PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Twelfth Sitting

Tuesday 18 March 2025

(Afternoon)

CONTENTS

New clauses considered.
Bill, as amended, to be reported.
Written evidence reported to the House.

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not later than

Saturday 22 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, † Dr Andrew Murrison, Graham Stuart

Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 18 March 2025

(Afternoon)

[Dr Andrew Murrison *in the Chair*]

Border Security, Asylum and Immigration Bill

2 pm

New Clause 27

Repeal of certain provisions of the Nationality and Borders Act 2022

'The following provisions of the Nationality and Borders Act 2022 are repealed—

(a) sections 12 to 65; and

(b) sections 68 and 69.'—*(Susan Murray.)*

This new clause would repeal specified provisions of the Nationality and Borders Act 2022.

Brought up, and read the First time.

Susan Murray (Mid Dunbartonshire) (LD): I beg to move, that the clause be read a Second time.

It is a pleasure to work under your chairmanship, Dr Murrison. The new clause would enable replacements of large portions of the Nationality and Borders Act 2022—in particular, sections on asylum, immigration control, age assessments and modern slavery—to ensure the upholding of the refugee convention, to provide for safe and legal routes to sanctuary for refugees and to help prevent dangerous channel crossings.

Matt Vickers (Stockton West) (Con): Liberal Democrat new clause 27 seeks to repeal provisions in the Nationality and Borders Act 2022 passed by the previous Conservative Government. By attempting to repeal section 29 of the Act, the Liberal Democrats are seeking to prevent the Government from removing people, including criminals, to a safe third country.

Rewind back to 2022 when 45,000 people crammed into small boats, flimsy rafts teetering on the channel's unforgiving waves—a swarm, spurred by the hope of slipping through our borders, hammering coastal towns and stretching security to its limits.

The Minister for Border Security and Asylum (Dame Angela Eagle): Did the hon. Gentleman really mean "swarm" in that context? That is quite emotive language.

Matt Vickers: Well, hot air is required in this room this afternoon, and I intend to provide it.

We fought back with the Nationality and Borders Act third-country removals, which helped the Government to deter crossings by 36% in 2023 from 45,000 to under 29,000—not by chance, but by design, sending a message to traffickers and migrants alike that Britain is no soft touch or guaranteed prize. Now, the Liberal Democrats barge in with new clause 27, desperate to repeal section 29 to shred that deterrent and plunge us back into chaos, flinging the channel wide open not just to the weary but to every chancer or criminal. That is not tweaking policy; it is torching a firewall, inviting all those to Dover's cliffs and Deal's shores and erasing every inch of progress that we have clawed from the crisis. The Lib Dems owe us hard answers. How many boats—50,000 or 60,000?

The Albania deal delivered a masterstroke of border control. That pragmatic triumph has turned a torrent of illegal crossings into a trickle through sheer diplomatic grit. Back in 2022, Albanians dominated the small boats surge. A 12,000-strong, relentless wave of young men were lured by traffickers with promises of easy UK entry for £3,000, clogging Dover's processing centres and fuelling tabloid headlines of chaos. Then came our 2023 pact with Tirana—a no-nonsense agreement that flipped the script with fast-track returns, joint police operations and a clear signal: Albania is safe and you are going back.

By 2024, the results were staggering. Weekly flights were whisking deportees home, with each jet a nail in the coffin of the smuggling networks that once thrived on our porous borders. That was not luck or loud threats but cold, hard execution, bolstered by UK-funded cameras on the Albania-Kosovo frontier and Albanian officers embedded in Dover.

Chris Murray (Edinburgh East and Musselburgh) (Lab): I think that the hon. Gentleman is somewhat overstating the impact of the Albania policy. After the initial agreement was signed, we saw a massive spike in numbers coming from Albania, and the numbers had already started to fall before the communiqué was signed. The correlation and causation arguments that he is making on the Albania scheme do not add up at all.

Matt Vickers: What is effective? The deal reduced the number of people coming from Albania by more than 90%. If we could get a few more agreements like that, we would be on the way—that would be huge progress. The Albania deal represented huge progress; to suggest otherwise is wrong. It choked off routes before boats had even launched and had a real impact.

Chris Murray: Would the hon. Gentleman at least accept that the Albania returns were largely due to large numbers of foreign national offenders, who are a completely different category of people from those we are talking about in either this clause or this Bill?

Matt Vickers: We would want to return foreign national offenders; that is really positive. But the number of people choosing to cross because of that deterrent effect went down by not 10% or 20%, but by more than 90%. More than 90% fewer people arrived from Albania in small boats. That is huge progress. If we can replicate that elsewhere, I will be a very happy boy because we would see a huge impact on those crossings across the piece.

New clause 27 is hellbent on repealing that backbone, oblivious to how crossings from Albanians were successfully slashed, while the Rwanda threat kept smugglers guessing. If the Liberal Democrats prevail, every bilateral deal

will be on the chopping block. Imagine Albanian numbers roaring back to 12,000, with other current surges unchecked. That is not progress; it is sabotage—a reckless bid to unravel a system that is finally biting back at the chaos. Do the Liberal Democrats not want to be able to remove people from this country who have entered illegally? Do they believe that any national of a safe country should be able to seek asylum in the UK? Can Liberal Democrat Members explain why that would not create a massive pull factor and encourage people to cross the channel in small boats?

The Liberal Democrats are also seeking to repeal sections 15 to 17 of the Nationality and Borders Act 2022, which specify that the Secretary of State must declare an asylum claim made by a person who is a national of an EU member state inadmissible. Why would the Liberal Democrats believe that anyone from the EU needs to claim asylum here? Picture this scene, which is so utterly ridiculous that it strains the bounds of credulity: an EU citizen, perhaps some laid-back Amsterdamer, pedalling along the city's picturesque canals one sunny afternoon, tulips nodding in the breeze, then suddenly deciding to chuck it all, hop on a ferry and pitch up on Dover's pebbled shores, requesting asylum, as if the Netherlands' orderly bike lanes and windmill-dotted horizons had morphed into a scene from—

Tom Hayes (Bournemouth East) (Lab): We are witnessing some particularly theatrical prose, perhaps for the first time. Has Boris Johnson got a new job as the hon. Gentleman's speechwriter?

Matt Vickers: His writing seems to be going quite well at the moment. I do not know that I have the cash for him.

What I have described is not asylum. We cannot pretend that the EU's 27 nations and its vast tapestry of safe, stable and prosperous lands—we can take our pick of France, Italy, Spain, Sweden and so on, each a bastion of peace and plenty—somehow warrant the same desperate lifeline that we reserve for those fleeing real and genuine chaos. This is the same organisation that the Liberal Democrats supposedly want to build closer ties with. They also want the UK to grant asylum to people who come to this country having already been in a country where they have claimed and been granted asylum. Why are the Liberal Democrats encouraging people to cross the channel when they already have asylum or can claim asylum in a safe third country?

Just like the Labour Government, the Liberal Democrats want to remove sections of the Nationality and Borders Act 2022 that allow local and public authorities to conduct an age assessment on an age-disputed person. As we discussed before when the SNP did not wish those who claim to be a child to be treated as an adult, every European country apart from ours uses scientific age assessment techniques such as an X-ray of the wrist. As we have said, there are also other methods. More than 50% of those claiming to be children were found to be adults after an age assessment in the quarter before the election. Without a scientific age assessment method, it is very hard to determine age. Given the horror stories in this area, why do Liberal Democrats want to put the people of this country at risk, and blindly allow unverified people into the UK?

Let us now talk about a nightmare unfolding right under our noses: one that the Liberal Democrats seem hellbent on making worse. In the first quarter of 2021 alone, 560 adults—grown men with stubble, receding hairlines and years behind them—had the gall to pose as kids, slipping through the cracks until scientific age checks, such as wrist X-rays and dental scans that every sensible European nation uses, caught them red handed and stopped them cold.

The Lib Dems' new clause 27 would axe those checks and rip out the one tool keeping us from dumping people who are 25 years old or even older into classrooms alongside children. That is not some abstract risk. It has happened and it is real; it means men in their 20s sitting at desks meant for teens, all because we have let sentiment trump science. That would not protect children, but endanger them—a reckless gamble that would turn schools into hunting grounds and parents into nervous wrecks, all so the Lib Dems can pat themselves on the back for being compassionate. If they get their way, every classroom will have a question mark. How many 25-year-olds will slip through before the damage is done?

What do the Liberal Democrats believe should happen if the authorities believe a migrant who is claiming to be under 18 is actually an adult? Do they believe that such people should be placed in schools with schoolchildren? Again, it seems as though the Liberal Democrats want to strip the Government of any power to control who comes to the country. That would see net migration drastically increase.

The issue cuts deeper than policy, however; it is about what people expect, and the Liberal Democrats' new clause pulls hard against that grain. Voters have signalled what they want loud and clear, with 68%—nearly seven in 10—backing tougher border controls in surveys: a call echoing from Dover to Folkestone, where residents live with the reality of arrivals day by day. That is not a passing opinion; it is a steady demand—rooted in years of debate, from the 2016 Brexit vote to the 2019 landslide—for a system that prioritises their say.

Dame Angela Eagle: I do not know what the hon. Gentleman had for lunch, but perhaps we should find out and get some of it ourselves. We can then all compete with the poet laureate and the virtuoso performance that we have just heard.

I am going to talk about the new clause, however, which is in respect of the Nationality and Borders Act 2022. The hon. Member for Mid Dunbartonshire is proposing that numerous sections of the 2022 Act be repealed under the Bill.

I should start by making it clear that we are determined to restore order to the asylum system, so that it operates swiftly, firmly and fairly, and ensures that the rules are properly enforced. That is a financial necessity to deal with the backlogs that we have inherited—the permit backlog in particular, but also others, especially in the appeals space—so that the costs do not continue to mount up at the expense of the taxpayer. Getting the system moving again is an important part of what we have been doing.

Following the election, the Home Secretary acted rapidly to change the law to remove the retrospective application of the Illegal Migration Act 2023, which

[Dame Angela Eagle]

allowed decision makers to decide asylum claims from individuals who arrived in the UK from 7 March 2023. Previously, there was a ban on that, because of the duty to remove, which was never going to be sensibly put into effect.

I am not going to speak to every section of the Nationality and Borders Act, but the hon. Member for Mid Dunbartonshire wants us to repeal very large chunks of the Act under the new clause. I will mention only a few, and I hope that she will forgive me for not talking about every section.

The introduction of the national age assessment board, for example, in March 2023, relies on a piece of the Nationality and Borders Act that the hon. Lady wishes to repeal. In the interim, since that Act has come into being, we have introduced the national age assessment board and made it available across the country. It continues to offer significant improvement to our processes for assessing age, including creating greater consistency in age assessment practices, which can be very inconsistent in the practical delivery of Merton-compliant assessments in different local authorities—some are more experienced and some better at it than others. The national age assessment board creates a standard and a bar below which it is hard to go. It sets important standards in age assessment, improves quality and ensures that ages are recorded correctly for immigration purposes.

The Nationality and Borders Act also placed protections and support under the Council of Europe convention on action against trafficking in human beings on a legislative footing for the first time in the UK. That includes the right to a recovery period in the national referral mechanism, during which potential victims of modern slavery and trafficking are eligible for support and are protected from removal from the UK. The Act provides the means to disqualify individuals—I suspect that this may be the bit that the hon. Member for Mid Dunbartonshire objects to—from protections or support on the grounds of public order or bad faith. However, that is in line with article 13 of the convention; that part of the Nationality and Borders Act put the convention into UK law. I am surprised she is suggesting that we should remove it.

The Act also sets out the circumstances in which confirmed victims of slavery and trafficking may be granted temporary permission to stay in the UK. The Government will be launching a public consultation, before summer recess, on how we can improve the process of identifying victims of modern slavery. We will provide details on that consultation in due course.

2.15 pm

The Act also introduced the establishment of a clear two-limb test for assessing whether an asylum seeker has a well-founded fear of persecution and raised the standard of proof that an asylum seeker must satisfy for certain elements of the test to the higher "balance of probabilities" standard. That is helping to ensure that only those who genuinely require protection are granted it in the UK, while those who do not qualify will be removed. The Government are committed to restoring order to the asylum system, and the Bill supports our aim in ensuring that the system operates swiftly, firmly and fairly. The examples outlined demonstrate the practical benefits of keeping the Nationality and Borders Act 2022 on the statute book. It follows that I do not agree that new clause 27 should be added to the Bill.

Susan Murray: I thank the Minister for her clear outline. The Liberal Democrats want to enable the replacement of large portions of the Nationality and Borders Act and ensure that we uphold the refugee convention. We wish to push the new clause to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 3, Noes 13.

Division No. 23]

AYES

Forster, Mr Will	Wishart, Pete
Murray, Susan	

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
Lam, Katie	Vickers, Matt
McCluskey, Martin	White, Jo
Malhotra, Seema	

Question accordingly negatived.

New Clause 29

REFUGEE FAMILY REUNION

'(1) The Secretary of State must, within 6 months of the date on which this Act is passed, lay before Parliament a statement of changes in the rules (the "immigration rules") under section 3(2) of the Immigration Act 1971 (general provisions for regulation and control) to make provision for refugee family reunion, in accordance with this section, to come into effect after 21 days.

(2) Before a statement of changes is laid under subsection (1), the Secretary of State must consult with persons as the Secretary of State deems appropriate.

(3) The statement laid under subsection (1) must set out rules providing for leave to enter and remain in the United Kingdom for family members of a person granted refugee status or humanitarian protection.

(4) In this section, "refugee status" and "humanitarian protection" have the same meaning as in the immigration rules.

(5) In this section, "family members" include—

(a) a person's parent, including adoptive parent;

(b) a person's spouse, civil partner or unmarried partner;

(c) a person's child, including adopted child, who is either—

(i) under the age of 18, or

(ii) under the age of 25 but was either under the age of 18 or unmarried at the time the person granted asylum left their country of residence to seek asylum;

(d) a person's sibling, including adoptive sibling, who is either—

(i) under the age of 18, or

(ii) under the age of 25, but was either under the age of 18 or unmarried at the time the person granted asylum left their country of residence to seek asylum; and

(e) such other persons as the Secretary of State may determine, having regard to—

(i) the importance of maintaining family unity,

(ii) the best interests of a child,

(iii) the physical, emotional, psychological or financial dependency between a person granted refugee status or humanitarian protection and another person,

(iv) any risk to the physical, emotional or psychological wellbeing of a person who was granted refugee status or humanitarian protection, including from the circumstances in which the person is living in the United Kingdom, or

(v) such other matters as the Secretary of State considers appropriate.

(6) For the purpose of subsection (5)—

(a) "adopted" and "adoptive" refer to a relationship resulting from adoption, including de facto adoption, as set out in the immigration rules;

(b) "best interests" of a child must be read in accordance with Article 3 of the 1989 UN Convention on the Rights of the Child.' —*(Susan Murray.)*

This new clause would make provision for leave to enter or remain in the UK to be granted to the family members of refugees and of people granted humanitarian protection.

Brought up, and read the First time.

Susan Murray: I beg to move, That the clause be read a Second time.

This new clause would make provision for leave to enter or remain the UK to be granted to the family members of refugees and of people granted humanitarian protection. Through the clause the Liberal Democrats seek to support refugee family reunion and to help people to integrate into the community, learn the language, make a home and work to contribute to society, exactly as the hon. Member for Edinburgh East and Musselburgh discussed.

Matt Vickers: Liberal Democrat new clause 29 requires that within six months of the date on which this Act is passed, the Secretary of State should lay before Parliament provision for leave to enter or remain in the UK to be granted to family members of people granted refugee status and of people granted humanitarian protection. In the new clause, family members include: a person's parent, including adoptive parent; their spouse, civil partner or unmarried partner; and their child or sibling, including their adopted child or adoptive sibling, who is either under 18 or under 25, having been under 18 or unmarried

"at the time the person granted asylum left their country of residence to seek asylum".

Further, it can be taken to mean

"other persons as the Secretary of State may determine, having regard to…the importance of maintaining family unity…the best interests of a child…the physical, emotional, psychological or financial dependency between a person granted refugee status or humanitarian protection and another person."

If those provisions were not already incredibly vague, the Liberal Democrats have included a proposal that other persons can be determined by the Secretary of State. That could obviously result in a huge number of spurious claims made by family members who will say that they have a dependency on another person so they must be allowed to come to the UK under the provision. We already have judges completely stretching the definition of "right to family life" under article 8 of the European convention on human rights. The Liberal Democrat clause would be subject to even more abuse.

Beyond the vagueness, new clause 29 risks piling unbearable pressure on an economy already creaking under migration's weight. Each new family member, however loosely defined, brings costs—in housing, where shortages already top 1.2 million units, in healthcare, with NHS waits stretching past 7 million, and in schools, where 9 million pupils squeeze into overstretched classrooms. The costs of supporting asylum for individuals run into the tens of thousands of pounds. Multiply that by thousands of dependants under this elastic clause, and we are staring at billions more siphoned from taxpayers, who have already seen their council tax spike. The Liberal Democrats do not set a cap; they fling the door open ever wider, ignoring how finite our resources are. Britain's compassion has no bounds, but its resources certainly do. Our generosity must have limits. New clause 29 pretends otherwise, and working families will foot the bill when the system groans under the strain.

The new clause does not just invite claims; it opens a legal floodgate that could drown our courts in precedent-setting chaos by letting the Secretary of State define "family" on a whim. Whether we are talking about emotional ties or financial need, new clause 29 hands judges a blank slate to scribble ever-wider interpretations, building on the already elastic right to family life under article 8.

We have seen what has happened. As has been mentioned, an Albanian stayed because his son disliked foreign chicken nuggets. A Pakistani offender lingered, citing harshness to his kids. Let us now imagine dozens or hundreds of cases stacking up, each further stretching dependency—cousins, in-laws, distant kins—all cementing new norms that bind future policy. The Lib Dems would not just be tweaking rules; they would be unleashing a judicial snowball that would roll over border control for years to come. "Family unity" sounds noble, but the sprawl under new clause 29 could stall integration in its tracks—a challenge we cannot ignore when one in six UK residents was born abroad. Bringing in broad swathes of dependants, potentially with limited English skills or ties, risks clustering communities inward, not outward.

If we look across the channel, we see that Germany tightened family reunification after 1.1 million arrivals, capping it at 1,000 monthly for refugees' kin, citing overload. We are not outliers for wanting clarity. Other nations prove it works, yet the Lib Dems chase a boundless model, ignoring how allies balance compassion with capacity, leaving us to pick up the pieces when this experiment fails.

The Parliamentary Under-Secretary of State for the Home Department (Seema Malhotra): The hon. Member for Mid Dunbartonshire proposes an amendment that seeks to significantly change the current refugee family reunion policy, and to expand the current eligibility to include siblings, children under the age of 25 and any undefined family member.

The Government fully support the principle of family unity and the need to have provisions under the immigration rules that enable immediate family members to be reunited in the UK when their family life has been disrupted because of conflict or persecution. Accordingly, in recognition of the fact that families can become separated because of the nature of conflict or persecution, and because of the speed or manner in which people may be forced to flee their homes, communities and country,

[Seema Malhotra]

our refugee family reunion policy is extremely important and generous. The route enables those granted a form of protection in the UK to sponsor their partner or child to come to the UK, provided that they formed part of that family unit before they sought protection. Increasing numbers of visas have been granted through this route under the current policy, and indeed under the previous Administration. In 2024, 19,710 people were granted family reunion visas—twice the number in 2023, when around 9,300 visas were granted.

On the specific proposals in the new clause, it should be noted that any expansion of the existing approach without careful thought, including where such an expansion would allow an undefined family member to be brought to the UK, could significantly increase the number of people who qualify to come here, and runs the risk of abuse of those routes. That would have an impact on the taxpayer and could result in further pressures on public services and local authorities, which may have to accommodate and support the new arrivals.

We believe that introducing a rule that allows children to sponsor their relatives would risk creating incentives for more children to be encouraged or even forced, as we know can happen, to leave their families and risk hazardous journeys to the UK across the channel in small boats. That is a serious and legitimate concern regarding the best interests of those children.

Susan Murray: I thank the Minister. It is good to hear that the Government support the principle of family reunion, but we will press the new clause to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 3, Noes 13.

Division No. 24]

AYES

Forster, Mr Will	Wishart, Pete
Murray, Susan	

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
Lam, Katie	Vickers, Matt
McCluskey, Martin	White, Jo
Malhotra, Seema	

Question accordingly negatived.

New Clause 32

REVOCATION OF INDEFINITE LEAVE TO REMAIN IN CERTAIN CIRCUMSTANCES

"(1) Indefinite leave to remain in the United Kingdom is revoked with respect to a person ('P') if any of the following conditions apply.

(2) Condition 1 is that P is defined as a 'foreign criminal' under section 32 of the UK Borders Act 2007.

(3) Condition 2 is that P was granted indefinite leave to remain after the coming into force of this Act, but would not be eligible for indefinite leave under the requirements of section [*Qualification period for Indefinite Leave to Remain in the United Kingdom*].

(4) Condition 3 is that P, or any dependents of P, have been in receiptof any form of 'social protection' (including housing) from HM Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules.

(5) Condition 4 is that P's annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period, or subsequent to receiving indefinite leave to remain.

(6) A person who has entered the United Kingdom—

(a) under the Ukraine visa schemes;

(b) under the Afghan Citizens Resettlement Scheme;

(c) under the Afghan Relocations and Assistance Policy; or

(d) on a British National Overseas visa,

is exempt from the requirements of Condition 2, Condition 3, and Condition 4.

(7) For the purposes of subsection (5)—

(a) the condition applies only to earnings that have been lawfully reported to, or subject to withholding tax by, HM Revenue and Customs; and

(b) the relevant sum of annual income must be adjusted annually by the Secretary of State through immigration rules to reflect inflation.

(8) The Secretary of State may by immigration rules vary the conditions set out in this section."—*(Matt Vickers.)*

This new clause would revoke indefinite leave where a person is a foreign criminal, has been in receipt of benefits, earns below the national median income, or (for those granted indefinite leave after the coming into force of this Act) would not meet the requirements sought to be imposed by NC25.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

We believe that the right to remain in this country is a privilege, not a right. We also believe that to be able to stay in this country, a person must contribute to this country. As recent research by the Centre for Policy Studies has outlined, there is a risk that many of those coming to this country are either low-paid workers or have dependants who may or may not be working. Those individuals are likely to represent a long-term burden on the country's finances rather than be net contributors. That sentiment has been reiterated by liberal publications such as *The Economist*, which only last week said in one of its leaders that

"governments must also learn from the policy mistakes that lend it credibility."

Tom Hayes: It was remiss of me not to say earlier that I admire the hon. Gentleman's tie—it is very nice. On the point he raises, I have said consistently that that particular report by the Centre for Policy Studies is flawed. As we move towards the Government's new net migration White Paper, which will specify how we can bring labour into the country that is skilled only, rather than the low-wage labour that we saw under the previous Administration, there will not be that kind of burden in the future.

2.30 pm

Matt Vickers: I aim to please with my tie. The hon. Gentleman can probably attach as much importance to the policy paper as he sees fit, as he does with anything else I might or might not say; it is for him, and for

readers of the debate, to determine the value and weight they add to that. Another proposal we have put forward is on salary thresholds and what someone should be earning in order to remain in this country. I think that is a big deal; I will go on to outline why I think it is important, but yes—it is a big deal.

As I was saying, *The Economist* said only last week in one of its leaders that

"governments must also learn from the policy mistakes that lend it credibility. It was foolish to admit lots of newcomers without liberalising housing markets. Also, since migration flows to rich countries cannot be unlimited, it makes sense to favour highly skilled economic migrants over lower-skilled ones nearly all the time. Arguments for low-skilled migration built around supposed labour shortages are flawed."

Interestingly, in countries outside the UK, research has shown the importance of income in long-term migration. A report in the Netherlands, which used detailed microdata on fiscal contributions and benefits to the entire population to calculate the discounted lifetime net contribution of the immigrant population present in 2016, was published in December 2024 and concluded:

"If the parents make a strongly negative net contribution, the second generation usually lags behind considerably as well. Therefore, the adage 'it will all work out with the second generation' does not hold true. High fiscal costs of immigrants are not that much caused by high absorption of government expenditures but rather by low contributions to taxes and social security premiums. We also find evidence for a strong relationship of average net contributions by country with cultural distance, even after controlling for average education and the cito-distribution-effect."

Although we should acknowledge that the Netherlands is a different country with its own unique systems and that its situation does not necessarily apply to the UK, the finding highlights the need to examine the impact of migration decisions in comparable nations. New clause 32 takes steps to do that, ensuring that migrants contribute to our economy.

Mr Will Forster (Woking) (LD): This is a very different hon. Member for Stockton West speaking now from the one who spoke last week, when he spoke against and voted against the Liberal Democrat amendment to allow and encourage asylum seekers to work so that they could benefit our economy. Does he not remember last week? Where was his concern for the taxpayer then?

Matt Vickers: I would suggest that that is quite a creative interpretation of last week's events. This debate is about what people contribute when they are legally able to, rather than creating anything that would draw more people to make that crossing and to turn up in this country.

New clause 32 would revoke indefinite leave to remain in certain circumstances: that a person

"is defined as a 'foreign criminal' under section 32 of the UK Borders Act 2007";

that the person

"was granted indefinite leave to remain after the coming into force of this Act,"

but has not spent 10 years resident in the UK;

that the person or their dependants

"have been in receipt of any form of 'social protection'…from HM Government or a local authority";

or that the person's

"annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period, or subsequent to receiving indefinite leave to remain."

Let us be absolutely clear about one thing, because it is a cornerstone of this proposal and speaks volumes about who we are as a nation and what we stand for when the chips are down: anyone who has entered this country under the carefully crafted, well-designed and wholly principled safe and legal routes—those lifelines that we have extended through the Ukraine scheme, the British nationals overseas scheme or the Afghan schemes—would find themselves entirely exempt from the rigours of new clause 32, and rightly so. Those schemes are not just policies, but promises; they are solemn commitments that speak to our national character, and we stand by those we have pledged to protect.

Let us think of the more than 200,000 Ukrainians welcomed since 2022, fleeing Putin's bombs—families clutching what they had, offered sanctuary through the Ukraine family scheme and Homes for Ukraine.

Chris Murray: Looking at the proposals set out in this new clause, how exactly is the hon. Gentleman proposing to calculate the £38,700? Is software available in the Home Office or in His Majesty's Revenue and Customs? What if someone was found to have overpaid taxes after they were found not to meet the amount? Would the Home Office go and find them overseas and bring them back? This proposal sounds absurdly unworkable.

Matt Vickers: Lots of processes are in place, but we are putting down a principle. It is the same as the skilled worker visa threshold of £38,700. We have to set a line that requires people to be self-sufficient and not a drain on resources. This is the line that we are setting.

There are also Hongkongers. By 2025, nearly 180,000 British national overseas visa holders had escaped Beijing's iron grip—huge British talent. More than 20,000 Afghans have been resettled since the Kabul airlift. Those were the right things to do, and we would exempt them from this proposal. These are not random arrivals; they are people we invited, whose stories of sacrifice and loyalty resonate with the values that we hold dear, from duty to decency. We would not renege on those commitments and tarnish the trust that we have built.

Let us cast our eyes across the globe, because other nations are not just theorising about this; they are proving that it works, day in, day out, with systems that do not just talk a good game but deliver tangible, measurable results that we would be foolish to overlook. Take Australia, a land of vast horizons and sharper borders, whose points-based residency system does not mess around. If someone is pulling in less than 53,900 Australian dollars—£28,000—and they are dipping into welfare, Australia will show them the door, an approach that is saving taxpayers billions.

These are not quirky outliers or flukes; they are lessons carved in policy stone and shining examples that tying status to contribution is not some pie-in-the-sky dream but a practical, proven playbook that delivers real savings and sharper borders, and stands up to scrutiny. New clause 32 lifts straight from that script, making £38,700 the line in the sand, with no benefits to lean on and no criminal record to tarnish the deal. It is not radical; it is road-tested, and echoes what works elsewhere on the globe.

[Matt Vickers]

Critics might cry, "Unworkable!" but the conditions in new clause 32 are trackable. HMRC already logs income for tax. The Home Office flags criminals under the UK Borders Act 2007, and the Department for Work and Pensions tracks benefits down to the penny. We are not reinventing the wheel—just syncing data to enforce the rules, with £38,700 as a clear line, 10 years as a fair test, and exemptions for the Ukraine, Afghan and British national overseas schemes, showing that we can tailor it.

This is a framework that says, "If you're here for the long haul, you've got to bring something to the table, not just pull up a seat." Australia and Canada have shown us the path with lower costs and tighter controls; we would be stupid not to take it. I would like to know why the Government would disagree with the principles behind the new clause. Why do the Government want foreign criminals to remain in the UK with indefinite leave to remain? If the Government believe in the £38,700 amount for skilled workers to obtain a visa, why would that not apply to people remaining in the UK indefinitely?

Pete Wishart (Perth and Kinross-shire) (SNP): I was not going to speak to the new clause; I was just going to let the hon. Gentleman drone on, in the hope that we could possibly get away on Thursday morning, but I have been irked to my feet. I am not sure whether I prefer the new loquacious hon. Member for Stockton West. I do not know what he has done about his speechwriting, but I preferred the version that we had last week. That was probably more in keeping with the Conservatives' contributions to this Committee.

This is a horrible new clause, which penalises lower-income workers, deters skilled immigration and harms vulnerable groups. The retrospective nature of some of the provisions is simply absurd, and would lead only to legal challenges and all sorts of administrative complications. The new clause would introduce retrospective punishments, taking ILR away from individuals who had received it under the previous rules simply because a future Government—thank goodness this will never be so—had later decided to raise the bar. People make long-term decisions to buy homes, raise families and contribute to communities based on the stability of ILR. Changing the rules after the fact destroys trust in the whole system.

The proposal sets an arbitrary income threshold of £38,700, meaning that a nurse, teacher or social worker—people the UK depends on—could lose their ILR. Many industries, including healthcare, hospitality and retail have workers earning below that level. Are we really saying that under no circumstances would they be welcome? The proposal also ignores economic realities. People face job losses, illness or temporary hardships. Should losing a job also mean losing the right to live in the UK?

New clause 32 states that ILR should be revoked if a person has received any sort of "social protection", including housing support. This would punish people who have worked hard and contributed but who need temporary support due to circumstances often beyond their control. It targets families, disabled people and those facing financial hardship, effectively saying, "If you need help, you don't belong here." Skilled workers, investors and entrepreneurs want certainty. If they fear that a downturn in income or a short period of hardship could see them lose their right to remain, they will choose other countries over the UK.

As we have also heard, how can this be enforced? Constantly monitoring ILR-holders' income, benefits and job status would be an administrative disaster; it would be costly, error prone and unfairly target individuals. This new clause is simply cruel. It is unnecessary and unworkable, and I hope that it is rejected out of hand.

Katie Lam (Weald of Kent) (Con): We have spoken already about indefinite leave to remain, which is also referred to as settlement. We have discussed the most basic requirement for eligibility, which is time, and our suggestion that the timeframe be extended from five years to 10. The new clause covers revocation, or the circumstances in which we believe that indefinite leave to remain status should be removed from an individual to whom it has been granted.

As my hon. Friend the Member for Stockton West set out, the first of these conditions is whether a person has engaged in criminality. Our definition for criminality is based on that used in section 32 of the UK Borders Act 2007, under which a person is a "foreign criminal" if they are neither a British nor an Irish citizen; if they have been convicted of an offence, where that conviction takes place in the United Kingdom; and if the period of imprisonment to which they are sentenced is at least 12 months. It also applies to a person who is a "serious criminal", as defined in section 72(4)(a) of the Nationality, Immigration and Asylum Act 2002.

It is already the case that individuals with settled status can be deported from the UK by having ILR status revoked at the discretion of the Home Secretary. This new clause makes that process automatic. We can see no reason why a person who has committed a crime—particularly based on the current legislation—that is so serious that they are sentenced to a year in prison should be able to continue to be in this country at all, let alone to retain ILR status and with it all the generosity and safety net of the British welfare state, including social housing, benefits and free healthcare.

Secondly, we have included in this new clause a condition that is effectively a knock-on effect from our earlier new clause 25, which would revoke ILR status conferred after this Act comes into force, where that status would not have been conferred under these new conditions.

Thirdly, the new clause applies to those who have been in receipt of social protection, as defined by the Treasury's "Public Expenditure Statistical Analyses", which includes personal social services in various different categories, as well as incapacity, disability and injury benefits, pensions, family benefits, income support and tax credits, unemployment benefits, universal credit and social housing. Social protection is a fundamental part of modern British society, but we should be honest that it is also incredibly expensive. Such generous provision should be available only to citizens. It must be a fundamental principle of our system that those who come to this country contribute fiscally more than they cost. What they pay in tax should more than cover the cost of the public services that they use. That is the opposite of the

situation that we have now; only a small proportion of those who have come to this country over the past few years are likely to be net lifetime contributors. That is unaffordable.

That reality also underpins our final condition of income falling below £38,700 for six months or more in aggregate. That figure of £38,700 was chosen to sit alongside the general skilled worker threshold, the minimum earnings threshold for skilled worker visas, and the minimum income requirement for a family visa sponsor proposed by the last Government. It was chosen as it represents the 50th percentile, or the median, of earnings for jobs at the skill level of RQF3—level 3 of the regulated qualifications framework—which is perhaps more easily recognisable as the equivalent of A-levels and BTECs.

We believe that the new clause will go some way to addressing the problems that we have set out of very high volumes of people coming to this country in recent years who are not set to be net fiscal contributors to the public purse over the course of their lifetimes. We hope that the Government will consider adding it to the Bill.

We also welcome the comments from the Minister on the fact that she is looking at this issue. Could she tell us specifically whether she is looking at any of these conditions, and, if so, which? How are her discussions coming along, and when does she hope to report back to the House on her plans?

2.45 pm

Seema Malhotra: I am pleased to speak about new clause 32, which would mean that people who are settled in the UK had that status automatically revoked in a wide range of circumstances. Irrespective of any other relevant factors, such as how long a person has lived here, settlement could be automatically revoked when a person earns less than £38,700, has received benefits or would not meet requirements for settlement that have subsequently changed.

We have heard important contributions from hon. Members across the Committee about why that is unworkable, for a range of reasons. I understand why the Government are seeking to bring this forward—*[Interruption.]* Sorry, the Opposition—it was a slip of the tongue. I also understand that the shadow Minister is seeking to continue his run of speeches—with his new tie today—in this Committee sitting, but let me lay out a couple of circumstances that clearly show that the new clause would be unworkable.

The proposals would create injustice in certain cases. People who are settled and have been paying tax and national insurance contributions for decades could have their settlement revoked because they temporarily fall on hard times. Let us imagine, for example, a couple—a British man with his American partner—who have been living together in this country for many years. He gets badly sick and he cannot work. She ends up having to look after him in local authority housing. I guess that under the Opposition's rules, when he dies, she would be banned from settling in the UK. That is the sort of circumstance that would logically follow.

It is important to note as well that most migrants become eligible to access public funds only at the point at which they gain settlement—mainly ILR. The expectation is that temporary migrants coming to the UK should be able to maintain and to accommodate themselves without recourse to public funds. That approach reflects the need to maintain the general public's confidence that immigration brings benefits to our country, rather than costs to the public purse. I can understand that as an underlying driver for some of today's debate, but it is important that we keep this in the context of an immigration system that is fair, controlled and managed. The no recourse to public funds policy is a long-standing principle adopted by successive Governments. There is also an ability to apply for the no recourse to public funds condition to be lifted in certain circumstances, so there are safeguards for the most vulnerable.

Let me turn to the new clause's other core condition, on revoking the ILR of a "foreign criminal"—the shadow Minister referred specifically to that. As we have said before, and throughout this Committee, settlement in the UK is a privilege, not an automatic entitlement. Settlement conveys significant benefits and provides a pathway to British citizenship. Settlement can be revoked for criminality, deception or fraud in obtaining settlement, or other significant non-conducive reasons. A person's settlement is also invalidated if they are deported. The Government have been clear—in fact, we could not have been clearer—that foreign criminals should be deported from the UK whenever it is legal to do so. Any foreign national who is convicted of a crime and given a prison sentence is considered for deportation at the earliest opportunity.

I want to emphasise another point—Government Members, in particular, have mentioned this—about the figures from the Centre for Policy Studies. It is worth repeating that figures in that report refer to a period of historically high levels of net migration under the previous Government. For that and many other reasons, they are not a sound basis for an evidence-based discussion.

Katie Lam: Will the Minister give way?

Seema Malhotra: I will—I expect the hon. Lady to make the point she made earlier.

Katie Lam: The Minister might be anticipating what I am about to say: we would very much appreciate, in that case, if she could instead provide an evidential basis from the Government on which we could make some of these decisions.

Seema Malhotra: I just mention that we have the upcoming immigration White Paper, in which we will set out our approach to the immigration system and how to support it to be better controlled and managed for the future. We are clear that net migration must come down. She will know that under the previous Government—to which she was a special adviser—between 2019 and 2024, net migration almost quadrupled. That was heavily driven by a big increase in overseas recruitment. A properly controlled and managed immigration system, alongside strong border security, is one of the foundations of the Government's plan for change. It is extremely important to have a debate based on tackling those root causes and issues, rather than tinkering around the edges and having a scenario in which the partner of a British citizen, who subsequently falls ill and dies, has

[Seema Malhotra]

her ILR revoked. It is important to understand what the Opposition tabling such amendments means for people's lives and fairness in our society.

Tom Hayes: Briefly, prompted by the Opposition, we are inching towards a more interesting debate, on how to assess the financial benefits and costs of migration, while grounding that in available and high-quality data. In 2021, in Australia, the Treasury undertook a fiscal assessment and has repeated that annually. I know, too, that the Migration Advisory Committee is looking to improve the quality of data, because over 14 years we have had such poor-quality data on which to make assessments. It is starting to look at different categories of workers in order to assess whether they are net contributors or net drags. That is a really positive step.

One of the reasons why we are relying on "best" or "only" reports is because we had a Government who could have improved the quality of the data to make managed assessments of what controlled immigration that benefits our economy would look like, but instead, unfortunately, we had the borders thrown open with no sense of what our economy ought to be or what the skills ought to be, which is regrettable. Will the Minister comment on the importance of the White Paper to drive forward the immigration system that we actually need, grounded in the data that we need?

Seema Malhotra: My hon. Friend highlights a crucial point about the importance of evidence-based policy and of good data, which was sorely lacking across the whole immigration system when we came into office. The utter chaos, with backlogs in every part of the system, put huge pressure on it and made it much harder to get information about where the backlogs were and who was in them in order to try to exert some control over the system and get that important data to inform future policy.

My hon. Friend is right to point to the Migration Advisory Committee, which continues to do important work to engage with stakeholders and to work across Government. That is an important part of the work that we are doing to use evidence in a much better way to inform how we link skills policy and visa policy. The work to restore order to our immigration system has been under way since we came into office. We will set out our approach, as he has intimated, in our upcoming immigration White Paper. I am grateful to have had the opportunity to explain why we will not support the amendment, and I respectfully suggest that the hon. Member for Stockton West may wish to withdraw it.

Katie Lam: I welcome the Minister's response, particularly her words about the importance of settlement and citizenship being earned. The Opposition are excited to see the immigration White Paper, and particularly any data and fiscal impact analyses that it may contain. I apologise if this information is already publicly available and I am not aware of it, but can the Minister tell us when the White Paper is due to be published? Can she also set out a scenario in which it would be preferable for a foreign criminal to remain in this country after having been convicted of a crime, and why she considers the new clause to be unworkable?

Seema Malhotra: We have said that we hope to publish the immigration White Paper later in the spring. I have made some remarks in relation to foreign criminals; the Government are clear that they should be deported from the UK whenever it is legal to do so. Any foreign national who is convicted of a crime and given a prison sentence is considered for deportation at the earliest opportunity.

Katie Lam: The Minister says that foreign criminals should be deported whenever it is legal to do so, but the purpose of our amendment is to make it always legal to do so. Why does she not feel that that would be helpful?

Seema Malhotra: I thank the hon. Member for that point. I have laid out the argument about needing an immigration system that is subject to rules and that can recognise different circumstances. I have also laid out the point about foreign criminals and where it is legal to deport them. Anyone who is convicted of a crime is considered for that.

The hon. Member will also understand that there can be complexity in people's arrangements. Anything that becomes automatic in the way that she describes needs to be subject to much more debate than a new clause in this Bill Committee. We are not debating immigration; we are debating a system to stop the gangs and improve our border security. It is important that we see the purpose for which this legislation has been designed.

3 pm

Matt Vickers: We feel strongly about the measures in the new clause, and we wish to press it to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 14.

Division No. 25]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 33

BORDERS LEGISLATION: HUMAN RIGHTS ACT

"(1) This section applies to any provision made by or by virtue of this Act, the Illegal Migration Act 2023, the Immigration Acts, and any legislation relating to immigration, deportation, or asylum, including the Immigration Rules within the meaning of the Immigration Act 1971.

(2) The legislation identified in subsection (1), including in relation to the enforcement of immigration policy, deportation, the granting, removal, revocation or alteration of immigration status, or asylum, or other entitlements, must be read and given effect to disregarding the Human Rights Act 1998.

(3) In the Asylum and Immigration Appeals Act 1993, omit section 2.

(4) In the Immigration Act 1971—

(a) in section 8AA—

(i) in subsection (2), omit 'Subject to subsections (3) to (5)'; and

(ii) omit subsections (2)(a)(ii) and subsections (3) to (6);

(b) in section 8B, omit subsection (5A).

(5) In the Nationality, Immigration and Asylum Act 2002—

(a) in section 84—

(i) in subsection (1), after 'must' insert 'not';

(ii) in subsection (2), after 'must' insert 'not';

(iii) in subsection (2), for 'section 6' substitute 'any section'; and

(iv) in subsection (3) after 'must' insert 'not'.

(6) Where the European Court of Human Rights indicates an interim measure relating to the exercise of any function under the legislation identified in subsection (1)—

(a) it is only for a Minister of the Crown to decide whether the United Kingdom will comply with the interim measure under this section; and

(b) an immigration officer or court or tribunal must not have regard to the interim measure."—*(Matt Vickers.)*

This new clause would disapply the Human Rights Act and interim measures of the European Court of Human Rights in relation to this Bill and to other legislation about borders, asylum and immigration.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

New clause 33 aims to help the Government by providing a way to put securing our borders above spurious human rights claims to frustrate removal. It would disapply the entire Human Rights Act 1998, as well as any interim measures of the Strasbourg court that prevent the effective operation of legislation relating to immigration and deportation. The result would be that those seeking to appeal deportation or other immigration decisions would not be able to make human rights claims under the Human Rights Act in British courts.

The new clause would apply that new power to all aspects of immigration control, including enforcement, deportation, the granting or removal of immigration and asylum status, and any other immigration entitlements. We would expect Parliament to legislate and the Home Office to decide immigration cases based on their reasonable interpretation of the European convention on human rights, but UK judges would be able to use only UK law passed by Parliament to decide appeals, and no longer make expansive and common-sense-defying interpretations of what they claim the ECHR means.

The Human Rights Act would still apply to non-immigration matters, so UK judges could continue to apply the ECHR directly to them. We would still be under the ECHR, so applicants would still be able to go to the Strasbourg court, but the new clause would stop UK judges expanding the definitions. In that scenario, it would be possible to deport people pending a Strasbourg appeal, and it would repeat the measure in the Safety of Rwanda (Asylum and Immigration) Act 2024 to give Ministers the power to ignore an ECHR rule 39 interim order. We are not saying that the new clause provides the full answer to controlling our borders. Wider questions such as ECHR membership and wider immigration system reforms are to be addressed in longer-term pieces of work, but the new clause would be a step in the right direction.

The reason the new clause is necessary can be seen in recent decisions about immigration appeals. For example, an Iraqi drug dealer was saved from deportation from the UK after a judge ruled that he was too westernised to be returned to his home country. That man, who was jailed for more than five years after a conviction for dealing cocaine, had lived in Britain for 24 years and has a British-born daughter. Home Office officials attempted to have him deported, but a specialist judge in the asylum tribunal ruled that returning the man to Iraq would violate his human rights as he would be viewed with suspicion. The judge said that the man, who cannot be named, would face persecution in Iraq because he would be seen as westernised.

As we have already mentioned, an Albanian criminal was allowed to stay in Britain partly because his son would not eat foreign chicken nuggets. An immigration tribunal ruled that it would be unduly harsh for the 10-year-old boy to be forced to move to Albania with his father, owing to his sensitivity around food. The sole example provided to the court was his distaste for the type of chicken nuggets available abroad.

Chris Murray: I wonder whether the hon. Gentleman could just assume that we are familiar with those two cases by now and either not bother citing them or think of some new examples to support his arguments.

Matt Vickers: I think they are relevant; they are things that both the public and I are bothered about. They show the failings of the system and why people are so concerned about the way that it is going.

As a result, the judge allowed the father's appeal against deportation as a breach of his right to family life under the European convention on human rights, citing the impact that his removal might have on his son. An attempt to deport a Sri Lankan paedophile, who was convicted of assaulting three teenage boys, was delayed over claims that deportation would breach his human rights.

Tom Hayes: Is the hon. Gentleman concerned more about the Human Rights Act or its application by judges?

Matt Vickers: I am concerned about the consequences of the Human Rights Act for cases such as this and its role therein.

Tom Hayes: I did not understand what the hon. Gentleman said. Is he concerned more about the judges' application of the Human Rights Act or the Act itself?

Matt Vickers: I am concerned, in the context of this new clause, about what the Human Rights Act means for these immigration cases. That is why the new clause proposes to remove its impact and disapply it.

Tom Hayes: I am still not very clear—I apologise, maybe I ate too much at lunch. Does the hon. Gentleman have issues with the Human Rights Act such that he

[Tom Hayes]

believes that we ought not to be applying it generally? Is this the first step towards its disapplication, or is he more concerned that, while the legislation is fine, we have in what seems a minority of cases judges who are not applying it correctly? Could he also tell me whether what he has here is a snapshot of cases that he is concerned about or the totality of cases that he is concerned about?

Matt Vickers: We have talked about the relevance of disapplying the Human Rights Act with regards to immigration and the impact that it is having on these cases. I think I have been clear, and the hon. Gentleman can read *Hansard*.

As I was saying, the man was jailed for five offences of sexual activity with a child but has been able to stay in Britain since 2011, owing to a protracted dispute over his asylum case. In 2012, the man, who cannot be named, was branded in court a "danger to the community" over his offences against boys aged between 13 and 15. He then applied for asylum by claiming that his life would be at risk were he to return to Sri Lanka, because he is gay. Since his initial application, his case has been through several court hearings, as judges have assessed whether deporting the 50-year-old would breach his human rights. Those are just three examples of how ever-expanding interpretations of the Human Rights Act have been increasingly frustrating the removal of those who objectively ought to be deported.

Tom Hayes: That was a helpful clarification to my earlier question about whether what the hon. Gentleman is citing represents a snapshot or the totality—he says that they are three of the total number. How many, in total, has he looked at that have caused him such alarm?

Matt Vickers: I think if we allowed first-tier tribunals to go public, we would see a lot more. These things undermine public confidence in the legal framework and the institutions that uphold them, and I think they are terribly wrong. One of these cases is one too many. They are happening in ever-increasing numbers; that is why we have tabled this new clause, and the hon. Gentleman will have the opportunity to vote for it or otherwise.

Our new clause represents a first step to restore some common sense to immigration appeals. New clause 33 steps up to wrest back control from a judiciary that has wandered far from the reservation, turning the Human Rights Act into a sprawling, open-ended blank cheque for immigration status, a carte blanche that has left us all scratching our heads at the sheer audacity of it.

Tom Hayes: That is also a helpful clarification, because the hon. Gentleman's concern is with the judiciary and its behaviours. Can I clarify what he has just said, exactly as I heard it: his concern is purely about the judge's application of the Human Rights Act, and he himself is absolutely fine with the Act?

Matt Vickers: We allow our domestic courts to use it. We have created the framework and put it in place, and they do what they can with what is in front of them. I am concerned about the way in which it is applied, and we need to change that if we want to impact the outcomes of those cases and appeals.

Last year alone, we saw far too many appeals built on article 8, the right to a family life, flooding courts with ridiculously broad pleas. This Parliament is elected to decide the laws of the land. Judges are there to uphold that law, yet they have morphed into border gatekeepers, perched on high and second-guessing Home Office decisions with interpretations so elastic they would snap any thread of reason, and family life ballooning to mean whatever they fancy on any given day. The new clause yanks that power back to where it belongs: with MPs, who are answerable to the people who elect them.

New clause 33 is not just a legal tweak; it is a turbocharge for a deportation system bogged down by endless appeals, with removals stalled by Human Rights Act challenges. Each case drags on, costing tens of thousands of pounds per detainee in legal fees and housing, and clogging up detention centres that are already at capacity. Disapplying the Human Rights Act for immigration would fix the logjam, letting Ministers and officials act fast, deporting those our domestic legislation was created to deport and freeing up resources for border patrols and visa processing, which actually keep us secure.

New clause 33 would restore public safety—a lifeline for a priority that has been fraying at the edges and unravelling thread by thread, as dangerous individuals exploit Human Rights Act loopholes to cling to our soil like barnacles on a ship. In 2024 alone, thousands of foreign national offenders—thieves, drug peddlers and worse—languished in UK prisons, costing taxpayers millions to house. Nowhere near enough were bundled on to planes and removed, leaving thousands to stroll out post their sentence, free to roam our streets, because of Human Rights Act claims tying our hands and deviating from Parliament's intended outcomes.

New clause 33 would cut through that mess. It would mean swift, no-nonsense removal of those who have shattered our laws—not endless hand-wringing debates over some nebulous right to stay that keeps them loitering in our towns. Public opinion, or the view of British law-abiding taxpayers, is clear—nearly three quarters call for foreign criminals to be removed—yet here we are. The current set-up lets threats fester when they should be gone. As the months go by, more of these bizarre judgments emerge, undermining public confidence in the entire system and our legal institutions.

Let us take a tour beyond our shores, because other nations are not fumbling in the dark; they are lighting the way, showing us that this is not some wild, radical leap but a steady, proven path that we would be daft not to tread. For starters, France increased its deportations by 27%, and is also seen to be deftly side-stepping ECHR interim measures, with domestic law overrides. Twenty-seven per cent. sent home—no faffing about with Strasbourg rule 39 edicts; just a clear-eyed focus on keeping France's borders taut and its streets secure.

Then there is Australia, where the Migration Act does not blink. Rights claims bow to border control, and many are whisked out yearly with minimal fuss. The law, created by those elected to do so, determines who stays and who goes. These are not rogue states; they are democracies—proud and pragmatic, balancing security with sovereignty. New clause 33 strides right

into that company. Parliament would lay down the law, not Strasbourg's fleeting winds, echoing what has clicked abroad, from Paris to Perth.

I would be interested in the Minister's thoughts on this proposal—in particular, whether she thinks that some of the recent examples of failed deportations are acceptable. We are apparently very familiar with chicken nugget-gate. If she agrees that some of these outcomes are unacceptable but does not feel that this approach is the way forwards, how will the Government end these cases, which are making a mockery of our justice system and undermining public confidence in our legal institutions?

Pete Wishart: I am compelled again to rise in opposition to what is probably the most egregious of all the new clauses that we are having to consider in today's marshalled groups. The hon. Gentleman has laid some competition before us, but this new clause is by far the most disgraceful and appalling. The Human Rights Act is an important guarantee. It is what makes us good world citizens and provides rights that are universal. It protects fundamental freedoms such as the right to life, the prohibition on torture and the right to a fair trial—and the Tories do not like it one bit. The right-wing nonsense that we heard from the hon. Gentleman is a fundamental departure from the principle that human rights apply universally, not just to those the Government deem worthy. It is a dangerous precedent that undermines the UK's long-standing commitment to justice, fairness and the rule of law.

3.15 pm

The Human Rights Act incorporates the ECHR into British law. The new clause would disapply the Act in immigration cases, effectively removing domestic judicial oversight and shifting the burden to the European Court of Human Rights in Strasbourg. I listened to the hon. Gentleman very carefully, and I still do not know whether he thinks that is a good thing or not. It is not taking back control; it is arguably outsourcing decision making to an international body, creating delays and legal uncertainty. Perhaps we will get some more from him when he sums up on the new clause, but this proposal would take decisions about immigration cases out of the hands of the judiciary and hand them to politicians. I cannot think of anything scarier than the hon. Gentleman being in charge of determining asylum cases, and I think that prospect would appal most ordinary people in this country.

The Leader of the Opposition argues that some foreign criminals and illegal migrants are using the Human Rights Act to avoid deportation. What we have just heard is that the Conservatives want to dismantle human rights because of chicken nuggets. The idea that the entire human rights framework should be dismantled to address a few egregious cases is quite simply absurd. The Conservatives left the asylum system in chaos, spent hundreds of millions of pounds on the failed Rwanda scheme and presided over record high small boat crossings, and now they want to strip basic rights from an already vulnerable group.

The ECHR was established right after the end of world war two to promote human rights, freedom and democracy. One of its driving forces was Winston Churchill, the wartime statesman revered by Conservatives and Brexit supporters as a symbol of British independence and self-reliance. The UK was the first nation to ratify the convention, drafted in 1950 and enacted in 1953, and it formed a broader set of commitments agreed by signatories to the 46-member Council of Europe, of which the UK remains a member despite its departure from the EU.

I do not often agree with former Tory chairmen, but I agree with Lord Patten when he gave a clear condemnation of the move to leave the ECHR, calling it "absolute drivel". In the Conservative party's obsession with the ECHR, and their "will they, won't they?" about leaving it, we have never yet heard clarity on this. It is little more than a political distraction, designed to scapegoat supranational institutions instead of taking responsibility. It is dangerous territory, and I urge colleagues to make sure that this is thoroughly rejected right out of hand.

Katie Lam: In November 2024, a Congolese paedophile who sexually assaulted his own stepdaughter was allowed to remain in the UK despite the Government's attempts to deport him, out of concern that forcing him to leave the country would interfere with his right to a family life. In December 2024, a Turkish heroin peddler was allowed to stay in the UK because it was ruled that deporting him would interfere unduly with his family life, despite the fact that he had returned to Turkey eight times since coming to Britain.

In February of this year, a Nigerian woman who was refused asylum eight times was allowed to remain in the UK because it was decided that her membership of a terrorist organisation might make her subject to persecution in her home country. Earlier this month, a Nigerian drug dealer escaped deportation because he believed that he was suffering from "demonic forces". Meanwhile, Samuel Frimpong, a Ghanaian fraudster, has been allowed to return to the UK, having being deported 12 years ago, after claiming that he is depressed in his home country.

The list goes on and on. Absurd asylum rulings from our tribunal system seem to emerge on an almost daily basis. What do these cases have in common? In each one, a potentially dangerous person was spared deportation because of our membership of the European convention on human rights, and, crucially, the domestic legislation that enshrines the convention in British law—the Human Rights Act. This legislation is clearly not fit for purpose when it comes to managing and securing the border. It is enabling dangerous foreign criminals to remain in the UK, and putting the British public at risk.

It is time we recognised that decisions about asylum and immigration should be made by politically accountable Ministers, rather than by unaccountable judges and tribunals. That is the purpose of our new clause, which seeks to disapply the Human Rights Act and interim measures of the European Court of Human Rights in relation to the Bill and other legislation about borders, asylum and immigration.

Pete Wishart: Just to clarify, I think the hon. Lady is saying clearly that what she intends to do is to take decisions about immigration out of the hands of judges, and leave them in the hands of politicians. Is that her intention?

Katie Lam: I thank the hon. Gentleman for his question—yes, I think it is fundamentally important that decisions about who can be and remain in our country are made by people who are accountable to the public.

Mike Tapp (Dover and Deal) (Lab): Will the hon. Lady give way?

Katie Lam: I will make a little progress.

The concept of universal rights is clearly a good one. It is one of the great gifts to humanity of the Judeo-Christian tradition to recognise that every human life has inherent worth, and every human being should be treated with the dignity that that inherent worth confers. But any set of rules that people might write over time can be distorted or abused, or exploited to take advantage of our society, our kindness and the British impulse and instinct towards trust, tolerance and generosity. Our rules and laws on human rights, and the organisations to which we belong that were created in the name of human rights, should be subject to scrutiny and debate no less than any other rules and laws. Lord Jonathan Sumption, the former Supreme Court judge, said that the United Kingdom's adherence to the European convention on human rights

"raises a major constitutional issue which ought to concern people all across the political spectrum."

It is right for us to interrogate our rules. Indeed, that is arguably our main job and the fundamental reason we have been sent here by our constituents. None of our laws should be above repeal, replacement or disapplication, and that must include the Human Rights Act. We are among the luckiest people in the world in that we live in a democracy, and one that I believe has the world's greatest people as its voters. When the British people see repeated activity that contravenes our national common sense, politicians in Westminster must acknowledge that and do something about it.

If the Government do not wish to disapply the Human Rights Act and interim measures of the European Court of Human Rights in matters of asylum and immigration in order to control the border and put a stop to the perverse cases and decisions we are seeing relentlessly arise in the courts, what is their solution? How will they restore common sense, fairness and the primacy of public safety to the security of the border?

The Chair: Before I call the Minister, I will just point out that *Erskine May* urges us not to be critical of judges in UK superior courts. I am sure hon. and right hon. Members will wish to be circumspect in their remarks.

Dame Angela Eagle: I am not sure how much of the debate we could have heard, Dr Murrison, had you made that observation at the beginning of it.

I do not think this Government wish to join Belarus and Russia among those who are not signed up to the European Court of Human Rights. The Government are fully committed to the protection of human rights. When we talk about human rights, that means all people who are human: everybody, applied universally.

As the Prime Minister has made clear, the United Kingdom is unequivocally committed to the European convention on human rights. The Human Rights Act is an important part of our constitutional arrangements and fundamental to human rights protections in the UK. To start taking those away on a bit-by-bit basis, particularly beginning with people who are very unpopular and have done difficult or bad things, could be the start of a very slippery slope if we are not careful. That is why I am proud that our Border Security, Asylum and Immigration Bill has printed on its front cover that it is compatible with convention rights. This Government will always do things that are compatible with convention rights.

The paradox of some of what has been said in the debate we have just had is that it politicises decisions. That is a very different approach to judicial issues from the one we have seen for very many years, where, in effect, a lot of the powers on particular issues that used to sit with the Home Secretary have been taken by judges who are publicly accountable for their decisions. I do not think that this Government would want to see that reversed. The paradox of new clause 33 is that all those who potentially had a human rights claim, whatever their circumstances, could go straight to the Strasbourg court, which would clog up that court. As the hon. Member for Perth and Kinross-shire pointed out, that is not taking back control, it is abrogating it, and would flood the Strasbourg court with decisions that could have sensibly been taken here.

That is not to say that any one of us would not be frustrated by particular individual decisions, but I caution against using decisions that have been only partially covered or talked about on the front pages of *The Daily Telegraph*, which often takes decisions in cases out of context. We have talked a lot about chicken nuggets, and I would just put on the record that that case is being appealed, and judicial activities on that case have not yet finished.

With that commitment to human rights and European convention rights, I hope that Opposition Members will think about some of the potential consequences of what they are suggesting in chopping up human rights and wanting to put us in the same company as Belarus and Russia; about the way convention rights were developed; and about the benefits that adhering to human rights frameworks has given us as a democracy over the years.

Matt Vickers: I am sure that the Minister must disagree with some of the examples that we have seen, and agree that they undermine public trust in the judiciary, legal institutions and the frameworks we have. What is the solution? Must we grin and bear the appalling outcomes of those cases or is there a solution? How does she propose to stop such things happening?

Dame Angela Eagle: I would respectfully say that the hon. Gentleman's party had many, many years to think of a solution, and most of the cases that Opposition Members have raised today had their genesis in the years that they were in power. Close to the very end, as they became more and more frustrated, they started coming up with more and more outlandish approaches.

Obviously, one wants the entire judicial process to be used, as speedily as possible, and if the Home Office wishes to appeal a particular case, it will do so. We keep a constant eye on the issues and we think about reforms that we could make. Obviously the hon. Gentleman will

be the first to hear if we decide to make changes, but we do not wish to abrogate from the Human Rights Act, the ECHR and the human rights framework. That is where we and other Opposition parties differ from him and his party. That is why I do not accept new clause 33 and I hope that the Committee will vote against it if it is pressed to a vote.

Katie Lam: I hope it was clear in my remarks, but for the avoidance of doubt or ambiguity I want to say that the Opposition do not criticise our judges. Indeed, as my hon. Friend the Member for Stockton West said, they are doing the best they can with the rules and precedents under which they operate. That is why the new clause seeks to change those rules—

Tom Hayes: With the greatest respect, a reading of the *Hansard* report of what the hon. Member for Stockton West said would be contrary to what the hon. Lady has just asserted. What the hon. Gentleman said could in no way, shape or form be described as complimentary to or supportive of judges. In fact, it was very undermining of judges.

Katie Lam: My hon. Friend clearly said that judges are doing the best they can with the rules and precedents that they have been set. I have described our judges as unaccountable to the public. That is not a criticism: it is a fact.

Matt Vickers: The public are appalled by these cases. The hon. Member for Perth and Kinross-shire does not want us to change legal frameworks over chicken nuggets: if the Human Rights Act creates a situation in which criminals, rapists and paedophiles are able to stay against domestic law and the intentions of the people charged with making that law, it is unacceptable. We feel strongly about this and wish to divide on the matter.

3.30 pm

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 14.

Division No. 26]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 34

OFFENCES AND DEPORTATION

"(1) The UK Borders Act 2007 is amended as follows.

(2) In section 32—

(a) in subsection (1)(a), at the end insert 'and';

(b) in subsection (1)(b) leave out 'and' and insert 'or'; and

(c) leave out subsection (1)(c) and substitute—

'(c) who has been charged with or convicted of an offence under section 24 of the Immigration Act 1971'

(d) leave out subsections (2) and (3).

(3) In section 33, leave out subsections (1), (2), (3) and (6A).

(4) The Illegal Migration Act 2023 is amended as follows.

(5) Leave out subsection (5) of section 1 and insert—

'(5) The Human Rights Act does not apply to provision made by or by virtue of this Act or to—

(a) the Immigration Act 1971,

(b) the Immigration and Asylum Act 1999,

(c) the Nationality, Immigration and Asylum Act 2002,

(d) the Nationality and Borders Act 2022, or

(e) the Immigration Act 2016.'

(6) In section 6 of the Illegal Migration Act 2023, leave out subsections (4) and (5).

(7) In section 24 of the Immigration Act 1971, leave out all instances of 'knowingly'." —*(Matt Vickers.)*

This new clause would prevent a foreign national who is convicted of any offence from remaining in the UK, as well as anyone who has been charged with or convicted with an immigration offence under section 24 of the Immigration Act 1971.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to consider new clause 42—*Removals from the United Kingdom: visa penalties for uncooperative countries*—

"(1) The Nationality and Borders Act 2022 is amended as follows.

(2) In section 70, omit subsections (4) and (5).

(3) In

(4) In section 72—

(a) subsection (1), after 'A country', for 'may' substitute 'must'.

(b) In subsection (1)(a) omit 'and' and insert—

'or,

(ab) is not cooperating in relation to the verification of identity or status of individuals who are likely to be nationals or citizens of the country, and'

(c) in subsection (1)(b), after 'citizens of the country' insert 'or individuals who are likely to be nationals or citizens of the country',

(d) omit subsections (2) and (3), and

(e) in subsection (4), omit from '70' to after 'subsection (1)(a)' .

(5) Omit section 74."—*(Matt Vickers.)*

This new clause would require the Secretary of State to use a visa penalty provision if a country is not cooperating in the removal of any of its nationals or citizens from the UK, or in relation to the verification of their identity or status.

Matt Vickers: Currently a prison sentence of one year is required before a foreign national who is a convicted criminal can be deported. Even then, removal can be frustrated by asylum and human rights claims. New clause 34 would prevent a foreign national who is convicted of any offence from remaining in the UK, as well as anyone who has been charged with or convicted

[Matt Vickers]

of an immigration offence under section 24 of the Immigration Act 1971, and would disapply the Human Rights Act from those cases. We believe that the protection of British citizens is paramount and should be the overriding priority for Government. If a foreign national has been convicted of any offence, they should lose their right to remain in the UK.

Dame Angela Eagle: On that point we agree, so why was his Government so tardy at actually deporting foreign national offenders when they were in office?

Matt Vickers: We have just had a lengthy discussion about the Human Rights Act and the impact it has on deportations. However, if she agrees so wholeheartedly on the principle, I am sure she might consider backing our amendment.

There are a number of countries where the UK has a significant number of foreign national offenders currently serving in British prisons. However, we deport only a small number of those foreign national offenders each quarter. Our new clause 42 would require the Secretary of State to use a visa penalty provision if a country is not co-operating in the removal of any of its nationals or citizens from the UK, or in relation to the verification of their identity or status. We have done this by amending the Nationality and Borders Act, so that the ability to impose visa sanctions is not discretionary but mandatory. We know that there are countries that are hard to secure returns to. We believe strongly that that should not be without consequences for those countries.

New clause 34 shifts the lens to where it belongs—on the victims left in the wake of foreign offenders, not the perpetrators gaming the system. In 2024, theft offences alone averaged just 8.1 months—a shopkeeper's livelihood dented, a pensioner's purse snatched, or a family's peace of mind and sense of security destroyed. Public order crimes averaged just 9.6 months, with more huge consequences for the wellbeing of victims who are left with a fear of entering public spaces or unable to go about their ordinary lives. Yet the one year deportation bar enables those culprits to linger, post-sentence, free to reoffend while victims wait for justice that never comes.

This clause says, "Enough." Any conviction, for shoplifting or worse, triggers removal—no Human Rights Act excuses—because every day a foreign offender is allowed to stay is another day a British victim's trust in the system erodes. Why are the Government okay with that shadow hanging over our streets? New clause 42 would force nations to play ball uphill. We see too many countries dither and delay in refusing to take back offenders. Mandatory visa sanctions flip that script. No co-operation, no UK visas for their elite. Watch fast how passports materialise when there are real consequences. Why is Labour soft-pedalling when we could wield this stick, clear the backlog and reduce pressure on prison places?

Katie Lam: New clause 34 prevents any foreign national who is convicted of any offence from remaining in the UK. It should be a fundamental principle of our system that immigration never makes the British public any less safe. Unfortunately, however, many of those who have come to the UK in recent years have broken our laws. According to Ministry of Justice figures, a staggering 23% of sexual crimes in the UK—almost one in four—are committed by foreign nationals.

The overall imprisonment rate for foreign nationals is 20% higher than that for British citizens. Of course, the trend is not uniform: some nationalities are more heavily represented than others. Albanian migrants are nearly 17 times more likely to be imprisoned than average; those from Algeria are nearly nine times more likely and those from Jamaica nearly eight times more likely to be imprisoned than average.

Those who seek to harm this country, to break its laws and to undermine what we hold to be fair and right should not be allowed to remain here. As the Government are well aware, our prisons are already overcrowded. We must not allow foreign criminals to continue exacerbating this problem and we must not endanger the British public by allowing foreign criminals to stay in this country.

Under our current system, too many of those who break our laws are being allowed to remain in the UK. Often, Home Office attempts to deport foreign criminals are blocked because of absurd and ever expanding human rights rules. In the interests of public safety, we must not allow foreign criminals to remain in Britain; that includes by making sure that the Human Rights Act cannot be used to prevent us from deporting those who break our laws.

How, specifically, does new clause 34 do that? It amends section 32 of the UK Borders Act 2007, which we have already mentioned today. Section 32 would be amended from its current form, which defines a foreign criminal as a person who is neither a British nor an Irish citizen, who is convicted of an offence that takes place in the United Kingdom and who is sentenced to a period of imprisonment of least 12 months, or is a serious criminal as defined in section 72 of the Nationality, Immigration and Asylum Act 2002. What would replace section 32 would be much simpler; it would instead say that a foreign criminal was anyone who is neither a British nor an Irish citizen who is convicted of any offence in the United Kingdom, and explicitly include within that anybody who has been charged with or convicted of an offence under section 24 of the Immigration Act 1971, which sets out the situations in which a person can be considered to have entered this country illegally. That includes if they do so in breach of a deportation order; if they required leave to enter the United Kingdom and knowingly came here without that leave; or if they required leave to enter the United Kingdom and knowingly stayed here beyond the time conferred by that leave, among other specific conditions.

New clause 34 also seeks to ensure that the rules will be upheld in all circumstances and asserts therefore that the principle of removing criminals from this country is of utmost importance and must be prioritised above other legislation. That includes human rights legislation, for the reasons we have already set out.

I turn to new clause 42, which requires the Secretary of State to use a visa penalty provision if a country proves to be unco-operative in the process of removing any of its nationals or citizens from the UK. Such a lack of co-operation may arise in verifying their identity or status or it may pertain to the process of removing

people whose identity and status has not been established. New clause 42 seeks to do that by amending section 70 of the Nationality and Borders Act 2022. That Act set out the idea of a visa penalty provision, effectively allowing the Home Secretary to suspend visa applications from countries that do not co-operate with the activity that the Government are trying to take to secure and protect the border. The new clause would strengthen that Act by changing that from an option for the Home Secretary to a duty and by adding explicitly the point about countries that are not co-operating with the process of verifying the identity or status of individuals whom we consider likely to be nationals or citizens of the countries in question.

Pete Wishart: I am struggling to understand this new clause. There are a number of reasons why other countries may not be able co-operate with the UK on immigration and visa cases—it could be political instability, or there could be a right-wing despot in charge—but that impacts on ordinary asylum seekers. Does the hon. Lady not accept that there are a number of political or even administrative reasons why they are not always able to co-operate?

Katie Lam: The new clause maintains the Home Secretary's ability to judge whether or not a country is being unco-operative. If it is unable to help, that is different from being unco-operative in the way that we would define it here.

Tom Hayes: A volume of information seems to be coming at us now, and it feels as though every 20 words, something absolutely absurd is said. It is a marked contrast with what has gone before. I see the hon. Member for Weald of Kent and the hon. Member for Stockton West standing there, but I hear the voices of other people in their party. It feels very peculiar.

I have a specific question. Quite apart from the fact that the Conservatives effectively decriminalised shoplifting, if an Albanian national is convicted of shoplifting but cannot be deported to Albania, is the hon. Lady saying that she would impose a visa penalty on Albania if it did not accept that shoplifting Albanian national, regardless of what that might do for the wider relationship between Albania and the UK in terms of deportations?

Katie Lam: I will happily come to the second question in a second, but I am a little confused. Is the hon Gentleman suggesting that I did not write my speech myself?

Tom Hayes: Yes, actually.

Katie Lam: In that case, I am happy to reassure him that I wrote every word.

The short answer to the question about Albania is yes. We think that would be completely appropriate. Why would Albania refuse to accept one of its own citizens that should, by our rules and our laws, be returned to that country? If it refuses to do so, we would absolutely consider that to an appropriate trigger for that response.

To continue what I was saying, new clause 40 amends section 70 of the Nationality and Borders Act, and it expands the Act to cover both nationals as well as citizens. We consider that it should be a basic and fundamental principle that we should be able to remove from this country those who break our rules. That is harder than it might sound, particularly when individuals are determined to lose their documents and obfuscate their identity and origin in every way they can. What we propose here will align other countries' incentives with our own. It will create substantial pressure on other nations to co-operate with us to secure our border, and we strongly hope that the Government will consider adding it to the Bill.

Dame Angela Eagle: New clauses 34 and 42 reprise some of our debate on the last group of new clauses, but they also introduce the idea of the visa penalty that, as the hon. Member for Weald of Kent has just explained, is encompassed in new clause 42. New clause 34 seeks to extend automatic deportation to any foreign national convicted of an offence in the UK, or charged with an immigration offence, without consideration of their human rights. We dealt with some of that in the last debate. It would remove protections for under-18s and victims of human trafficking, and it seeks to extend the automatic deportation provisions to certain Commonwealth and Irish citizens who are currently afforded exemption from deportation.

I do not believe these new clauses would be workable. They are unrealistic and would undermine our international obligations. We already have the power to deport any foreign national on the grounds that doing so would be conducive to the public good, regardless of whether they have had to serve the 12-month prison sentence that the UK Borders Act 2007 requires. If they are subject to a 12-month prison sentence, it is a duty to deport them.

The hon. Member for Weald of Kent was a special adviser in the Home Office, so she knows about these things, and the hon. Member for Stockton West is a spokesperson in the shadow Home Office team. The Conservatives talk a lot about deportation, but they did not do a lot about it when they had the power to do so.

3.45 pm

In the aftermath of the general election on 4 July 2024, by the end of December the new Government had increased enforced deportations of foreign national offenders, most of them directly from prison, by 21%. The legacy that we were left included 18,000 time served foreign national offenders who had done their time in jail, had been released and were running around in our communities. Clearly, we have a big backlog that we have to try to deport. Despite Opposition Members' protestations, they did not try hard enough to deal with deportation in those cases. A lot of those foreign national offenders did not ever get to the stage of making human rights claims against being deported; they were simply not picked up and deported by Immigration Enforcement because the Conservatives took their eye off the ball.

À propos of new clause 34, we do not think it would be proportionate to deport a person for a single minor offence. That could mean not having a TV licence, for example. Do we really want to deport people for not having a TV licence, given that the Conservatives could not deport 18,000 time served foreign national offenders, who are in our communities even now—some have committed serious offences—when there is a legal duty

to deport them? Conservative Members want to introduce a new clause that increases the number of people we are required to deport, but they singularly failed to deport foreign national offenders who were jailed during their time in office. They seem to be protesting too much about their legacy and not dealing with the realities.

The new clauses would not prevent persons who are being deported from raising human rights claims with the European Court of Human Rights. A bit like the last group of new clauses, they would deliver nothing except the outsourcing of our deportation considerations to Strasbourg, and that would slow down the removal of those who are being deported. The new clauses would undermine our obligations to identify and support victims of trafficking, as set out in the Council of Europe convention for action against trafficking in human beings, of which we are a signatory.

New clause 34 seeks to amend key immigration offences set out in section 24 of the Immigration Act 1971 so that there is no requirement to prove knowledge. It is likely that such amendments would be subject to ECHR challenge, resulting in delay, fewer successful prosecutions and therefore fewer deportations. New clause 34 also seeks to amend the Illegal Migration Act 2023 by disapplying the Human Rights Act 1998 from key immigration legislation. When we debated the last group of new clauses, we decided that we do not want to do that. This is a technical point, but the new clauses relating to the Illegal Migration Act would have no effect and are redundant because this Bill will repeal those provisions of that Act.

The focus of the hon. Member for Weald of Kent is clear: she wants to ensure foreign national offenders are deported from the UK at the earliest opportunity. I agree that we should be doing that. In fact, we had a 21% increase in the number of enforced deportations of foreign national offenders in our first seven months in office, but the new clause will not further the cause because it risks slowing down removals.

The Government are focusing on the enforcement of the immigration system and increasing returns. Through this Bill, we are creating new powers to enable more effective controls around individuals who pose a threat to the public while deportation is pursued. We will continue that work.

On new clause 42, we have been clear that the swift return of those with no right to be in the UK forms a key part of a functioning migration relationship. That is why more than 20,000 people have been returned since we came into office. My officials and I have been working hard to strengthen relationships with our international partners to that end. For example, on a recent visit to Iraq, the Home Secretary signed a joint statement on migration. That included further work on the return of people who have no right to be in the UK, where returns are currently very slow, and the continued provision of reintegration programmes to support returnees.

Where co-operation with countries on returns falls below the levels expected and where appropriate, we use all levers available to us, including visa penalties and having meetings with the appropriate ambassadors to tell them that if things do not improve, visa penalties will be coming along. It does no good to require the Home Secretary to introduce visa penalties, when penalties are something we can use if we get no co-operation whatsoever. The hon. Member for Weald of Kent should be under no doubt that those sorts of penalties will be used if we think that doing so would have a positive effect on co-operation.

Those who are listening to our debate may not realise that deporting somebody is not easy. It requires getting an emergency travel document issued. In order for a country to issue an emergency travel document, they have to accept that the person concerned is one of their citizens to begin with. That kind of identification takes time. It is important that we try to co-operate with our international partners so that we can make this process as quick and efficient as possible, rather than going to war with our international partners and alienating them. The hon. Member for Weald of Kent should be in no doubt that should visa penalties need to be threatened or introduced, we would certainly do that.

The existing provision in the Nationality and Borders Act 2022 gives the Home Secretary sufficient scope to be able to use visa penalties if it is assessed to be appropriate. The last Government introduced these powers but exercised their discretion not to use them, despite obviously having returns challenges. This Government intend to retain the discretion to use the powers in the right way at the right time, so that they will be effective to the maximum. We do not need a clause in primary legislation to require the Home Secretary to use visa penalties in all circumstances, regardless of the context and without an assessment as to whether it would make things worse or better.

The fact that new clause 42 aims to remove the discretion to decide whether to use the powers is inherently flawed. It is not something that the Opposition sought to do when they were in Government. It is not something that the hon. Member for Weald of Kent seems to have pushed when she was a special adviser in the Home Office. There is no immediate way to discern whether a Government are co-operating or not. That is a discretionary judgment that would have to be taken by Ministers in each context. Visa penalties have not been used before. In each case where their use has been considered, we have been able to successfully unblock co-operation through other means, such as ministerial and senior-level engagement, of which I myself have done some.

The provisions already provided for in the Nationality and Borders Act are sufficient for our primary aim of these powers, and I urge the Opposition not to push the new clauses to a vote.

Matt Vickers: We wish to divide on new clause 34.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 14.

Division No. 27]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 35

RESTRICTIONS ON VISAS FOR SPOUSES AND CIVIL PARTNERS

"(1) The Secretary of State must make regulations specifying the maximum number of persons who may enter the United Kingdom annually as a spouse or civil partner of another (the sponsor).

(2) Before making regulations under subsection (1), the Secretary of State must consult—

(a) in England and Wales and Scotland, such representatives of local authorities as the Secretary of State considers appropriate,

(b) the Executive Office in Northern Ireland, and

(c) any such other persons or bodies as the Secretary of State considers appropriate.

(3) But the duty to consult under subsection (2) does not apply where the Secretary of State considers that the maximum number under subsection (1) needs to be changed as a matter of urgency.

(4) The Secretary of State must commence the consultation under subsection (2) in relation to the first regulations to be made under this section before the end of the period of three months beginning with the day on which this Act is passed.

(5) The regulations must specify that the number of persons from any one country who enter as a spouse or civil partner of a sponsor cannot exceed 7% of the maximum number specified in the regulations under subsection (1).

(6) If, in any year, the number of persons who enter the United Kingdom as a spouse or civil partner of a sponsor exceeds the number specified in regulations under this section, the Secretary of State must lay a statement before Parliament—

(a) setting out the number of persons who have, in that year, entered the United Kingdom as a spouse or civil partner of a sponsor, and

(b) explaining why the number exceeds that specified in the regulations.

(7) The statement under subsection (6) must be laid before Parliament before the end of the period of six months beginning with the day after the last day of the year to which the statement relates.

(8) Within six months of the passing of this Act, the Secretary of State must by immigration rules make the changes set out in subsections (9) to (11).

(9) The requirements to be met by a person seeking leave to enter the United Kingdom with a view to settlement as the spouse or civil partner of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement includes that—

(a) the applicant is married to, or the civil partner of, a person who has a right of abode in the United Kingdom or indefinite leave to enter or remain in the United Kingdom and is, on the same occasion, seeking admission to the United Kingdom for the purposes of settlement;

(b) the applicant provides evidence that the parties under subsection (9)(a) were married or formed a civil partnership at least two years prior to the application;

(c) each of the parties intends to live permanently with the other as spouses or civil partners and the marriage or civil partnership is subsisting;

(d) the salary of the person who has a right to abode in the United Kingdom or indefinite leave to enter or remain in the United Kingdom equals or exceeds £38,700 per year; and

(e) the applicant and the person who has a right of abode in the United Kingdom are both at least 23 years old.

(10) Leave to enter the United Kingdom as a spouse or civil partner under subsection (9) is to be refused if the parties concerned are first cousins.

(11) For the purposes of this section, 'local authority' means—

(a) in England and Wales, a county council, a county borough council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly, and

(b) in Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994."—*(Matt Vickers.)*

This new clause would require the Secretary of State to specify a cap on the number of spouses or civil partners who may enter the UK, and on the number that may enter from any one country. It would also amend the immigration rules to set a salary threshold.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

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

New clause 39—*Restrictions on visas and grants of indefinite leave to remain*—

"(1) Within six months of the passing of this Act, the Secretary of State must by immigration rules provide for all visa grants, including spousal visas, to be conditional on the following—

(a) the requirement that the applicant or their dependents will not apply for any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules,

(b) the requirement that the applicant's annual income must not fall below £38,700 (or six months or more in aggregate) during the relevant qualification period.

(2) Immigration Rules made under subsection (1) must ensure that any breach of the conditions set out in that subsection will render void any visa previously granted.

(3) The Secretary of State is not permitted to grant leave outside the immigration rules or immigration acts.

(4) A person is not eligible to apply for indefinite leave to remain in the United Kingdom if any of the following conditions apply.

(5) Condition 1 is that a person is a 'foreign criminal' under section 32 of the UK Borders Act 2007.

(6) Condition 2 is that a person, or any of their dependents, has been in receipt of any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules.

(7) Condition 3 is that a person's annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period.

(8) A person who has entered the United Kingdom—

(a) under the Ukraine visa schemes;

(b) under the Afghan Citizens Resettlement Scheme;

(c) under the Afghan Relocations and Assistance Policy; or

(d) on a British National Overseas visa,

is exempt from the requirements of Condition 2 and Condition 3.

(9) For the purposes of subsections (1)(b) and (7)—

(a) the condition applies only to earnings that have been lawfully reported to, or subject to withholding tax by, HM Revenue and Customs; and

(b) the relevant sum of annual income must be adjusted annually by the Secretary of State through immigration rules to reflect inflation.

(10) The Secretary of State may by immigration rules make further provision varying these conditions, including by way of transitional provisions."

This new clause would place certain minimum restrictions on the granting of visas or indefinite leave to remain. It would require migrants to be self-sufficient and do not require state benefits, and would deny ILR to foreign criminals.

New clause 40—*Cap on number of entrants*—

"(1) Within six months of the passing of this Act, the Secretary of State must make regulations specifying the total maximum number of persons who may enter the United Kingdom annually across all non-visitor visa routes, with such regulations subject to approval by both Houses.

(2) The Secretary of State may by regulations also specify a maximum number of entrants for individual visa routes, subject to the overall total.

(3) No visas may be issued in excess of the total maximum number specified in subsection (1).

(4) Any visas issued in excess of the number specified in subsection (1) must be revoked."

This new clause would provide a mechanism for a binding annual cap on the number of non-visitor visas issued by the UK.

Matt Vickers: New clause 35 would require the Secretary of State to specify a cap on the number of spouses or civil partners who may enter the UK and on the number who may enter from any one country. It would also amend the immigration rules to set a salary threshold. We know that there is abuse of the current provisions that allow spouses or civil partners to come to the UK. Our amendment is designed to tighten up the rules so as to make abuse less likely.

We believe that it is important for the Secretary of State to set a cap for the number of people who can enter the UK as a spouse or civil partner, and that the number of persons from any one country who enter as a spouse or civil partner of a sponsor should not exceed 7% of the maximum number specified. We seek to tighten up that route to entering the UK by ensuring that the applicant provides evidence that the parties under subsection (9)(a) were married or formed a civil partnership at least two years prior to the application; that each of the parties intends to live permanently with the other as spouse or civil partner, and the marriage or civil partnership is subsisting; that the salary of the person who has a right to abode in the UK, or indefinite leave to enter or remain in the United Kingdom, equals or exceeds £38,700 per year; and that people cannot sponsor their first cousins under this route.

We believe those changes are necessary to ensure that the relationship is genuine and subsisting, and that the sponsor is able to support their partner once they arrive in the UK. That is part of ensuring that we treat living in this country as a privilege, not a right, and that those coming to the UK to live will contribute to our country.

New clause 39 would place restrictions on the granting of visas and indefinite leave to remain. That is another change to achieve our objective that those who come to the UK are able to contribute. The new clause would ensure that visas were granted only where an applicant or their dependants will not apply for any form of social protection, including housing from the UK Government or a local authority, and where the applicant's annual income will not fall below £38,700 during the relevant qualification period. If either of those conditions fails to be met, the visa will be revoked.

The new clause also specifies that a person cannot qualify for indefinite leave to remain if they are a "foreign criminal" under section 32 of the UK Borders Act 2007; if they or any of their dependants have been in receipt of any form of social protection from the UK Government or local authority; or if their annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period. The new clause would not apply to those who have come to the UK through the Ukraine, Afghan or British national overseas schemes.

New clause 40 would introduce some accountability for this place in the overall numbers of migrants coming to the UK per year. It would establish a mechanism whereby Parliament would approve a binding cap on all non-visitor visa routes set out by the Secretary of State. We believe it is important that the House seriously considers the benefits and trade-offs to this country. The new clause is designed to give the House greater accountability for that decision.

New clauses 35 and 39 would build a wall against the quiet epidemic of immigration fraud that has been seeping through our spousal and visa routes—think of sham marriages brokered for £10,000 a pop, or visa overstayers masked by flimsy claims of support. The two-year marriage rule, the £38,700 threshold and the "no first cousin" clause are not just hurdles; they are detectors rooting out paper partnerships before they drain us dry.

The new clauses would anchor immigration to a bedrock of self-reliance, because a Britain that thrives does not prop up newcomers who cannot stand alone. In new clause 35, the £38,700 sponsor salary, which matches that for the skilled worker route, would ensure that thousands of spousal entrants yearly would not tip the welfare scales further. New clause 39 would double down, barring visas and indefinite leave to remain for anyone who dips below that level or taps social housing, for which 1.2 million people are already waiting. This is not exclusion; it is economics, tilting the balance towards those who lift us, not those who lean on us.

New clause 40 is not just a cap; it hands the House the reins of our migration system. The new clause would make Parliament the arbiter, through a binding cap debated here, voted on here, owned here and on which we are fully held to account by the electorate.

Katie Lam: There are few things in life and in human nature more powerful than the desire to be with those we love. To be separated from a husband or wife by a national border is no small thing. Indeed, for those it is happening to, it can feel like everything. But the role of Government is to determine what is right for the country, not for any one person, couple or family. We must place this discussion in its national context. For too long immigration has been too high, and the spousal visa route is increasingly being used by those who would otherwise not be able to come to Britain.

Over the past few years we have seen the number of dependent visas balloon. As of December 2024, 51,000 migrants, bringing 130,000 dependants with them, had come to Britain via the health and social care route over the previous year. That is over 2.5 dependants per health and social care worker—dependants who will access public services in their own right, including our

already overstretched NHS. The dependant route for health and social care visa holders has since been restricted, but I mention it because it indicates the huge level of demand and desire there is for family members to come to Britain.

4 pm

There is much more to be done across the immigration system to ensure that the dependant route is not abused by those who are unlikely to make a contribution in their own right. Our lax rules around spousal visas are also exacerbating problems around assimilation. Currently, our system has no safeguards against forced or sham marriages. There is a culture in some communities of bringing vulnerable young women to the UK through the spousal route. These women often have a poor grasp of English and no external support network in this country, which creates the perfect conditions for abuse and exploitation. It effectively enables the introduction and furtherance of a family culture that is totally alien to Britain.

In 2016, Dame Louise Casey published the Casey review, which looked into opportunity and integration, particularly in isolated and deprived communities. In her report, she discussed immigration and the impact it has on integration. This is a highly sensitive issue. Dame Louise Casey's language is nuanced and carefully chosen, and I cannot do better than to repeat it here. She says:

"Rates of integration in some communities may have been undermined by high levels of transnational marriage—with subsequent generations being joined by a foreign-born partner, creating a 'first generation in every generation' phenomenon in which each new generation grows up with a foreign-born parent. This seems particularly prevalent in South Asian communities. We were told on one visit to a northern town that all except one of the Asian Councillors had married a wife from Pakistan. And in a cohort study at the Bradford Royal Infirmary, 80% of babies of Pakistani ethnicity in the area had at least one parent born outside the UK."

As Casey says in the report,

"I know that for some, the content of this review will be hard to read, and I have wrestled with what to put in and what to leave out, particularly because I know that putting some communities under the spotlight—particularly communities in which there are high concentrations of Muslims of Pakistani and Bangladeshi heritage—will add to the pressure that they already feel. However, I am convinced that it is only by fully acknowledging what is happening that we can set about resolving these problems and eventually relieve this pressure."

Dame Louise Casey was brave to acknowledge and discuss these problems so honestly in the hope of solving them, and we must find that same courage. The Opposition believe that the cap on spousal visas that we suggest with this provision, both overall and from individual countries, would help with that challenge, and we sincerely hope that the Government will consider it.

Turning to new clause 39, we have already covered various elements of the rules whereby we hope to ensure that anyone who comes to this country is and remains a net fiscal contributor, with a view to ensuring that across their lifetime people who come to Britain contribute more to the public purse than they cost. We have already spoken about rules and conditions relating to foreign criminals, the cost of social protection, and the groups to which we believe that should be limited. As we have said, there is a need for these sorts of visas to come with quite serious floors on salaries.

Finally, I turn to new clause 40, which is the numerical visa cap. As I have mentioned to the Committee before, every election-winning manifesto since 1974 has promised to reduce immigration. Time and again, Governments of both parties have failed to deliver on that promise. Perhaps even more scandalously, those same Governments have often attempted to shift the blame for that failure, refusing to take responsibility for overseeing an immigration system that does not align with the expressed wishes of the British people.

Mike Tapp: Given that the hon. Lady worked previously in a special adviser role and is lecturing us about caps, how were her Government successful with the caps that they set?

Katie Lam: I think and hope that it has been clear from everything I have said that I make no defence of the previous Government's activity. It is incredibly important that Conservative Members are able—as is our duty and our responsibility to the public—to talk about the many things that went wrong and, I hope, to help this Government to avoid making the same mistakes.

Mike Tapp: I appreciate the collegiate working environment that we are now in. In which case, will the hon. Lady expand on the caps set by the previous Government and the results that came after?

Katie Lam: As I have set out already, there was never what we are talking about here, which is a formal cap set by Parliament in legislation. However, a number of aims and promises were given to the electorate over the years, and those promises were not kept.

Selective, limited and tailored to our needs—that is the immigration system that the British public have voted for time and again. If we are serious about delivering it, we must take steps to ensure that future Governments do not renege on their promises as previous Governments have. But this is not just about delivering the immigration system that the British people have voted for repeatedly; fundamentally, it is about public trust and accountability.

Put simply, a hard numerical cap on the number of visas issued each year would force Government and Parliament to have accountability for their immigration decisions. If we believe that the overall level of immigration is too high, we should set the cap accordingly, to ensure that technical mistakes do not produce the kind of migration wave that we have seen over the past few years. If we believe that the overall level of immigration is too low, we should be willing to say that publicly, to explain our reasons and to defend our record. Either way, we must be transparent. That will not rebuild public trust in our political system overnight, but it will represent a significant step in the right direction.

Tom Hayes: In a previous sitting, the hon. Lady talked to the hon. Member for Perth and Kinross-shire about humanitarian, and safe and legal routes. She highlighted the difficulty that humanitarian events often happen without warning or anticipation. Our country and others will respond as quickly as possible, and one response might be to open a safe and legal route. Do the Opposition new clauses take account of any possible

[Tom Hayes]

scenarios, recognising that it is hard to anticipate them? Is there any flexibility in the numbers that she provides for the visa category that would support people coming in who are refugees and people in genuine need?

Katie Lam: As the hon. Gentleman can read in the new clause, the wording does not state that the caps have to be set and cannot be revised; it is more than possible to come back to Parliament to change them. If such a situation arises—he is totally right to say that many of them are emergencies and may have been unforeseeable—there is no reason why that case should not be made to the British public and the cap changed. We are talking here about the need for that case to be made to the British public and for there to be transparency.

Some Labour Members have mentioned my time at the Home Office, where I was a special adviser. I worked primarily on national security, not on legal migration, but it was very clear to me from what I could see of the problems that all my colleagues were facing that most of Government—most Departments, and the Minister may be experiencing this now—are geared for higher levels of migration. For example, it is helpful for the Department of Health and Social Care to have high volumes of health and social care visas issued, or for the Treasury, which issues gilts based on our overall GDP, to have as many people here as possible.

The purpose of the cap would be to bring those conversations out into the open. If those Departments and Ministers wished to justify to the public, to the British people, why those numbers needed to be higher, that conversation should be had where the British people can hear it.

Tom Hayes: New clause 40 mentions the Secretary of State making

"regulations specifying the total maximum number of persons who may enter the United Kingdom annually"

within six months of the passing of this Bill. I assume that the hon. Lady is saying that a statement may be made providing for the annual cap per visa category, over, say, four or five years, and not that the Secretary of State would have to come back each year. Am I right or wrong in thinking that? Could she clarify that?

Katie Lam: The hon. Member asks a good question. I am not sure whether that would be explicitly decided on the face of the Bill; that could be something that the Home Office decided subsequently—whether it wished to set out future years or just the following one. In my initial response to the hon. Member, the point that I was trying to clarify was that that cap can, of course, be changed. Once it is set, it does not need to be set in stone for ever, but it is important that it exists and that the conversation about what it should be is had in front of the British public.

Chris Murray: It was interesting to hear the hon. Member for Weald of Kent setting out her argument articulately, and it was good to hear her say that she recognises that the last Government made a lot of mistakes on immigration, and that the evidence shows that. Sadly, although it is good to have that recognition, it does not seem as though very much has been learned from the Conservatives' experience in office, based on each of the new clauses that they have set out.

First, on the spousal visas, quite a lot of what is in new clause 35 actually exists already. There are already salary thresholds and things like that. It is unlike me to praise the previous Conservative Government on immigration, but, actually, across previous Administrations, both Labour and Conservative, very good work has been done on issues such as sham and forced marriages. What is new in new clause 35, which is a very strange and horrible power to give Ministers, is the ability to either restrict the nationalities that British people can marry or set thresholds on them. I have huge respect for my ministerial colleagues in the Home Office, but I do not think that they should be able to choose what nationalities I am allowed to marry. We got rid of anti-miscegenation laws in the 20th century; we do not want returning through the back door, through measures such as this. Most of all, this arbitrary figure of 7% is very strange; if I were to marry, say, an Australian or an American, I would have to hope that I was not in the 8th percentile of people to do that. That would be a very strange way for us to ask British citizens to live their lives and fall in love with people.

Opposition Members also made the point about how the legislation needs to look backwards and make sure that migrants are net fiscal contributors over their lifetimes. I would say, again, that that is not a realistic thing to ask Governments to do. We will only know whether we have been net fiscal contributors when we die, so we cannot really ask people to make those projections.

Finally, there is the numerical visa cap in new clause 40. Again, that is a gimmick that is not addressing the actual structural problems in the immigration system. First, it treats all migrants the same, as one big monolithic whole, yet we know that the impact of migrants on communities is different, whether they are spouses, students, doctors, lorry drivers or refugees.

If we are going to have this kind of cap, how do we prioritise? Will it apply throughout the whole of the year? How will businesses plan if they want to recruit from overseas? As my hon. Friend the Member for Bournemouth East said, what if emergencies mean that there are more people coming in? The last Conservative Government set a cap for tier 2 visas, then, of course, ended up hitting it and just exempting doctors and nurses from it anyway. Is it not inevitable that we will just be condemned to repeat history if we do that here? We have talked a lot about public trust in the immigration system and how that has been so deeply sapped by failures on immigration policy. The Conservatives had a net migration target of 100,000 a year, which they consistently failed to meet and had to revise. This proposal is just advocating that we repeat that exact mistake, but hoping for a different outcome, which seems bonkers to me.

Seema Malhotra: A number of the issues raised regarding these new clauses have already been debated in relation to other measures, so I will keep my remarks fairly brief on some of the additional issues.

4.15 pm

New clause 35 proposes a cap on the number of entrants as a partner, and it amends the immigration requirements for the partner of a person who is present

and settled in the United Kingdom. The provisions for family members to come to, or stay in, the United Kingdom are set out in the immigration rules. I gently make the point again that this is not the correct legislation for a debate about the requirements for partners.

The Government are clear that we support the right of people to fall in love, and we value the contribution that migrants make to our society. However, that must be balanced with a properly controlled and managed immigration system, and net migration has been too high for too long. We have also seen significant abuse on the routes, which should have been designed with some tighter safeguards under the previous Administration, the consequences of which we are only catching up with now as we seek to bring back order to our immigration system, as well as public confidence.

The Government have been clear that net migration must come down. Our immigration system welcomes people from across the globe to the UK. They may join a family here, and we think it is right to continue to enable family migration, for the reasons that a number of my hon. Friends have set out. British citizens and those settled in the UK are free to enter into a genuine relationship with whomever they choose. If they wish to establish their family life in the UK, it is appropriate they do so on the basis that they can support themselves financially, without recourse to public funds, and can participate sufficiently in everyday life that supports their integration into British society. To ensure financial independence, applicants on the family route must also meet either the minimum income requirement or adequate maintenance; the minimum income requirement is currently set at £29,000. We have discussed evidence bases already, and to ensure that we have a solid evidence base for any future change, on 10 September the Home Secretary commissioned the Migration Advisory Committee to review the financial requirements in the family immigration rules.

New clause 39 would place specific conditions on those applying for permission to enter, stay or settle in the UK, and remove the Secretary of State's discretion to grant leave outside the immigration rules. As I have said, the Government recognise and value the contributions that legal migration makes to our country, and the immigration system already controls access to benefits—the principle of no recourse to public funds is long standing. Most migrants become eligible to access public funds only when they gain settlement, or ILR. This approach reflects the need to maintain the confidence of the general public that immigration brings benefits to our country, rather than costs to the public purse.

In addition to those controls, subject to the visa route being accessed, individual migrants are required to meet conditions attached to that route—for example, the skilled worker route includes a minimum income requirement. The immigration system also needs to account for people in a range of circumstances. It cannot adopt a blanket approach that would capture, for example, those visiting the UK as tourists.

We have also extensively discussed foreign nationals who commit offences, so I want to turn briefly to new clause 40, which would impose an annual maximum number of persons who may enter the UK across all visa groups. The Government are clear that net migration must come down. The issue of arbitrary numbers has been rehearsed—not to great effect—over the past 14 years. Important work is under way to restore order to our immigration system, and we will set out that approach in the forthcoming White Paper, as I have mentioned. However, the Government have retained the duty to introduce a non-binding cap on arrivals on safe and legal routes, although I recognise that the new clause is much broader than that. The cap on safe and legal routes helps to manage the pressure on, for example, local authorities and ensure that the number of people coming here is in line with our capacity to receive them.

Matt Vickers: We think it is right that there should be limits on the number of people who can arrive here as a spouse or partner, a requirement on those bringing people to be able to support themselves, and a cap on the number of people entering the country. We wish to press the new clause to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 14.

Division No. 28]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 36

ACCESS TO ACCOMMODATION CENTRES: IMMIGRATION ENFORCEMENT

"(1) The Nationality, Immigration and Asylum Act 2002 is amended as follows.

(2) After section 33 (Advisory Groups), insert—

'33A Access for Immigration Enforcement

(1) The manager of an accommodation centre must permit a member of Immigration Enforcement, on request, to—

(a) visit the centre at any time; and

(b) visit any resident of the centre at any time.

(2) For the purposes of this section, "Immigration Enforcement" means the Immigration Enforcement team in the Home Office.'"—*(Matt Vickers.)*

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The new clause is vital to giving immigration enforcement the powers it needs to smash the gangs and tackle any criminality surrounding those who arrive here illegally. It would give immigration enforcement access to asylum accommodation centres. Currently, there are limitations around the detention of those arriving illegally on small boats. These limitations arise from a lack of statutory power, as well as a lack of state capacity to detain those arriving illegally.

[Matt Vickers]

In government, the Conservative Administration set up accommodation centres, which provided a plausible alternative to hotels. Because the centres were not used to make immigration decisions, in practice immigration enforcement officers did not find it possible to enter them for the purposes of examining, arresting and detaining persons residing therein for the purposes of refusal and removal.

Tony Smith, the former director general of UK Border Force, has powerfully argued that immigration enforcement teams must have clear authority to enter all places where asylum seekers are residing to examine, interview, arrest or detain them as appropriate. The Opposition agree wholeheartedly, for these would be proportionate powers for the state to use to enforce the law. Currently, centres housing thousands of small boat arrivals are not detention hubs. Instead, they are in effect halfway houses between the point of processing and where decisions can be made. Consequently, there is a substantial asylum backlog, which has created bottlenecks in the system. This is simply inadequate for everyone involved. It cannot continue, and it must stop.

The new clause therefore tries to end this predicament and failure in the system. Enforcement cannot be allowed to be bereft of action, unable to chase absconders who vanish into the ether without a trace. We need to empower officers to go into these sites to interview, arrest and detain where appropriate. That would allow faster decisions, faster refusals and quicker removals. The clause would not only mean a more efficient system that saves hardworking taxpayers' money, but help decimate the business model of the people-smuggling trade. In just the last two years, traffickers have accumulated hundreds of thousands, if not millions of pounds in profit. We all know the tragic consequences of people who have made this life-threatening journey.

We must, at all costs, undermine the business model of the people smugglers. That is the truly compassionate thing to do, so I am proud to support clause 36 because it eliminates gaps in our asylum enforcement system, ends centres being off limits and hence makes it much more difficult for people to get lost in the system. So we have to act, and act now. As such, clause 36 appears to be common sense, allowing our enforcement agencies the access that the average person would probably assume they already have. Does the Minister think an amendment or power such as this would be of operational benefit to immigration enforcement, and if not, why not?

Pete Wishart: I do not want to detain the Committee for long with this amendment, but this is just another abhorrent amendment from the warped imagination of the Conservative party. I do not know where they come up with things like this. They would have to be very creative and very cruel to propose something quite like this. The amendment would allow immigration enforcement officers to visit accommodation centres at any time without prior notice. Asylum seekers and other residents at these centres are often fleeing persecution, war and violence and will have suffered severe trauma. The constant threat of unannounced visits from immigration enforcement will create an atmosphere of fear, making it even more difficult for individuals to feel safe.

Allowing immigration enforcement to visit any resident at any time is a clear violation of privacy. It undermines their dignity and wellbeing and could lead to harassment or increased surveillance, further marginalising already vulnerable populations. Vulnerable individuals should not be made to feel constantly watched or threatened by authorities, especially when they are seeking safety and stability. The presence of immigration enforcement officers may discourage asylum seekers and migrants from seeking support or reporting issues of abuse, exploitation or trafficking. All this could do is undermine the very support structures designed to help individuals rebuild their lives in the UK.

The amendment lacks any clear safeguards or accountability mechanisms for how immigration enforcement would operate, and I urge the Committee to reject it. I hope it rejects the rest of the Conservative party's amendments, too.

Katie Lam: New clause 36 would give access to asylum accommodation centres to our immigration enforcement officers. Members of the public may be surprised to learn that this power does not already exist. It seems to me common sense that when a person has come here illegally and is being housed by the state, immigration enforcement—an arm of that state—should be able to enter that accommodation to carry out their work.

As my hon. Friend the Member for Stockton West rightly set out, these accommodation centres exist because the volume of those coming here illegally is such that it is not possible to hold everyone in immigration detention. There are therefore substantial numbers of people on immigration bail, and a reasonable number of those are held in accommodation centres. Immigration decisions are made elsewhere, but this is the criterion set out in current legislation. In our view, this is a quirk of the current system, and not how one would design it if starting from a blank page. These sorts of accommodation centres did not exist when our rules were written, and we think that this corrects that quirk.

I echo the question asked by my hon. Friend the Member for Stockton West: does the Minister think that this would be of operational benefit to immigration enforcement officers? If so, will she include it, and if not, why not?

Dame Angela Eagle: New clause 36 seeks to provide a right of access upon request for Home Office teams working within immigration enforcement to asylum accommodation centres in order to visit those centres and residents at any time.

4.30 pm

Immigration officers have powers to be granted a warrant to enter residential premises to search for and arrest someone for the purpose of detention and removal from the UK, and to search for relevant documents while there. In practice, immigration officers will often seek and obtain access to premises with the consent of the owner or occupier of those premises.

I note that the new clause makes reference to accommodation centres. I would welcome clarity from the Opposition on whether the intention is to attach this power specifically to accommodation centres. My reason for asking is that the Home Office has not stood

up any such centres in the form defined under the Nationality, Immigration and Asylum Act 2002. In other words, they do not exist. More widely, care needs to be taken to ensure that the use of the proposed power is managed appropriately. The access that the power provides in this new clause is very broad, and it applies to anyone working within the immigration enforcement directorate at the Home Office. That would include all civil servants working there, not just immigration officers who have the relevant training.

If the rationale behind the new clause is to remove a perceived barrier to the removal of migrants with no status in the UK, access to the premises in which an individual is residing is not such a barrier. Although there may be some constraints on immigration officers' entering asylum accommodation sites, including hotels, these are of a practical nature linked to risk assessments, public order, disruption, safety of staff and other residents, rather than lacking a statutory power of access. They already have a statutory power of access. Overall, the new clause is unnecessary, because immigration officers already have powers of entry to residential premises to administratively arrest someone liable to removal, and to search premises with a warrant if we cannot obtain consent, which allows for the safeguard of judicial scrutiny.

Matt Vickers: I think the public will be stunned to hear that immigration enforcement officers have challenges in accessing asylum accommodation centres, as outlined by Tony Smith, the former director general of UK Border Force. We will therefore seek to press the new clause to a vote.

Dame Angela Eagle: The new clause talks about accommodation centres, which do not exist. What does the hon. Gentleman mean by accommodation centres?

Matt Vickers: We have had provision for accommodation centres. We have had accommodation centres.

Dame Angela Eagle: But they do not exist.

Matt Vickers: I know there are 8,500 more in hotels now, but this was a measure that was put in place to reduce that hotel dependency, to stop us increasing the number of people in those hotels by 29%.

Dame Angela Eagle: I want to put something on the record before we vote. There is a specific meaning in law for the phrase "accommodation centres" under the Nationality, Immigration and Asylum Act 2002. Since that law was passed, no Government have actually stood up accommodation centres under that specific meaning. Therefore, the shadow Minister in his new clause 36 is asking for powers to enter something that does not exist.

Pete Wishart: While the Minister is on her feet, could she perhaps ask the Opposition spokesperson whether he actually means hotels?

Dame Angela Eagle: I thank the hon. Gentleman for that. I was trying to help the shadow Minister, because I thought he might be trying to talk about accommodation generally. If that is the case, we already have the powers we need to enter when and where we wish. This power is much broader, and we would not like to see it put into effect, which is why I hope the Committee will vote against the new clause.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 14.

Division No. 29]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 37

ASYLUM SUPPORT REPAYMENT SCHEME

"(1) The Secretary of State may by regulations make arrangements for asylum seekers to receive loans towards their maintenance and accommodation out of money made available by the Secretary of State for that purpose.

(2) Regulations made under subsection (1) may—

(a) specify the circumstances in which an asylum seeker would be eligible for or required to take out the loan;

(b) prescribe the maximum amount of the loan that may be made to an asylum seeker in any year;

(c) make provision as to the time and manner in which repayments of loans are to be made; and

(d) make provision for the deferment or cancellation of a borrower's liability in respect of a loan.

(3) Loans shall bear interest at such rates as may from time to time be prescribed by regulations made by the Secretary of State but so that—

(a) the interest (which shall accrue from day to day) shall be added to the outstanding amount of a loan; and

(b) the rates shall be such as appear to the Secretary of State to be requisite for maintaining the value of that amount in real terms.

(4) For the purposes of sub-paragraph (3)(b), the Secretary of State shall have regard to the retail prices index published by the Office for National Statistics, any substituted index or index figures published by that Office or such other index as appears to the Secretary of State to be appropriate."—*(Matt Vickers.)*

This new clause would enable the Government to treat asylum support like a student loan, with asylum seekers able to pay back the cost of support when they are in paid employment.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The Immigration and Asylum Act 1999 and the Asylum Support Regulations 2000 enable asylum seekers to obtain housing and funds to support themselves while they wait to find out whether they will get asylum. Their children can attend state schools and they are entitled to NHS care. We know that asylum seekers crossing the channel in small boats are often given bail and provided with asylum support. Those with no UK

[Matt Vickers]

address will be allocated asylum housing, or placed in asylum hotels or accommodation centres. The National Audit Office has estimated that the cost of this to the taxpayer was around £4.7 billion in 2023-24.

Tom Hayes: Is it the Conservative party's intention to build these detention centres, or accommodation centres, as part of its new immigration policy?

Matt Vickers: We have had many alternative means of accommodation, including hotels. Accommodation of asylum seekers in hotels is through the roof—it is up 29%, with 8,500 more people staying in them—but the situation I am describing applies more widely than any accommodation centre or hotel.

The £4.7 billion tab for 2023-24 covered beds, meals and NHS visits while the backlog ballooned.

Chris Murray: Will the hon. Gentleman accept that that number has "ballooned"—or gone up highly—not just in the aggregate but per asylum seeker? The hon. Gentleman wants to try to charge people, but his party let the system get completely out of control. Maybe it was the backlog that let it get out of control, rather than the kind of hotels that people were staying in.

Matt Vickers: The reality is that somebody is getting charged for it and paying for it, and at the moment that is the Great British public. There are ballooning costs. There are increasing numbers: illegal arrivals are up 28% since the election, there are 29% more people in hotels, and fewer of the people who arrive illegally are being removed. The number goes up, the cost continues to go up, and somebody has to pick up the tab. Making the person repay those costs once they are working—with, say, £10,000 over a decade—could claw back hundreds of thousands of pounds. That is not small change: it is classrooms built, potholes filled and nurses hired. Why are the Government content to let this sinkhole drain us dry when we could balance the books with a system that asks those who are successful to pay back some of these costs?

In his evidence, Tony Smith highlighted the knowledge that such support is available as a pull factor that encourages people to cross the channel. We share Tony Smith's view that making it clear that the costs of asylum support and accommodation will be recovered once the applicant is economically active could help to disincentivise future crossings. That is why we have tabled new clause 37.

The proposed new clause would enable the Government to treat asylum support like a student loan, with asylum seekers able to pay back the cost of support when they are in paid employment. We believe that if someone's asylum appeal is granted and they are allowed to remain in this country and they are able to work, they should be required to pay back to the state the costs of their maintenance, as and when they are able. State support is not a right.

Tom Hayes: This may be our last sitting day; I say this in hopes that it is. Over the last few sittings, having not known the hon. Member for Stockton West, I have grown in admiration for him, because he has had to defend very difficult things from the previous Government. It has felt like he is a goalkeeper standing in front of goal without any gloves on, and balls have been hit at him from every direction, so I do have admiration for him. But this is frankly absurd—it really is bonkers. Is this the hon. Member's idea, or is it somebody else's idea that he is having to make a case for? I really hope it is the latter.

Matt Vickers: To the hon. Gentleman's electors and mine, these things come at huge cost. As we have set out, that money could be used by the people who pay in to the system, and have done for a very long time. We have drawn an analogy with student tuition fees and I think it is very relevant. I am grateful for the hon. Gentleman's well-hidden admiration in recent times, but I think this is the right thing to do, and I am well on board with it. State support is not a right, and if a person is able to contribute later by paying some of that back, we believe it is right for them to do so.

Katie Lam: We have spoken many times today, and over the course of this Bill Committee's proceedings, about the fundamental principles of fairness upon which we believe that our immigration system should be built. We have also spoken extensively about the generosity of the British state, and how much it costs to support those who, according to our rules, cannot support themselves. But that generosity, while admirable in what it says about our approach to our fellow man, costs the British taxpayer dearly. As my hon. Friend the Member for Stockton West set out, it costs many billions of pounds a year. It also causes additional pressure on infrastructure and public services, which is not covered by what we suggest here.

We consider that new clause 37, which would introduce the asylum support repayment scheme, is a totally fair way of proposing that people who come to this country are responsible for contributing for the services that they receive. That includes the accommodation that they live in. We do not see any reason why that should be viewed as a negative change, and we really hope that the Government include it in their Bill.

Dame Angela Eagle: New clause 37 would give the Secretary of State regulation-making powers to set out arrangements for asylum seekers to receive loans towards their maintenance and accommodation—but, as we have discussed in this Committee during scrutiny of the Bill, the costs of accommodating and supporting asylum seekers has grown significantly. The reason for that increase is that the Government inherited an asylum system under exceptional strain, with tens of thousands of cases previously at a complete standstill—the perma-backlog, which we have referred to on many occasions during our proceedings in the past few weeks—claims not being processed, and a record number of people having arrived on small boats in the first half of the year.

While immediate action was taken to restart asylum processing, we cannot resolve the situation overnight. It nevertheless remains our commitment to reduce the cost of asylum accommodation, including by ending the use of asylum hotels. The size of the existing backlog, particularly in appeals, means that we are forced to use

hotels in the meantime. That is not a permanent solution, but it is a necessary and temporary step to ensure that the system does not buckle under exceptional strain.

Increasing the speed at which asylum claims can be processed and dealt with is the best way of dealing with this issue of cost, in my view. I think on all sides we want to see the costs come down. We want to see a properly functioning immigration system that delivers fair, timely decisions and manages public funds. Hotel costs have actually dropped from over £9 million a day to under £6 million a day. Overall the Department is planning to deliver £200 million of additional in-year savings in 2024-25, and £700 million of savings against 2024-25 levels during the following financial year, on asylum costs. These measures, taken together, would represent a saving of over £4 billion across 2024-25 and 2025-26 when compared with the previous trajectory of spending.

The Home Office has a legal obligation, as set out in the Immigration and Asylum Act 1999, to support asylum seekers—including any dependants—who would otherwise be destitute: "destitute" is the word that people need to remember there. Asylum seekers can apply for accommodation, subsistence, or both accommodation and subsistence support when they are destitute. Once official refugee status has been given, the individual is able to work in the UK.

Although asylum seekers generally do not have the right to work in the UK while they are waiting on a decision about their asylum claim, there are some instances in which they can apply for permission to work. They are eligible to do so if they have waited over 12 months for an initial decision on their asylum claim, or for a response to a further submission for asylum, and they are not considered responsible for the delay in decision making.

In that context, the new clause proposed by the hon. Member for Stockton West is an interesting one. I would welcome clarification on how such a loan scheme would operate alongside or instead of the current system, and the details of any assessment of the practical or economic benefit of such a scheme. Further scoping would be necessary in order to establish whether it is a feasible option. As such, its inclusion in this Bill is premature.

4.45 pm

We are exploring a wide range of options to support ending the use of hotels for asylum seekers and reducing the significant cost to the taxpayer. We are open to interesting ideas, but it is far too early in the approach for us to have a new clause setting it out in this way in the Bill at this time.

Matt Vickers: The big question is "Who pays?". There is a huge cost here. I would never seek to get political about the political choices made with funding in recent times—I would not go into the winter fuel payment, or the increase in tuition fees. Tuition fees is an interesting comparator, though, because we ask those who are able to do so to contribute to the costs incurred in delivering them their education. We should be asking people who arrive in this country, who could go on to become very successful, to contribute to some of those costs.

Katie Lam: I welcome the Minister's response. Might she please commit today to a date by which the Home Office at least aims for all migrant hotels to be closed, as per her party's manifesto commitments? I also welcome what she had to say about bringing down costs. She is right to say that the best way to minimise the Home Office's bill for asylum accommodation is to process applications as quickly as possible. Where asylum applications are approved, though, most of those costs transfer to the welfare system, so I would be interested to hear her response on who in Government is currently responsible for tracking and understanding that cost.

Dame Angela Eagle: We inherited a system that was very siloed, where work was not really cross-departmental at all. One example that occurs to me is that the system dealing with all the legacy applications, which the previous Government embarked on dealing with at first-tier tribunal in 2023 and then boasted about having achieved. However, that was only the initial decision in the system; if it was granted, I suppose people felt lucky, but those who were not granted appealed the decision. While the Home Office, under the previous Government, congratulated itself publicly on dealing with that legacy system, many people were actually still in the system.

One important thing we have done since coming into government has been to begin working cross-departmentally to develop metrics on how to deal with an end-to-end system. We are not there yet, and we understand that costs can sometimes be transferred to other areas; that is why I am working closely with the Local Government Association, the Ministry of Housing, Communities and Local Government and the MOJ to try to get the system working more effectively end to end.

I cannot give the hon. Member for Weald of Kent a date on when hotels will close, but I can say that we are doing our best. Given the huge cost and the fact that the contracts for providing them that we inherited from the Conservative party are so expensive, it will certainly be in the interests of saving a lot of money to close them as soon as we can, and we certainly aim to do so.

Katie Lam: Again, rightly and reasonably, the Minister talks about lowering costs, but might she say a few words about fairness and the principle that this new clause seeks to speak to: should those who have lived in that accommodation, who have benefited from that provision by the state, ultimately pay it back, if they can afford to?

Dame Angela Eagle: The hon. Lady will have noticed that I have not dismissed the idea completely, but I do not think the idea is anywhere near a position where one could talk about how it might be practicable, and certainly it is not at a stage where one could consider putting it into primary legislation.

Matt Vickers: State support is not a right and, if a person is able later to contribute by paying some of it back, we believe it is right for them to do so. We wish to press the new clause to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 14.

Division No. 30]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 38

LEAVE OUTSIDE THE RULES: CONSULTATION

"(1) The Secretary of State must, within three months of the passing of this Act, consult on reforms to arrangements for leave outside the Immigration Rules (LOTR).

(2) A consultation under subsection (1) must consider how best to ensure that LOTR is granted only in the most exceptional circumstances, in which a reasonable person would consider it unacceptable to refuse entry to the United Kingdom.

(3) Within 18 months of the passing of this Act, the Secretary of State must by regulations make changes to the Immigration Rules to implement the required reforms to LOTR."—*(Matt Vickers.)*

This new clause would require the Government to make changes to arrangements for leave outside the immigration rules.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

New clause 38 would require the Government to make changes to arrangements for leave outside the immigration rules. It would require the Secretary of State, within three months of the passing of this Act, to consult on reforms to arrangements for leave outside the immigration rules. The consultation must consider how best to ensure that leave outside the rules is granted only in the most exceptional circumstances, in which a reasonable person would consider it unacceptable to refuse entry to the United Kingdom. Within 18 months of the passing of this Act, the Secretary of State must, by regulations, make changes to the immigration rules to implement the required reforms to leave outside the rules.

We have tabled this new clause because we are concerned about the Government's response to the recent decision in the upper tribunal to allow a family from Gaza to obtain permission to come to this country using the Ukraine family scheme. The appellants were Palestinians who, at the time of the decision under challenge, were residing in al-Mawasi, the humanitarian zone of Gaza.

The first and second appellants were husband and wife, and had lived in Gaza since 1994. They were the parents of the remaining four appellants, who at the time of the decision were 18, 17, eight and seven years of age. The sponsor for the application was the first appellant's brother, who had moved to the United Kingdom in 2007 and is now a British citizen.

The first-tier tribunal declined the application and the decision was appealed. The main issues to be decided by the first-tier tribunal were whether there was family life under article 8(1) between the appellants and the sponsor in the UK, whether the respondent's decision interfered with any family life and/or any private life enjoyed by the sponsor, and whether any such interference was disproportionate.

The upper tribunal did not agree with the Home Office's argument that the first-tier tribunal judge had erred in finding that there was family life between the appellants and sponsor. It found that there was family life and that the Home Office decision not to allow the family leave outside the rules was a disproportionate interference with the family life of the appellants and the sponsor.

When the Leader of the Opposition challenged the Prime Minister about this particular case at Prime Minister's questions, he responded that he did not agree with the decision of the upper tribunal, and said that the Government were

"looking at the legal loophole that we need to close in this particular case." —[*Official Report*, 12 February 2025; Vol. 762, c. 249.]

The new clause makes a suggestion about what that "legal loophole" might be, but it is extremely important that the Minister is able to answer the following questions. Did the Home Office decide not to appeal the upper tribunal decision? If so, why? What is the legal loophole that the Prime Minister said the Home Secretary was closing? Can the Minister be extremely precise about that, please? Can she explain when the House will be updated on this issue? Finally, if there is a legal loophole to close, why is that not being done through this Bill?

Seema Malhotra: I find this a very interesting debate and an important one in a number of respects. New clause 38 would require a consultation on the Government's approach to the exercise of discretion to grant leave outside the rules in what any reasonable person would consider to be the most exceptional circumstances to warrant such a grant, with a requirement for a change to the rules to follow, to regulate on the basis of what discretion may have been exercised.

The rules set out the main purposes for which a person may enter or stay in the UK, and the requirements to be met for them to be granted permission to do so. Exceptional circumstances are already considered. The rules are intended to apply, and be applied, in most circumstances to ensure transparency and fairness between individuals, but the existing policy approach recognises that there are some circumstances that they simply cannot cater for, and it is in the most exceptional circumstances that consideration is given to leave outside the rules under the Immigration Act 1971.

A period of leave outside the rules would usually be granted for a short, one-off period of permission to stay, suitable to accommodate or overcome the exceptional circumstance, if compassionate or compelling grounds are raised in the individual case. A person may request an exercise of discretion. Factors considered may be related to, for example, emergencies, unexpected events, a crisis, a disaster, an accident that could not have been anticipated, or a personal tragedy. The Government will continue to consider where and when there is need to

exercise discretion outside the rules. By its very nature, that is considered only in the most exceptional of circumstances.

It is probably not appropriate for me to go into the case that the hon. Member for Stockton West raised, beyond what has been said in the House. He asked some very specific questions, and I am happy to come back to him with what I can in writing. It is important to say that this is not the correct legislation for a debate about the requirements for discretion to grant leave outside the immigration rules, nor is it the correct place to define the parts of immigration policy on which the Government should consult.

Matt Vickers: On that case and on the loophole, which Minister does not think is relevant to this legislation, what does she identify that loophole as, and why does she not feel that that broader issue is relevant in considering this Bill?

Seema Malhotra: The shadow Minister understands extremely well that the Bill is about ensuring we stop the criminal gangs and that it introduces new powers to do so. On other new clauses that he tabled, I have given the same response in relation to aspects of the immigration rules. This is not the correct legislation to define parts of immigration policy or to try to determine what the Government should consult on.

As I said, the Government continue to consider where and when there is a need to exercise discretion outside the rules. By its very nature, that is considered in only very exceptional circumstances. I have shared what some of those factors might be: unexpected events, a crisis, an accident that could not have been anticipated, or a personal tragedy. I am sure he understands those matters, considering that he has served in office.

Matt Vickers: This is a valuable and important debate because many people felt strongly about this issue. The decision in that case flew in the face of the values of the Ukraine scheme. It could undermine commitments to future such schemes, so it is of great consequence.

Katie Lam: I am a little confused by the Minister's stating that several of our amendments should not be debated with this Bill. I fully concede that she is more experienced than I am, but my understanding is that any amendment considered in scope can be tabled, debated and voted on. Given the fact that these amendments were considered in scope, I am interested in why she thinks it is not appropriate for us to discuss them today.

5 pm

Seema Malhotra: I thank the shadow Minister for her comments. I am not disputing that there can be a debate on them. What I am saying is that the Bill has a clear and defined purpose, and it would not be appropriate to extend it to be more than what it is designed to be when there are other mechanisms by which immigration rules are debated in the House.

Katie Lam: Might the Minister, for clarity, lay out what the Government consider the purpose of the Bill to be and, by implication, what its purpose is not?

Seema Malhotra: I thank the shadow Minister for asking what the Bill is about, but we are just at the end of scrutiny of it, so I am sure she is aware that it is about increasing powers, in particular, to be able to better tackle the criminal gangs that are undermining our border security and putting lives at risk. We are making sure that we have bodies such as the Border Security Command on a statutory footing. We have had many other debates in the House about this.

Matt Vickers: Often with amendments we want to bring things out into the light. One thing I have not quite heard is what the Government are doing in the light of the issues with the Ukraine scheme, in particular to prevent what happened in the case I mentioned from happening again. We have this big borders Bill coming through, which will hopefully be the answer to the world's problems and improve the situation, but are the Government doing anything about the misapplication of the Ukraine scheme to ensure that the case I mentioned will not happen again?

Seema Malhotra: The hon. Gentleman is right, and the Prime Minister laid out the view that it was the wrong decision. We do need to find a way to tighten up how Parliament understands the rules and how they are interpreted, but as I say, that scheme is not a matter for this Bill. We are at the very end of debating the Bill and now I am being asked what it is for. I am sure that the shadow Ministers do not want to go all the way through the line-by-line debate again. Suffice it to say that the matters they are seeking to extend the legislation to cover stray into broader aspects of immigration that in our view are not appropriate for inclusion in this Bill. There are other mechanisms for us to seek to debate and change immigration rules.

Katie Lam: I thank the Minister for responding to me earlier. The Opposition's view is that the various ways by which people come here illegally and stay is fundamentally important to smashing the gangs, and that leave outside the rules and the ways it may be abused are a big part of that. That seems to us to be part of the fundamental point that we are discussing. Will the Minister comment on that?

Seema Malhotra: The hon. Lady is right. I have raised a number of times during the debate we have had the ways in which we see routes abused; indeed, the way that routes have been designed has left them open to more abuse. We are now reaping the results of that, in terms of some of the measures and the tightening up that we are doing. She will be aware that we have raised this as a matter that it is important for us to bring under greater control as part of an immigration system that is fit for the future and more controlled, more managed and fairer, and the aspects that we believe can and should be considered for a future immigration system will be the subject of the immigration White Paper. I look forward to debating that with her.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 12.

Division No. 31]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 39

RESTRICTIONS ON VISAS AND GRANTS OF INDEFINITE LEAVE TO REMAIN

"(1) Within six months of the passing of this Act, the Secretary of State must by immigration rules provide for all visa grants, including spousal visas, to be conditional on the following—

(a) the requirement that the applicant or their dependents will not apply for any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules,

(b) the requirement that the applicant's annual income must not fall below £38,700 (or six months or more in aggregate) during the relevant qualification period.

(2) Immigration Rules made under subsection (1) must ensure that any breach of the conditions set out in that subsection will render void any visa previously granted.

(3) The Secretary of State is not permitted to grant leave outside the immigration rules or immigration acts.

(4) A person is not eligible to apply for indefinite leave to remain in the United Kingdom if any of the following conditions apply.

(5) Condition 1 is that a person is a 'foreign criminal' under section 32 of the UK Borders Act 2007.

(6) Condition 2 is that a person, or any of their dependents, has been in receipt of any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules.

(7) Condition 3 is that a person's annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period.

(8) A person who has entered the United Kingdom—

(a) under the Ukraine visa schemes;

(b) under the Afghan Citizens Resettlement Scheme;

(c) under the Afghan Relocations and Assistance Policy; or

(d) on a British National Overseas visa,

is exempt from the requirements of Condition 2 and Condition 3.

(9) For the purposes of subsections (1)(b) and (7)—

(a) the condition applies only to earnings that have been lawfully reported to, or subject to withholding tax by, HM Revenue and Customs; and

(b) the relevant sum of annual income must be adjusted annually by the Secretary of State through immigration rules to reflect inflation.

(10) The Secretary of State may by immigration rules make further provision varying these conditions, including by way of transitional provisions."—*(Matt Vickers.)*

This new clause would place certain minimum restrictions on the granting of visas or indefinite leave to remain. It would require migrants to be self-sufficient and do not require state benefits, and would deny ILR to foreign criminals.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 12.

Division No. 32]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 40

CAP ON NUMBER OF ENTRANTS

"(1) Within six months of the passing of this Act, the Secretary of State must make regulations specifying the total maximum number of persons who may enter the United Kingdom annually across all non-visitor visa routes, with such regulations subject to approval by both Houses.

(2) The Secretary of State may by regulations also specify a maximum number of entrants for individual visa routes, subject to the overall total.

(3) No visas may be issued in excess of the total maximum number specified in subsection (1).

(4) Any visas issued in excess of the number specified in subsection (1) must be revoked."—*(Matt Vickers.)*

This new clause would provide a mechanism for a binding annual cap on the number of non-visitor visas issued by the UK.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 12.

Division No. 33]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 41

ASYLUM OR REFUGEE CLAIMS

"(1) This section applies to a person ('P') who has—

(a) applied for, or been granted, asylum or refugee status in the United Kingdom;

(b) appealed the refusal of asylum or refugee status in the United Kingdom; or

(c) made a claim to the Secretary of State that to remove P or require P to leave the United Kingdom, or to refuse P entry into the United Kingdom, would be unlawful under section 6 of the Human Rights Act 1998.

(2) If P returns to their country of origin—

(a) during any of the processes specified in subsection (1); or

(b) subsequent to receiving asylum or refugee status or otherwise being given leave to remain,

P must have any claims automatically discontinued, and any status previously granted revoked."—*(Matt Vickers.)*

This new clause would require the revocation of asylum or refugee status (or leave to remain) in relation to an applicant who returns to their country of origin, either subsequently or while their application is being processed. It would also apply to people who make an immigration human rights claim.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The new clause would require the revocation of asylum or refugee status, or leave to remain, in relation to an applicant who returns to their country of origin, either subsequently or while their application is being processed. It would also apply to people who make an immigration human rights claim.

If an individual has made a claim that being made to return to their country of origin would violate their human rights and put them in danger, then their choosing voluntarily to return to their home country would suggest that something does not add up. Fundamentally, no reasonable person would consider an individual's returning to their home country to be compatible with their claim for asylum in such circumstances. If a person needs to remain in this country because they have a legitimate fear of persecution in their country of origin, a return to that country of origin fundamentally undercuts that claim.

Pete Wishart: I have studied this measure closely. Conditions change within the countries that people leave, and asylum status and human rights records change accordingly. Is the hon. Gentleman trying to say that there is no reason whatsoever that an asylum seeker may go back to their country of origin and then come back to the UK? What about family emergencies? Surely the Conservatives are not so callous as to suggest that people cannot go back to their country of origin for a family funeral, for example.

Matt Vickers: People arrive in this country out of fear of persecution. People come from the most awful, extreme circumstances. That is the bar that we put to asylum. We allow people to come here to claim asylum out of fear for their welfare, and if they are happy to pack their bags and pop back for a break, then that is on them. I believe, and I think the public would believe, that if someone comes here claiming fear of persecution in their country of origin then they should not be going back. It is not an opt-in or opt-out—it is not a holiday. If they are coming here out of fear of persecution in that country then they should not be going back.

We have tabled new clause 41 in order to address a loophole that people can and do exploit. The new clause would uphold British fairness—a value that welcomes those in need but rejects exploitation. As Members from across the House know, the United Kingdom has supported over 20,000 Afghans since 2021 through the Afghan relocations policy and over 200,000 Ukrainians since 2022 via visa schemes, alongside our Hong Kong friends with British national overseas visas, backed further by £4.7 billion in asylum costs in 2023-24. These commitments reflect our readiness to help those with genuine cases—those fleeing real danger who have ties to Britain. The value of fairness demands a fair system that is not abused.

Tom Hayes: What would happen in a scenario in which somebody from Hong Kong went back in order to attend the funeral of their mother or father?

Matt Vickers: We are talking about all sorts of circumstances, and I am sure that every one of these things would be pushed to the max, with lots of discussion and debate. The idea here is the principle that if someone cannot be in a country because it would be to their detriment and damage their wellbeing, then they should not be going back. If it is such a security threat that they need to come to the UK for asylum—

Tom Hayes: To clarify, if a lady goes back to Hong Kong and is willing to entertain the risk in order to briefly grieve with her family and to bury her mother or father, she would lose her right to safe haven in the United Kingdom. Is that right?

Matt Vickers: People who claim asylum arrive here from some of the most terrible, awful circumstances—their life is threatened and they are at real risk. If someone is at that level of risk, on the balance of probabilities, they would not be going back. If someone fears persecution in the way that many of the people who get asylum in this country do, then they would not be returning.

Pete Wishart: We really cannot let them away with this, because it is just cruelty personified. Would the hon. Gentleman not make every effort and take every risk to return to his country of origin if it were the funeral of his mother or father?

Matt Vickers: I hear what hon. Members are saying, but in the current system we allow people to pop back on holiday. Is that acceptable?

Pete Wishart: It is not a holiday; it is a funeral.

Matt Vickers: I am talking about those circumstances. We have heard one extreme; at the other extreme, we have people claiming asylum at huge cost. That is not a cost to well-heeled people, in particular, but to British taxpayers, some of whom are struggling to get by, but are contributing to this country and this system, which pays out for various other things. We want to be generous.

[Matt Vickers]

We want to support the people who need that help. It is the right thing to do and, I have just outlined, we have done that. But we cannot allow that generosity to be abused; we cannot allow people to pop off on holiday back to wherever they came from and then come back. That is the principle that is at stake here. People out there feel that it is very unfair that people pop back, and use asylum here as something hotel-like. That is the other extreme. That is the abuse that we are seeing, and that is what the new clause aims to end.

Tom Hayes: Does the hon. Gentleman recognise that the Hongkonger population would be very disheartened to hear what he is saying? Does he think it is right for him to stick to what he is saying? Would it not be better to show some sympathy to that particular population who are here?

Matt Vickers: I show lots of sympathy. It is right that we have put all these schemes in place, and it is right that we are supporting these people in the way we are. I also think a little bit about what the British people would think about what I am saying, and the abuse they are seeing of these schemes that allow people to pop back to other countries for various reasons. The hon. Gentleman has given one extreme; I have given the other. I think that is a principle that the British public would be on board with.

5.15 pm

The value of fairness demands a system that is not abused. When claimants return to their origin countries after securing status, they undermine that support. The new clause would ensure that voluntary return means revocation, protecting a framework meant for the truly persecuted, not those gaming it. We should ensure that those who genuinely need refuge and support from the United Kingdom, and not those individuals who may want to misuse our generosity, are the first in line. This simple measure would help ensure that the system is fair.

I would be interested in the Minister's views on whether it is reasonable for someone who has made a successful human rights claim to stay in this country and to return to their country of origin at will and without consequence.

Katie Lam: Throughout our long history, Britain has been an unusually compassionate place. From time to time, people have come to this country to seek sanctuary from tyranny and authoritarianism elsewhere in the world. My county of Kent became home to many of the Huguenots who fled religious persecution in France in the 16th century. Indeed, Canterbury cathedral still hosts a French-language service every Sunday, in honour of those who came to this country in search of tolerance and religious freedom.

My grandmother came to Britain in 1937 at the age of 13, as a refugee from Germany. Her grandfather was a state senator and a fierce critic of the Nazis. When Hitler came to power, the whole family were stripped of their citizenship and several were arrested. After years imprisoned and various daring prison escapes, the family first made it over the border to Czechoslovakia, where they set up a resistance radio station broadcasting back into Germany. One night, that was raided by the SS and one of the operators was shot dead. They then fled to England and to freedom.

We should be proud of our history. There are so many Brits like me who would not be here and would never have been born without the past generosity of this great country. But as I said earlier, we must also be realistic about the very many ways in which our system can be exploited by the cynical and the sinister. There are, of course, people who come to these shores legitimately seeking asylum, but we must also be honest about the fact that not everyone who comes to this country and applies for asylum has a legitimate case for doing so. We can see that evidenced in the fact that not all claims are approved.

Too often, asylum is used as an immigration route for those who otherwise would not be able to come here. Our compassion is therefore exploited by those who are in no real danger at all, a sad truth made clear by the fact that many would-be asylum seekers regularly return home without issue. The bar to claiming asylum should rightly be high. People should be in serious danger in their home country to qualify. Government Members are right to say that the new clause might cause difficult and, in some instances, heartrending situations, but that in and of itself does not make it the wrong thing to do.

Last December, as I mentioned earlier when discussing our human rights legislation, a Turkish heroin dealer was allowed to stay in the UK after first seeking asylum here in 1988. Despite claiming that he would be persecuted in his home country, the man had returned to Turkey at least eight times since arriving in Britain. On one of those trips, he even got married to a woman with whom he had been having an affair, despite already being married with children in the UK. Nevertheless, he escaped deportation, as it was ruled that deporting him would interfere with his right to a family life. That kind of scenario is clearly wrong and contributes to the persistent feeling that so many ordinary British people have that our asylum system is broken and unfair.

Dame Angela Eagle: New clause 41 would require the revocation of protection status or leave, or discontinuation of asylum claims, where an applicant returns to their country of origin. The Government are in absolute agreement on the principle behind the new clause. Although we are committed to providing protection to those who genuinely need it for as long as it is needed, in accordance with our obligations under the refugee convention and the European convention on human rights, such protection status must be granted only when it is required. As such, I want to reassure Opposition Members that, under our existing policy, where an individual returns to their country of origin, we consider whether they have re-availed themselves of the protection of that country. Where that is the case, we seek to revoke their protection status under the appropriate provision set out in the immigration rules.

We are also clear that asylum claims may be discontinued and withdrawn where the applicant fails to comply with the asylum process, which includes leaving the UK before a decision is made on their claim. I hope Opposition Members are therefore assured that the immigration rules enable protection status to be revoked already and

applications to be discontinued where an applicant has returned to their country of origin. As such, new clause 41 is not required.

Matt Vickers: We wish to press the new clause to a Division.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 12.

Division No. 34]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 42

REMOVALS FROM THE UNITED KINGDOM: VISA PENALTIES FOR UNCOOPERATIVE COUNTRIES

"(1) The Nationality and Borders Act 2022 is amended as follows.

(2) In section 70, omit subsections (4) and (5).

(3) In section 72—

(a) subsection (1), after 'A country', for 'may' substitute 'must'.

(b) In subsection (1)(a) omit 'and' and insert—

'or,

(ab) is not cooperating in relation to the verification of identity or status of individuals who are likely to be nationals or citizens of the country, and'

(c) in subsection (1)(b), after 'citizens of the country' insert 'or individuals who are likely to be nationals or citizens of the country',

(d) omit subsections (2) and (3), and

(e) in subsection (4), omit from '70' to after 'subsection (1)(a)'.

(4) Omit section 74."—*(Matt Vickers.)*

This new clause would require the Secretary of State to use a visa penalty provision if a country is not cooperating in the removal of any of its nationals or citizens from the UK, or in relation to the verification of their identity or status.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 2, Noes 12.

Division No. 35]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 44

DUTY TO DEPORT IN ACCORDANCE WITH THE REFUGEE CONVENTION

"(1) The Secretary of State must seek to remove anyone who, based on Article 1F and Article 33(2) of the Refugee Convention, does not have the benefit of the non-refoulement provisions of the Refugee Convention.

(2) This duty does not apply in relation to persons who would face a real risk of capital punishment or extra-judicial killing or whose removal would contravene the United Kingdom's obligation under Article 3 of the United Nations Convention against Torture.

(3) If a domestic court or tribunal has ruled that a person's removal would not contravene subsection (1) and (2), the court or tribunal may—

(a) Consider whether removal would be contrary to the Human Rights Act 1998,

(b) But if it considers that removal would be contrary to the Human Rights Act 1998, the Secretary of State may seek the removal of that person, notwithstanding the Act.

(4) The Secretary of State may delay the removal of an individual where subsection (3)(b) applies, until the Grand Chamber of the European Court of Human Rights has ruled on the compatibility of that removal.

(5) The Secretary of State must argue before the European Court of Human Rights that the European Convention on Human Rights cannot be interpreted as preventing the removal of an individual if such removal is compatible with the Refugee Convention and the United Nations Convention against Torture.

(6) If the Grand Chamber of the European Court of Human Rights rules that the European Convention on Human Rights takes precedence over the Refugee Convention and United Nations Convention against Torture, the Secretary of State may decide to comply with that Grand Chamber decision.

(7) If the Secretary of State decides to comply with a ruling of the Grand Chamber, they must publish a quarterly report setting out the anonymised details of those individuals who could be deported subject to subsections (1) and (2) but have not been deported because of a decision by the Secretary of State to comply with a decision of the Grand Chamber of the European Court on Human Rights."—*(Katie Lam.)*

Brought up, and read the First time.

Katie Lam: I beg to move, That the clause be read a Second time.

This is a probing amendment tabled by the Father of the House, my right hon. Friend the Member for Gainsborough (Sir Edward Leigh), to tease out what he feels are important issues to discuss in the context of the Bill. I would like to make it very clear that the Opposition are neither supporting nor opposing this new clause. Ideally, my hon. Friend the Member for South Northamptonshire would have spoken to this new clause, but she has Parliament-related business elsewhere today, so I am standing in.

The background to the new clause is that various international treaties impose, or have been interpreted as imposing, an obligation on states not to send people back to a country where they would face harm. This is known as non-refoulement. However, not all non-refoulement obligations are the same, and there are important differences. The new clause seeks to tease out the differences between the ECHR on the one hand, and the refugee convention and torture convention on the other. One key difference is whether there are any exceptions to the principle of non-refoulement, which is

[Katie Lam]

to say: are there any circumstances in which someone can be sent back to a country where they would face a real risk of relevant harm?

Under the refugee convention, the obligation not to refoul is not absolute; it is subject broadly to two exceptions. The first of those is the article 1F exclusion from protection of the refugee convention. That exclusion applies to those who have committed war crimes, crimes against humanity, serious non-political crimes abroad and acts contrary to the purposes of the United Nations. The second exception is provided for in article 33(2), which concerns those who pose serious risk to the security of the host country and those who have been convicted of particularly serious crimes, and therefore pose a danger to the community of the host country.

As the UNHCR said in respect of article 1F exclusions, the rationale is that certain acts are so grave as to render their perpetrators undeserving of international protection as refugees. The Court of Justice of the European Union has said that its purpose is to maintain the credibility of the protection system, and as Professors Hathaway and Foster have noted, the realpolitik reason was that the drafters of the refugee convention were persuaded that if states parties were expected to admit serious criminals as refugees, they would simply not be willing to be bound by the convention.

The same is presumably true of the article 33(2) exceptions. It would be surprising if states would have been willing to sign up to a duty not to refoul if there were not that exception for those who were a threat to their countries. In 1987, the UN convention against torture came into force. It now has 173 states parties. Article 3 of the torture convention provided for an absolute non-refoulement rule in cases of torture.

Although the convention also dealt with cruel, inhumane and degrading treatments, states were careful to limit the absolute non-refoulement rule to torture. The result is that even if an individual falls in the scope of article 1F or article 33(2) of the refugee convention but would face a real danger of torture, they cannot be removed. It was felt by states that torture was such an absolute evil that the credibility of the international protection system would be undermined by preventing the removal of such individuals if they faced torture.

While the refugee convention and the torture convention both explicitly addressed non-refoulement, the ECHR did not. It prohibits states from engaging in torture or cruel, inhumane and degrading treatment, but it says nothing about refoulement. That is not surprising, as the ECHR was drafted at the same time as the refugee convention, and arguably it was felt that those issues were best addressed by the refugee convention. None the less, in the late 1980s, the Strasbourg court interpreted article 3 as prohibiting refoulement. It did so not just for torture, but for all forms of treatment contrary to article 3, and it held that the rule was absolute. As the court put it:

"The conduct of the person concerned, however undesirable or dangerous, cannot be taken into account."

The consequence is that the protection afforded by article 3 is broader than that provided for in articles 32 and 33 of the 1951 United Nations convention relating to the status of refugees. That interpretation by the Strasbourg court completely negated the careful balance struck by the international community with the refugee convention and torture convention.

The new clause posits that that interpretation threatens the legitimacy of international human rights law and that the conclusion by Strasbourg is the means by which that happens. The KM case provides a good illustration. KM was a police officer in the Democratic Republic of Congo. He entered the UK illegally in 2012 and applied for asylum. His application was refused by the Home Secretary on the grounds that he had been involved in torture. The upper tribunal upheld that finding and held that he should be excluded from protection under article 1F of the refugee convention. However, because of article 3 of the ECHR, as interpreted by the Strasbourg court, he could not be removed.

There are many more cases of serious criminals and terrorists—people who are a threat to those who live in the UK—who could be deported under article 33(2) of the refugee convention but cannot due to article 3 of the ECHR. In Saadi *v.* Italy, two Strasbourg judges wrote that they would not be surprised if some citizens of Europe

"find it difficult to understand that the Court by emphasising the absolute nature of Article 3 seems to afford more protection to the non-national applicant who has been found guilty of terrorist-related crimes than to the protection of the community as a whole from terrorist violence."

Indeed, the Father of the House, were he here, would say that he suspects that the vast majority of Britons and Europeans would be baffled by that conclusion. That is also precisely the reason why the drafters of the refugee convention saw fit to include exceptions for criminals and terrorists: they knew that with rights come responsibilities, and that those who act in this way completely violate the social contract and cannot properly claim its protection. The interpretation that Strasbourg has given has, in the view of the Father of the House—at least, he would like us to debate this—weakened the legitimacy of the international humanitarian protection system.

The new clause, tabled by the Father of the House, seeks to find a solution to the problem—one that he says will restore common sense. The first step of the new clause would put a duty on the Secretary of State through careful litigation before our courts to identify cases of individuals who could be deported under the refugee convention and torture convention but would be blocked under the ECHR. He sees cases such as KM, which I discussed, as exemplars of that. The new clause would disapply the duty on the Secretary of State to comply with the Human Rights Act in such cases. That is to ensure that the Secretary of State can proceed to deport such people, and if they want to challenge their deportation, their recourse will be to bring a case to Strasbourg.

I know that the Father of the House would be comfortable with putting a duty on Ministers to still deport such individuals even the face of a Strasbourg judgment or rule 39, but he knows that the firm commitment that the Government have to international law mean that they will refuse to do so—although he also said that we should ask why they would privilege the ECHR over the refugee convention. Instead, the new clause would allow the Government to comply

with Strasbourg, while requiring them to argue with Strasbourg that it is wrong to interpret article 3 in a way that negates the provisions of articles 1F and 33(2) of the refugee convention.

Were Strasbourg to apply the principle of lex specialis properly, it should conclude that it cannot be unlawful for states to rely on articles 1F and 33(2) of the refugee convention in order to deport criminals. The Father of the House would be interested to hear from the Minister whether the Government would be interested in running such an argument before the Strasbourg court. Even were we to lose in such efforts to be reasonable, he feels that the new clause would allow the Government still to decide to comply with the flawed jurisprudence from the Strasbourg court; however, it would require that, were they to do so, they must be transparent with the British public and publish a report telling us who the criminals are whom we could have deported under the refugee convention, had the Strasbourg court's flawed interpretation of the ECHR not prevented us from so doing.

I will not press the new clause to a vote, and I repeat that I did not table it, but I look forward to hearing what the Minister has to say.

Dame Angela Eagle: I compliment the Father of the House on his ingenious approach to the slightly different signals, as the hon. Lady set out, that the international conventions, with their judge-made law, have left us with over the years. The new clause would create a duty to remove people who are not protected by the refugee convention, irrespective of our obligations under the Human Rights Act and the European convention on human rights as it has developed. The hon. Lady set out that issue extremely well.

We will always seek to deport or remove foreign nationals who pose a threat to the UK or whose behaviour is such that they are not entitled to international protection. Where the UK's obligations under the European convention on human rights prevent us from doing that, we will consider granting restricted leave, sending a clear message that the person is not welcome in the UK and will be removed as soon as possible. As the hon. Lady will remember, we amended the Bill to allow us to closely monitor people who pose a threat to the public but cannot be deported because of our obligations under domestic and international law. She will remember that that involves such things as curfews, and inclusion and exclusion zones.

The Government are clear: Britain will unequivocally remain a member of the ECHR, and work with international partners to uphold human rights and international law. Leaving would undermine protections for UK citizens and isolate Britain from its closest allies. The new clause would provide a mechanism to disregard a ruling of a court or tribunal that removal from the UK will breach a migrant's human rights. That would place the UK in direct conflict with the European Court of Human Rights. The law does not permit us to operate with one foot in and one foot out; we are either in, as signatories to the ECHR, or we join Russia and Belarus as countries that do not accept its jurisdiction.

The law does not permit us to operate in that way; nor can it be said that the ECHR takes precedence over the refugee convention. They are distinct treaties of international law that deal with different issues. The new clause would therefore create a situation that would be wholly unworkable. I know that the Father of the House will look at this in due course. He has had a good go. We do not think that the proposal is workable. I therefore hope that it will not be pressed to a vote.

Katie Lam: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Dame Angela Eagle: It is at this occasion, traditionally, that those who have shouldered the burdens under your expert guidance of the Committee, Dr Murrison, thank all the officials—both the House officials and my own—for their sterling work.

I thank all members of the Committee for their contributions, all of which have come from positions of principle and concern. We have had some robust debates during our time in Committee; we have even had a bit of fashion commentary. I think we will all be pleased to get out of Committee today, because the room is getting colder as the week goes on—goodness knows where we would be if we had to come back on Thursday to finish our deliberations. I hope that members of the Committee have enjoyed scrutinising the Bill and having these debates as much as I have.

Bill, as amended, accordingly to be reported.

5.35 pm

Committee rose.

Written evidence reported to the House

BSAIB38 Migrant Help

BSAIB39 Fatima House

BSAIB40 Runnymede Trust