers for inequality, not equality. It does not sound as if a great deal of listening has been going on. The Conservative MP and chair of the Commons Women and Equalities Committee, Caroline Nokes, commented today that after listening to Jayne Ozanne on television this morning talking about her experience of so-called conversion therapy, she was disappointed that the Government were rowing back from legislating to ban it, as last July, they gave the impression that it would be done.

I further informed the Minister that a report published just yesterday morning by the ONS, on the differential impact of the coronavirus pandemic on men and women, said that while more men died from Covid-19, women's well-being was more negatively affected than men's during the first year of the pandemic. Women were more likely to be furloughed and to spend significantly less time working from home and more time on unpaid household work and childcare.

[Baroness Wilcox of Newport]

In January, the Commons Women and Equalities Committee published its report on the gendered impact of the pandemic and, in doing so, raised concerns that the Government's priorities for the post-Covid recovery are heavily gendered in nature. It was concerned to hear the Minister for Equalities repeatedly refer to considering the effects of policies "in the round" in response to questions about the gendered impact of the Government's policies. It went on to say that that it was also concerning that a GEO Minister should appear dismissive of the imperative to consider the effects of policies on those with protected characteristics under the Equality Act. Such consideration is a legal requirement clearly set out in the Act's public sector equality duty. It acknowledged the Government's intention to take a

"new approach to tackling inequality",

but the Government have a continuing legal duty to ensure that their policies and decisions do not adversely affect groups of people with protected characteristics.

The report further noted that investment plans are skewed towards male-dominated sectors, with the potential to create unequal outcomes for men and women, all on top of the fact that the pandemic has intensified existing inequalities in almost all areas of life, negating the hard-won achievements of past decades here in the UK and beyond. The authoritative contributions of the noble Baroness, Lady Coussins, and my noble friend Lady Armstrong of Hill Top, for the continuation of the VSO programme, were admirable. Surely the Government will not let such a successful organisation, and Britain's wider reputation in the world, simply fold because they have not listened and cannot make a decision. That is one of my choices to challenge.

This week in the Lords, we have started Report on the landmark Domestic Abuse Bill. During the debates, speaker after speaker has commented on the significant increase in domestic violence during the pandemic, referring to multiple reports from charities and campaigners of a surge in calls to helplines and online services since the first lockdown, a sobering insight into the levels of abuse that some people live with daily. The pandemic and its related restrictions have clearly closed off access to support or escape. It may also have curtailed measures that some abusers take to keep their violence under control.

When it comes to the workplace, much of the UK's front-line response to tackling Covid has fallen upon women, including 76% of those employed in health and social care and 86% of those delivering personal care. These sectors have, of course, seen an unprecedented rise in workload, health risks and challenges for work-life balance.

The Women's Budget Group provided an excellent report prior to the recent Budget highlighting that 46% of mothers who have been made redundant during the pandemic cite lack of adequate childcare provision as the cause, while 70% of women with caring responsibilities who requested furlough following school closures had their request denied. This has led to almost half being worried about negative treatment from an employer because of childcare responsibilities. During the first national lockdown, those in low-paid work were twice as likely to be on furlough, or to have their hours reduced, than those in higher-income jobs, hitting women in particular, as there are twice as many women as men in the bottom 10% of earners.

The TUC research found that job losses have been most acute in three industries—accommodation and food, wholesale and retail, and manufacturing—accounting for 70% of job losses overall. Women are the majority of employees in accommodation and food, as well as in retail. Employment for disabled people has fallen more rapidly during the crisis than for non-disabled people, and disabled people are currently two and a half times more likely to be out of work than non-disabled people.

Gender inequalities are exacerbated by race. Black, Asian and minority ethnic women began the pandemic from a place of disadvantage, with one of the lowest rates of employment. In 2020 that was still the case, with BAME employment at just 62.5%, and the highest rate of unemployment, at 8.8%, compared with 4.5% for white people.

It is well documented that women earn less and are more likely to work in insecure jobs, often in the informal sector, with less access to social protections. They run most single-parent households, which further limits their capacity to absorb economic shocks. Prolonged lockdowns and school closures have seen women's access to paid work diminish but an increase in unpaid labour. Domestic duties, including preparing food for home-schooled children and looking after ill family members, have all fallen disproportionately on women. It is therefore crucial that women's voices are at the core of policy development and decision-making on how the UK and the wider world move beyond Covid. The participation of women and girls is necessary and vital at every level and in every arena. Without equal participation, pandemic responses will be less effective at meeting their needs and will lead to negative consequences.

As my noble friend Lady Massey so powerfully said, the empowerment of women is key at whatever level of society. During the pandemic, populations have become more aware of rights in general. I am pleased that the Governments in Wales and Scotland have supported the incorporation of the UN Convention on the Rights of the Child into legal frameworks as well as into the school curriculum. I urge the UK Government to do the same.

Similarly, my noble friend Lady Gale, when talking about the important contribution that older women make to society as taxpayers, care workers, child carers and volunteers, mentioned that since 2008 we have had the Older People's Commissioner for Wales, who is indeed a strong voice and independent of government. I agree with her that there should be a similar provision in England.

Research published last summer noted that around the world women leaders have been more successful than their male counterparts at reducing Covid transmission in their countries. My noble friend Lord Rooker has already noted the inspirational leader, Jacinda Ardern. When she outlined her approach to dealing with the pandemic, she said:

"The worst-case scenario is simply intolerable. It would represent the greatest loss of New Zealanders' lives in our country's history. I will not take that chance … the government will do all it can to protect you. None of us can do this alone."

So what can and should we be doing together in the UK? Statutory sick pay must be increased to the real living wage, and those who have symptoms of Covid or are awaiting test results should not be forced to go to work. The majority of public sector workers are women, so the public sector pay freeze announced in the one-year 2020 spending review should be lifted in order to support public sector workers through the Covid-19 recovery. During the pandemic, society would not have coped without our nurses and healthcare workers, who have been central to dealing with it. We should pay them appropriately for their dedication and skill, and I choose to challenge the Prime Minister to increase the current offer of a 1% pay rise.

The Government should immediately reinstate gender pay gap reporting and must use the upcoming employment Bill to reduce insecurity for low-paid workers by extending employment rights and investing in strong and effective enforcement. Women, and the views of women, must be included as a matter of course in current and future policy development. I choose to challenge this Government to move from appointing Ministers of inequality to appointing Ministers of equality.

6.24 pm

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, I thank all noble Lords who have contributed to today's debate. I know that, for many, these speeches have represented the focus of their life's work. I join the noble Baroness, Lady Jolly, and thank all those women and Peers who have gone before me and broken down the barriers to enable me to stand today at this Dispatch Box. I particularly enjoyed the speech of the noble Lord, Lord Patel, outlining the history of female participation in science.

While we want to celebrate the examples of extraordinary women, I also want to express my sadness to the friends and family of Sarah Everard. My thoughts and prayers are with them. I, too, noticed that I took a taxi instead of walking home as I planned a few days ago.

In line with the Choose to Challenge theme this year for International Women's Day, I want to share the stories of two inspirational young women who have challenged stereotypes and their circumstances, like Ciara, who was mentioned by the noble Baroness, Lady Brinton. Amelia, a care leaver I spoke to as part of the recent national apprenticeship week, took on the challenge of a level 3 apprenticeship in business to open up opportunities for her future and now leads the Institute for Apprenticeships apprentice panel and directly influences how apprenticeships are developed. Grace Vella, a former Manchester City and Liverpool player, has launched what I believe to be the first clothing brand for female footballers in the UK, which now sells into Europe.

I assure the noble Lords that the Government are committed to empowering women and girls across the country, and indeed around the world. Noble Lords have clearly taken the theme very much to heart and outlined many challenges for this Government, probably across every Cabinet role, which I will now seek to address in the time remaining. I hope to assure the noble Baroness, Lady Wilcox, that this is action, not just words.

I thank the noble Baronesses, Lady Fox and Lady Deech, for raising the issue of girls in STEM subjects. We have programmes such as STEM Ambassadors raising awareness of STEM careers and inspiring girls to follow the admirable Professor Sarah Gilbert. Last summer we saw 44% of STEM A-levels taken by girls. The noble Baroness, Lady Jolly, mentioned computer science, and I am pleased to say that we are now testing how to increase the number of girls taking computer science through the gender balance in computing programme.

The noble Lord, Lord Bradshaw, highlighted the changing transport sector. Apprenticeships are now offering an excellent route to higher-paid jobs in this sector, allowing women to earn while they learn.

The noble Baronesses, Lady Brinton and Lady Benjamin, mentioned the creation of a Cabinet role of Minister for Children. I assure them that policy is being driven from within the Department for Education by the Secretary of State and that in the three currently open maths schools, which are selective sixth-form colleges that offer maths, further maths and physics, part of the outreach is specifically for girls to ensure that they are taking these A-levels and are therefore able to access higher-paid employment.

The noble Baronesses, Lady Crawley and Lady Uddin, spoke passionately about balancing work, childcare and home schooling. In recognition of this, of course, we introduced childcare bubbles, and I can confirm to the noble Baroness, Lady Brady, that employers were able to furlough parents who were unable to work due to the former closure of schools and childcare services. Although we have statistics on the number of women who requested furlough and were turned down, it was still the case that more women were being furloughed than men. We expect to spend £3.6 billion on early years entitlements in 2020-21, and we are establishing a £1 billion fund to support high-quality, affordable childcare before, after and during the holidays, reflecting the comments by the noble Baroness, Lady Wheatcroft—and of course we pay credit to her son for his role in home schooling.

The noble Baroness, Lady Benjamin, and many other noble Lords raised the important issue of children's mental health. Only last Friday, a further £79 million of investment was given to boost mental health support. I can confirm to the noble Baroness, Lady Benjamin, that there is funding of £11 million for Barnardo's See, Hear, Respond programme. Its work has been so important in highlighting the issue of children who are not yet known to children's social care, which has obviously become more difficult during the lockdown.

As many noble Lords set out, women have been at the forefront of the fight against Covid, and the Government have given unprecedented financial support to sustain businesses, jobs and livelihoods. This contribution has been recognised by the OBR, the Bank of England and the IMF.

The noble Earl, Lord Devon, raised the need to protect jobs, particularly in sectors such as retail and hospitality that include high numbers of women. Noble

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Lords will be aware that the Government have extended the coronavirus job retention scheme until the end of September.

The noble Baroness, Lady Ritchie, raised concerns around the welfare system and the support it offers to families. The Covid winter support grant has been delivering £170 million to local authorities in England from December to the end of March to support children and families, and 80% of that fund has been ring-fenced for bills and food.

As noted by my noble friends Lady Altmann and Lady McIntosh, it is important that we address the pensions gap. We are committed to providing a financial safety net for those who need it, including when they are close to or reach retirement. The Government are trying to increase the take-up of pension credit, which is a particular issue that the House has considered this week. More than 3 million women stand to gain an average of £550 a year each by 2030 as a result of the recent reforms to the state pension. In addition, state pension outcomes are being equalised for men and women, or should equalise by the early 2040s, over a decade earlier than they would have done under the old system. Noble Lords raised particular queries about auto-enrolment, which I will address separately in a letter.

Although the pandemic has clearly brought hardship, it has also provided us with an opportunity to challenge our work environments and, as noted by my noble friend Lord Lucas, to promote the benefits of flexible working. The Government's behavioural insights research with the jobs board has shown that offering flexible working increases job applications by 20% to 30%. We want to make it easier for people to work flexibly, and in our manifesto we committed to encouraging such working by consulting on making it the default unless employers have good reasons not to. However, we must be mindful of the caution of the noble Baroness, Lady Fox of Buckley, to ensure that women do not become trapped at home with forced flexible working; it should be by request.

I welcome the contributions made by my noble friends Lady Bottomley and Lady Brady about the need to challenge discrimination in the workplace. Since 2016, we have been supporting the business-led and voluntary Hampton-Alexander review to increase the number of female leaders in the UK's top-listed companies. The goal of the review—for 33% women board members across the FTSE 350—has been exceeded, and the number of women on boards increased by 50% over the five years of the review. It has been great to see year-on-year improvements, but we know that much more needs to be done, especially to increase the number of women on executive committees. I want to add my congratulations to Amanda Blanc, Alison Rose and Milena Mondini de Focatiis as some of the newer leaders of FTSE 100 companies at Admiral, NatWest and Aviva.

I want to draw attention to the point made by the noble Lord, Lord Singh, and my noble friend Lady Mobarik that these attitudes are not based on the tenets of religious faith. Some of the attitudes that prevail in our businesses and workplaces are cultural. I join the noble Baronesses, Lady Brinton and Lady Bakewell, in welcoming the celebration of the Women's World Day of Prayer, which was such a feature for me, given that I grew up as part of a church in Oakham, in Rutland.

I agree with the important points made by the noble Baroness, Lady Jolly, about the value of networking among women, both within the workplace and for budding entrepreneurs. The Government have provided unprecedented support to the self-employed during the crisis, not just through the income support scheme but with bounce-back loans, mortgage holidays, self-isolation support payments and a range of other business support grants. We are determined to unleash the potential of women across the country by encouraging female-led start-ups, such as that of Grace Vella, which I mentioned earlier, and supporting more women into STEM.

On health issues, many noble Lords, including the noble Baronesses, Lady Janke and Lady Blower, and my noble friend Lady Verma, talked about women being on the front line in the fight against Covid, from social workers to care workers to nurses. We all want to pay tribute to all their work during the pandemic.

There are also important health issues that predate Covid, and tackling them remains vital. I thank my noble friend Lady Jenkin for her inspirational work, and in particular for drawing attention in this debate to the women's health strategy, where we aim to improve the health and well-being of women across the country. There is currently a call for evidence out for this. As outlined by the noble Lord, Lord Winston, and the noble Baroness, Lady Brinton, there are often unknown stories of women who have had miscarriages. We hope that women will respond to the call for evidence and tell us about their experiences, and that they will talk about the need for understanding in the workplace.

My noble friend Lord Bourne and the noble Baroness, Lady Nye, talked about women's mental health. The Government have responded by creating the rollout of a 24/7 mental health helpline and £10 million for the voluntary sector. I encourage women to reach out to our mental health services for support.

I pay tribute to the noble Lord, Lord Addington, who I think made the first male contribution to the debate, in promoting the early diagnosis of neuro-diverse conditions. Our refreshed autism strategy, which is due to be published in the spring, will help to ensure that autistic people receive the right support, including timely diagnosis in early years, and for the first time it will include children and young people. I can assure him that, as in my other role in the education department for the capital, I always ask whether we have thought about autism in girls when looking at provision, whether in mainstream or special schools.

In response to the questions from the noble Baroness, Lady Cumberlege, let me first thank her for all her years of work on her independent review. We will appoint an independent patient safety commissioner, and I can confirm that work is under way to allow the appointment process to begin.

The noble Lord, Lord Young, and the noble Baroness, Lady Nicholson, mentioned single-sex spaces in hospitals. We understand from NHS England that its National

Advisor for LGBT Health, Dr Michael Brady, is currently reviewing the guidance on same-sex accommodation to provide further clarity to patients and NHS organisations.

I, too, thank the noble Lord, Lord Winston, for raising the important issue of IVF. I assure him that, post the first lockdown, those services were open during the subsequent lockdowns. Although I struggled to hear all of the speech from the noble Lord, Lord Bhatia, I assure him that sex-selective abortions are of course unlawful in the UK.

I congratulate the noble Baroness, Lady Falkner, on her appointment as chair of the EHRC. In response to her comments and the representations of the noble Lord, Lord Young, the recently passed Ministerial and other Maternity Allowances Act is an important piece of legislation making changes so that senior Ministers can take maternity leave. Since 2007, legislative drafting guidance has encouraged avoiding the use of gender-specific pronouns to avoid stereotypes and assumptions that constrain women. However, we listened to the strength of feeling in the House and agreed to amend the wording from pregnant "person" to "mother".

I pay tribute to the many speeches from noble Lords about violence against women and girls, particularly surrounding domestic abuse. It is the shadow pandemic, and we must maintain and enhance our efforts to prevent it and support victims. As the noble Lord, Lord Rooker, and the noble Baroness, Lady Crawley, noted, lockdown has been especially hard for some. Home should be a safe place, but clearly it is not for those confined with an abuser. The Government continue to work closely with the designate domestic abuse commissioner and domestic abuse organisations to assess ongoing trends and support needs throughout our response to the pandemic.

As the noble Baroness, Lady Gale, noted in opening the debate, the abuse of older women is unacceptable. Although there are no current plans to appoint a dedicated commissioner for older people, we take this issue seriously through our work on tackling abuse. It will obviously be part of the role of the domestic abuse commissioner.

The noble Lords, Lord McNally and Lord Desai, raised the issue of women in the prison system. The 2020 White Paper, *A Smarter Approach to Sentencing*, announced a number of proposals, including measures to divert women from custody. Noble Lords will be aware that there has been a decline in the number of young people in custody, which will of course include some young girls.

I thank the noble Baroness, Lady Eaton, for her challenge on the need to reflect the requirements of disabled, refugee and asylum-seeking women in policy-making. I also thank her for her practical work with Near Neighbours. I thank the noble Baroness, Lady Uddin, for her insight on the importance of women in decision-making and of reflecting the needs of Muslim women.

Similarly, I welcome the contribution of the noble Lord, Lord Loomba, who highlighted the plight of widows during the Covid crisis. I will take away his idea about having a specific response for widows in our Covid response.

I thank the noble Lord, Lord Bhatia, for his further comments on the need to increase the equal representation of women across society.

My noble friend Lady Verma reminded us of the importance of access to services for hard-to-reach communities. This is particularly critical. I very much appreciated meeting her and a round table from the Leicester Listening Project. It has been particularly illuminating, when we are not able to meet people physically, to hear from women about their difficulties in accessing the support that is available.

I welcome the challenge from many noble Lords on the role of the UK in fighting for women's rights across the globe. Many noble Lords, including the noble Baronesses, Lady Coussins, Lady Armstrong, Lady Sugg and Lady Bakewell, spoke about aid funding and VSO. Covid's impact on the UK economy has forced us to make tough but necessary decisions to temporarily reduce our aid budget. We know the unique contribution volunteers can make to sustainable development and we are now working through the implications of these changes for individual programmes, including for the volunteering for development grant. No decisions have currently been made but I will ensure that noble Lords are kept up to date. In the wake of the pandemic, we are very proud that the FCDO and VSO were able to work together to pivot over 80% of programming to pandemic response in just 10 days.

We will continue to drive equality and fairness through the heart of our G7 presidency, bringing together the leading democracies around educating girls, empowering women and ending violence against women and girls. I note the comments of the noble Baroness, Lady Bennett, on a feminist foreign policy and gender-inclusive environmental work. Our COP 26 presidency will support a green, inclusive and resilient recovery and we will continue to champion gender equality.

In response to the points made by the noble Lords, Lord Rooker and Lord Sheikh, on landmines, I can assure them that the UK is committed to the anti-personnel mine ban convention. Since 2018 we have invested £124 million in clearing landmines and explosive ordnance through the global mine action programmes. I can ensure the noble Baroness, Lady Goudie, that with regard to overseas vaccines we have given £250 million to the COVAX project.

In reply to the noble Baroness, Lady Wheatcroft, and the noble Lord, Lord Mann, on online harms and abuse, which was a theme throughout many speeches, the online harms Bill will consider the role, if any, for anonymity in relation to the internet.

I will follow up the comments of the noble Lord, Lord Hendy, and will request a reply from my noble friend Lord Ahmad with regard to that particular convention.

I conclude by once again thanking all those who contributed today. It is not possible for me in the time allowed to cover every question that noble Lords raised, but I shall write to your Lordships to cover the remaining issues. After a challenging year, it is important that we reflect on the strides we have made while continuing to consider what more can be done to

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empower women and girls in the recovery and beyond. While using our G7 presidency, we will ensure that gender equality is at the centre of our recovery, and we have many new female heroes to celebrate. The majority, however, will remain known only to those whose lives they touched, such as the NHS staff whose kindness reassured the patient coming out of a coma, or the staff in essential shops who may be the only person an elderly person sees in the day. However, we also want to celebrate the likes of Professor Sarah Gilbert and Kate Bingham for their role in the teams which delivered the vaccine programme.

I am sure that noble Lords are also looking forward as I am to welcoming the new Bishop of Chelmsford to the House, the Right Reverend Guli Francis-Dehqani, who is the first bishop of any gender of Persian heritage. It seemed most appropriate to mention her after the comments a number of noble Lords made about the situation for women in Iran. Her family came to this country during the Iranian revolution and fled to the UK, so it is amazing to see, when we challenge, what change is possible.

Motion agreed.

The Deputy Chairman of Committees (Lord Bates) (Con): That completes the business before Grand Committee this afternoon. I remind Members to sanitise their desks and chairs before leaving the Room.

Committee adjourned at 6.43 pm.