PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SANCTIONS AND ANTI-MONEY LAUNDERING BILL [*LORDS*]

Third Sitting

Thursday 1 March 2018

(Morning)

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Monday 5 March 2018

The Committee consisted of the following Members:

Chairs: † Dame Cheryl Gillan, Steve McCabe

† Badenoch, Mrs Kemi *(Saffron Walden)* (Con)
† Bardell, Hannah *(Livingston)* (SNP)
† Benyon, Richard *(Newbury)* (Con)
† Chalk, Alex *(Cheltenham)* (Con)
† Courts, Robert *(Witney)* (Con)
† Dodds, Anneliese *(Oxford East)* (Lab/Co-op)
† Duffield, Rosie *(Canterbury)* (Lab)
† Duncan, Sir Alan *(Minister for Europe and the Americas)*
† Freer, Mike *(Finchley and Golders Green)* (Con)
† Glen, John *(Economic Secretary to the Treasury)*
† Goodman, Helen *(Bishop Auckland)* (Lab)
† Graham, Luke *(Ochil and South Perthshire)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Prentis, Victoria *(Banbury)* (Con)
† Rowley, Danielle *(Midlothian)* (Lab)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Stevens, Jo *(Cardiff Central)* (Lab)
† Thewliss, Alison *(Glasgow Central)* (SNP)

Mike Everett, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 1 March 2018

(Morning)

[Dame Cheryl Gillan *in the Chair*]

Sanctions and Anti-Money Laundering Bill [*Lords*]

11.30 am

The Chair: Before we resume our consideration of the Bill, I have a few standard announcements to make. Could you all ensure that your mobile devices are switched to silent mode? As usual, amendments on similar issues have been grouped together and we shall take them in the order in which they appear on the selection list. My fellow Chair and I will use our discretion over whether to allow separate stand part debates on individual clauses.

I apologise to Committee members for the unacceptably low temperature in the Committee Room. We have brought in some heaters, and I hope we will bring in some more. You are perfectly welcome to wear outside garments, including headgear, to keep warm. I know that that is very unusual, but I must put it on record, with no word of a lie, that we are working in very low temperatures. I really appreciate everyone's diligence in being here and agreeing to go ahead with our considerations in these extreme conditions. I have looked at other available Committee Rooms, but they seem also to lack the wherewithal to be heated to a reasonable temperature.

Without further ado, let us consider clause 1.

Clause 1

Power to make sanctions regulations

Helen Goodman (Bishop Auckland) (Lab): I beg to move amendment 1, in clause 1, page 2, line 16, at end insert

"or

(i) further accountability for, or act or as a deterrent to, the commission of a gross human rights abuse or violation."

This amendment would enable sanctions regulations to be made for the purpose of preventing, or in response to, a gross human rights abuse or violation.

The Chair: With this it will be convenient to discuss the following:

Amendment 13, in clause 1, page 2, line 16, at end insert

"or

(i) further the prevention of serious organised crime and trafficking, in the United Kingdom or elsewhere."

This amendment would enable sanctions regulations to be made for purposes which included the prevention of serious organised crime and trafficking.

Amendment 2, in clause 1, page 2, line 37, at end insert—

"(6A) In this section, conduct constitutes 'the commission of a gross human rights abuse or violation' if each of the following three conditions is met.

(6B) The first condition is that—

(a) the conduct constitutes the torture of a person or a group of people who have sought—

(i) to expose illegal activity carried out by a public official or a person acting in an official capacity, or

(ii) to obtain, exercise, defend or promote human rights and fundamental freedoms, or

(b) the conduct otherwise involves the cruel, inhuman or degrading treatment or punishment of such a person or a group of people.

(6C) The second condition is that the conduct is carried out in consequence of that person having sought to do anything falling within subsection (6B) (a) (i) or (ii).

(6D) The third condition is that the conduct is carried out—

(a) by a public official, or a person acting in an official capacity, in the performance or purported performance of his or her official duties, or

(b) by a person not falling within paragraph (a) at the instigation or with the consent or acquiescence—

(i) of a public official, or

(ii) of a person acting in an official capacity, who in instigating the conduct, or in consenting to or acquiescing in it, is acting in the performance or purported performance of his or her official duties.

(6E) Conduct that involves the intentional infliction of severe pain or suffering on another person or a group of people is conduct that constitutes torture for the purposes of subsection (6B) (a).

(6F) Conduct is connected with the commission of a gross human rights abuse or violation if it is conduct by a person that involves—

(a) acting as an agent for another in connection with activities relating to conduct constituting the commission of a gross human rights abuse or violation,

(b) directing, or sponsoring, such activities,

(c) profiting from such activities, or

(d) materially assisting such activities.

(6G) The cases in which a person materially assists activities for the purposes of subsection (6F) (d) include those where the person—

(a) provides goods or services in support of the carrying out of the activities, or

(b) otherwise provides any financial or technological support in connection with their carrying out."

This amendment, which is consequential on Amendment 1, would define what constitutes the commission of a gross human rights abuse or violation. This would include the torture of a person who has sought to expose the illegal activity of a public official, or the torture of a person who had sought to defend human rights or fundamental freedoms, by a public official or a person acting in an official capacity.

Helen Goodman: On this very cold morning, Dame Cheryl, I am grateful to you for allowing me to keep my overcoat on.

Amendment 1 and its consequential amendment, amendment 2, are Magnitsky amendments. I think by now hon. Members understand what they are all about: they would enable us to sanction people who have committed gross human rights abuses. Very briefly, the history is that Sergei Magnitsky, a Russian lawyer who uncovered and tried to expose a big tax fraud, was imprisoned and tortured for a whole year and finally beaten to death. After his death, he was tried for tax fraud, which was obviously completely ridiculous.

I draw Committee's attention to the wording of amendment 2, which covers not only the perpetrators of torture but the people who manage it and give the orders. Once upon a time, people used to make the excuse, "I was only following orders," but nowadays we more often hear, "I am only giving the orders," which is really not acceptable. In the amendment's definition of "conduct", we have therefore included

"directing, or sponsoring, such activities…profiting from such activities, or…materially assisting such activities",

including by providing goods or services. In other words, the amendment covers those who turn the thumbscrews, those who order others to turn them, and those who supply them.

Similar legal provisions have been made in other countries. The Government argued on Second Reading that such a provision would make no difference,but we have seen the Magnitsky list of people who have been sanctioned in the USA but whom we have not sanctioned. It includes a man called Maung Maung Soe, one of the Myanmar generals responsible for the genocide, ethnic cleansing and serious abuse of the Rohingya over the past few months. To be honest, I do not understand why the Government did not say on Second Reading that they thought such a provision was absolutely fine and they agreed with it. Everyone is appalled by such human rights abuses and we do not want to provide any comfort to people who commit them, so I am really puzzled.

I am further puzzled because the Government agreed to include similar provisions in the Criminal Finances Act 2017. The Minister for Security and one of the Justice Ministers, I think—people keep being reshuffled, so I am not sure—argued strongly for such provisions to be included in that Act, so I do not grasp why the Government do not want them in the Bill. The Minister said on Second Reading that the Home Office can ban people and that those provisions are adequate. It is not clear to me that the Home Office has banned the people on the American Magnitsky list, so I am uncomfortable relying on that process. That is why we tabled these amendments.

Amendment 13 is about serious organised crime and trafficking. Amendments 1 and 2 would amend the part of the clause that relates to the purposes for which sanctions can be imposed. We think that serious organised crime and trafficking should be included, because it, too, is a long-standing problem. We had the cockle pickers who died on the beaches of Morecambe bay, and we discussed on Tuesday the hundreds of thousands of people in Libya. The National Crime Agency estimates that between 10,000 and 13,000 people are trafficked into this country every year. One of my constituents was trafficked into this country as a 10-year-old and forced to work in a cannabis farm. The Government are very firm on modern slavery, but they do not seem to want to see it through in other legislation. I do not intend to press amendment 13 to a vote, but the Government need to be a bit more thoroughgoing, consistent and comprehensive when it comes to the victims and perpetrators of serious organised crime and trafficking.

Richard Benyon (Newbury) (Con): It is a great pleasure to speak in this important debate. I pay tribute to the hon. Member for Bishop Auckland for what she said. I have been involved for some time in the campaign to get the equivalent of the American Magnitsky Act into UK law. It was a considerable surprise to find myself on the Committee—it may have been a surprise to others, too—but it is nevertheless a delight.

To start, I will use the words of David Cameron. In a recent speech to Transparency International, he said:

"One of my regrets of my time in office was that we didn't introduce the Magnitsky Act. The Foreign Office argument was that Britain's existing approach was better, because we could sanction all the people on that list—and more besides. And I went along with it.

But I soon realised this ignored the advantages of working together—with other countries—under a common heading. It's not PR, it's a fact. You get extra clout from coming together across the world and saying with one voice to those who are responsible for unacceptable acts: 'We are united in our action against you.'

I pay tribute to my successor Theresa May for adding Magnitsky provisions to the recent Criminal Finances Act. And I also pay tribute to someone who has fought longer and harder and at more risk to himself than anyone else—the man behind that campaign, the legislation and a brilliant book, 'Red Notice', on it, Bill Browder."

It has been a great privilege for me to get to know and work with Bill in his fearless efforts to get equal provisions and consistency. International organised crime is more fluid today than ever, with the ability to move money and take advantage of different activities and opportunities. There are two central reasons why those criminals come to the United Kingdom. One is that we have a prosperous economy with good property and intellectual property rights and a large percentage of the world's financial institutions based here. The other, to be perfectly honest, is that the kinds of people we do not want investing in our economy—the fellow travellers of the criminals, be they lawyers, accountants or other financiers, who are able and willing to work with them—can exploit gaps and make investments in this country. David Cameron said, with typically honest, self-effacing candour, that the position that has been taken for so long by the United Kingdom Government is that adequate provisions apply. However, we know that they have not been applied.

I pay tribute to the hon. Member for Bishop Auckland. I will always remember her rage of two days ago, and there will be times when I try to find my inner Helen Goodman. However, I have say to her that the last 48 hours have been extremely beneficial to me—I hope they have also been beneficial to the Bill—because they have allowed me to spend a lot of time with human rights lawyers who have brains that are infinitely bigger than mine, and an understanding of international law and human rights law that is infinitely bigger than mine, and to spend time with the Minister for Europe and the Americas, and his officials. I know there is a public perception that the process involves thumbscrews and all kind of threats, but I think the system knew that I, as somebody who has no ambition, was not persuadable on anything.

We have to get this right, and there are two areas of consistency that we need to achieve. First, as I have already mentioned, the Bill that receives Royal Assent must be consistent with similar legislation that has been brought in by other jurisdictions abroad. Secondly, the Bill must be consistent with our own judicial system. I was on the verge of supporting the hon. Lady, had her amendment been tabled at an earlier stage. However, I have a few suggestions that I hope my right hon. Friend the Minister might be able to support.

[Richard Benyon]

There are two key elements of Magnitsky: the one we are debating now—essentially, it concerns definitions and a few other bits—and the review structure, which we will talk about later today. A good Magnitsky amendment, of the sort that I would like to see, would put into the Bill a definition of gross human rights abuse. Such a definition is, at present, absent from the Bill, which only refers to generic, undefined

"international humanitarian and human rights law"

and respect for human rights and their promotion. It does not contain any specific requirement for sanctions or accountability for human rights violations.

Victoria Prentis (Banbury) (Con): I ought to declare an interest as a human rights lawyer, but certainly one whose brain is no bigger than, and probably nothing like as big as, my right hon. Friend's. I was confused by the repetition of "gross human rights abuse" in amendment 2, and I am concerned that the fact that it appears several times will encourage future readers and users of the legislation to define it differently in each case. Does that concern him?

11.45 am

Richard Benyon: My hon. Friend makes a valid point, which I was coming on to. When we talk about consistency across our judicial system, definitions are important. If we have differing definitions in similar types of Bills that seek to achieve similar things, courts can be worked by clever lawyers to try to find a hole through which to escape. Consistency here is therefore really important.

The people behind the Magnitsky campaign tell me that they would be happy with a definition that accorded with section 241A of the Proceeds of Crime Act 2002. If my right hon. Friend the Minister could assure us that in the few weeks before Report he can produce an amendment that satisfied that requirement, we would have consistency across law. That seems important.

I entirely accept what the hon. Member for Bishop Auckland says about the kind of people we are talking about. One of the many brave people I have met in the campaign is Vladimir Kara-Murza, who has survived being poisoned twice and now works fearlessly for Open Russia. He says that this element of the Bill is the most pro-Russian piece of legislation we could make: it is about helping honest, decent Russians and holding back the chances of the corrupt, wicked people who have made their lives such misery. It builds on what my hon. Friend the Member for Esher and Walton (Dominic Raab) did in driving through the amendment to the Criminal Finances Act 2017, for which he deserves credit.

As the Minister knows, I have been prepared to support amendments that we are debating today, but after burning much midnight oil I suggest to the hon. Lady that consistency is very important, and the two differing definitions could allow for confusion.

Helen Goodman: I have the Criminal Finances Act in front of me, and I am a little unclear as to where the inconsistency is. The conditions in that Act are about:

"a public official, or a person acting in an official capacity…instigating the conduct, or in consenting to or acquiescing in it",

with conduct connected

"with the commission of a gross human rights abuse…acting as an agent…directing, or sponsoring, such activities…profiting from such activities, or…materially assisting such activities."

That seems to be the same wording as in the amendment, as does

"provides goods or services in support of the carrying out of the activities, or…otherwise provides any financial or technological support in connection with their carrying out."

I cannot quite understand where the inconsistency is, but I am sure the right hon. Gentleman can tell us.

Richard Benyon: I am reliably informed that there are inconsistencies. I suggest that, for simplicity, if the Bill were to say that any reference to "gross violation of human rights" is to conduct that constitutes, or is connected with, the commission of a gross human rights abuse or violation, and whether conduct constitutes or is connected with a commission of such an abuse or violation is to be determined in accordance with section 241A of the Proceeds of Crime Act 2002, we would have the consistency that the campaigners—and, I think, the Government—seek.

I understand that the Government want to achieve this. They want to see the full Magnitsky on the statute book. This suggestion offers a way of making sure that we get the definitions right.

Alex Chalk (Cheltenham) (Con): It is a pleasure to serve under your chairmanship, Dame Cheryl, and to follow my right hon. Friend the Member for Newbury. There is no one in this House who has done more than he has to prosecute this matter. I am also grateful for the contribution from the hon. Member for Bishop Auckland.

Although I am entirely sympathetic to the Magnitsky principle, there are three reasons why, on careful textual analysis, amendment 2 is flawed—not just a bit, but quite significantly—and should therefore be rejected. That should not be taken in any way as a disagreement with the principle, but it echoes the point, which has already been made, that we have got to get this right.

The overarching point is that, although the amendment intends to transpose the substance of section 241A of the Proceeds of Crime Act 2002, as amended by section 13 of the Criminal Finances Act 2017, which the hon. Member for Bishop Auckland referred to, there are three errors in the transposition that will cause confusion, hold back the Magnitsky principles and create a field day for lawyers.

First, in the context of defining a gross human rights abuse or violation, amendment 2 would insert subsection (6B), which says,

"The first condition is that the conduct constitutes the torture of a person or a group of people".

The expression "a group of people" is not to be found in the 2002 Act, which is the UK's primary criminal financing legislation and allows for civil recovery of cash on the basis of non-conviction proceedings. Property can be forfeited irrespective of whether a person has been convicted. That is the key piece of legislation, but the amendment contains a crucial inconsistency. The insertion of "a group of people" creates a problem, because lawyers will look at it and say, "Why has Parliament inserted that here, but not in the Proceeds of Crime Act?"

Helen Goodman: The hon. Gentleman raises an interesting point. I will tell him why we did that; I do not know whether this was considered when the 2017 Act went through. Gross human rights abuses may involve, as in the case of Magnitsky, one person being tortured and abused, or they may involve—as in the case of the Rohingya, who are being pushed out of Rakhine state across the Bangladeshi border—a whole group of people. We did not want to exclude the latter because the treatment was substantially different. That was our thinking, and it was so that we did not just solely focus on the Russian situation. We are obviously interested in disincentivising human rights abuses across the globe.

Alex Chalk: I entirely commend that intention, but I fear that in reality, the wording risks causing confusion and potentially having precisely the opposite effect. The Interpretation Act 1978 indicates that, in any event, the single includes the plural. In other words, where the text says,

"the torture of a person"

that is apt to include "a group of persons". Lawyers and judges will look at the insertion and ask why it has been included. On the basis that Parliament does not legislate in vain, they will have to try to allocate a meaning to it, which is simply going to cause confusion. That is the first textual difference, which creates confusion rather than clarity.

Secondly, the amendment, in inserting subsection (6D)(b)(ii), would import another change that will cause worrying inconsistency. That includes the qualificatory words,

"who in instigating the conduct, or in consenting to or acquiescing in it, is acting in the performance or purported performance of his or her official duties".

In the Bill, that applies only to a person acting in an official capacity. It does not apply to a public official. That inconsistency could lead to the perverse outcome that the net will be drawn more widely in this Bill than in the Proceeds of Crime Act 2002, and that public officials, under subsection (6D)(b)(i), could be off duty but a person acting in an official capacity could not. That would be perverse and would create confusion.

The third and most important confusion is in proposed new subsection (6E). By omitting a key phrase, the amendment would create a vast loophole in the legislation. In its definition of torture, the amendment excludes the following very important text from the 2002 Act:

"It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or omission."

Proposed new subsection (6E) talks about

"the intentional infliction of severe pain or suffering",

but because that is not defined as including mental suffering and omission, it means that inflicting mental suffering and omitting to provide heat, water, food or light—I hope that hon. Members perceive those things to be torture—would be excluded. They are included in the 2002 Act but would not be included under the amendment.

Helen Goodman: The hon. Gentleman seems to be running two arguments at once. I cannot see any mention of such deprivations in the 2002 Act, so I am not sure whether he is criticising the substantive drafting. Is his overriding concern that he does not like the drafting, or that it is inconsistent?

Alex Chalk: My overriding concern is that I do not like the drafting because it is inconsistent. Although I am very sympathetic to the Magnitsky principle, for which the hon. Lady and my right hon. Friend the Member for Newbury have powerfully advocated—I look forward to what the Minister has to say about that—this drafting has gone not just a bit awry but quite seriously awry. Creating confusion and inconsistencies between the two key pieces of legislation will mean that lawyers have a field day and that the victims are not be protected. For those reasons, we need to look at this again, get it right and ensure that what ends up on the statute book is truly fit for purpose.

The Minister for Europe and the Americas (Sir Alan Duncan): We genuinely appreciate that this issue is of significant concern to right hon. and hon. Members, as the hon. Member for Bishop Auckland and hon. Members on both sides of the House who spoke on Second Reading made clear. I acknowledge the long-standing and heartfelt commitment to this important cause that my right hon. Friend the Member for Newbury has demonstrated. We do not want to do anything other than take seriously what Members from both sides of the House are arguing.

Let me go into some of the details and suggest how we might proceed. Amendments 1 and 2 relate to including in the Bill gross human rights abuses as a basis on which sanctions may be imposed. As Lord Ahmad made clear in the other place, the list of purposes currently in the Bill ensures we can continue to implement sanctions for the same reasons we do now—for example, in the interests of international peace and security or to further a foreign policy objective of the UK. As my right hon. Friend the Foreign Secretary said on Second Reading last week, we already implement human rights-based sanctions against 10 countries, including Iran, Libya, South Sudan and the Democratic Republic of the Congo. Overall, that means that sanctions against more than 200 individuals and entities are in place now, and that approach will continue under the Bill.

12 noon

However, I fully recognise why hon. Members want to make an explicit reference to gross human rights abuses, particularly in the light of the abhorrent case of Sergei Magnitsky, which we have heard about graphically from the hon. Member for Bishop Auckland. I put on record again that the Government are committed to promoting and strengthening universal human rights, and to holding to account states and individuals who are responsible for the worst violations. We will continue to do that after we leave the EU. We intend the powers in the Bill to allow us to be part of a global network of like-minded jurisdictions that work together to tackle those who commit gross human rights violations. We will continue to work with international partners to achieve that end.

The Bill already gives the Government the power to do that. In fact, in the other place, the Opposition defeated the Government on a vote to include specific references to human rights in the purposes for which sanctions can be imposed, and I confirm that the Government will not seek to overturn that vote. Those purposes include promoting compliance with international human rights law and promoting respect for human rights.

If someone has been designated under the Bill, they can be subject to an asset freeze and become an excluded person for the purposes of section 8B of the Immigration Act 1971; and they can be subject to a travel ban, which prevents them from being granted leave to enter or remain in the UK. They will also lose any leave that they hold to enter or remain in the UK. The hon. Member for Bishop Auckland asked whether certain people were currently banned, but the point for consideration is that even if we are not doing certain things now, we will be able to do them autonomously—as the UK—in future, because of the Bill.

My right hon. Friend the Home Secretary regularly uses domestic immigration powers to exclude people whose presence is not conducive to the public good. For example, last year, we refused entry to 328 Russians, 17 Libyans and 72 Syrians for a variety of reasons, including concerns of national security and involvement in war crimes or crimes against humanity. The Treasury also uses domestic powers in that area. For example, a freezing order under the Anti-terrorism, Crime and Security Act 2001 was used against the two individuals directly connected with the death of Alexander Litvinenko.

Last year, we amended the Proceeds of Crime Act 2002, through the Criminal Finances Act 2017, which received cross-party support. That allows law enforcement agencies to use civil recovery powers to recover the proceeds of human rights abuses or violations, wherever they take place, when that property is held in the UK. I recognise the strength of feeling on this issue, so I wish to work closely with right hon. and hon. Members to establish the maximum possible consensus before Report.

Amendment 13 would add a new purpose to the Bill to explicitly state that sanctions regulations could be created for the purpose of preventing serious and organised crime. The Government agree with the principle of the amendment—preventing serious and organised crime is an important objective—but it is not necessary to include it explicitly in the Bill. I think the hon. Lady said that she did not intend to press the amendment anyway.

As drafted, the Bill already provides the powers to impose sanctions in such cases. If we were obliged to tackle serious or organised crime under an international obligation, clause 1(3)(a) would allow us to do so. If we wished to tackle it in the interests of national security, subsection (2)(b) would allow us to do so. If we desired to tackle it as a foreign policy objective, subsection (2)(d) would give us the power to do so. It is not necessary, therefore, to add an additional purpose. To include unnecessary detail in the Bill could create confusion about the effect of those purposes.

Richard Benyon: I am grateful to my right hon. Friend for his remarks. My hon. Friend the Member for Cheltenham and I have gone quite a long way in looking at an alternative definition that would meet the requirements of the Magnitsky standard and that is consistent across our judicial system. Does my right hon. Friend support that direction of travel, and will what he commits to bringing forward on Report satisfy those who have campaigned on the matter for a long time?

Sir Alan Duncan: I can certainly say to my right hon. Friend that we will endeavour to work towards that destination. He will appreciate that in Government, agreement to certain processes requires collective responsibility. I want to see what we can do to head in the direction that he has campaigned for, but we will have to wait until the days leading up to Report to get to the point when I can say so for certain. I hope the hon. Lady will withdraw amendment 1.

Helen Goodman: That was a very interesting exchange. I wish to thank and commend the right hon. Member for Newbury for what he has said and for the thought that he has put into this matter. Obviously, we all want legislation to be good, and we do not wish to create a fest for lawyers. That is not the purpose here. The Government might have done the more reasonable thing and accepted amendments 1 and 2 and said, "By the way, they are not absolutely perfect, so parliamentary counsel will have to dot the i's and cross the t's and get the drafting absolutely perfect." The Minister has not done that. In the spirit of compromise and consensus building, in which the Minister has said consistently that he is interested, I would like to draw a distinction between amendment 1 and amendment 2. Questions about the drafting seem to relate to amendment 2, but everybody who has spoken seems to agree with amendment 1. For that reason, I will press amendment 1 to a vote.

Sir Alan Duncan: In my everlasting search for consensus, may I put this logical argument to the hon. Lady? Those who feel fervently about this issue see the two amendments as part of a package. If we were to take one without the other, it would deny us the opportunity to have a broader debate in the whole House on the entire issue known as the Magnitsky Act. Cutting off one from the other would not necessarily please the campaigners, so it would be advantageous to put this matter to the whole House, should it get that far.

Helen Goodman: Our objective is not to satisfy campaigners in this House, but to get the law right.

Richard Benyon: May I assure the hon. Lady that I am not a lone voice in my party? In fact, quite the reverse. There are a lot of people and a head of steam now on these issues. If we get to Report and we are not satisfied, we are prepared to vote accordingly. I will continue to work with her, as I will continue to work with the Government, to make sure we get the measures we need.

Helen Goodman: I appreciate the right hon. Gentleman's offer. I think that the Committee can take a decision in principle. I am not trying to prevent debate on the Bill—far from it. It was the Government Whip who did that on Tuesday, so I am certainly not going to have that laid at my feet now. We can come back to the matter on Report in the way that the Minister suggests, but I would like—

Alex Chalk: May I respectfully suggest that amendments 1 and 2 do go together? I say that because to legislate for a purpose that would provide

"further accountability for, or act…as a deterrent to, the commission of a gross human rights abuse or violation"

and then not to define what is meant by "gross human rights abuse or violation" would be to legislate for the bow, but not for the arrow. The two things go together. To leave out the definition would be to create such a

gaping hole in the legislation that we would be in dereliction of our duty, it seems to me. I hope that saying that will not be perceived as being in any way unsympathetic to the principle, but leaving out the definition would mean that we were left with not just inadequate legislation, but incomplete legislation.

The Chair: It may be helpful if I let the Committee know that if amendment 1 is withdrawn or negatived, amendment 2 falls as well.

Helen Goodman: I was aware of that, Dame Cheryl.

The Chair: I knew that you knew.

Helen Goodman: But I did not necessarily think that it would be helpful for the whole Committee to understand all the interstices of this. There is an issue of principle here. The Government are perfectly capable of sorting out the drafting. They have had since 20 February—10 days ago—when these matters were raised on Second Reading by several right hon. and hon. Members, notably the right hon. Member for Sutton Coldfield (Mr Mitchell). The Government have had ample time to sort out the drafting and therefore I wish to have a vote on amendment 1.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 5]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

Helen Goodman: I beg to move amendment 14, in clause 1, page 2, line 21, at end insert—

'(3A) Regulations under this section must be accompanied by the publication of a written memorandum by the appropriate Minister, and such a memorandum must set out—

(a) how the relevant sanctions are consistent with the overall foreign policy objectives of the UK government, including any specific regional objectives where appropriate;

(b) clear objectives for the relevant sanctions, including well-defined and realistic demands against which compliance can be judged;

(c) a coherent overarching diplomatic strategy for achieving the relevant objectives, including steps to actively and systematically communicate with targeted countries or persons on the specific concerns underpinning the sanctions against them;

(d) a clear exit strategy, including specific and measurable changes in the behaviour of any target or targets to be required as a precondition of any future suspension or lifting of the relevant sanctions; and

(e) specific steps to be taken by Ministers to promote co-operation with, and where possible the adoption of, any autonomous UK sanctions by other countries."

This amendment would require the Government to publish a memorandum setting out the objectives of any sanctions issued under this Act, and how they are consistent with the UK's foreign policy objectives.

This amendment is about making coherent and sensible plans when we impose sanctions. We want the Government to lay before the House a public document that sets out how the relevant sanctions are consistent with the Government's overall foreign policy objectives; clear objectives for the relevant sanctions; a coherent overarching diplomatic strategy for achieving the relevant objectives; an exit strategy; and specific steps to be taken by Ministers to promote co-operation with or adoption of any autonomous UK sanctions by other countries.

Lord Ahmad said in the other place that through sanctions we are looking to change people's behaviour. We are not interesting in hitting ordinary people rather than regimes. We want to minimise the humanitarian impact on innocent civilians. That is why we think that being a bit clearer about the aim of particular sanctions on particular regimes is extremely important.

12.15 pm

Hannah Bardell (Livingston) (SNP): I commend the hon. Lady on the amendment. Does she agree that public perception is very important—people understanding why we have sanctions and what they look to achieve? Her amendment speaks to that. It will be absolutely vital to have that detail set out by Government, which they so often do not do.

Helen Goodman: I am grateful to the hon. Lady for her remarks. Let me give a couple of examples about two different sanctions regimes where the content of sanctions and object of the sanctions are quite different. Sanctions on the Democratic People's Republic of Korea are aimed at preventing it from developing weapons of mass destruction. That is a really big foreign policy objective for all of us. Nobody wants the proliferation of nuclear weapons, and not in that region; it is an extremely destabilising occurrence. At the same time, we need a parallel diplomatic strategy. The South Koreans are doing quite well on that following the Olympics, with efforts to shift the discussion from sport to politics. I am not absolutely clear what the Government's view is on the exit strategy and precisely what changes in behaviour they want. This has been difficult and fraught and the Government have made serious efforts at the UN, but we are trying not to starve the North Korean people, who anyway have an extremely low standard of living and a horrible quality of life; we are trying to stop the regime from developing weapons of mass destruction.

The situation in Myanmar and its risks and problems are different. Those sanctions are aimed at preventing the ethnic cleansing of Rohingya and ensuring their safe, voluntary and dignified return to their homeland in Rakhine state. We want the UN to be able to oversee that return and the full implementation of the Annan commission recommendations. Again, we are trying to influence the regime to do something. We have an aid programme to other parts of Myanmar and we are not trying to undermine that, but we want to shift the

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military, which is why the position of Her Majesty's Opposition on sanctions on Myanmar is different from the Government's position. We agree on the North Korean sanctions, but not on Myanmar, because we would like the sanctions to cover the whole of that part of the Myanmar economy that is controlled by the military.

Those two examples show that different problems need different approaches. We need to be clear about that. We will be better at running our foreign policy if we are clearer. This co-operation was very strongly commended by UK Finance, which is the collaboration between banks and financial service providers. For them, life just becomes extremely difficult if we do not have the same approach as the Europeans and the Americans. They have said to us that they want us very much to maintain our integration with the EU on our sanctions policy, because they are worried that if we were to have a different tweak here and there, other international finance actors would be very risk averse, and would not want to put money into British banks and then find that they were suffering second round sanctions, particularly from the Americans.

To be honest, I thought that the speech the Foreign Secretary made on Second Reading—it was typical of him—did not really take that into account. It began and ended with a lot of Brexity rhetoric, but it did not really focus on the detailed policy reality of what to do when we are operating sanctions. He said:

"The Bill will give us the freedom to decide on national sanctions as we see fit".—[*Official Report*, 20 February 2018; Vol. 636, c. 77.]

He went on to say that "Britain can act independently", that we will have "freedom of manoeuvre", be an independent global power, and be able to

"exert our rightful influence on the world stage".—[*Official Report*, 20 February 2018; Vol. 636, c. 80.]

The thing about this is that we can and we will, but the truth is that we do that much better by collaborating with other countries. Everybody knows that sanctions are much more effective when we co-operate with other countries. That is why we included paragraph (e) in this amendment.

Richard Benyon: I am confused by this one. I may be a member of the Intelligence and Security Committee, and I would not want anyone in this Committee to think that I have gone native and that somehow we want everything hushed up. I am entirely in favour of transparency of strategy, because that is the easiest way for Parliament to hold the Government of the day to account. But it seems to me that elements of this amendment would make it unworkable. It would favour the kind of state that we might seek to sanction, by laying bare before the world a strategy that, at times, it is worth while keeping within the corridors of power. I am sure some people will accuse me of being part of some sort of elite or believing in closed government, but it is absolutely not true.

The amendment calls for a memorandum that would show

"clear objectives for the relevant sanctions, including well-defined and realistic demands against which compliance can be judged…a coherent overarching diplomatic strategy".

That is available, to an extent, and is discussed. It is part of our national security strategy. But to communicate in a way that would be helpful to—the actual words used in this amendment—"targeted countries," would burden future Governments and that of today in a way that concerns me. I hope we may get some clarification on this, either from my right hon. Friend the Minister or the hon. Member for Bishop Auckland.

Sir Alan Duncan: I can confidently say that if anyone has a hot water bottle, I am prepared to offer them very good money for it. I have not got quite as many layers on as some others in the Committee. I will respond to the points made about this amendment and in large part concur with the comments made by my right hon. Friend the Member for Newbury.

The Bill as drafted already requires a Minister to lay before Parliament a report alongside the introduction of any sanctions regulation. Amendment 14 appears to duplicate that duty, setting out a number of specific factors to be included in such a report. I have some sympathy with the aim of the amendment. Given the potential effects of sanctions, they should only be used where it is appropriate and where the Government have thought through all of the consequences. It is right and proper that the Government can and should be held to account over the use of this power. As I have said, clause 2 already requires the Government to lay a report before Parliament alongside the introduction of any sanctions regulation.

The report would set out why a Minister considered the sanctions regulations to be consistent with the purposes outlined in the Bill, and why they were a reasonable course of action. I assure hon. Members that it will clearly state the objectives of the sanctions, their place within a broader diplomatic and foreign policy strategy and, if appropriate, the conditions under which they might be lifted—for example through the resolution of an armed conflict to which they were designed to apply.

In addition, the Government have committed to publishing an annual review of each of the sanctions regimes, which will be laid before Parliament as set out in clause 27. That report will explain why the sanctions regimes continue to be appropriate and how they meet the objectives set out in the original report.

Helen Goodman: Which clause is the Minister referring to?

Sir Alan Duncan: Clause 27. I hope that helps the hon. Lady.

The requirements in the Bill demonstrate that we are committed to being open before Parliament about the objectives of our sanctions regimes. To that extent, I do not disagree with the principle behind the amendment; rather, it is our view that the provisions are already sufficiently covered by clause 2 and the annual report under clause 27.

I want to make it clear that the Government will ensure that we have a coherent diplomatic strategy in place as part of the process by which we consider whether sanctions are appropriate; but to set that out publicly on the introduction of the regime, as would be required under new subsection (3A)(c), which the amendment would add to the clause, would, as my right

hon. Friend the Member for Newbury has said, risk exposing our hand in sensitive areas and at inopportune times. It could be counterproductive and result, therefore, in less effective sanctions and foreign policy overall.

That is also the case with setting out an exit strategy at the start. Sometimes an exit strategy is clear from the purpose of the regime—for example, as I have said, promoting the resolution of an armed conflict. However, it might be inadvisable to oblige the Government to be so explicit in advance, especially where doing so might prejudice sensitive negotiations or affect our work with international partners.

The same is true for the amendment's new subsection (3A)(e), which would oblige the Government to take the steps that we are taking with our international partners to promote co-operation on our individual sanctions regimes. As we have said many times, sanctions are most effective when they are implemented multilaterally, and we are committed to working closely with our partners to ensure that sanctions are implemented by the widest possible groupings. Setting that out in Parliament in advance risks undermining those discussions, which, by their nature, are private and sensitive. Therefore, while we respect the intentions behind the amendment, I urge the hon. Lady to withdraw it, on the basis of the detailed explanation I have given.

Helen Goodman: I was interested to hear what the Minister said. In the previous debate, on Magnitsky, he prayed in aid of his position paragraphs (f), (g) and (h) of clause 1(2), which were of course tabled by Labour Lords and added to the Bill in the other place. I notice that he has just done the same thing again: he prayed in aid clause 27, which was also added.

I take seriously the points about not being foolhardy in being open. It is a difficult, tricky balance, but in view of the arguments made by the right hon. Member for Newbury and the Minister, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: I have been making inquiries about whether there is a warmer Committee Room for this afternoon's proceedings, but I am sad to report that this is now one of the warmest rooms on the corridor. It is with some dismay that I put on the record that it is still absolutely freezing in here.

12.30 pm

Sir Alan Duncan: I beg to move amendment 3, in clause 1, page 3, line 2, leave out "(d)" and insert "(h)".

This amendment expands the reference in Clause 1 to subsection (2) so that it covers paragraphs (e) to (h) of that subsection (as well as paragraphs (a) to (d)).

The Chair: With this it will be convenient to discuss Government amendments 5 and 6.

Sir Alan Duncan: These are straightforward consequential amendments to the Bill. The purposes for which sanctions regulations can be introduced, set out in clause 1(2), were amended in the other place through an amendment tabled by Opposition peers. That amendment added four additional purposes for which sanctions could be imposed, as we have just discussed. They are: promoting the resolution of armed conflicts or the protection of civilians in conflict zones; promoting compliance with international humanitarian and human rights law; contributing to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction; and promoting respect for human rights, democracy, the rule of law and good governance.

The Government opposed the amendment at the time, on the basis that those areas were all covered by the Bill as it was drafted. However, I reassure hon. Members that we will not seek to overturn the change. Given that, consequential amendments 3, 5 and 6 are necessary to update cross-references to the list of purposes throughout the Bill. They update references to purposes (a) to (d) in three separate places to include the additional purposes (e) to (h) in clause 1(2). I commend the amendments to the Committee.

Amendment 3 agreed to.

Question proposed, That the clause, as amended, stand part of the Bill.

Sir Alan Duncan: The purpose of the clause, as we have discussed in detail, is to enable the Secretary of State or the Treasury to make sanctions regulations for a number of purposes, such as to comply with international obligations or for other specified reasons, including in the interests of national security or the prevention of terrorism in the UK or elsewhere. Mr Speaker, the clause is in many ways the core of the Bill.

Mike Freer (Finchley and Golders Green) (Con): Mr Speaker?

Sir Alan Duncan: Did I say Mr Speaker? I have been so chilled to the marrow, Dame Cheryl, that I am losing my bearings.

The Chair: I have not morphed into Speaker Bercow.

Sir Alan Duncan: Dame Cheryl, the clause gives the Government the ability to create sanctions regulations and to ensure that we can do so in order to continue to comply with our international obligations, such as UN Security Council resolutions, after we leave the European Union. Alongside allowing us to meet our international obligations, it will ensure that we can continue to use sanctions to meet our foreign policy and national security goals.

As a result of the amendment in the other place, the clause now specifies a range of other purposes for which sanctions can be imposed, including to promote compliance with international humanitarian law and international human rights law and to promote respect for human rights, democracy, the rule of law and good governance. That list shows that we can continue to implement sanctions for the purposes for which they are currently used. I reassure colleagues that the UK will also be able to implement measures in the same sectors as currently—financial, migration, trade, aviation and maritime. The clause is the foundation of the legislation, so I ask that it stand part of the Bill.

Helen Goodman: This is the most important clause in the Bill, and it was much improved in the Lords. I am slightly disappointed that we have not been able to make more progress, but it was clear from the debate that the right hon. Member for Newbury felt that he

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had been given assurances that progress will be made between now and Report. We hope very much that that progress is made. We take the Minister at his word on that, and we will undoubtedly come back and look at these issues on Report. For now, we are completely happy for the clause to stand part of the Bill.

Question put and agreed to.

Clause 1, as amended, accordingly ordered to stand part of the Bill.

Clauses 19 and 20 ordered to stand part of the Bill.

Clause 21

PERIODIC REVIEW OF CERTAIN DESIGNATIONS

Helen Goodman: I beg to move amendment 32, in clause 21, page 18, line 34, leave out "3 years" and insert "12 months".

The Chair: With this it will be convenient to discuss the following:

Amendment 33, in clause 21, page 18, line 36, leave out "3 years" and insert "12 months".

Amendment 34, in clause 25, page 20, line 14, leave out "3 years" and insert "12 months".

Amendment 35, in clause 25, page 20, line 16, leave out "3 years" and insert "12 months".

Helen Goodman: The purpose of these amendments is to increase the frequency of the periodic review of designations from every three years to every year. I owe this idea to the hon. Member for Glasgow Central, who suggested it on Second Reading. I thought that she might table amendments but that I had better do so in case she did not. It was a very sensible suggestion, and I am sure she wishes to explain why it is a good idea.

Alison Thewliss (Glasgow Central) (SNP): I thank the hon. Member for Bishop Auckland for tabling these amendments—she was just a little swifter getting them in than I was.

I spoke about this issue on Second Reading. First, there is an important point about consistency: the EU has a 12-month review period for its sanctions, and we ought to make the Bill consistent with that. There seems to be no reason why we should want to leave it as long as three years to review sanctions, particularly given that situations can change rapidly and that we should hope that sanctions take effect in a shorter period than three years. We are trying to promote good behaviour and resolution, and we should hope to achieve that within three years, making the three-year period redundant in some cases.

It makes sense to maintain consistency and allow constant review by keeping the review period to 12 months. If things take longer than that, it makes sense to look at them within 12 months to ensure that the Government's foreign policy objectives are making progress and that things are actually happening. If they are not, perhaps they ought to be reviewed. A 12-month period would give us a good deal more flexibility and accountability. It certainly seems logical to me, and I very much hope the Government accept the amendments.

Sir Alan Duncan: I rather sense this will forever be known as the bobble hat amendment.

Alison Thewliss: The Minister is just jealous.

Sir Alan Duncan: I certainly am.

Reviews are crucial to maintaining effective sanctions regimes, and sanctions should not remain in place where there is no longer a reason for them to do so. Clause 21 requires the Government to conduct a comprehensive re-examination of each designation decision at least every three years. That is one of a number of safeguards that the Bill provides for designated persons. The amendments would oblige the Government to re-examine each designation annually.

I agree completely that sanctions designations need to be based on solid, legally robust evidence. The UK has pushed hard for that in the EU—that is widely recognised, including, for example, in the House of Lords European Union Committee's recent report, "The legality of EU sanctions"—and we are committed to maintaining those high standards. I recognise that the EU generally reviews its sanctions regimes annually. However, as noted during the passage of the Bill in the other place, EU reviews are relatively light touch. Designated persons are invited by the Council to present new information, and member states are able to make observations, but they are under no obligation to engage. In contrast, the triennial review envisaged in the Bill would be a comprehensive re-examination of each and every designation.

The Bill as drafted includes a robust package of procedural safeguards, including a number of amendments introduced in the other place. The combined package would provide a higher level of protection for designated persons—at least as strong as current EU standards, if not better. The Government would review all sanctions regulations annually and present the results in a written report to Parliament. If the report concluded that there were no longer good reasons for maintaining a UK sanctions regime, we would lift it. Any changes made to the equivalent sanctions regimes of the EU or other international partners would be examined closely as part of the annual review.

Alongside this annual review of the regulations, the Bill requires the Government to put in place a dynamic process to reassess designations on request. The triennial review is not the only opportunity; a designated person can request a reassessment of their designation at any time, and can request a further reassessment where a significant matter has not previously been considered by the Minister. I take the point that a designated person who has requested a reassessment, challenged it in court and failed to establish any unlawfulness will not have a further review until a significant new matter arises or until the triennial review. However, there will be no need for a further review if the lawfulness of the designation has been established and nothing has changed since. If there are new arguments to be tested or if the passage of time has changed the situation, a further reassessment can be requested. If not, there will be no need for one.

Ministers can instigate a reassessment at any time—for example, if the person concerned has been delisted by the EU. They will have every interest in initiating reassessments proactively, both in the interests of justice and to minimise the risk and cost of legal challenges—

a compelling argument in many a ministerial decision. In any case, if the EU decided to revoke the designation of a person also designated in the UK, I would certainly want to reassess the corresponding UK designation.

The provisions will ensure that UK sanctions are under constant scrutiny and that the Government are obliged to respond swiftly to new information and challenges. The triennial review will provide a further backstop to ensure that each and every determination is considered afresh on a regular, predetermined cycle. This aligns with current practice in Australia and will put us ahead of countries such as the US and Canada, which have no such process at all. It will not prevent more frequent reviews; indeed, we have mechanisms in place that oblige us to carry out more frequent reviews where appropriate.

Requiring the Government to conduct such reviews every year would be extremely resource-intensive and—given the finite Government resources dedicated to sanctions—would take resources away from other important areas. It could also make litigation more complex.

Alison Thewliss: Will the Minister give way?

Sir Alan Duncan: I am on my last three words, but yes. The hon. Lady has got in under the wire.

Alison Thewliss: I did not realise that the Minister had reached his last three words. He mentions resources and cost implications. Can he give us more specific detail?

Sir Alan Duncan: If something has to happen three times as frequently, it will take up a lot more resource.

I hope that the arguments I have put to the Committee have convinced the hon. Lady that the compulsion to have a review every year is superfluous, given all the other layers and safeguards that exist in the Bill.

Jo Stevens (Cardiff Central) (Lab): If the Minister cannot tell us what the triple cost is, can he tell us what this costs at the moment?

Sir Alan Duncan: We do things as part of the EU, so it is not possible to segregate the cost in the way the hon. Lady asks. What we are doing is setting up an autonomous regime instead of being part of a collective regime.

I hope that the arguments that I have put to the Committee have persuaded the hon. Member for Bishop Auckland to withdraw her amendment.

Helen Goodman: I think the Minister has noticed some scepticism towards the points he made. We will press the matter to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 10.

Division No. 6]

AYES

Bardell, Hannah	Rowley, Danielle
Dodds, Anneliese	Smith, Nick
Duffield, Rosie	Stevens, Jo
Goodman, Helen	Thewliss, Alison
Norris, Alex	

NOES

Badenoch, Mrs Kemi	Freer, Mike
Benyon, rh Richard	Glen, John
Chalk, Alex	Graham, Luke
Courts, Robert	Maclean, Rachel
Duncan, rh Sir Alan	Prentis, Victoria

Question accordingly negatived.

Question proposed, That the clause stand part of the Bill.

Sir Alan Duncan: Reviews are crucial to maintaining effective sanctions regimes. Sanctions should not remain in place where there is no longer a reason for them to do so. This clause ensures best practice by requiring a comprehensive re-examination of every sanctions designation at least once every three years. The process will ensure that all sanctions designations are based on up-to-date information and that any that are not are revoked. There is nothing preventing a Minister from instigating a reassessment at any time, for example if new evidence comes to light. An individual is also able to challenge their designation, requiring a reassessment by the Minister—*[Interruption.]*

The Chair: Order. Could the Whips have conversations outside the Committee room on this matter, please? I am trying to give them a break; it is warmer out there.

Sir Alan Duncan: An individual is also able to challenge their designation, requiring a reassessment by the Minister and potentially further examination by a court.

The clause should be seen alongside other safeguards in the Bill, in particular clause 27, which requires the overall sanctions regime to be reviewed annually. In that review, the Minister must be assured that sanctions are appropriate for their purpose; that, apart from United Nations or other international obligations, there are still good reasons to pursue that purpose; and that proposing sanctions is a reasonable course of action for that purpose. The results of the review must be laid before Parliament. I make it clear that the only time a designated person will not be able to request a reassessment is when they have challenged their designation, it has been upheld either by a Minister or by the court, and there have been no significant changes.

The review provided by this clause is a provision that stands behind all the others. Therefore, combined with the other safeguards in the Bill, I believe that reviewing each individual listing at least every three years is appropriate. This is a backstop measure to ensure that each and every designation is reviewed afresh at least every three years.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clauses 22 to 26 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Mike Freer.)*

12.50 pm

Adjourned till this day at Two o'clock.