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MODERN SLAVERY BILL

Fifth Sitting

Thursday 4 September 2014

(Afternoon)

CONTENTS

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The Committee consisted of the following Members:

Chairs: Mr David Crausby, †Mark Pritchard

† Bradley, Karen *(Parliamentary Under-Secretary of State for the Home Department)*
† Bruce, Fiona *(Congleton)* (Con)
† Burns, Conor *(Bournemouth West)* (Con)
† Burrowes, Mr David *(Enfield, Southgate)* (Con)
† Champion, Sarah *(Rotherham)* (Lab)
† Connarty, Michael *(Linlithgow and East Falkirk)* (Lab)
† Durkan, Mark *(Foyle)* (SDLP)
† Hanson, Mr David *(Delyn)* (Lab)
† Hinds, Damian *(East Hampshire)* (Con)
† Johnson, Diana *(Kingston upon Hull North)* (Lab)
† Kane, Mike *(Wythenshawe and Sale East)* (Lab)
† Lumley, Karen *(Redditch)* (Con)
† Mactaggart, Fiona *(Slough)* (Lab)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
† Pincher, Christopher *(Tamworth)* (Con)
† Smith, Chloe *(Norwich North)* (Con)
† Stunell, Sir Andrew *(Hazel Grove)* (LD)
† Teather, Sarah *(Brent Central)* (LD)
† Wilson, Phil *(Sedgefield)* (Lab)

Fergus Reid, Kate Emms, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 4 September 2014

(Afternoon)

[Mark Pritchard *in the Chair*]

Modern Slavery Bill

2 pm

The Chair: Order. I have two housekeeping points. First, if people want to take off their jackets, they can; I think one or two Members have pre-empted me. Secondly, can we ensure that all mobile devices are turned to silent, including those of people in the public gallery? Thank you. We carry on from this morning's consideration of the Bill.

Clause 2

Human trafficking

Question (this day) again proposed, That the clause stand part of the Bill.

The Chair: I remind the Committee that with this we are discussing the following:

New clause 7—*Child trafficking*—

'(1) It is an offence to traffick a child.

(2) An offence under this section is committed by any person who recruits, transports, transfers, harbours or receives that child, including the exchange or transfer of control over that child, for the purpose of exploitation.

(3) In determining whether an offence has been committed under this section—

(a) the question whether that child, or any person who has responsibility for that child, has consented to any conduct, and

(b) the question whether any coercive means have been used,

are irrelevant.'

New clause 8—*Trafficking*—

'(1) It is an offence to traffick a person.

(2) An offence under this section is committed by any person who recruits, transports, transfers, harbours or receives a second person for the purpose of exploitation, where the means used to do any of those acts include—

(a) the threat or use of force or of other forms of coercion,

(b) abuction,

(c) fraud or deception,

(d) abuse of power,

(e) abuse of a position of vulnerability, or

(f) the giving or receiving of any payment or benefit with a view to securing the consent of

any other person having control over that second person.'

New clause 15—*Human trafficking*—

'(1) Any person who—

(a) recruits, transports, transfers, harbours or receives a person including by exchange or transfer of control over that or those persons,

(b) by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or abuse of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, and

(c) knows or ought to know that the purpose of the acts in subsections 7(1)(a) and 7(1)(b) above is the exploitation of that person,

commits an offence of human trafficking.

(2) The consent or apparent consent of a person to the acts referred to in subsection 2(1)(a) or to the exploitation shall be irrelevant where any of the means set forth in subsection 2(1)(b) have been used.'

New clause 16—*Offence of child trafficking*—

'(1) Any person who—

(a) recruits, transports, transfers, harbours or receives a child including by exchange or transfer of control over the child, and

(b) knows or ought to know that the purpose of the acts in subsections 8(1)(a) is the exploitation of that child,

commits an offence of human trafficking.

(2) The consent or apparent consent of the child to the acts referenced in subsection 2A(1)(a) or to the exploitation is irrelevant.'

Michael Connarty (Linlithgow and East Falkirk) (Lab): May I put it on record that the Chairman was here before the Committee for the afternoon sitting? The normal order of business has resumed. In my short contribution, I will back up my hon. Friends the Members for Slough and for Kingston upon Hull North by putting on record the process that brought us to say that we cannot accept clause 2 as it stands and will be forced to vote on it, because we cannot table new clauses until the end of the Committee's proceedings.

I worry about what the Government are doing, and I worry more when I hear the debate put forward in support of their approach. Many of us in the draft Bill Joint Committee had been working on the issues of modern-day slavery, human trafficking and its other aspects and consequences in our communities, including the terrible abuse of young women, children and others. Some people do not know their rights and are abused by labour exploitation and so on.

Even within their own communities, people are moved very short distances, as we found when one of the vice-chairs of the all-party parliamentary group on human trafficking discovered that what he thought was a Roma caravan site turned out to be one Roma family and about 20 slaves—derelict people and people with dependencies who had been taken in by those people—who had been round some of the posher houses in the green suburbs of the counties re-tarring drives and monoblocking without getting paid. They were then brought back at night by the family of Travellers and made to clean the caravans of the individuals whom they worked for, without being paid. Often, they were fed the leftovers from the family's dinners. The issue affects us in many ways.

We on the Joint Committee took evidence. We heard learned contributions from Lord Judge and from Peter Carter, QC, whom I quote a lot, about what was in the draft Bill and why we should draft different clauses and different criteria for crimes, so that people would understand better in the courts, not just among the public or for the consumption of people who follow politics. I will quote from his early contribution on 10 December 2013, as we started the process in the Joint Committee:

"The consolidated but simplified series of related offences are required because the current offences contained in section 15A of the Sexual Offences Act 2003 (section 15A replaces sections 57 to 59 with effect from 6 April 2013), section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and section 71

of the Coroners and Justice Act 2009 are over-technical. These technicalities create different ingredients of the three separate offences. They in turn create a hinterland of overlapping elements, but also of gaps which make it difficult for prosecutors to identify the appropriate offence".

That was the evidence given at the beginning. What we have before us is all those offences rammed into a couple of clauses in the Bill without regard to the fact that the challenge to the Joint Committee and all those involved in combating human trafficking and modern slavery in all its forms is, as Lord Judge says, to say what they mean. That is what he said to us in his evidence. If they say to the judge and the judge says to the jury what they mean by specifying exactly the range of offences in the modern slavery world, it will help the judge, the prosecutor, the instruction of juries and convictions. In his first piece of evidence he said that that will thereby, in the second adjunct to this, help the victim. If we do not get that right we are where we were before. The victim is the sufferer and continues to be because we do not correctly define the crimes.

The Joint Committee took 102 pieces of written evidence and 12 weeks of oral evidence, most of it developed in some complexity. We came up with the idea of the original clauses, which have now been repeated in the amendments and new clauses put forward by my hon. Friends the Member for Slough and the Member for Kingston upon Hull North. We give those to the Committee and the Government as an alternative to clause 2, as we offered an alternative to clause 1 on Tuesday.

We challenge some important points. There is no specific crime in the Bill relating to children. Evidence on that showed that it was nonsense to say that it would be used for silly things. That was dismissed as a red herring in the evidence session of this Committee attended by Peter Carter QC and Nadine Finch:

"It is said by the DPP and others that the offence of child exploitation is unworkable because, I have heard them say, the issue of age assessment will be raised. I appeared last year for the Children's Commissioner in the case of L and others and one of the issues we took up was the difficulty of addressing age assessments in a criminal court. Lord Judge, the highest judge in the criminal courts at that time, accepted that the criminal court already has case law that enables a judge to adjourn a hearing if there is an age dispute. The court can seek expert evidence on its own, but it can expect both prosecution and defence to bring evidence that will enable them to resolve an age dispute. That is set out in detail in the case, and there was no doubt in the mind of the Lord Chief Justice that it was workable. It has worked for decades in terms of age assessments, so that issue, in many ways, is a red herring."—[*Official Report, Modern Slavery Public Bill Committee,* 21 July 2014; c. 35, Q68.]

We have pressed strongly in the amendments for an offence relating to children as well an offence in general relating to people who are trafficked. I cannot understand how the Government can resist. They are in a logjam. I get the feeling that they want this Bill, no matter how inadequate, out by the time of the 2015 general election, or sooner. Maybe somebody wants to wear it as a badge, but that badge will be greatly tarnished if it is what we have before us.

I have a lot of sympathy for the Minister, because I know she was not deeply involved in the all-party group or anything I have been involved in about human trafficking in the previous Parliament. She is working hard in this Parliament to get up to speed but she is defending the indefensible. She is defending a clumsy arrangement put together by people with no vision. It upsets me that people seem to have said that all of the work done to define the crimes and offences is not of any value, including all of the work done by the Joint Committee.

As I have said, nobody from the evidence side argued strongly against what we are proposing in the amendments to clause 2. Nobody on the Joint Committee demurred from the plan to have a cascade of well-defined offences. The only people who seem not to be willing to take that on board are either the Minister instructing the Home Office officials or Home Office officials blinding the Minister and Parliament to the advantages of following the Joint Committee's admonitions and directions.

We gave that evidence as a starting point. We did our work diligently with great support. We had to compromise at different times and we did. That will come up later in our discussions.

Chief Inspector Carswell gave evidence on 6 March about the fact that children often do not know they have been trafficked. They know that they have been offended against, that they have been abused and that something is wrong, but they do not see the trafficking impact, because they are convinced to come with their parents, with their parents' friends or with people who seem to be offering them a new life, just to end up being exploited. They know about exploitation, but a specific case of trafficking can be taken up on the child's behalf. A senior police officer gave us that evidence.

Peter Carter's assessment should be looked at in some detail by everyone in the Committee before they think that what the Opposition are doing is wrong. We want not to create a hole in the Bill by voting against the stand part motion, but to create a space in the Bill to put in the correct offences. If we cannot do our best, let us not pretend that what we will do, if we follow the Government line, is good enough. It will let down victims and create an Act that will need to be amended and changed, as it would not work, as it did not work in the past.

Peter Carter is not as hard-line as I am. He says, because there is a more obvious, conglomerate range of offences in clauses 1 and 2, that the Bill will probably lead to more prosecutions, but he went on to say:

"If the recommendations of the Joint Committee had been adopted, I think there would have been even more"

offences prosecuted. He added:

"I think the chances of success would have been far higher in the Joint Committee's draft. I fear there is a greater risk of confusion…than in the cascade of offences."—[*Official Report, Modern Slavery Public Bill Committee,* 21 July 2014; c. 34, Q68.]

If people read his explanations in his previous submissions and his evidence, I hope, in their heart of hearts and mind of minds, they will realise that, in voting down and not accepting the amendments, we have to create space by voting to remove clause 2, which would allow those amendments to be put in. The Government are giving a deep offence to the hard work we all did in the Joint Committee and to the victims, who will be failed by what they propose.

Fiona Bruce (Congleton) (Con): May I ask the Minister to clarify one or two points for me when she comments? The hon. Member for Slough, in her reference to new clause 15, when asked where the current wording of clause 2 would be inadequate, gave benefit fraud as an

[Fiona Bruce]

example. I took that to mean using an individual, their name or even a child's name to obtain fraudulent benefits, without necessarily facilitating any travel, nor indeed involving any slavery, servitude or forced labour by the individual. I share the spirit in which so many of us look at these clauses—the desire to ensure there are no loopholes in offences of this type. Can the Minister confirm how the Bill would cover such offences, or alternatively where they would be covered elsewhere in criminal law? Would the penalties be commensurate in those other relevant Acts? I accept that benefits of any kind are mentioned in clause 3, but "exploitation" in that clause refers to exploitation in connection with the facilitation of travel, so we go back to travel again.

My second, shorter point relates to new clause 15. I would appreciate reassurance from the Minister that there is nothing new in new clause 15 that would not be covered in some way by the current draft. For example, new clause 15(1)(b) refers to the use of "threat", "force" or other means of "coercion". For example, I think of some the problems faced by some of the women travelling from other countries, such as Romania, or from the far east, which we have heard about. Their families are threatened by the traffickers there. There might not necessarily be any transportation of those women by those doing that threatening, but none the less it is very severe and grave pressure on those women to continue, for example, in prostitution.

I would be grateful if the Minister commented on those points. They are very much made in the spirit of seeking reassurance regarding the legislation, which we are all concerned to ensure is as good as can be.

Mark Durkan (Foyle) (SDLP): It is a pleasure to serve under your chairmanship, Mr Pritchard. I do not need to rehearse the compelling arguments made by the hon. Member for Slough for improving the Bill significantly by replacing clause 2 with the new clauses she proposes. I take very strongly the point made by the hon. Member for Kingston upon Hull North that the Opposition amendments have already addressed and answered the concerns registered by the Government in relation to the Joint Committee's recommendations.

2.15 pm

We are here with the benefit of the Joint Committee's advice about the Bill's deficiencies. We now have clear options, in the form of the new clauses, for making good those deficiencies. If the Government continue to use the same arguments against the Joint Committee's proposals and the new clauses proposed by the hon. Member for Slough, I cannot see what their argument would be against the new clauses proposed by the hon. Member for Kingston upon Hull North and others.

It is entirely inappropriate, in a Committee dealing with this subject matter, for Members to try to give false impressions about how removing the clause might be interpreted. That is a way of trying to politically intimidate Members from doing what we would have to, procedurally, in order to support the new clauses. The only available way of pursuing those new clauses is the procedural exercise of clause stand part; that is how seriously we feel about these issues.

When we consider the subject we are discussing—the degree of manipulation, control and exploitation used in these sorts of situation—it is a bit rich for us to be told that we have to fall into line and do not have to do what is procedurally necessary. We, as elected MPs, must be robust enough to make a stand consistent with what we know is needed. Relying on the various formulae of assurances that may come from the Minister might be enough for other Members, but it is not fair or good enough for me. As legislators, we have a duty to make legislation the best we can. That is why we sit in these Committees. We are not here to be easily assuaged by various procedural complexities or any apparent awkwardness in having to vote against the clause. That is the best way of showing we are serious about the new clauses, which are absolutely necessary for the substance of the Bill.

As has been so compellingly put by the hon. Member for Slough, trafficking clearly involves more than just travel. The whole chain of conditioning, coercion and manipulation at a psychological and emotional level all comes into the totality of the trafficking experience. Testing whether a trafficking offence has been committed or whether anyone has been part of the trafficking chain simply in relation to whether they were directly involved in or indirectly facilitated the travel is not good enough or robust enough.

I do not like having to vote against the clause. We all welcome the Bill as a significant advance for the purposes we all support. We should not, however, be put in this position by the tone of the debate, in relation to what would happen if we voted against the clause to show that we are serious about pursuing the new clauses. It is not only the Joint Committee that has been clear on the matter; many groups with expertise, insight, real care and impeccable motives are strong on this issue. It is very much part of the fundamentals of the Bill. Not all of us agree that the Bill should focus solely on criminality, prosecution and improving the criminal law. We have already said that it needs to be improved and built up in many other areas but, in relation to criminality, if we fail to correct the gap in the Bill, we cannot then try to pretend that the tyre is only flat at the bottom. A fundamental puncture will exist in relation to the Bill, the purposes that we all claim for it and the support that we all express for it.

The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): It is a pleasure to see the hon. Gentleman back in his seat. I am grateful to the hon. Member for Slough for tabling new clauses 7 and 8 and to right hon. and hon. Members for tabling and speaking to new clauses 15 and 16. I am grateful to Members for all contributions to the debate. We had a very interesting and thorough debate, which, we would all agree, something of the severity of human trafficking warrants. We would be doing a disservice to that dreadful crime if we did not take time to scrutinise the clause and related clauses properly.

The new clauses relate to the human trafficking offence and we are debating them with the stand part debate on clause 2. The new clauses do two main things. They use different technical language to make human trafficking illegal but with the same purpose of outlawing conduct that we all agree is entirely unacceptable. Both sets of

new clauses replace the single human trafficking offence proposed in clause 2 with two new offences of human trafficking and child trafficking.

Before turning to the detail of the new clauses, I will start by explaining the thinking behind the human trafficking offence set out in clause 2. The link to some travel or movement is deliberate. Clause 1 targets those who hold a person in slavery, servitude, or forced or compulsory labour without any requirement for movement. The clause 2 offence targets a different type of wrongdoing—moving human beings with a view to exploiting them. That different type of wrongdoing has been the subject of international legal instruments such as the Palermo protocol and the EU convention and directive. The hon. Member for Slough said that she believes that the offence should not have travel in it. We disagree with that suggestion.

Fiona Mactaggart (Slough) (Lab): I did not say it should not have travel in it; I said that it should have other things as well.

Karen Bradley: We consider that the requirement for travel is absolutely consistent with our international obligations. The treaties, conventions and protocols talk about trafficking. That trafficking involves travel is obvious. A dictionary definition of trafficking is:

"The passage of people…along routes of transportation."

Anti-Slavery International's website has a heading asking,

"What is trafficking in people?",

under which it states:

"Trafficking involves transporting people away from the communities in which they live and forcing them to work against their will using violence, deception or coercion."

Mark Durkan: The Minister must recognise, having just quoted Anti-Slavery International, that it is among the groups which are clear that the clause, relying purely on travel, is grossly inadequate. Anti-Slavery International is clear that trafficking involves far more than travel.

Karen Bradley: It is clear from the clause that there is a prerequisite that travel is involved at some point but it is stated in subsection (3) that:

"A person may in particular arrange or facilitate V's travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V",

all of which are words that are used in the new clauses, the difference being that the word "travel" is included in the clause in the Bill. We believe that word is totally required because the offence is trafficking. Trafficking, by common sense and any definition, involves movement. It is therefore clear that travel is required and that is required in the international convention. All the instruments we have talked about are explicitly concerned with human trafficking. I will say again that, clearly, for trafficking to take place there has to be travel or movement. Our current law is wholly consistent with international obligations and so is the Bill.

Michael Connarty: I referred to, but did not go into detail about, Chief Inspector Colin Carswell's evidence on 6 March. In conclusion to his many contributions, he said:

"With the exploitation of a child we do not need to refer to the Palermo protocol. We should have it in our legislation that a child does not need to be forced or coerced to be trafficked."

He was talking about trafficking and he quite clearly sees what has happened to those children as trafficking.

Karen Bradley: The hon. Gentleman wants me to jump ahead, but I promise him that I will get to that point. If I may go back to the point about travel, it is fully justified because we know that there is an international and national trade in human beings. We have international conventions on trafficking because, by its nature, it is a global phenomenon. That is why the world is looking at how we address the situation.

Fiona Mactaggart: Will the Minister give way?

Karen Bradley: I will not, because we need to make some progress. We have spent quite a lot of time debating this. It is important that we get this—*[Interruption.]*

The Chair: Order. Come on.

Karen Bradley: It is right that we have a separate offence targeting those involved in the movement of people who will be exploited, and that is what the offence will achieve. The offence set out in the Bill is carefully designed to meet fully the international standards for trafficking offences as set out in the Palermo protocol and the relevant EU directive. That will ensure consistency with international partners and help international co-ordination to stop the heinous crime of human trafficking.

The clause consolidates the offences of sexual and non-sexual trafficking, which are currently contained in two separate Acts: section 59A of the Sexual Offences Act 2003 and section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. Before the Modern Slavery Bill there were real concerns that that separation was undermining the fight against this crime. The Centre for Social Justice report, "It Happens Here" explained:

"This separation of the different forms of exploitation is unhelpful, and creates unnecessary confusion for those whose job it is to implement the legislation. Police, prosecutors, judges and the jury can be misled to believe that any trafficking that is not for sexual exploitation is not a criminal issue because of its immigration statute. This further perpetuates the misunderstanding of trafficking as an immigration—and not a criminal—problem.

The CSJ calls for the consolidation of legislation into one Act: the Modern Slavery Act. This would have both practical and symbolic significance. It would enable law enforcement agencies to act with greater clarity".

Sir Andrew Stunell (Hazel Grove) (LD): We heard earlier about the difficulties there seem to be in bringing prosecutions against those involved in the transport of miracle babies, not least because there was the tendency for that to be regarded solely as an immigration offence. Will the Minister spell out in what way the clause closes that gap and allows such people to be prosecuted effectively?

Karen Bradley: I feel like I am being pre-empted and second-guessed by everyone on both sides. I promise my right hon. Friend that I will cover that point later.

For the first time, the Bill will bring together our primary trafficking offences into one place, covering all forms of exploitation and ensuring clarity and consistency

[Karen Bradley]

in the way we criminalise the heinous conduct involved in the trade in people. The human trafficking offence requires that the defendant arranges or facilitates the travel of another person with a view to that person being exploited.

The pre-legislative scrutiny Committee raised a concern that the offence in the draft Bill might not be as broad as the international definition; for example, around receipt of harbouring of the victim. We have responded to concerns made during pre-legislative scrutiny and made it clear in the Bill that arranging or facilitating the travel of another person includes all of the means through which human trafficking may be committed, as set out in the Palermo protocol.

Again, common sense says that trafficking a person involves movement or travel. A person may arrange or facilitate travel by recruiting, transporting, transferring, harbouring, receiving or transferring or exchanging control over a person and those words reflect those used in the Palermo protocol. I hope the Committee welcomes that clarification.

2.30 pm

The hon. Member for Slough suggested there may be a gap in the law and used the example of a minder at a brothel—I think that was in an exchange with my hon. Friend the Member for Congleton. I do not accept that there is a gap in the law. Subsection (3), which we have added since the draft Bill, make it clear that a person may arrange or facilitate a victim's travel by recruiting, transporting or transferring the victim, harbouring or receiving them, or transferring or exchanging control over them. The person who receives a trafficking victim at the end of their journey at a brothel and stops them leaving, is facilitating their travel within the meaning of clause 2. Therefore, they commit an offence. They are also aiding and abetting the offence of the principal trafficker.

Diana Johnson (Kingston upon Hull North) (Lab): I am grateful to the Minister for going through this in detail, but is she saying that if there is a direct link at the end of the journey, but someone is then transferred into the control of a new person, there would be an offence committed at that stage? If another person comes along to take control, does that offence transfer down the line? I am trying to understand. Would the trafficking offence continue? Could it continue for many weeks, months or years?

Karen Bradley: The shadow Minister makes a good point. There is another element of travel at that second point. The person has to then be transported again to another person who is then abusing and exploiting them.

Diana Johnson: What I was trying to ask was, if the end of the journey was in a property where there was somebody in control, but at the end of the day they left and a new person arrived to take control, and that continued day in, day out, would a trafficking offence still apply to that chain of individuals who might come on the scene at a later date?

Karen Bradley: May I come back to that point in a few moments?

My hon. Friend the Member for Congleton raised particular points regarding benefit fraud and threats against a victim's family. I will cover those points now because it will be useful to clarify them. On benefit fraud, there are no gaps in the criminal law to address the use of a person for benefit fraud. If a person is trafficked to, from or within the UK for the purposes of benefit fraud, that is caught by the trafficking offence in clause 2. Clause 3(5) covers securing benefits by force, threats or deception. Where the victim is a vulnerable person, such as a child, clause 3(6) covers such benefits where the victim is specially chosen for the purpose. Clause 1 may also be relevant, depending on the facts and circumstances, although it is clearly impossible to say in every case of benefit fraud because it depends on the facts of the case.

Fiona Bruce: Perhaps I did not explain myself well enough when I spoke earlier. I fully accept that clause 3 refers to benefits and potential benefit fraud, but my concern is that at the start of clause 3 it says:

"For the purpose of section 2 a person is exploited if one or more of the following subsections apply."

Clause 2 says an offence is committed if a

"person arranges or facilitates travel."

It refers back to clause 2, so does clause 3 stand alone or not?

Karen Bradley: I see my hon. Friend's confusion. Clause 3 is the definition of exploitation with a regard to the trafficking offence in clause 2. That is the exploitation definition. Somebody is moved from point A to point B with a view to exploitation as defined by clause 3. Clause 1 is a separate clause, which is about slavery, servitude and forced or compulsory labour. Clause 3 is about exploitation that occurs after travel.

Fiona Bruce: I thank the Minister for her explanation. Obviously, it will be necessary for us to refer to that in our review of clause 3 and its wording.

Karen Bradley: Absolutely. If I can complete my remarks on benefit fraud, there are other ways in which the criminal justice system can target those who commit that offence. If a benefit fraud is not the result of trafficking, slavery or servitude, it is still a criminal offence in its own right. A person who uses another for that purpose will be covered by criminal law, as they are either aiding and abetting benefit fraud or assisting or encouraging such fraud under the Serious Crime Act 2007. They could also possibly be charged with conspiracy. Benefit fraud is a serious offence that carries a maximum of 10 years' imprisonment.

Fiona Bruce: I apologise for intervening again and will desist from doing so on this group of new clauses after this, but will the Minister reassure the Committee that there is provision for compensation for the person deprived of the benefit under that other legislation in the same way as is made in the Bill?

Karen Bradley: That would depend on the legislation in question. There is the Proceeds of Crime Act 2002, and confiscation and compensation orders that apply to criminals. The reparation orders, which we will come on

to later, are specific to offences carried out under this Bill. The treatment would therefore not be identical because the reparation order is specific to victims of slavery and trafficking.

My hon. Friend also asked about threats to a victim's family. A threat made to induce a person to provide services or benefits of any kind, even when that individual is in the trafficked person's home nation, would be counted under clause 2. We are targeting situations in which a person travels—possibly they are forced to, possibly it is not against their will—from their home nation to the United Kingdom and is then exploited, and is prepared to endure the exploitation because they are told there are threats to their family in their home nation. The person who is threatening their family would be charged under clause 2 because of the trafficking offence. I confirm that.

The shadow Minister asked about transfer of control over a person who is already on a premises—I will complete my points on the matters raised before we go on further. Whether or not that will amount to trafficking by the next person in the chain will depend on the facts; it may amount to facilitating travel. On the basis of the details she gave, clause 1 would be likely to apply, as the person is being passed around as property between people, which would seem to involve slavery, servitude or forced or compulsory labour. But clearly we would have to look at the facts of the case to determine the appropriate offence for prosecution.

Diana Johnson: In the Minister's view, would it not be a sensible approach to uncouple the trafficking from the exploitation? We could then go after the person who was coming on shift, as it were, directly at a later date if exploitation went on at the property to which the person had originally been trafficked. By coupling trafficking and exploitation together, she is missing out a whole group of people who we could go after.

Karen Bradley: That takes me back to my first point: we are looking here specifically at a trafficking offence. We have the offence in clause 1 to deal with slavery, servitude or forced or compulsory labour, and anyone can recognise those. This clause brings in an offence to deal with the trade in human beings. That is specifically what we are targeting.

Mr David Burrowes (Enfield, Southgate) (Con): Will my hon. Friend give way?

Karen Bradley: I will, but then I will make some progress.

Mr Burrowes: In our sitting on Tuesday, the Minister said in her response to my amendments 36 and 39, in which I was seeking to expand the definition in clause 1 to cover exploitation:

"I am confident that the offences as drafted do cover begging and benefits exploitation."—[*Official Report, Modern Slavery Public Bill Committee,* 2 September 2014; c. 107.]

She also said that she would write to me with an "explicit explanation". The implication was that clause 1, as drafted, covered exploitation in relation to begging and benefits, and we do not have to rely on clause 2.

Karen Bradley: As I explained to my hon. Friend the Member for Congleton, it will depend on the facts of the case. It may be that clause 1 covers the offence, because the facts of the case make it clear that there is slavery, servitude, or forced or compulsory labour; it may be that clause 2 covers it, because the person has been moved with a view to committing benefit fraud; or it may be that in that particular case the offence is one of benefit fraud under the criminal law—the Serious Crime Act. Depending on the facts of a case, there are various ways in which such an offence could be prosecuted.

Mr Burrowes: The Minister said she would write to me with an explicit explanation. Perhaps she could outline some situations, so that we are all clear about what is covered by clauses 1 and 2, because the assurance I received was the basis on which I withdrew my amendment.

Karen Bradley: I will, of course, write to my hon. Friend; I had committed to do so and I will fulfil that commitment.

The point has been made several times that evidence was given to the pre-legislative scrutiny Committee which the Government are ignoring. Several hon. Members referred in particular to the evidence given by the CPS to the effect that it was unclear about the offence. Of course, that was the offence as set out in the draft Bill, not the offence that we see before us today; it has changed. We listened carefully to the Committee and the CPS, and clarified the Bill to ensure that harbouring and receipt are covered under a new measure, subsection (3). Also, the Director of Public Prosecutions has told the Committee that she prefers the clarity about the offences as set out in this Bill, rather than the alternative suite of offences, and as she is the person responsible for achieving successful prosecutions I need to listen to her.

Both the shadow Minister and my hon. Friend the Member for Enfield, Southgate asked about extraterritorial jurisdiction. We talked about that issue when we debated clause 1. There are particular reasons why we have taken the unusual step of extending extraterritorial jurisdiction for the trafficking offence, because it reflects the nature of trafficking as a global phenomenon. Trafficking often involves travel between jurisdictions; it does not just happen within the UK. However, it would not be appropriate to apply the same extraterritoriality directly to slavery offences covered by clause 1 that are committed in other jurisdictions. It is simply not possible for the UK to police activity across the rest of the world, although I absolutely agree that we must do all we can to influence others to apply their laws diligently. It is more appropriate for offenders committing slavery in other jurisdictions to be dealt with by local law enforcement agencies and prosecutors who know and understand the specific laws that apply in those jurisdictions.

We continue to work with the Foreign and Commonwealth Office and the Department for International Development to tackle modern slavery globally. That is why we need to have extraterritoriality in clause 2, but it is not needed in clause 1.

Diana Johnson: I listened carefully to that explanation. However, I have a problem. "Exploitation" is defined in clause 3, which makes direct reference to clause 1, which covers

"Slavery, servitude and forced or compulsory labour".

[Diana Johnson]

Clause 2 has the extraterritoriality element, but clause 3, which deals with "exploitation", refers back to clause 1, and clauses 2 and 3 are inextricably linked. How does that work, if there is a reference to clause 1 but clause 1 is not covered by the extraterritorial aspect?

Karen Bradley: The hon. Lady is right that clause 1 is referred to in clause 3, but there are more examples in clause 3; that would be my first comment. Clause 3 covers various types of exploitation; I wish to make that clear. Of course, clause 3(2)(b) refers to behaviour

"which would involve the commission of an offence under that section if it took place in England and Wales."

That makes it clear the extraterritoriality does not apply to the

"Slavery, servitude and forced or compulsory labour"

element of exploitation.

I turn to the new clauses. I must start by repeating that I carefully considered all the suggestions made in the pre-legislative scrutiny process about offences, including those tabled by the hon. Member for Slough. I share hon. Members' concern that we must have offences that can be readily understood by law enforcement agencies and the judiciary, and that can result in effective prosecutions and convictions. I want to ensure that law enforcement agencies and prosecutors have the right tools to achieve those prosecutions and convictions. I am still listening carefully to members of the Committee and looking at the evidence the Committee receives. If there are suggestions of gaps in the Bill, I ask hon. Members to please bring them to my attention as I want to ensure those are looked at. Of course, if we find that there are genuine problems, I want to correct them.

2.45 pm

Fiona Mactaggart: The Minister referred to some of the examples given by Members, but I referred earlier to a granny in Slough whose pension is used by her son-in-law. She has not travelled anywhere. He is not committing benefit fraud but merely using her pension for his expenses in the house he lets her live in. Will the Minister explain how the Bill helps that lady?

Karen Bradley: I do not know the specific facts of that case and it is therefore impossible for me to comment. Does the hon. Lady believe that the international conventions dealing with the heinous and hideous crime of trafficking human beings globally are intended to deal with a case such as that? I think they are intended to deal with the most despicable treatment of one human being by another. If there is despicable treatment, there will be offences under which an individual can be dealt with. However, I am not convinced that the hon. Lady's new clauses would cover that offence because she has stated that there is no travel involved. I cannot get into the specifics of that case, because I do not know the full facts. However, if she wishes to present the full facts and if it is clearly a case of slavery or trafficking, we would be happy to see if there is a way for the Bill to cover it.

Diana Johnson: I also raised the issue of miracle babies and cases where there is travel into the country but the second part—the exploitation—does not necessarily show itself. Will the Minister say whether this will now cover miracle babies?

Karen Bradley: As I have said, I will get to the subject of miracle babies later.

Since the pre-legislative scrutiny process, I have made changes to the trafficking offence set out in the Bill and I believe that it is the clearest of all the alternatives. For example, it contains a very simple statement that consent to travel is "irrelevant". The definition of exploitation in clause 3 also has some specific advantages. For example, by dealing with vulnerable people together in subsection (6), we ensure that a perpetrator who deliberately targets either a child or an adult with very limited mental capacity is equally covered by the offence, just as if they had targeted a child, even where they do not use threats, force or deception.

The hon. Member for Slough suggested that the offence was not wide enough and would not capture grooming. I want to be clear that we are already catching those who groom and prey on children for sexual exploitation. For example, a British sex trafficking gang which preyed on British children by grooming and exploiting them was convicted of sex trafficking in May 2012, including convictions for related offences of rape and conspiracy to engage in sexual activity with a child.

I now turn to the subject of miracle babies, as promised. We have carefully considered the issues raised by the pre-legislative scrutiny Committee in relation to illegal adoption and miracle babies and whether cases in those instances would fall under the definition. We already have an alternative offence which covers cases involving illegal adoption. Where an illegal adoption involves the move into exploitation of a child, an offence of human trafficking can be brought against the so-called parents if they are UK nationals or if the child is brought to the UK. Those facilitating the illegal adoption could be prosecuted for human trafficking in their home country or here in the UK if they are a UK national, where the mother has been forced, coerced or deceived into giving up her baby.

I think that gets to the crux of this problem, which is: where does the exploitation happen? Who is the exploited person? I am not convinced that the new clauses proposed actually cover that point either, because the child itself is not generally being exploited and therefore the person who travels is not exploited. If the child was being exploited, the trafficking offence would clearly apply. The person being exploited is usually the mother who remains in the home country. As that is such a complex area, and one in which successful prosecutions are being brought against perpetrators, although not necessarily for human trafficking, we are monitoring the situation to ensure that we have an appropriate response. If the shadow Minister will forgive me, it is difficult to work out how, within UK law, we can target the people who are genuinely guilty of that offence and ensure that those who are being exploited can be protected. We are continuing to look at how we can make the law cover miracle babies appropriately.

I have engaged with the Director of Public Prosecutions, the police, the National Crime Agency and other law enforcement bodies on clause 2 and the proposed new clauses. I take the professional view of the prosecutors seriously, as they will have to use the offences to prosecute very serious criminals. I am pleased that the Director of Public Prosecutions came before the Committee to explain her views about the alternative offences. She highlighted the importance of clarity, and she made it clear that she

much prefers the clarity offered by the offences set out in the Bill to the pre-legislative scrutiny Committee's proposed suite of overlapping offences covering the same conduct. My starting point is that I would prefer to maintain the trafficking offence supported by the professionals who will have to make it work on the front line, unless there is compelling evidence of a problem with that offence.

I will now address the effectiveness of a child-specific trafficking offence. The Bill introduces a maximum sentence of life for human trafficking. Current sentencing guidelines already highlight offences against children as an aggravating factor for sentencing purposes. At the beginning of her contribution, the hon. Member for Slough said that she believes there to be a deficit because there is an international obligation to have a separate child offence. We do not believe there is any requirement either in EU directives or in other international obligations to have a separate child trafficking offence. Child offences can be useful and justified where they are needed to ensure that those who abuse children can receive the punishment that they deserve, but there is no practical benefit in establishing a child-specific offence when offenders already face the maximum penalty possible, which is life imprisonment. That is why there is no need for a separate child murder offence, and I have never heard any suggestion that the courts fail to consider the fact that a victim is a child as being particularly serious when sentencing for murder or other offences that cover children and adults. The case for a child-specific offence rests on whether such an offence is needed to enable prosecutors to gain convictions against evil criminals who target children for slavery.

Mark Durkan: I take the Minister's point on other crimes and the decision of the courts, but are there not instances where prosecutors sometimes decide not to prosecute a widely cast offence precisely because they think that the victim, as a child, may not be robust enough as a witness? Creating a child-specific offence would reinforce some of the child cases, where there has sometimes been a failure to prosecute. The fact that someone is a child is used against them when a case is prosecuted in the courts. Parliament needs to be specific about that.

Karen Bradley: I agree that children need to have the best support and attention, but many of the victims I have met are adults with the mental capacity of a child. They deserve and need the same protection, which is why the other victim measures in the Bill are incredibly important. Additionally, we are trialling child advocates because we need to find the right way to protect and support children. I will shortly explain why there is a danger that, with a separate child offence, we might end up putting children through more pain and difficulty at trial.

The other difficulty—the hon. Gentleman's intervention alluded to this—is with the evidence. That is the real nub of the problem. Getting evidence on such incredibly complex and difficult cases and ensuring that we can present that evidence in court and that victims are reliable witnesses is the biggest hurdle we face in getting successful prosecutions. That is why all the other work we are doing—ensuring that we have a commissioner and proper victim support, and that we work with victims—is so incredibly important in getting the convictions we desperately want.

Michael Connarty: What I cannot understand is the anecdotal throw-offs. I talked to people with learning difficulties for 14 years of my career as a teacher. That is not to say, now that they are adults, that the children they were did not deserve much more attention than they received. Lord Judge, Peter Carter and the chief inspector—people who chase criminals, instruct juries and prosecute cases—all made a strong case that children do not necessarily know that they are trafficked. They may know that they are abused. The police officer said that the problem was that a special, clear definition in law was needed of exploitation and trafficking of a child. Why should that be ignored?

I cannot understand it, and I must say that I am not convinced by the logic being applied. It is like a bulldozer: "Just read the script, and somehow we'll get it through by the vote." It is not a convincing argument if all those people say that it is an omission at the moment from the law of the land but the Government say, "We just don't want it because of the complexity." It would be a simplification.

Karen Bradley: I draw the hon. Gentleman's attention to clause 3(6), which is specifically about securing services and so on for children and vulnerable persons. That clause refers specifically to children. When one has an offence such as murder, or in this case trafficking, which applies to everybody, specific provision must be made to ensure that children can give evidence, that they have support and that the consent issues and so on are all recognised, but having a separate offence does not necessarily assist the prosecution.

I must listen to the evidence from the Director of Public Prosecutions, who highlighted that she was against new child-specific offences, as it would create problems for prosecutors trying to prosecute the very serious abuse of children:

> "I think this legislation is clear. If you separated out offences into adults and children, it would make it more complicated because we know from the number of cases we prosecute that defining and identifying someone's age is often extremely difficult. We have certainly prosecuted cases where we thought the offenders or, indeed, the victims were children and they turned out to be adults, and vice versa. Also, if you have continuing offences where a number of offences are committed at certain times throughout the life of the offender, it would be quite difficult for us to identify and pin down the dates if there is a difference between a child and an adult. There is no reason why the legislation does not apply to both. The age would be an aggravating feature. There is absolutely no need for it to be separated out; that would make it more complicated and more difficult to prosecute some of these offences."—[*Official Report, Modern Slavery Public Bill Committee,* 21 July 2014; c. 6, Q11.]

We all agree that we want successful prosecutions. The Director of Public Prosecutions is the person who brings prosecutions. I must listen to her evidence, because she is the person who will decide what prosecutions are brought.

We reflect that the prosecution needs to establish the age of a victim if the offence is child-specific. For many victims who have been taken from their families, are not from the UK and have no identification documents, that is often difficult. I know that none of us want to be

[Karen Bradley]

in a position where prosecutions fail because we cannot determine the age of the victim or the exact period when the exploitation occurred.

Diana Johnson: It is clear, and the Minister is very aware of the fact, that if these offences can attract life sentences if a child is found to be involved, the court will have to decide for sentencing purposes whether the person before them is an adult or a child. I do not understand why it would be a problem if the court decided before sentencing, in considering the substantive merits of the case, to determine the age of the child before it. If it can be done for sentencing, why can it not be done for prosecution?

Karen Bradley: The hon. Lady knows better than I do from courtrooms how juries can be influenced. My concern with a child offence is that the jury is told this person is not a child; the defence barrister uses that argument in the defence of their client. Doubt is then put in the mind of the jurors about all of the evidence being put in front of them. In his written evidence, Peter Carter, who has been quoted on several occasions, says that a typical argument is that having such an offence will give rise to disputes about the victim's age. However, the topic of age assessment in the context of criminal trials was fully explored by the Court of Appeal in the case of L & Others, the case he was involved in. It found that the court already had case law that requires it to adjourn a case if there is not sufficient evidence before it to reach a decision on the question of the age of the defendant.

3 pm

That is the point I am concerned about. The court has the right to adjourn the case. We are talking about the most vulnerable witness: the victims of slavery. We think that—

Michael Connarty: Will the Minister take an intervention?

Karen Bradley: Can I finish the point?

Michael Connarty: I am pressing that that point is not valid: it did not abandon the case; it adjourned the case. Read the court case.

Karen Bradley: I will finish this point and then I will of course allow the hon. Gentleman to intervene. If we have cases where doubt has been put in the jury's mind as to the age of the witness and therefore the reliability of that victim, and the court comes back after an adjournment and makes that victim go through giving more evidence to prove their age, or says it does not think it is a child case but a case of trafficking, I am concerned that we are putting undue burdens on witnesses and very vulnerable people. We do not need to do that, because the clause 2 offence covers people of all ages. The age would be the aggravating factor.

Michael Connarty: The Minister at first gave the impression that the adjournment was permanent; it is not an abandonment. The current state of play is that it is much more difficult to add aggravation on than have it as a specific offence. That was the whole argument for the cascade, so that the right offence can be chosen and argued for. It is not a case of adding it on as an aggravation, which never works. Look at the case law: there have been only 19 convictions because people get a much lesser charge because they cannot press the main charge, which is not specified in law. That is what we want to be specified.

Karen Bradley: We are talking about an offence that carries a life sentence, whether it is trafficking an adult or a child. That is the maximum penalty we can give under UK law. I expect that anyone found guilty under this offence—of the most hideous, heinous behaviour that any one human being can inflict on any other human being—would spend the rest of their days behind bars. The aggravating factor will be brought forward by the prosecution at sentencing, but we need to get that conviction in the first place. When we get that, we can then have the aggravating factors. I want the conviction to happen. We have put significant protection for children in the Bill, but I do not want to see prosecutions fail because there is doubt in the jurors' minds about the age of the victim. I do not think any of us wish to cause additional distress to vulnerable children by adding to the length and complexity of their involvement in trials for no real gain. We do not want any evidence given about victims of a certain age to undermine confidence in the rest of a child victim's story. That is what I am keen to avoid, and I know it is what the rest of the Committee wants to avoid. We want to get convictions; we want to see those hideous, awful people—the most evil people I can possibly imagine—behind bars sooner rather than later. I do not want to give victims unnecessary suffering while we get into technical debates about what age they may or may not be.

The trafficking offence in clause 2 is carefully designed to enable prosecutions of traffickers who target children even where the child appears to consent. The hon. Member for Slough talked about the person who gives food and drink to the trafficked child but has not arranged their travel. Every case is fact specific. However, in the case she outlined, it appears that the person providing the care of the trafficked child may be part of a chain of travel and is harbouring or receiving the child as part of that chain. If so, clause 2 would apply. The person would be guilty of aiding or abetting the clause 2 offence. Even if that was not the case, given the facts described, the person would be likely to be guilty of holding a child in slavery, servitude or subjecting them to commit forced or compulsory labour. We discussed the elements of those offences on Tuesday. It seems likely that the relevant elements would appear in that case on the facts described.

Clause 2(2) states: "It is irrelevant whether" any victim—adult or child—"consents to the travel." The definition of exploitation is drafted specifically so that when a trafficker targets a vulnerable person to take advantage of, there is no requirement for any force, threat or deception. A child trafficker can be convicted under the offence even if the child appears to consent to the travel and the exploitation. I share the desire to take into account the needs of children and to target those who abuse them when we legislate. That is why I support the trafficking offence in clause 2. It will make it easier

than the alternatives for prosecutors to gain convictions against those who target children. It avoids putting child victims through unnecessary discomfort on the witness stand and fully reflects the specific vulnerabilities of children.

The hon. Member for Rotherham asked me to consider pausing. I do not think we have time to pause. We have examined the clause and we looked at it in the pre-legislative scrutiny Committee. We owe it to the victims. We have to get the legislation on the statute book in this short Session. If she will forgive me, I cannot pause; it is too important. Given that, I hope right hon. and hon. Members will feel able to withdraw their amendments, and I hope that when the Chair puts the question, the Committee will feel able to support the clause.

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

The Committee divided: Ayes 11, Noes 8.

Division No. 2]

AYES

Bradley, Karen	Nokes, Caroline
Bruce, Fiona	Pincher, Christopher
Burns, Conor	Smith, Chloe
Burrowes, Mr David	Stunell, rh Sir Andrew
Hinds, Damian	Teather, Sarah
Lumley, Karen	

NOES

Champion, Sarah	Johnson, Diana
Connarty, Michael	Kane, Mike
Durkan, Mark	Mactaggart, Fiona
Hanson, rh Mr David	Wilson, Phil

Question accordingly agreed to.

Clause 2 ordered to stand part of the Bill.

Clause 3

Meaning of exploitation

Mr Burrowes: I beg to move amendment 31, in clause 3, page 3, line 19, leave out from "(5)" to the end of line 20 and insert "where".

The amendment removes the burden on the prosecution to demonstrate that an offender chose the victim because of his or her particular vulnerability.

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

Government amendments 1 and 2.

Amendment 32, in clause 3, page 3, line 21, leave out "young" and insert "a child"

The amendment removes the burden on the prosecution to demonstrate that an offender chose the victim because of his or her particular vulnerability and clarifies that this section applies to children under the age of 18.

Government amendment 3.

Amendment 33, in clause 3, page 3, line 23, leave out "a person" and insert "an adult"

The amendment is consequential on inserting a specific reference to a child in this subsection.

Government amendment 4.

Amendment 35, in clause 3, page 3, line 24, at end insert—

'(7) In this section—

"child" means any person below 18 years of age;

"services" or "benefits of any kind" can include forced begging or criminal activities."

The amendment clarifies the definition of a child and some of the types of behaviour which can be included under the clause.

Mr Burrowes: There may be a spirit of consensus and commonality coming out of the last Division around many matters. Indeed, many of the amendments that I have tabled mirror the Government amendments. I am pleased to be on the same page.

We all share the concern to increase the successful prosecutions of perpetrators of those crimes involving child victims and, as referenced by the Minister, vulnerable adults. The amendments would work within the framework of the Bill to achieve that purpose or at least to probe and test the Minister about whether, indeed, there are unintended obstacles being put in the way of successful prosecutions.

Amendment 31 would ensure that we make it as simple as possible to secure convictions in cases in which children or vulnerable adults have been trafficked and exploited. The wording of clause 3(6) could be construed—this is the concern at the root of amendment 31—as having the effect of creating an additional burden of proof, because it requires that the offender has chosen the victim for exploitation "on the grounds" of the victim's particular vulnerability. The amendment seeks to test the Government on whether that is indeed an additional burden of proof.

We have mentioned the international definitions of best practice that many of us seek to establish in the Bill, but, at the very least, at the heart of them is an understanding that trafficking a child for exploitation should be an offence whether or not force, threats, deception or other forms of coercion have been used. Nothing in that best practice provision requires proof that the child was chosen specifically for exploitation because they were a child. The amendment would therefore provide a better reflection on that principle in international law.

The requirement for proof that a vulnerable victim was chosen on the grounds of being a child or having a disability presents an obstacle to successful prosecutions. If the Bill is not amended, it could require proof that there is an act of trafficking under clause 2(1); proof that the defendant did that act "with a view" to the victim being exploited; and—this is the point of the amendment—proof that the defendant deliberately selected the victim to be exploited because they were a child. There is concern that that could conflict with international law as well as with the case law developed in this country.

In addition, there is the practical issue that proving a person's motivation for an action could be difficult. The Joint Committee's sterling work has been referred to already. It heard evidence about the difficulties in proving a defendant's reasons for selecting their victim. Evidence was given on that by Riel Karmy-Jones and the Helen Bamber Foundation. The foundation said that the

"cognitive selection process may be difficult to prove, and it is often the case that a network will employ different people in the recruitment, harbouring and transfer of victims. Therefore a

[Mr Burrowes]

person who trafficks another person may well have no interest in their specific vulnerability and may be following the orders or advice of others. The time-span of recruitment can vary from days to a matter of years and is also difficult in some cases to pinpoint."

I have also heard of a case in which a mother was exploited through forced labour and the children's identity documents were taken and used for benefit fraud. We need clarity that the trafficker will be prosecuted for the offence against the children as well as that against the mother. If a burden of proof is needed to show that the trafficker chose those children, that could lead to complications in terms of successful prosecutions. The amendment asks whether that is a problem and seeks reassurance that it is not. It also seeks reassurance that we can properly prosecute those offenders who target children and vulnerable adults.

On amendments 32 and 33, and Government amendments 1 to 3, which replicate my amendment 34, which was not selected because it had the same aim, I welcome and fully support the Government amendments —we are very much on the same page. Along with the international principles, it is important that we recognise that a child is inherently vulnerable. We all recognise that they lack power, status, physical strength and material resources, and that they often have limited knowledge and emotional maturity. They are therefore a specific category. We need to recognise that and provide special provision for them.

That refers back to the arguments I made about having a specific child offence. We need to make special provision for children clear in the framework of the Bill. It is important to have more than those terms used currently in the Bill, namely "young" and "youth". That point was picked up by the Joint Committee and it is good that the Government listened. We need to ensure that we reference and define "child". I am pleased with the direction in which we are moving and pleased to support the Government's amendments.

Amendment 35 also follows on from the recommendations of the Joint Committee. It would make explicitly clear that, in talking about a child, we are talking about a person under the age of 18. In many ways, that is pretty obvious, but it is important to make the point in the definition. The hon. Member for Rotherham is here; in the cases of sexual exploitation there, and in Oxford and Rochdale, we have seen that often, children going all the way up to teenagers receive inadequate levels of protection. I ask the Minister to consider the amendment in that light. There is a real practical and positive effect in defining a child as what we know a child is: someone under the age of 18.

3.15 pm

Secondly, amendment 35 seeks to probe where the Government are coming from on the definition of exploitation, but from a different angle, to cover what we keep talking about—it is what I was seeking with my amendments to clause 1 and what we have sought in discussing definitions in clause 2. What do we mean by exploitation? What is the modern understanding? The EU directive defines it as, "at a minimum"—we are talking about a minimum—

"the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs."

The definition of exploitation in clause 3 refers specifically to sexual exploitation, slavery, servitude, forced labour and the removal of organs—they are all covered. What is not included is specific mention of forced begging or other criminal activities. The Government have put a specific definition in the Bill that covers the EU directive and the common understanding of the minimum that constitutes exploitation; why have they not included specific mention of forced begging or other criminal activities? Excluding them raises the question of why they are not included, which leads us to hold the Government to account more closely on the question of whether those things are covered in the Bill.

It is important to realise that those activities are very much a modern form of slavery. We need to make sure we cover all other exploitation of criminal activities. One example is a victim being lured to the UK on the false promise of a job, which happens all too regularly—we get to see only a small sliver of this and do not know the extent to which it happens around the country. That person's passport is taken from them and, lo and behold, that was what they were wanted for: their passport is why they were trafficked. That passport may then be used fraudulently to open a credit card account or claim welfare benefits, so the criminality continues. There are also cases in which victims are trafficked for sham marriages. The list goes on, but is that list covered properly in the Bill? Amendment 35 seeks to close what could be a gap.

I look forward to hearing some assurances from the Minister on those matters.

Sarah Teather (Brent Central) (LD): I want to make a few remarks about the amendments tabled by my hon. Friend the Member for Enfield, Southgate. I will also say a couple of things about clause 3 in general. I was going to wait for the next group of amendments to make those more general remarks, but they pick up on some of the points my hon. Friend has just made, so if it is okay to do so, Mr Pritchard, although clause stand part will be considered in the next group, I will make them now.

I have huge sympathy with my hon. Friend's points—and therefore with amendment 31—about the burdens the clause appears to place on prosecutors by asking them to second-guess motivation. I will be interested to hear what the Minister has to say.

There are also some wider issues about what is and is not included in the definition of exploitation, which we have been covering since Tuesday. I have a suggestion to make, which I hope is helpful. As drafted, the definition in clause 3 is an exhaustive list. I wonder whether the Minister has considered not making it an exhaustive list, or else adding a provision—perhaps by bringing forward an amendment on Report—that allows the Secretary of State to amend the definition by order, if people on the ground find that the definition does not include certain things as patterns of behaviour change.

This issue was covered by a number of hon. Members on Tuesday. My hon. Friend the Member for Enfield, Southgate has said that patterns of exploitation are changing all the time, and prosecutors are having to

keep up as they change. A number of hon. Members have referred to things that have been missed out. During the evidence session Nadine Finch referred to baby farming, and there are all sorts of things that people are concerned have been missed out. I dare say that with this type of legislation, when prosecutors begin to work it on the ground, people will find ways around it. I am concerned that the definitions are very tight and, if we find they are not quite adequate, are not amendable except by introducing further primary legislation. I recall from my experience as a Minister that one has to fight very hard to get primary legislation. It would be remiss of us to leave ourselves no freedom of movement if we find that the Bill does not quite cover all the things the Minister hopes it will. I hope she will regard that as a helpful suggestion that, rather than fettering her discretion, would reassure those of us who are concerned that some of the answers she has given do not really address the issue of missing elements of the definition.

Diana Johnson: The Opposition welcome the amendments and we are pleased they have been tabled. A number of them pick up on the issues identified in the Joint Committee and in the evidence given to this Committee. I was rather taken aback to discover that the references to children had not been drafted as they should have been: clearly, so that we all understand that when we are referring to children, we mean all those under the age of 18. It is unfortunate that we have references to "youth" and "young people" in the Bill. That is not helpful because, as has been said on a number of occasions, we want to be as clear and straightforward as possible so that we all understand what the Bill is trying to do. We will return to the need for clear definitions when we move on to part 5 later on in our deliberations.

Amendment 31 makes it clear that the prosecution does not need to establish that a victim was chosen because of some particular vulnerability. Most of the cases we have been discussing have involved vulnerable people—children, those with learning disabilities, women working in the sex industry—but it is wrong to think that slavery or forced labour is restricted to those groups. Indeed, when we debate the next group of amendments, I want to discuss some cases of slavery where the victims did not have a particular vulnerability. Therefore, amendment 31 is sensible.

On amendment 35, I support making the Bill clearer. We should be clear that a child is anyone under the age of 18. It is also important that we make it clear that forced begging is exploitation. I am sure all members of the Committee remember that during the evidence session, the Director of Public Prosecutions struggled a little on the question whether forced begging counted as exploitation. Given that forced begging is one of the most common elements of child exploitation, it is highly problematic and concerning that the DPP does not know whether the Bill applies to that or not. She seemed to be saying that other offences could be used, but that misses the whole purpose of the Bill, which is to bring together and consolidate in one place clear offences that can be pursued by prosecutors.

Amendment 35 highlights the fundamental problem with the drafting of clause 3. The Government's aim is to make a comprehensive list of instances of exploitation, and the evidence from the DPP shows that the approach is flawed, as highlighted by amendment 35. We cannot make a comprehensive list. It would be an improvement to add forced begging to the Bill, but what about other instances that the amendment does not cover, such as people who traffic children into the UK so that the adults who control them can then claim benefits? That would not be covered by the Bill or by amendment 35. As I see it, the child would not be committing a criminal act, but the purpose of bringing them into the country would be to obtain benefits. Will the Minister respond to that point?

Fiona Bruce: I will speak in particular to amendments 31 and 35. I welcome the amendments in this group for the clarity they bring in prosecuting offences committed against children.

On amendment 31, I know we all agree on the importance of ensuring that we do not create additional and unnecessary hurdles that must be overcome to reach successful prosecutions. While I have no doubt that a trafficker may often select a child or, indeed, a vulnerable child for exploitation precisely to take advantage of those vulnerabilities, I am concerned that demonstrating those intentions to the satisfaction of the criminal court may not always be possible. If a child is trafficked in order to beg on the streets, how can we prove that a trafficker chose that child for exploitation just because they were a child? Must some evidence be shown that the trafficker believed that particular child could earn more than another child or an adult? Amendment 31 would provide a clear way to remove that potential loophole, and I urge the Minister to support it.

To support my argument, I will now cite the case of "PS". PS was a woman who came to London from Nigeria with a three-month-old baby. On arrival, she told immigration officers that she was the child's mother and then immediately went to the local authority to apply for housing on behalf of herself and her baby. Council officials were suspicious because they had seen her a few months earlier and she was not pregnant at the time. She then changed her story and said that she had adopted the child. Council staff were still not satisfied by her account and, suspecting her of seeking to use the child to obtain council accommodation, they contacted the local authority and action was taken. It appeared to those involved in investigating the case that her clear motive for bringing the child to the UK had been to gain increased access to benefits and housing for herself. However, it would have been extremely difficult to prove that it was that particular baby. I know one can argue that every child is different but, having had children myself, I also know that one three-month-old baby is not that different from another. The Minister made the point that it may be the mother of a miracle baby being exploited, rather than the baby itself, and I was quite concerned to hear that.

The Borders, Citizenship and Immigration Act 2009 was amended, precisely because of the case of PS, to include the exploitation of a passive individual—for example, a child who is too young to give evidence or to gain benefit for themselves but is being used as a tool. I am concerned at the thought that a three-month-old baby could be deemed to be exploited under one set of legislation but not under another. I hope the Minister will reflect on that.

[Fiona Bruce]

I now turn to amendment 35. The Joint Committee heard evidence about the new ways traffickers are finding to put people into slavery.

Sir Andrew Stunell: As the hon. Lady is moving on, may I take her back to what she said about amendment 31 and the selection—if it be that—of a vulnerable person? Could it not easily be the case that a job lot, including adults and children, might be taken by an exploiter or trafficker, with no element of selecting a young person?

Fiona Bruce: Indeed. The right hon. Gentleman is absolutely right. One of the problems with such cases is getting evidence to prove intention. In the case to which I referred, the selection was done in Nigeria and it proved impossible to get evidence that was admissible in court about why that particular child had been chosen.

Turning back to amendment 35, exploitation through forced begging, fraudulent charity collections, chugging, benefit fraud, credit card applications and so on is ever increasing. We must ensure that those types of criminal exploitation are clearly included in the understanding of services or obtaining benefits. Amendment 35 provides a way of doing that without restricting the definition by simply and clearly stating that those types of activities should fall within the clause. It would include, for example, the endeavours by PS in the case I cited to obtain housing through the use of that three-month-old child.

I am grateful to my hon. Friend the Member for Enfield, Southgate for highlighting this issue. However, I am struggling to understand why the reference to exploitation in clause 3 does not cover clauses 1 and 2. If subsection (1) read, "For the purposes of sections 1 and 2 a person is exploited", would that not assist us in our consideration today?

3.30 pm

Michael Connarty: Some of the definitions have already caused trouble. When I spent time with the Serious Organised Crime Agency, I was told that the crimes committed under the "human trafficking" label were changing in response to the reactions of prosecuting authorities across Europe. There is, for example, the pattern of charity bag collections.

The amazing house that I live beside, which is used for nefarious purposes—the last being a cannabis factory—was previously used by a company with big white vans that took people from various parts of the expanded A8 EU to steal every charity bag for the British Heart Foundation, for example, that they could find outside houses. The vans would suddenly have stuck to their sides a sign similar to, but not exactly the same as, that of the British Heart Foundation, and they would go round and scoop up all the bags belonging to that charity. They were caught at times, and there were some serious dust-ups with the people who worked for the charity and its shops in the Falkirk area.

When people were putting out bags for the breast cancer campaign, the signs would look like those of the breast cancer campaign. If one looked up those people's website, one would find that the money was going to a charity in their own country—Lithuania or another country in the region—but, in fact, the charity was owned by the same people who hired the white vans and sent the young men across. Those people have now worked out that they can contract with the charities, and they promise to give the charities a certain amount of money, so the crime has changed, and they now have a contract.

The young men who take that job do not fit into any of the categories here. They are told, "What you do is pick up every charity bag that is lying in anybody's doorstep, regardless of whose it is—not just those of the charities we are contracted to." I understand that that is theft. If somebody puts something in a charity bag sent out by the British Heart Foundation, it belongs to the British Heart Foundation. None of the definitions say that those young men fit into these categories. One would not say that they are vulnerable, but clearly they believe what they are told.

I had to tell a group of young Hungarians that they could pick up only bags that were labelled in a particular way and given out by their company, because they thought they had the right to do otherwise. They were there to pick up charity bags; that was their job. They said to me, "We have come to do the charity bags", and they did not know they could pick up only their own because they had not been told that. They are well meaning. They come here to try to find employment because there is none in their own country. I do not find that any of the definitions fit those people. The question is, where is the vulnerability? Where is the culpability? It is difficult, because the situation will keep changing. People who want to exploit people in that way will find different ways of phrasing it and different ways of attracting them.

The second point that I have a problem with is that by inserting "child", taking out "youth" and all the rest of it, we make assumptions about the people who come to this country who may not necessarily have been trafficked but may have been exploited. Their attitude, even at their age, would be completely different from that of a young person in this country. We have said that that would be okay because they would be a child, and the hon. Member for Enfield, Southgate said that the upper age limit would be set at 18.

We then get into the argument we have just had with the Minister. The Minister said that we do not want to have a specific crime of trafficking or exploiting children because we would get into great debates in court about whether they were children and what age they were. Yet here we are arguing to insert those points into clause 3. If those arguments were correct when used against our having a specific crime of trafficking or exploiting a child, why are all the things that the Opposition argued for, which the Minister rejected, now being inserted into the Bill in these amendments? I do not see how the Minister can argue for them now when she argued against them in a different context earlier, because it is the same problem.

People who want to defend the exploiter will say that it is not a child that they are dealing with but an adult. An adult is someone who

"without the illness, disability, youth or family relationship would be likely to refuse to be used for that purpose."

In reality, people coming from many other jurisdictions are not likely to refuse to be used for that purpose. They think it would be perfectly normal to do the things that we would consider exploitation. The only argument would be if they were children—the argument that we would not expect any child to do that. If I were a defence lawyer, I would argue that someone coming from an environment such as Vietnam or some of the poorer parts of the EU would think it perfectly normal to do the things that we would consider exploitation if a British person were involved.

We have heard quite a bit of evidence about the fact that children do not know they are trafficked, although they know there is something wrong. Chief Inspector Carswell said that that is the great problem with children: they do not know they are being sinned against in terms of the behaviour that they are being asked to carry out. This is a difficult set of amendments. I do not see how the Minister can defend them if she does not want to have a separate clause that gives children protection by having a specific crime against them.

Karen Bradley: I want to speak amendments 1, 2, 3 and 4. Ensuring that children are safeguarded and protected from those who seek to exploit and abuse them is paramount. This group of amendments relates to a particular form of exploitation for the purposes of the human trafficking offence, where a trafficker targets a vulnerable person. If a trafficker targets someone with one of the listed vulnerabilities set out in subsection (5), because of that vulnerability, and where someone without the vulnerability would have been likely to refuse the trafficker's instructions, there is no need to show that the vulnerable person has been subject to force, threats or deception to demonstrate exploitation. This means that whether a vulnerable person appears to consent to their exploitation is irrelevant to whether the trafficker acts with a view to the form of exploitation in subsection (6).

I have had a number of representations from parliamentarians and non-governmental organisations with expertise in relation to child victims of trafficking asking me to look again at the definitions in this provision to ensure the position is clear in respect of children. This was also an issue raised by the pre-legislative scrutiny Committee. I have also listened with great interest to my hon. Friend the Member for Enfield, Southgate, who tabled amendments 32 to 34 which seek to clarify the wording of this provision by replacing the words "youth" and "young" with the clearer term "child". I agree that we need to ensure that this offence is clear and effective in relation to child victims, and these amendments aim to clarify the Bill and meet those concerns.

The amendments I have tabled clarify that one of those vulnerable groups is children by replacing current references in the clause to "young people" with references specifically to "children". A child is a person under the age of 18. Unlike the term "young", there is no possible ambiguity over the legal definition of a child. Amendments 1 and 2 make this clarification to subsection (6)(a) and amendments 3 and 4 make this same clarification to subsection (6)(b). These amendments make it clear beyond doubt that choosing a child for exploitation is within the form of exploitation covered by subsection (6). I hope my hon. Friend and the Committee will welcome the amendments.

I am also grateful to my hon. Friend for tabling and speaking to amendment 35, which states that the Bill should specifically define the word "child" as someone under 18 years of age. My hon. Friend clearly shares my aim of providing the courts with certainty. However, the amendment is not necessary. Section 1(2) of the Family Law Reform Act 1969 sets a general principle for statutory interpretation that the terms,

"'full age', 'infant', 'infancy', 'minor', 'minority' and similar expressions",

mean a person under the age of 18. This would include the term "child", which is therefore already legally understood to be someone aged under 18.

Sarah Champion (Rotherham) (Lab): I am listening with interest to what the Minister is saying, but there is a difference of interpretation in some legislation. Children in care will be seen as a child until the age of 18, but children living at home will be seen as a child until the age of 16. It would be useful to have that clarification that a child is someone under the age of 18.

Karen Bradley: It is my understanding that, where an age different from 18 applies, that is clearly set out in the legislation. It is assumed to be 18 unless it is set out otherwise. That means that certain offences under the Sexual Offences Act, which apply differently to children aged 13 and under, to children aged under 16, and to children aged under 18, would be specifically defined as applying to those separate ages. If the legislation says "child", that would mean under 18 as a matter of course.

Amendment 35 also makes a second point, which is that the term "services" should include forced begging or criminal activities. I agree that we must ensure that exploitation through forced begging, or gaining benefit by making others undertake other criminal activities, should be covered by our definition of exploitation. We all know that forced begging is a problem and it is clearly the kind of serious behaviour that we are all determined to stamp out. However, I would like to reassure the Committee that the Bill is clear that forced begging is already covered by our definition. Subsection (5) defines exploitation as subjecting someone to "force, threats or deception" to induce them to provide "services" or "benefits of any kind". It is therefore already very broad. Our view of forced begging would involve another providing a service, which is the actual begging, and it would be likely to involve inducing another to provide a benefit—the proceeds of that begging. It would therefore clearly be covered by our definition in subsection (5).

Fiona Bruce: Is the Minister saying that this does not necessarily have to be linked with any transportation of that individual?

Karen Bradley: In this clause we are looking at the trafficking offence. Any of the amendments that have been proposed would apply only in the trafficking offence. Trafficking has to happen for clause 2 to apply, and clause 3 is of course an explanatory clause for clause 2.

Michael Connarty: I rise to seek clarification. Would the clause cover the case I mentioned of someone coming from another country—an EU country or not—and

[Michael Connarty]

stealing all the charity bags they could get their hands on, on behalf of a company, thinking it was correct? Would they be considered to have been trafficked for exploitation, or would they be criminalised by being arrested and told they were stealing other people's charity bags?

Karen Bradley: It would depend on the specific facts, but, on the facts as the hon. Gentleman has presented them, if those people are brought to the UK and are then made to steal bags, albeit that they do not believe they are stealing bags—

Michael Connarty: They do not know they are doing it.

Karen Bradley: But that does not matter. If they are being forced into a criminal behaviour after having been trafficked, clearly that would fall under clause 2. The criminal offences that would be used would depend on the facts of the case.

Sir Andrew Stunell: I appreciate that the Minister is being very helpful indeed. I wanted to have her absolute assurance that begging is a service. That is what she is offering to us: that the beggar would be providing a service of some kind and therefore would be caught. I wondered whether she could explore that for us a little bit more. Before she concludes, perhaps she could pick up the question raised by my hon. Friend the Member for Congleton about whether clause 3 could not be made applicable to clause 1 as well as clause 2—in other words to the exploitation matter as well as to the trafficking matter.

3.45 pm

Karen Bradley: I am beginning to think that my right hon. Friend has seen my notes, because he pre-empts exactly what I was about to say. First, I will cover his second point about making clause 3 apply to clause 1. I think that is a point for a separate debate; it is part of the debate that we had about clause 1. We have already said that we will consider the points made by the Committee, including that one. Let us not dwell on that now, as we have debated clause 1; let us deal with clauses 2 and 3.

I recognise the importance of ensuring that it is absolutely clear that begging is covered in clause 3(5), which is why begging is mentioned explicitly in our explanatory notes for clause 3(5).

Fiona Bruce: I sincerely apologise for troubling the Minister again, but I wish to elaborate on the question put by the hon. Member for—

Michael Connarty: Linlithgow and East Falkirk.

Fiona Bruce: Yes; I am sure it is a lovely constituency.

A young man travels from Romania in the hope of finding here what he considers will be a better life. He travels voluntarily—he is perfectly free and entitled to do so—but he does not find that better life and ends up hanging around on the streets. He bumps into some young men who are picking up these charity bags that have been mentioned and who have been trafficked. Will he fall within this legislation or not, because he himself has not been moved involuntarily?

Karen Bradley: On the face of it—given the facts that my hon. Friend has put forward—that individual has not been trafficked. They have moved; nobody has facilitated their travel or forced them to travel. They have made that decision voluntarily, with no support or help from other people to travel. Therefore, by definition they would not fall within trafficking under this Bill. There may be other criminal and non-criminal points that would be relevant to that case, but that individual would fall outside the scope of this Bill because someone has not made them travel with a view to exploitation; they have just travelled, and after travelling they ended up falling on hard times.

Fiona Bruce: Even though that individual falls under the control of gang leaders?

Karen Bradley: I cannot get into specifics because we do not know what that situation would be, but perhaps clause 1 would apply at that stage. However, that person has not been trafficked. Alternatively, it may be that the gang trafficked that individual within the UK and then forced them into criminal behaviour, but it would depend on the facts of each individual case as to whether clause 1 would apply. On the face of it, the case of someone who voluntarily travels with no coercion or force applied and falls on hard times before turning to criminal activity for whatever reason is not what the trafficking offence is designed to deal with.

In addition, subsection (5) can cover a wide range of other criminal activity: essentially, anything that could be defined as a service or that involves the trafficker or another person gaining a benefit. While I share my hon. Friend's aims, I am convinced that the current drafting is more than sufficient to achieve her objectives.

Diana Johnson: I just wanted to check with the Minister whether the example I gave of a child who is trafficked into this country so that benefits can be applied for is covered by the measure that she just referred to.

Karen Bradley: I was going to address that point later, but I will come to it now. As we debated earlier, using a victim for benefit fraud is clearly capable of falling within the definition set out in clause 3. If somebody moves a child or adult with the purpose of carrying out benefit fraud, that would fall within the clause 2 offence of trafficking. Subsections (5) and (6) of clause 3 specifically cover a person who acquires benefits of any kind for any person. I hope that answers the hon. Lady's question.

Diana Johnson: I am sorry to press the point, but the child is trafficked into the country for the sole purpose of claiming benefits. The benefit claim can be made, which is not fraud, but the reason that the claim can be made is because the person has been trafficked in. That is my point.

Karen Bradley: I apologise if that was not clear. Dependent on the facts, obviously, but in a case of someone moving a child into the UK and doing so

explicitly to get benefits for that child, that would fall under clause 2. I hope that that is clear to the hon. Lady. If it is a legal benefit that can be claimed, that will fall under clause 2, because that would be "Securing services etc". It is securing services, basically—the fact that services are being provided. The point is that the child has been moved in order to secure those services, the services being the access to benefits.

Diana Johnson: I am sorry to press the Minister. Subsection (5) states:

"The person is subjected to force, threats or deception designed to induce him or her—"

and then lists some actions. We are talking about a child. I know that there are issues around the idea of threats and inducements not applying to children, so that is not relevant. To be clear, will the Minister explain that again?

Karen Bradley: Subsection (6) would be relevant in the case of a child. There is no need for force to be a factor. It is clear that acquiring benefits is acquiring a service, and the service that is acquired from the child does not need any coercion or force, albeit the child is legally entitled to the benefit. However, the fact that the child has been moved in order to acquire that benefit is covered under the clause.

I am grateful to my hon. Friend the Member for Enfield, Southgate for moving amendment 31, which is about how we have defined exploitation in respect of vulnerable people under subsection (6). I am concerned that we ensure that the trafficking of vulnerable people can be effectively prosecuted and punished. The amendment has been a useful challenge and I welcome the chance to explain the Government's approach to such an important area of the Bill.

The Bill defines exploitation by reference to a number of specific types of exploitation, such as sexual exploitation. Broader provisions in subsections (5) and (6) cover a range of other forms of exploitation to ensure that, as new forms of exploitation emerge, the trafficking offence will remain effective.

My hon. Friend the Member for Brent Central asked whether the list in the clause was exhaustive or non-exhaustive. We consider the clause to be extremely broad. Subsections (5) and (6) are general and not specific in nature. They allow developments in exploitation to be covered by the clause as traffickers use victims for their benefit in new ways. For that reason, although we share the desire to future-proof the Bill, we do not think that an order-making power is needed.

Subsection (5) covers the situation in which a trafficker uses threats, force or deception to induce the victim to provide a service or benefit of any kind. Subsection (6) covers the situation in which the trafficker targets a vulnerable person because they know that the vulnerable person may agree when someone without that vulnerability would not. For the purposes of subsection (6), there is no requirement for threats, force or deception.

My hon. Friend the Member for Enfield, Southgate proposes removing the requirement that the vulnerable person is chosen because of their vulnerability. His amendment would mean that exploitation took place if the victim was vulnerable, as a person who was not vulnerable in that way would be likely to refuse the request. It is right in principle that the criminal law should target traffickers who deliberately target vulnerable people for exploitation because of their vulnerability. I am particularly disgusted by that type of behaviour and subsection (6) targets that.

I also share my hon. Friend's concern, however, that the offences be drafted in a way that enables them to be used in practice by prosecutors to secure convictions. I would be concerned if the detailed drafting of the Bill inadvertently created a significant problem for prosecutors, so I am grateful to him for raising the matter. His doing so has given me the opportunity to ensure that my Department consulted the Crown Prosecution Service about whether the requirement to show that victims were targeted because of their vulnerability was likely to prove problematic. The wording of subsection (6) is essentially taken from the definition of exploitation in section 4 of the Asylum and Immigration Act 2004, so the CPS has experience of prosecuting the offence. The CPS stated that the definition has not caused it any problems when trying to establish that a victim has been exploited. On the contrary, the CPS believes that prosecutors are used to the wording of the definition and that changing it risks creating unintended confusion.

Finally, I turn to the question from my hon. Friend the Member for Congleton about whether it was necessary to prove that the child victim in each case would have refused to provide the services. Whether that child would refuse to provide services is irrelevant. Rather, the question is whether an adult would have been likely to refuse to do so if placed in the same circumstances as the child.

Michael Connarty: I thought that the Minister might have taken the opportunity to answer what I believe to be the glaring question: why should the insertion of "child" here not cause exactly the problems that she laboured in her response to our proposal for a specific child exploitation and child trafficking offence? Will she give me any comfort that the wording will not cause exactly the same problems in the courts? If so, will she accept my argument that the courts are well equipped to deal with the question of assessing a child's age when such problems are put before them by the defence? Why can the term be used in this context but not in our proposal?

Karen Bradley: The reason why we have put the child-specific points in this clause is to ensure that children are treated differently when law enforcement or others are looking to determine whether the child has been a victim of trafficking. When it comes to a prosecution, however, it will not be necessary to prove the age of the child. The measure that we are discussing concerns whether that charge can be made. We must provide the protection for children to ensure that they are treated in a certain way.

We have been clear that the measure applies not only to children, but to children and vulnerable people. It is important that we protect adults who have the mental capacity of children in the same way as we protect children. I do not agree with the hon. Member for Linlithgow and East Falkirk that the issues are the same; I think that we are talking about apples and pears here, rather than apples and apples. With those points in mind, I hope that my hon. Friend the Member for Enfield, Southgate will feel able to withdraw his amendment,

[Karen Bradley]

and that the Committee will support the Government amendments to ensure that the position of vulnerable children under clause 3 is clear.

Mr Burrowes: I welcome the debate that is taking place. To pick up on the previous comments, the importance of amendment 31 in the context of clause 3(6) is that the Bill specifically makes reference to, and makes special provision for, a child. I take some comfort and assurance from the fact that the Bill properly reflects the need for protection and provision for children, and the aggravating factors surrounding child exploitation. I agree with the hon. Member for Linlithgow and East Falkirk that it is workable to deal with the issue of a child in a court. That is the purpose of my amendments, which have been mirrored by the Government. As a Committee, we can take comfort from the fact that we are all together on the need for "child" to appear clearly in the Bill.

4 pm

I welcome Government amendments 1 to 4, which mean that my amendments can fall by the wayside. It has been useful to hear the Minister's response to amendment 31, because we are dealing with concerns that have been raised about clause 3. I accept the Minister's statement that, given the experience that has been gained through enforcement of related legislation, the evidential burden that I am concerned about—trying to prove that there has been a specific identification and exploitation of a child—does not exist. On that basis, I will seek the leave of the Committee to withdraw amendment 31.

Other amendments, amendment 35 in particular, raise other concerns, however. My hon. Friend the Member for Brent Central asked whether the list was exhaustive. The Minister said that the definitions are general and that there is no need for separate order-making powers, but subsection (1) states:

"For the purposes of section 2 a person is exploited only…".

The word "only" is included there. In his note to the Committee, Peter Carter made the point that the inclusion of "only" is inconsistent with international instruments. Indeed, the EU directive to which I have referred uses "as a minimum". I understand that the meanings in clause 3 are the minimum and the danger of including "only" is that we are being exhaustive even though the Minister says that the definitions are general.

Karen Bradley: I just want to be clear. The wording in subsection (1) is merely about the extent to which the exploitation can apply within clause 3, but subsections (5) and (6) are non-exhaustive. They are broad and can be expanded as case law develops and as we get more of an understanding of the crime.

Mr Burrowes: I am grateful to the Minister. Indeed, paragraph 25 of the explanatory memorandum actually goes further than my amendment, which repeats the EU directive's words about criminal activities or forced begging. She has put it on the record in the explanatory memorandum that it is

"not necessary for this conduct to be a criminal offence."

That takes us to the example given by the hon. Member for Kingston upon Hull North, which is that anyone who is exploited to acquire benefits is covered.

Karen Bradley: I just want to be absolutely clear. Subsections (5) and (6) are general, so that they can take account of general offences, which is why we consider them to be broad.

Mr Burrowes: We have perhaps got ourselves into a little bit of confusion, because subsections (5) and (6) are general and deal with services. There may be other activities that do not immediately come to mind that are not criminal, not services and do not lead to acquired benefits, so we should make it clear in the Bill that the definitions are a minimum and that there are other matters that come under the ambit of exploitation, so that we are not being unduly restrictive. However, I do not want to take up too much time. We have had a good debate and have agreed on quite a lot, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendments made: 1, in clause 3, page 3, line 21, after "she", insert "is a child,".

This amendment, together with amendments 2, 3 and 4, relate to the definition of groups who can be exploited without force, threats or deception because they were selected due to particular vulnerability. The amendments apply this to a child rather than a young person, and are intended as a clarification.

Amendment 2, in clause 3, page 3, line 21, leave out "is young".

Amendment 3, in clause 3, page 3, line 23, at beginning insert "an adult, or".

Amendment 4, in clause 3, page 3, line 23, leave out "youth".—*(Karen Bradley.)*

The amendment is consequential on inserting a specific reference to a child in this subsection.

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

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

New clause 5—*Child exploitation offences*—

'(1) It is an offence to exploit a child.

(2) It is an offence for one person to obtain a benefit through the use of a child for the purpose of exploitation.

(3) In determining whether an offence has been committed under this section—

(a) the question whether a child, or any person who has responsibility for the child, has consented to any conduct, and

(b) the question whether any coercive means have been used,

are irrelevant."

New clause 6—*Exploitation offence: general*—

'(1) It is an offence to exploit a person.

(2) An offence under this section is committed where one person obtains a benefit through the use of a second person for the purpose of exploitation by means of—

(a) the threat or use of force or of other forms of coercion,

(b) abduction,

(c) fraud or deception,

(d) abuse of power,

(e) abuse of a position of vulnerability,

(f) the giving or receiving of any payment or benefit with a view to securing the consent of any person having control over that second person."

New clause 10—*Definition of "exploitation"*—

For the purposes of this Part—

'(1) "exploitation" includes but is not limited to the prostitution of others or other forms of sexual exploitation, labour or services including begging, practices similar to slavery, servitude, or the exploitation of or for criminal activities, or the removal of organs etc.

(2) "sexual exploitation" means—

(a) an offence under Part 1 of the Sexual Offence Act 2003,

(b) an offence under section 1(1)(a) of the Protection of Children Act 1978,

(c) an offence under any provision of the Sexual Offences (Northern Ireland) Order 2008,

(d) an offence listed in Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I 1998/1504 (N.I.9)),

(e) an offence under Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I.17)), or

(f) anything done outside England and Wales and Northern Ireland which is not an offence within any of paragraphs (a) to (e) but would be if done in England and Wales or Northern Ireland.

(3) "removal of organs etc." means—

(a) an offence under section 32 or 33 of the Human Tissue Act 2004 (prohibition of commercial dealings in organs and restrictions on use of live donors) as it has effect in England and Wales, or

(b) which would involve the commission of such an offence if it were done in England and Wales."

New clause 14—*Repeal of existing provisions*—

'(1) In the Sexual Offences Act 2003, omit—

(a) section 59A (trafficking people for sexual exploitation),

(b) section 60 (interpretation of section 59A),

(c) section 60A (forfeiture of land vehicle etc.),

(d) section 60B (detention of land vehicle etc.),

(e) section 60C (interpretation of sections 60A and 60B).

(2) In the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, omit—

(a) section 4 (trafficking people for exploitation),

(b) section 5(3) and (4) (section 4 - supplementary provision).

(3) In the Coroners and Justice Act 2009, omit section 71 (slavery, servitude and forced or compulsory labour)."

New clause 17—*Offence of exploitation*—

'(1) A person commits an offence if they exploit a person by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or abuse of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

(2) A person may be in a situation of exploitation whether or not—

(a) escape from the situation is practically possible for the person; or

(b) the person has attempted to escape from the situation.

(3) The consent or apparent consent of the person to the exploitation is irrelevant where any of the means set forth in section 9(1) has been used.".

New clause 18—*Offence of child exploitation*—

'(1) A person commits an offence if they exploit a child.

(2) It shall be such an offence even if there was no threat or use of violence, other forms of coercion, deception or any abuse of a position of vulnerability.

(3) A child may be in a situation of exploitation whether or not—

(a) escape from the situation is practically possible for the child; or

(b) the child has attempted to escape from the situation.

(4) The consent or apparent consent of the child to the exploitation is irrelevant.

(5) "Child Exploitation" includes but is not limited to, the exploitation of the prostitution of others or other forms of sexual exploitation; the exploitation of labour or services including begging or practices similar to slavery, servitude or forced or compulsory labour; the exploitation of or for criminal activities including benefit fraud; the removal of organs; forced or servile marriage or enforced surrogacy; exploitation for unlawful adoption; and exploitation by enforced drugs smuggling, manufacture, production or distribution.".

Fiona Mactaggart: I want to start with the point that the hon. Member for Enfield, Southgate ended on and with my concerns about the first words of clause 3:

"For the purposes of section 2"—

that represents a narrowing of the exploitation offence, because it links it not only to the international definition of trafficking, but to travel—

"a person is exploited only if one or more of the following subsections apply."

My concern is that the compass or impact of the law will be narrowed at every point. There are opportunities to make it broader. The reason that I felt frustrated by the Minister's arguments that trafficking has to include an element of travel when we were discussing clause 2 is that we are signatories to a convention that says, "Trafficking shall mean"—and "shall mean" must have its normal meaning—"the recruitment"—that is the first word, not "travel"—then

"transportation, transfer, harbouring or receipt of persons".

The first thing is the act—it "shall mean" those things. The second thing is the means—

"by means of…fraud…deception…the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum".

That is the opposite of "only if". It then describes the forms of exploitation. It seems that that is internationally agreed. We are trying to frame, within that international agreement, a piece of legislation that meets our requirements to that convention and to the directive, to which we are signed up. I fear that we have not done that. That is why I have tabled these clauses.

I wish to press new clauses 5, 6 and 10 to a vote because all the children's charities, such as UNICEF and ECPAT, clearly say that there is a need for legislation for a child exploitation offence. The second reason is that we need to define exploitation. The purpose is not just that people are moved from one place to another; it is done so that people are exploited. I fear that this definition of exploitation is not flexible enough to take into account changes of circumstances and ties it only to the issue of travel. We need to change things.

When Chief Inspector Carswell gave evidence to the Joint Committee, he said of his concerns about the Bill:

"It does not make it clear that this includes but is not wholly X, Y and Z.".

[Fiona Mactaggart]

That, in many ways, is my concern about the Bill. By saying,

"only if one or more of the following…apply"

it says that it is wholly this; it does not say "at a minimum".

Chief Inspector Carswell continued:

"If I was reading this from a lay perspective, I would not read into this Bill that a child begging, or using children to obtain fraud which is to their detriment, or putting a child out on the street to steal for sometimes 12 to 18 hours a day is trafficking and exploitation.".

That is a Chief Inspector who is very involved in prosecuting. I believe that the Minister wants to help the police to prosecute. I am quite certain that that is the reason for the publicity campaign and so on. It is one of the reasons that the Bill has been drafted but the Bill is likely to mean that over the next three years, we will probably get fewer than 41 successful prosecutions.

The Minister keeps saying that we have to listen to the Crown Prosecution Service because it says it is easier with this. The Crown Prosecution Service, over the past three years, has prosecuted more victims of trafficking than it has prosecuted traffickers. That is why we should not always just listen to what it says. We need to listen to those people who day in, day out are in the courts and are advocating for victims, prosecuting as independent lawyers and are, in some cases, acting for the defence. They all agree that the Bill is flawed. In the light of the view of everyone apart from the Crown Prosecution Service that the Bill is flawed, we should listen to them. For example, we heard Nadine Finch, who spoke to the Joint Committee saying:

"What needs to be understood is that the traffickers may not be sophisticated and children do escape. I have a number of clients who were trafficked here. I will give you one example. There is a Bangladeshi boy who was clearly trafficked here in a rather amateur way by his great-aunt. He escaped but then he was exploited in a whole series of restaurants. From his perspective, he was on his own in the country and some nice person offered him a bit of pin money and somewhere to stay, but he was seriously exploited. He was not at that point trafficked, so there is nothing in this legislation that would protect him."

She goes on:

"I think it would be quite easy to draft a clause"

and I hope that the clauses that that Committee drafted, which I have tabled, actually do achieve our aim.

We have spent a long time on this and it is hot and stuffy in here, but it is important to ensure that we catch the exploitation that is at the heart of this. Without new clause 6, which defines an offence of exploitation, many such offences will not be caught.

I cannot see how anyone does not believe that these things should not be criminal—I used a double negative there and I did not mean to. I think we all agree that it should be an offence to exploit a person with: the threat or use of force or other forms of coercion; abduction; fraud or deception; abuse of power; abuse of a position of vulnerability; and the giving or receiving of any payment or benefit with a view to securing the consent of any person having control over the second person.

New clause 6 would cover the example suggested by my hon. Friend the Member for Linlithgow and East Falkirk. In that case, those young men who were collecting charity bags to which they were not entitled from doorsteps were victims of fraud or deception. They believed that what they were doing was perfectly lawful. Their exploiter should be held responsible in criminal law for that exploitation, but, without new clause 6, under the Bill they would not be—it is as simple as that. Arguably, they would be if they had engineered their travel—not certainly, because of the rather narrow frame of clause 3—but, if they had not in any way, clearly they would not be responsible. It therefore behoves the Committee to accept new clause 6.

The evidence given to us by lawyers about the impact of the decision in L & Others suggests that the courts are now capable of going through a process of deciding a child's status without the lengthy arguments that used to occur, which disproves some arguments. However, we do need to have an offence of exploitation because often the victims do not know that they are being exploited. It is not just children who do not know that they are being exploited; there are people from different cultures and elsewhere who are ignorant of their own exploitation.

I have shared with the Committee my experience and frustration about the woman who is being exploited by her son-in-law. I have tried to find an offence of which he is guilty. Of course, she is not keen on bringing him to court, because he is her son-in-law, but the police ought to be able to recognise that she is being exploited by him for use of her pension.

She does not have anyone else to turn to, but, if she was seen as a victim of trafficking, there would be alternative accommodation available for her. She could be supported by the Salvation Army, she would be identified by the national referral mechanism as a victim of trafficking and, instead of her coming and sitting in my office, hoping that I have a magic wand to fix things for her, we could put processes in place. It behoves us at least to make this kind of exploitation of one human being by another unlawful—a criminal act—because I am certain that if we do not do that, in order to provide a tidy, easy-to-prosecute law, that will mean that fewer of these criminals who are exploiting other human beings are ever convicted. I do not believe that a single hon. Member in this room wants that.

4.15 pm

That is why I think that this new clause is so important. It is probably the most important of all the new clauses that I have put forward. Hon. Members know that I have used clauses that were included in the pre-legislative scrutiny, because I thought that that was the right thing to do. However, if I had just one thing to move, it would be this provision in new clause 6 that makes exploitation of one human being by another a criminal offence, because if we do that, we will really make this law fit for purpose, and if we do not do it, we will continue to consent to a situation in which one human being who uses another person for their own benefit—not necessarily enslaving them, not forcing them to do labour and moving them across continents, but using them for their own benefit, exploiting them, exploiting their ignorance and other things about them—is not doing anything criminal. That is the situation in Britain today.

It seems to me that we need to make all those things criminal. Some of those things are, of course, criminal at the moment. Abducting a person is usually criminal. However, in the context of this offence, it is clear that

we are connecting this to the issue of obtaining a benefit through the use of a second person. It is that which is at the heart of the Bill. If we added in that clause, we really would be beginning to pass a modern slavery Bill that was fit for purpose. Without that, we will not do so.

Mark Durkan: This debate is on clause stand part as well as the new clauses that have been tabled for our consideration. On clause stand part, questions obviously arise—I hope that the Minister will address them—about the language of clause 3, which is entirely dependent on clause 2. Clause 3 can be read only in the context of clause 2, which relates to trafficking as defined as directly associated with travel and so on, as we heard in the previous discussions; I do not wish to rehearse any of that.

The questions that I hope and perhaps am confident that the Minister will address are obviously in relation to the scope of clause 3 territorially. There are a number of references in clause 3 to England and Wales, but of course they are not always absolutely restrictive, because in one case we are talking about something

"which would involve the commission of such an offence if it were done in England and Wales",

so the interpretive standard would be the law in England and Wales. However, in other cases, in other aspects, where the geographic reference appears, that is not so clear.

It seems to me that if this legislation is about consolidating and clarifying, we need to ensure that in relation to these references, which are quite complicated, we are not creating confusion. I would be interested in whatever the Minister can address or clarify in relation to those questions about the geographical applicability. Again, to return to clause 2, it can clearly have effect in relation to offences or actions that take place in different parts of the UK and indeed outside it, but the scope and nuance of clause 3 are not as clear. If the Minister could enlighten us in the course of her remarks, it would help.

It is precisely because I have such questions that I am struck by new clause 10, for instance. We need to address those questions. Some of the provisions in new clause 10, tabled by the hon. Member for Slough, directly provide for actions and activities that take place in Northern Ireland in ways that would not be seen as intrusive on devolved authority or competence in any way that could be deemed insensitive or controversial, and they seem quite competent and balanced in how they do so. Those provisions relate to the definition of "exploitation". All the amendments to this section tabled by the hon. Member for Slough relate to having a clear definition of the offence of exploitation.

New clause 5 relates specifically to child exploitation. I know that the Minister has said that she believes it is better to have general offences rather than offences relating specifically to children. If we do not want an offence of child exploitation for that reason, what is wrong with new clause 6, which gives us a general exploitation offence? It would be an exploitation offence in its own right; it should be against all its own wrongs. Exploitation should not simply be a sidelight of clause 2 as it refers to trafficking; it should absolutely be an offence in its own right, because it is so wrong in all its forms.

I see no reason why that should not be part of what is meant to be a Modern Slavery Bill. The Government have made the case all along that they do not want just to pass a Bill that is all about recodifying existing law on trafficking; they want to address modern slavery in all its forms and all its features. It seems to me, if people accept the Minister's argument about child-specific offences, that new clause 6 does that. It would be supplemented by new clause 10, which would remove some of the geographic and jurisdictional ambiguities and confusions that could come from the legislation.

Earlier, we discussed the apparent gaps between clauses 1 and 2. We want to ensure that we do not create any rat run of legal and jurisdictional chicanery for any of the people engaged in this heinous criminal activity; I share the revulsion that the Minister has expressed in all her contributions. I know that she has told us that the Government will be in a position to indicate their further understandings in relation to the devolved authorities and administrations, but there are ways at this legislative stage for us to accommodate and anticipate without detonating any transgressions under the Sewel convention or anything else. It seems to me that that is available to us through some of the amendments.

Similarly, the new clauses tabled by the hon. Member for Kingston upon Hull North and others address the issues in a way that is cogently and widely cast in the geographic sense. They avoid the geographic and jurisdictional tripwires, although I understand why some of those are in the original Bill. In terms of introducing this sort of definition, we know that partial legislation on these matters is passing through some of the devolved jurisdictions, but often the legislation passed in this House is accepted and becomes a benchmark for predictive legislation. Sometimes I do not like how that happens; other times I am glad when it does and we here can have the effect of setting predictive legislation. The campaign for this Bill has been supported in every part of the United Kingdom, including the devolved parts. Many local campaign groups have been involved in Northern Ireland and elsewhere. No one would take it as untoward if we try to ensure that the Bill is as robust as possible and proofed against any difficulties. I will further address some of those issues in relation to other amendments and new clauses that I have tabled. I know that the many geographical references are not absolutely restrictive in how the law applies—they are meant to be interpreted—but nevertheless there is a serious risk of confusion that will lead to evasion by those whom we are trying to stop.

Sarah Champion: I speak in support of new clause 18, which would introduce a specific offence of child exploitation. I therefore also support new clause 17, which would introduce an offence of exploitation that does not refer to children, thereby making a distinction between exploiting a child and exploiting an adult.

Through my work chairing an inquiry into the effectiveness of child sexual exploitation law I have come across many child victims of exploitation. Although in that context the exploitation is mostly sexual, I have learned much about child exploitation more generally, with reference to things such as forced begging, child labour and forced criminality, about which my colleagues have spoken. Additionally, through recent events in Rotherham, child exploitation has very much come to the fore. The dominant narrative frequently refers to

[Sarah Champion]

how perpetrators of such abuses rely on exploiting the vulnerability of victims as children—not just as vulnerable and impressionable people but as children.

A strong emphasis is placed on the word "child" that permeates throughout all local and national narratives on Alexis Jay's report into Rotherham's failings. Rotherham is the largest child exploitation scandal in a string of UK towns. The failure to respond adequately to the widespread sexual exploitation of children highlights an endemic issue across the UK. In communities throughout our country, including Oxford, Rochdale and Peterborough, we have been confronted with overwhelming evidence of repeated and multiple failures to protect children from exploitation. The Rotherham authorities, the police and social services all had a role to play in protecting and safeguarding children, but they failed to react to exploited children and victims of serious abuse. Despite the shocking revelations over the past few years, not just in Rotherham but elsewhere, statutory agencies continue to disregard and misunderstand the horrific and coercive conditions of child exploitation.

In Rotherham, the victims were often seen as perpetrators, or just troublemakers. Some people in authority even went so far as to hold the children themselves accountable for what happened. That culture of disbelief has to end before thousands more young lives are damaged and ruined by exploitation. Child victims of trafficking and exploitation are often unable to recognise that they are victims. Indeed, they often blame themselves for the abuse that they suffer. They have been groomed to think that their worth is valued by sex, degradation or activities that cause them to expect to be used and exploited by other people. Those attitudes are only compounded by the authorities' failure to act and inability to provide protection. There is no single action to address such an entrenched problem, but authorities must take responsibility for a woeful lack of action in these cases that served only to create a culture of impunity for abusers.

We have an opportunity here today to put the slate right by saying that we recognise that child exploitation exists in its own right, rather than as part of a string of other offences. By doing so we would recognise the vulnerability of exploited children; we would recognise that perpetrators are preying on precisely the vulnerability that comes with youth. The children who have suffered must be given the appropriate support to recover and an opportunity to access justice. The men who abused them, or who allowed that abuse to happen, should know that their crimes will not be overlooked for any reason.

4.30 pm

Trafficked children cannot consent to being exploited. International law makes that clear, so we must reflect it in our domestic legislation to ensure that the message gets home to practitioners and young people themselves. Training, resources, proactive policing and effective multi-agency working are vital to improving disclosures of child exploitation, protecting children and ending the culture of children being used as commodities, be that for sexual purposes, labouring or conducting criminal offences. We know that child exploitation is widespread and that many young lives are at risk. Authorities must introduce measures to train their staff adequately to recognise the indicators of trafficking and take bold action. The Government must allocate proper resources to that, as well as putting robust policies and legislation in place. That includes the need for a proper offence in law to tackle child exploitation in all its forms, be it sexual, forced labour, domestic servitude or forced criminality. An offence of child exploitation offers the possibility to recognise that child exploitation is, in its own right, an issue so severe that the Government must turn their attention to it as a matter of urgency.

Practice has shown that too few trafficking prosecutions for child cases are brought, let alone successfully convicted. There are hundreds, if not thousands, of children who have been identified as victims of trafficking but whose cases have not been properly investigated. Their exploiters have therefore not been prosecuted or convicted because the current legislation does not allow for that. That is particularly the case for those children trafficked for forced labour, domestic servitude and forced criminality, despite the fact that forced labour is as prevalent as sexual exploitation for children.

The shocking picture reflected in the Crown Prosecution Service data is that there have been no cases where the victim was a child at the time of prosecution since the introduction of section 71 of the Coroners and Justice Act 2009. We must all acknowledge that that does not reflect the reality. Additionally, of the 59 defendants charged with human trafficking offences in 2013-14, only one case was not sexual exploitation in cases relating to child victims. We have a situation where the Refugee Children's Consortium, which is made up of over 40 organisations, is urgently calling on the Government to act on this gap in the law by creating an offence of exploitation in the Bill. I completely and wholeheartedly back those calls.

The scandalous revelations of Alexis Jay's report into Rotherham only serve as a tragic example of why more must be done to prevent offenders from going unpunished. Children make up around a quarter of all known victims of trafficking and modern slavery in the UK, and the number of victims of child exploitation grows year on year. They are specifically targeted because of their age and vulnerability to being controlled and groomed. As a country, we must unite to ensure that there is not another Oxford, Rochdale or Rotherham. The effects of such abuse will stay with the affected children and young people for ever. I urge the Committee to accept new clause 18.

Diana Johnson: May I start by saying how compelling a case my hon. Friend the Member for Rotherham made for ensuring that we have a specific offence for child exploitation? Following the findings of the Jay report into Rotherham and the cases we know about in other parts of the country, we must all reflect very hard on what else needs to be done to ensure that the majority of these perpetrators are brought to account.

On that basis, I speak to new clauses 17 and 18. As my hon. Friend the Member for Slough did, I will set out why it is important for the Bill to have separate offences for exploitation. Let us be clear: exploitation, in itself, is not an offence in the Bill as drafted. The prosecution would need to establish the behaviour described in clause 3, where exploitation is set out, simply as a necessary condition for achieving a conviction under clause 2. Behaviour that simply meets the criteria of

clause 3 is not dealt with by the Bill unless it also meets the higher threshold set out in clause 1. We must all be clear about that. There are three problems with the approach that the Government have decided to adopt. First, as we discussed on the previous group of amendments, there are concerns about the definition of exploitation. Secondly, making those two conditions necessary for a conviction sets a very high bar, for which it is extremely hard to compile evidence. It prevents convictions in a number of cases, where we could get convictions if we had a separate offence for trafficking and a second one for exploitation. Finally, such an approach fails to recognise the special nature of child exploitation and the particular vulnerabilities that children face. In order to address these points, there are a number of differences between new clause 17 and clause 3. Additionally, there is a special provision for children in new clause 18.

As with our discussions on clause 2, in principle and in structure I agree with the new clauses and arguments put forward by my hon. Friend the Member for Slough. The tabling of specific offences to deal with exploitation completes what has been described as a hierarchy, or cascading, of offences. We have the offence of servitude and slavery as set out in clause 1. We should have the specific offence of trafficking and a separate offence of exploitation. Such an approach is clearly different from that proposed by the Government in the Bill, but it has the strongest legal input.

Chloe Smith (Norwich North) (Con): Will the hon. Lady clarify why it is also different from the new clauses tabled by the hon. Member for Slough? I do not mean to cause mischief; I genuinely want to know whether the proliferation of new clauses tabled by Opposition Members is significant.

Diana Johnson: I would never accuse the hon. Lady of causing mischief. We have tabled new clauses because we have had the benefit of looking at the clauses that the Joint Committee proposed. We also looked at the Government's criticisms. We have had the opportunity to work with a wide range of voluntary and charitable organisations. The Anti-Trafficking Monitoring Group came up with an alternative Bill, from which we selected clauses to use as our new clauses on the basis that they best fit the concerns that the Government raised with the Joint Committee's proposals and its draft clauses. We therefore believe that our proposals better deal with the problems that were highlighted in the previous initial draft clauses. That is why we have tabled new clauses 17 and 18. Obviously, they are similar in detail, and I will deal with any specific differences. To be clear, the clauses—I think this has been sent round to all members of the Committee—came out of the Anti-Trafficking Monitoring Group's alternative Bill.

Lord Judge has been quoted extensively in our deliberations. Of course, we all recall he was the Lord Chief Justice of England and Wales, one of the most senior criminal judges in the country. It is worth reflecting on what he said about the Bill. He said there is

"another aspect of the Bill that troubles"

him. He added:

"We are making provisions for slavery, servitude and compulsory labour in clause 1 of the Bill. In clause 2, trafficking is the offence. It becomes an offence because you do it with a view to exploitation—knowing, believing or whatever words are chosen to be used. You could have an offence of trafficking, full stop, and a separate offence of exploitation. As it stands at the moment, you have a single offence with two parts—here is the trafficking, and it is with a view to exploitation. My own view, for what it is worth, is that trafficking in people is a dreadful thing to do, trafficking with a view to exploiting them is a more serious thing to do, but exploiting them is also serious. My concern reading clause 2 and the various subclauses is, "Is this really what we want?"—a single offence that has two ingredients, rather than two separate offences and, possibly, a third offence, which would put the two together."

The Committee might be relieved that we are not arguing for a third offence to be identified, but we are proposing separate offences for trafficking and exploitation. We are advocating the approach suggested by Lord Judge for the reason that establishing both trafficking and exploitation is often difficult and prevents prosecutions for exploitation on its own, which is also a serious matter.

The issue that Lord Judge identified was also picked up by the police in evidence to the draft Bill Committee. Detective Inspector Roberts of Kent police said:

"Certainly within Kent, we have had quite considerable difficulty in working out what is criminal exploitation, particularly labour exploitation, where people are working very, very long hours in difficult circumstances. If you asked an average member of the British public whether that person was being exploited, they are, but because of their circumstances they are allowing themselves to be exploited and to remain within circumstances of exploitation."

It is because of that mismatch between the experience of the police, who are encountering what they think to be exploitation and slavery, and what the CPS is prosecuting, that new clause 17 does not replicate the approach of clause 3. We do not intend to have an exhaustive list of specific forms of exploitation. We accept that that will never work. Instead, the new clause gives a definition of exploitation and would let the court decide whether the case before it is exploitation.

In evidence, Detective Inspector Roberts gave an example of where that could work. He said:

"If I could give a very clear example, we came across Lithuanian chicken catchers. Twenty-nine males were put through a victim debriefing centre. Seventeen gave written evidence and statements, which included beatings; theft of their wages; living with anything up to 12 people in a two-bedroom house; bed bug-ridden mattresses; dogs being set on workers; being held within the back of a transit van for up to five to six days at a time without any ablutions—no washing or toilet facilities; being driven from job to job; and being paid only for the time that they were working."

In the draft Bill Committee, Baroness Butler-Sloss asked how the CPS had dealt with that case. Detective Inspector Roberts responded:

"They said that that did not amount to forced labour within the legislation as it stood. As a simple soul—as most police officers are—we can deal only with what is in front of us. I would like to know what the bar is that we have to cross."

That is the crux of the problem. The police are encountering exploitation—vile exploitation of a type that most people would consider criminal—but it does not meet the very specific and narrow offence that is in legislation and that is being transplanted into the Bill. That is why we have drafted new clause 17, which would cover that situation. It is also why we want the new clause to establish the offence of exploitation in its own right.

In the evidence Chief Inspector Winters of Cambridgeshire police gave to the draft Bill Committee, he described encountering the same situation:

"We have exactly the same experience as Kent. It is not small scale; it is widespread, certainly in the more rural parts of our county in the north-east. Core offences are committed in these

[Diana Johnson]

scenarios. Clearly, you have threats, assaults, blackmail and fraud, but when the CPS comes to look at the entire package it will deal with those core offences. If we were able to deal with it as exploitation and it was packaged up as exploitation, which would add that aggravating factor to it, it would be beneficial to us."

It is a real problem that that type of conduct is not being prosecuted. Unless we add specific offences of exploitation, nothing in the Bill will enable the prosecution of the types of offences I have outlined.

The omission is even more glaring when it comes to children, which is why we have tabled a separate offence for children in new clause 18. The omission of a separate, specific offence of child exploitation has been one of the most commented upon aspects of the Bill. Members of the Committee will have seen the briefings from the coalition of children's charities, including ECPAT UK, UNICEF, the Children's Society, Barnardo's and the National Society for the Prevention of Cruelty to Children. The charities are speaking with a single voice, and we should not ignore them.

My hon. Friend the Member for Rotherham talked about how children make up around a third of all known victims of modern slavery in the UK, and said that the number of child victims is growing year on year. We know they are specifically targeted because of their age and their vulnerability, yet, as she pointed out, according to Crown Prosecution data, there have been no cases in which the victim was a child at the time of prosecution since the introduction of section 71 of the Coroners and Justice Act 2009, which deals with slavery, servitude and forced or compulsory labour.

4.45 pm

That is important because, as we have said, that section 71 offence has been transposed directly into clause 1 of the Bill. No children have ever come within the remit of that section. That is why we need the separate offence. New clause 18 differs from new clause 17 in that there would be no need to establish force or coercion when prosecuting an individual for child exploitation. The principle is clear: children cannot consent to their own exploitation and have the right as children to be protected from such abuse.

Because a number of charities have united on this point, I want to remind the Committee of their united briefing. They say:

"The introduction of a separate and specific offence of child exploitation would cover the variety of criminally exploitative situations that children suffer yet which are not easily prosecuted or cannot be prosecuted under the human trafficking or forced labour/slavery offences in the Bill. There are hundreds, if not thousands, of children who have been identified as victims of trafficking but whose cases have not been properly investigated and, therefore, their exploiters have not been prosecuted or convicted because the current legislation does not presently allow for this. This is particularly the case for those children trafficked for forced labour, domestic servitude and forced criminality, despite the fact that forced labour is as prevalent as sexual exploitation for children."

Clear examples of that came to the Committee in the evidence of Nadine Finch, who has been referred to a number of times. We really need to listen to what that barrister is saying because of her extensive experience representing victims of such crimes.

I want to impress on the Committee again that, as the Bill is currently drafted, we have two offences, the first of which does not require the movement of clause 1. As I have just said, that was directly transposed from another Act under which there have been no prosecutions in relation to children. We need to reflect on that. The second offence of trafficking demands a complicated chain of behaviour to be proven. The evidence from the front line is that it is not going to work—it is not going to do what the Minister wants, which is to bring more convictions, particularly for those who have trafficked and exploited children.

I have one final point to make. It has been suggested without supporting evidence that an offence of child exploitation will lead to parents being prosecuted for making their child do the washing-up. I do not wish to dwell too long on that suggestion, as Peter Carter QC told the Committee, in his written evidence, that such an argument

"misses the significance of the word 'exploitation'. It will not and cannot extend to sulky teenagers required to clean their rooms or do some washing-up."

However, to put the issue beyond doubt, we have clarified what exploitation means in new clause 18(5). We have not attempted to create an exhaustive list of occurrences, as in clause 3. We have given clear examples of the serious but broad nature of exploitation, which will give clear guidance to the courts on how the measure can be applied.

We have already mentioned that the Director of Public Prosecutions could not tell the Committee how she would deal with cases of children forced to beg. New clause 18 would give all law enforcement officials the clear tools to protect children and prosecute perpetrators.

The Chair: Order. Before I call the Minister, I should say that, while it is not always the case, it is convention that we finish at around 5 o'clock. We are discussing important issues, but I am reminded through the usual channels that we hope to get to clauses 4 and 5. Members must feel free to speak as often as they like for as long as they like. I am sure they will be able to balance that in their own minds.

Michael Connarty: Very briefly, I wish to support the speeches and the thrust of the arguments made by my hon. Friends the Members for Slough, for Kingston upon Hull North, for Rotherham, and for Foyle.

The argument has been really well made and has consistently shown the lack of vision of the Government. In respect of a number of amendments in the last group, the Government have dug a few holes for themselves in denying the role of specification of children and then rejecting the overall, much advised and much supported, argument on behalf of offences to do with children—both trafficking and exploitation offences.

The quality of the amendments tabled after consideration by the Joint Committee, and as redrafted by the Labour Front-Bench spokesman, is undeniable. I know that the Government will have a brief and that the Minister will read it, but a point that was made very well is that the Bill is slowly but surely being revealed as being less useful. In fact, it would appear to be obstructive in terms of actually helping the victims that we were hoping to help when we set out on this journey.

Karen Bradley: I am grateful to the hon. Member for Slough for tabling new clauses 5, 6, 10 and 14, and to right hon. and hon. Members for tabling new clauses 15 and 16. The new clauses propose to add an offence of exploitation and an offence of child exploitation to the offences currently in the Bill. We are considering the new offences alongside clause 3, which sets out the meaning of "exploitation" for the purposes of the clause 2 offence of human trafficking. I will start by setting out why clause 3 is drafted as it is, and how it fits within the offences in the Bill, and then I will address the proposal for separate exploitation offences in detail.

I remind the Committee that the clause 1 offence targets those who hold a person in slavery, servitude or forced or compulsory labour in this country, without any requirement for movement whatsoever, so where serious abuse has occurred that equates to modern slavery, but movement has not taken place, law enforcement already has an effective offence available.

The human trafficking offence set out in clause 2 involves arranging or facilitating a person's travel with a view to the victim's exploitation. The offence targets the wrongdoing involved in moving human beings with a view to exploiting them. It is right that we have a separate offence targeting those involved in the movement of people who will be exploited, in line with the requirements of the Palermo protocol and the EU directive. That is what the offence achieves.

The definition of exploitation is set out in clause 3 and is deliberately wide, so that we capture the full range of types of exploitation that human trafficking victims could be subject to. However, it is not designed to be a stand-alone offence. First, the clause defines exploitation as including behaviour that, under clause 1, amounts to slavery, servitude and forced or compulsory labour. The clause ensures that equivalent conduct committed outside of England and Wales also comes within the definition, even though, for jurisdictional reasons, it would not be an offence under our law.

I want to deal with the point made by the hon. Member for Foyle about extraterritoriality. Clause 2 applies to everyone, where the travel is in, to or from the UK, or any part of the arranging or facilitation takes part in the UK. It also applies to UK nationals, regardless of where any of the conduct takes place. Clause 3 defines exploitation for the purposes of clause 2. Members will recall that the travel must be with a view to exploitation. Paragraphs (2)(b), (3)(b) and (4)(b) of clause 3 refer to conduct that would be an offence in England and Wales, because the exploitation may take place outside England and Wales. Under clause 2, it does not matter where the relevant exploitation is intended to take place, and subsections (2), (3) and (4) make that clear. The only relevant issue to establish jurisdiction is where the travel takes place, or where the arranging or facilitating happens. As I have said, for UK nationals those matters are irrelevant anyway.

Additionally, we are talking about a Bill that applies in England and Wales, but I repeat that we are discussing this with the devolved Administrations, to see how we can ensure that we might extend it appropriately and have the relevant legislation and powers required in each of those Administrations.

Returning to the offence, secondly, exploitation also includes sexual exploitation, which is defined by reference to conduct that would constitute the commission of any of the sexual offences provided for in part 1 of the Sexual Offences Act 2003, including rape, sexual assault, prostitution and child pornography offences. The offence of taking, or permitting the taking of, indecent photographs of children is also specifically covered. Again, equivalent conduct outside England and Wales is within the definition. The clause sets out that exploitation includes trafficking for organ removal or for the sale of human tissue by references to offences in the Human Tissue Act 2004.

In addition, the clause sets out that exploitation includes where a person is forced, threatened or deceived into providing a service of any kind, providing a person with benefits or enabling another to acquire them. It is a wide provision and includes forcing a person to engage in activities such as begging, pickpocketing or shop theft. It is not necessary for that conduct to be a criminal offence. We are confident that the clause captures all possible forms of exploitation that a perpetrator might traffick a victim for.

I will now turn to the proposals for a new offence for exploitation and then to the issues raised by the proposal for a separate child exploitation offence. The key issue here is whether the offences in the Bill have left gaps where conduct that amounts to modern slavery cannot be prosecuted. The particular issue raised is that the trafficking offence requires some type of movement, as that is the offence. The concern is whether there are types of exploitation that should be a serious criminal offence even without being related to trafficking, but are not captured by the clause 1 offence or other serious criminal offences. I am convinced that every member of the Committee shares the objective of making sure that many more criminals who engage in modern slavery are caught, prosecuted, convicted and severely punished. Ever since the pre-legislative scrutiny report suggested that there could be gaps, I have taken it very seriously. I am still listening carefully to members of the Committee and looking at the evidence it receives. If any member believes that there is a gap in the Bill, they should, please, bring it to my attention. I am conscious of the points that have been raised so far and I want to ensure that those are looked at. If we find that there are genuine problems, of course I want to correct them.

The hon. Member for Rotherham talked about whether there were gaps in the criminal law on sexual exploitation. I have been provided with a long list of possible offences under which child sexual exploitation could be prosecuted. I am not going to read them all out because I am conscious of time, but we do not believe that there is a gap in the criminal law relating to sexual offences.

Sarah Champion: I agree with the Minister that the legislation specifically on child sexual exploitation is okay. It is on child exploitation in general that it is falling down.

Karen Bradley: I thank the hon. Lady for her comments. If she has examples of child exploitation within the context of modern slavery, I ask her, please, to present them to us because we want to check that we are not leaving gaps in the legislation that could allow a serious criminal to find a loophole and escape prosecution. That is in no way what is intended. From all the work we have done, I am not convinced there are gaps that will prevent serious criminals from being prosecuted. I am open, of course, to looking in detail at any suggestions that are made.

[Karen Bradley]

One example that has been raised in the Committee is the issue of victims, often children, who are forced to beg. Let me make clear how the existing offences properly capture that conduct. First, if the child has been moved with the view to making them beg, that is captured by the trafficking offence. Secondly, if there is no movement, begging could constitute forced or compulsory labour under clause 1. As we debated under clause 1, the courts could look at all the circumstances and conclude the offence has taken place even if the child appeared to consent.

The CPS can also rely on the offence of child cruelty under section 1 of the Children and Young Persons Act 1933. That offence is committed where a person has responsibility for a child under the age of 16 whom they wilfully ill treat or neglect in a manner likely to cause unnecessary suffering or injury to health. The offence is punishable by up to 10 years in prison. Additionally, begging is, in itself, a criminal offence, as we have discussed numerous times today. A person who uses the child to beg will be guilty of aiding and abetting, conspiracy and/or assisting or encouraging, under the Serious Crime Act 2007.

The Director of Public Prosecutions will ultimately be responsible for prosecuting those offences so I have to take her view on the matter seriously. I remind the Committee that she stated that prosecutors

"much prefer the clarity of the offences in the Bill as drafted by the Government"—[*Official Report, Modern Slavery Public Bill Committee,* 21 July 2014; c. 4, Q2.]

compared to the suite of offences proposed following pre-legislative scrutiny. After that statement, the director was questioned at some length about whether there were gaps or whether the way the existing offences were drafted were causing cases to slip through the net. She made it clear that the problem was getting the evidence and the witnesses. She said:

"I do not think that cases are slipping through because the legislation is not there to prosecute; I think cases may not be brought before the courts because we have not got the evidence and we have not got the complaints in the first instance."—[*Official Report, Modern Slavery Public Bill Committee,* 21 July 2014; c. 9, Q17.]

5 pm

That is why we need to focus not only on the offences but on a comprehensive strategy to improve the law enforcement response, to identify more victims and support them, including when they give evidence. I am sure that we will learn much from the experiences of people in Rotherham that the hon. Member for Rotherham has spoken about.

We need the anti-slavery commissioner, with their role focused on improving the work of law enforcement agencies in identifying victims; we need the statutory defence for victims, and we need to ensure that special measures are available in court for vulnerable victims. We also need the child trafficking advocates to help vulnerable children, including during the criminal process.

There are many other difficulties with the exploitation offences as set out; they have been discussed already at length and I do not want to detain the Committee further on them. I will just say that we have the clause 1 offence to target the serious abuse involved in slavery, servitude and forced or compulsory labour, and we have the clause 2 offence to target trafficking. These are very serious offences that can carry life imprisonment, and we have a wide range of offences that can be used to target offending that is not serious enough to be captured by a clause 1 offence. Also, adding entirely new exploitation offences could simply confuse law enforcement agencies and undermine the focus on what we have rightly described as modern slavery. Where we are dealing with less serious conduct, it is simply proper that we prosecute criminals using less serious offences.

We have already debated the value of a separate child trafficking offence, and the same arguments apply here so I will not repeat them. The current legislative framework relies on just two offences: trafficking, to tackle the movement of people to be exploited; and slavery, servitude and forced or compulsory labour, to tackle serious forms of abuse. I believe that framework is simpler and more familiar to law enforcement agencies, prosecutors and the courts than the alternative, and it has been designed specifically to enable effective prosecution of those who target children.

Mark Durkan: I thank the Minister for accepting the point, and I appreciate the clarification that she offered earlier, which was partly what I had anticipated. However, it still means that clause 3—depending on clause 2, of course—rests on offence standards in England and Wales. What if someone is subject to treatment that would be an offence under Northern Ireland law? Would that mean that any pursuit of those people has no bearing in relation to clause 2 or anything else? I ask because we still have at the start of clause 3 the words:

"For the purposes of section 2, a person is exploited only if one or more of the following subsections apply".

Are we not creating a space for people potentially to bring people to Northern Ireland to be exploited for purposes that would be an offence under Northern Ireland law in future, but this Bill—when it is passed into law—would have no bearing for them?

Karen Bradley: May I ask the hon. Gentleman if he could provide outside the Committee examples of where he believes there is behaviour that would be criminal in Northern Ireland law that would not be criminal in England and Wales that may be affected by this Bill, so that we could consider that point? Off the top of my head, I cannot think of examples, but I am always keen to discuss such issues. So, if he can think of the examples, we can consider whether they would be covered or not.

As I have said many times before, this Bill carries a moral imperative: to rid our society of the scourge of modern slavery. I am sure that every one of us shares that intention. If we are to achieve that aim, we need to ensure we create clear offences that are focused on tackling the really severe abuse that amounts to modern slavery.

Given that, I hope that right hon. and hon. Members will feel that they do not need to press their new clauses, and I hope that when the Chair puts the question they will feel able to support the clause's inclusion in the Bill.

Question put, That clause 3, as amended, start part of the Bill.

The Committee divided: Ayes 11, Noes 8.

Division No. 3]

AYES

Bradley, Karen	Nokes, Caroline
Bruce, Fiona	Pincher, Christopher
Burns, Conor	Smith, Chloe
Burrowes, Mr David	Stunell, rh Sir Andrew
Hinds, Damian	Teather, Sarah
Lumley, Karen	

NOES

Champion, Sarah	Johnson, Diana
Connarty, Michael	Kane, Mike
Durkan, Mark	Mactaggart, Fiona
Hanson, rh Mr David	Wilson, Phil

Question accordingly agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4

COMMITTING OFFENCE WITH INTENT TO COMMIT OFFENCE UNDER SECTION 2

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

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

New clause 9—*Facilitating the commission of an offence under Part 1—*

"A person who is concerned in, or who facilitates, the commission of an offence under this Part in relation to a second person or child commits an offence if that first person knows or ought to know that second person or child is, or is to be, held in or subjected to slavery, or exploited or trafficked."

New clause 11—*Commission of offence within or outside the United Kingdom—*

"'(1) A person who is a United Kingdom national or resident commits an offence under this Part regardless of—

(a) where the offence took place, or

(b) the country or territory which is the place of arrival, entry, departure or travel of any person in relation to whom the offence is committed.

(2) A person who is not a United Kingdom national or resident commits an offence under this Part if—

(a) any part of the offence takes place in the United Kingdom, or

(b) the United Kingdom is the country of arrival, entry, departure, or travel of any person in relation to whom the offence is committed."

New clause 12—*Penalties—*

"'(1) A person guilty of an offence under any section in this Part is liable—

(a) on conviction on indictment, to imprisonment for life or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.

(2) A person guilty of an offence under section (Facilitating the commission of an offence under Part 1) is (unless subsection (3) applies) liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.

(3) Where the commission of an offence under section (Facilitating the commission of an offence under Part 1) involves the offender kidnapping or falsely imprisoning any person, a person guilty of that offence is liable, on conviction or indictment, to imprisonment for life or a fine or both.

(4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the references in subsections (1)(b) and (2)(b) to 12 months are to be read as references to six months."

New clause 13—*Sentencing—*

"'(1) The Criminal Justice Act 2003 is amended as follows.

(2) In Part 1 of Schedule 15 (specified offences for purposes of Chapter 5 of Part 12: sentencing of dangerous offenders), after paragraph 63F insert— "63G An offence under Part 1 of the Modern Slavery Act 2014."

(3) In Part 1 of Schedule 15B (offence listed for purposes of sections 224A, 226A and 246A: life sentences, extended sentences, release on licence of prisoners serving extended sentences), after paragraph 43 insert— "43A An offence under Part 1 of the Modern Slavery Act 2014.""

Fiona Mactaggart: I will be brief as we are tired. Members know the structure of these new clauses. It was the shape of the Bill that was agreed by the pre-legislative scrutiny Committee. There are two key issues on which I hope the Minister can reassure us a bit. Perhaps if she can do that I will not push this further. First, there is the issue that is covered in new clause 9 concerning facilitation and whether someone is guilty if they are facilitating or assisting in this sort of offence. Then in new clause 11 there is the issue of committing an offence within or outside the United Kingdom. I know that she dealt with this to some extent in response to the hon. Member for Derry—*[Interruption.]* Gosh, I am getting this wrong. I meant, of course, the hon. Member for Foyle. I said I would be brief. What I meant was that I did not really understand the Minister's answer to the point that was made.

It would be helpful for Members to understand whether the Bill has any extraterritorial impact. I ask that because in some of our child exploitation offences, child rape and so on, there is a clear extraterritorial effect that has helped in the pursuit of some of the worst and most egregious cases of child abuse. People who travel to countries where children are offered as prostitutes and so on can be prosecuted in the UK. The Committee would be interested to learn from the Minister about the international impact of the legislation as it is proposed. The Joint Committee felt that when it came to offences which the Minister described as the most heinous, in other words, slavery, they should have an extraterritorial impact. Can she tell the Committee about that?

Diana Johnson: Will the Minister explain why clause 4 will apply only to clause 2?

Karen Bradley: Given the way my throat is feeling at the moment, the thought of having to say extraterritorial too many times in the next few minutes does not fill me with me great joy. Anyway, I am grateful to the hon. Member for Slough for tabling new clauses 9, 10 and 12 which relate to facilitating the commission of an offence under part 1 of the Bill, the commission of an offence within or outside the United Kingdom, and penalties for committing offences under this Bill. I am grateful to the Chair for taking these amendments with the clause

[Karen Bradley]

stand part debate on clause 4. I intend to start by setting out the purpose of clause 4, and then dealing with the more or less related new clauses.

Clause 4 sets out the offence of committing an offence with intent to commit a human trafficking offence. That is why it relates to clause 2 because it is the intent to commit the offence of intending to commit human trafficking. I hope that makes sense. This offence is intended to replace the existing offence of committing an offence with the intent to commit a human trafficking offence set out in section 62 of the Sexual Offences Act 2003. This separate offence ensures that preparatory criminal conduct for a lesser offence, such a stealing a vehicle to use to traffick an individual, can attract a higher penalty than if it were not linked to trafficking.

In human trafficking, there are often a number of steps and a number of individuals involved in the facilitation, movement and exploitation of others. We know that in many instances individuals are involved on the periphery of human trafficking and play an important part in facilitating and organising the trafficking of others. The clause provides an important tool for law enforcement and the courts to deal with those involved in human trafficking, through an offence that carries an appropriately long sentence to reflect the seriousness of their actions. The maximum sentence, set out in clause 5, is 10 years, if the case is heard in the Crown Court, but if the offender has committed kidnap or false imprisonment the maximum is life imprisonment. The provision is one of a number of ways in which those who help others to traffic people can be prosecuted and convicted, and complements other wider offences, such as conspiracy to traffic or aiding and abetting trafficking.

I turn now to new clause 9, which also relates to facilitating modern slavery offences. I share the concern of the hon. Member for Slough that we take a tough stance on those who are on the periphery of, or who facilitate, the abuse and suffering of others. New clause 9 seeks to capture the activity of those who know or ought to know that a person is to be trafficked, held in slavery or exploited.

Although I share absolutely the sentiments behind the new clause, it is not needed. Prosecutors already have at their disposal wider criminal offences that capture such conduct effectively. For example, clause 2 is already sufficiently broad to capture those who facilitate trafficking by recruiting, transporting, transferring, harbouring or receiving a victim. In addition, provisions in the Serious Crime Act 2007 criminalise those who intentionally encourage or assist an offence. Those provisions apply to clause 1 and clause 2 offences in the Bill. Offenders on the periphery can also be found guilty of aiding and abetting an offence or conspiracy to commit a substantive offence.

The Government also propose legislative action in this Session to take a tougher line with those who participate in organised crime groups, even at their periphery. Clause 44 of the Serious Crime Bill proposes a new offence of participating in activities of organised crime groups. I hope that when Members give that proposal careful scrutiny they will consider how useful it would be in tackling those on the edges of organised crime groups who support or facilitate trafficking or slavery offences.

I hope that the hon. Lady will be reassured by those remarks and so will not press the new clause.

New clause 11 raises the interesting question of extraterritorial jurisdiction and how offences that apply in England and Wales should be applied to those involved in slavery and trafficking, both in the UK and elsewhere. The new clause seeks to extend extraterritorial jurisdiction to all offences related to modern slavery.

Clause 2(6) already applies extraterritorial jurisdiction to trafficking offences, so that UK nationals can be convicted regardless of where a trafficking offence takes place. In addition, clause 2(7) ensures that non-UK nationals can be convicted if they arrange or facilitate trafficking in the UK or the travel of a victim into, out of or within the UK.

The new clause would extend extraterritoriality to the offence of slavery, servitude and forced or compulsory labour. I fully accept the hon. Lady's good intentions in tabling the measure, but do not believe it would be effective or desirable. There are particular reasons why we have taken the unusual step of extending extraterritorial jurisdiction to the trafficking offence, reflecting the nature of trafficking as a global phenomenon that often involves travel between jurisdictions. It would not be appropriate to apply the same extraterritoriality directly to slavery offences committed in other jurisdictions.

Practically, it is simply not possible for the UK to police activity across the rest of the world, although I absolutely agree that we must do all we can to influence others to apply their laws diligently. It is more appropriate for offenders committing slavery in other jurisdictions to be dealt with by local law enforcement agencies and prosecutors, who know and understand the specific laws applying in that jurisdiction. But it is important that we continue to work, including through the Foreign and Commonwealth Office and the Department for International Development, to tackle modern slavery globally.

New clause 12 deals with the issue of penalties and is essentially consequential to the hon. Lady's other new clauses on offences; for example, it seeks to include a penalty for the proposed offence of facilitating the commission of an offence under part 1. In many respects the new clause mirrors those penalties already set out in the Bill.

I agree that we must apply the harshest penalties to those who traffic and enslave others, including the potential for a life sentence. As we have already set out the toughest possible penalties in the Bill, the new clause is not necessary. On that basis, I hope that the hon. Lady will agree not to press the new clause. I also hope that Members will agree that the clause stand part of the Bill.

The Chair: Before I put the Question, with the leave of the Committee I suggest that, if the Minister is so minded, she could use the letters "ET" for "extraterritorial" or "extraterritoriality" until such a time as her throat is better, if the Clerk, *Hansard* and the Committee are happy with that idea.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

PENALTIES

5.15 pm

Fiona Mactaggart: I beg to move amendment 64, in clause 5, page 4, line 3, at end insert—

"(3A) A person guilty of an offence under section (Procuring sex for payment) is liable on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both."

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

Amendment 65 to schedule 4, page 43, line 21, at end insert—

"Street Offences Act 1959

(10) Omit section 1."

New clause 21—*Procuring sex for payment*—

"(1) A person commits an offence under this section if he or she procures sexual intercourse or any other sexual act, whether for himself or herself or for another person, in return for payment.

(2) a "payment" includes—

(a) payment that is promised or given by another person;

(b) provision of non-financial benefits, including, but not limited to, drugs or alcohol."

Fiona Mactaggart: Government Members will be glad to know that my amendment is a probing one. I have been involved in the issue for a long time. Article 6 of the European convention requires states to take measures to "discourage demand" for trafficked people and, through the amendment, I am trying to give the Government the opportunity to take such a step. I have to say that the Government of which I was a member failed to take that step, although they moved in the right direction. I hope that history is moving my way on the subject, and that the Minister might offer us some words of comfort.

Members who were in Parliament at the time might remember the Policing and Crime Act 2009. Its section 14 was added after a clause was moved by the Government. They had told me that I was not allowed the amendment we are considering now, but they accepted that there was an issue. Section 14 therefore criminalises paying for sex with a person who is subject to exploitation or duress. I want to tell the Committee what happened as a result.

In 2010, during the first year that the offence was on the statute book, there were 49 prosecutions, and 43 of the people prosecuted were found guilty. In 2012, the most recent date for which I have figures, there were only nine prosecutions, of whom six were found guilty. That shows me that the offence is not working. I have been trying to find out from police officers why it is not working, although I had thought, "Okay, only 43 in the first year, but it's a new offence and the police don't know it's there. I would have expected more, but time will tell."

I have spoken to police officers about why the offence is not working. I do not want to disrespect them, because I am a great fan of the police, but they told me, "We can't prove two things." I said, "What?" They said, "We can't prove both that he has offered payment and that she is under duress." I said, "Well, actually, I think you can", but that is their alibi. Combining those proofs is too hard for the average copper. Then they say, "Oh, but what we want to do is to get the person who puts her under duress." I then looked at the number of prosecutions for people who are putting women under duress in such circumstances, but as we all know from our debates on earlier clauses, they are absolutely tiny.

We are failing to catch that element of gross sexual exploitation and of violence against women. Prostitution as it is actually practised is a form of violence against women. It is not a career choice—I have yet to meet the teenager who says, "I want to grow up to be a prostitute." It is an example of vile exploitation of women. Prostitution is not an act of choice or of freedom. It is an act that we need to find ways of protecting young women from.

One way to protect young women is to reduce entry into prostitution through proper sex and relationships education for children. Another way is to assist exit from prostitution. Fundamentally, however, the best way, which has been proved by the countries that have done it, is to reduce demand for prostituted women. There is evidence that that works. For example, when Sweden introduced the offence that I am arguing for, its Government investigated the law's effect and found that street prostitution halved between 1999 and 2008. There was no evidence that those women were displaced into indoor prostitution or prostitution advertised online. During that period, the number of women in street prostitution tripled in Denmark and Norway where purchasing sex was legal. I was able to talk to Detective Inspector Kajsa Wahlberg, rapporteur on human trafficking, who was the police chief officer responsible for some of the prosecutions in Sweden. Sweden has very lax legislation on telephone tapping by police authorities, so she was able to listen in extensively to conversations by people traffickers. She found that they would say to their customers at the end of the line, "Don't bring them here to Sweden because there is no demand for them. Send them to Norway."

It is clear that such legislation genuinely changes things, and several countries are looking at this. It does not change just the lives of women; it changes the behaviour of men. I cannot get inside men's heads and I am never going to try, but I have always found it extraordinary that so many men believe that it is appropriate to pay for sexual services from women who are usually, but not universally, grossly exploited, not necessarily by people traffickers, but sometimes by addiction or poverty. It is obvious to any hon. Members who have been near places such as King's Cross in the evening how degraded some of the women who are selling themselves are.

It is interesting that in Sweden, the evidence published by the Nordic Institute for Women's Studies and Gender Research showed that the number of men who pay for sex in Sweden has fallen. A survey in 1996 found that nearly 14% of men reported buying sex. A similar survey in 2008 found that the figure had fallen to 7.9%. So legislating changes behaviour, and I think we would all like to change behaviour. It has also changed attitudes. When the law was first introduced, the majority of the Swedish population was opposed to it but, bless the legislators, they persisted with it. Three surveys have since shown that a decade after its introduction, more than 70% of the population fully support it.

[Fiona Mactaggart]

The evidence is about reducing demand and criminalising the purchasers, who are the people who have agency—so often the women do not have agency and do not have much choice. If they are exploited by their own addictions via a people trafficker or someone else, they do not have a choice. The people who live in areas where street prostitution exists have very little choice about their children going to school seeing condoms, needles and so on. The people who have the choice are the purchasers. What I would like the Minister to say is that she has some sympathy for that approach.

I will not press the amendment to a vote, but we need to do more work to change public opinion, and I recommend to hon. Members the report, "Shifting the Burden", by the all-party group on prostitution and the global sex trade. We must follow other legislatures that are following Sweden. Norway has now done the same, having realised that it was having an appalling problem with Swedish transfers. Iceland has done the same. In 2013, the French Parliament voted to criminalise the purchase and sale of sex.

In the debate about trafficking, we have heard how often the victims of trafficking are prosecuted. In my view, the same pattern happens in prostitution. The women who do not have much choice about their lives are prosecuted. It should not be them; it should be the people who create the circumstances in which those women must sell themselves. If we believe, as I do, that having to sell your sexuality is a form of modern slavery, it seems to me that the Bill is an opportunity for the Government to make it clear that they are willing to take more action to prevent the sale of human beings by themselves and by those who control them. That is what I seek to achieve with these amendments.

Michael Connarty: I thank my hon. Friend the Member for Slough for moving the amendment. I was a member of the all-party group on prostitution and the global sex trade, and this subject is one that Parliamentarians Against Human Trafficking has come across in its journeys across the European Union. There is controversy among the Finnish and Swedish feminist movements about this topic. It is often seen as a divide between a woman's freedom to control her own body—some of the most strident feminists argue she can do with it what she wishes—and those on the other side of the argument who, as the all-party group recommended, want to see the transfer of the burden on to those who buy sex, rather than those who are forced to or choose to sell it, if they see themselves in that light. It is a sensitive issue in Scotland as well. One of our great campaigners, who sadly died recently—she was not in the same party as me—campaigned for safe zones in Edinburgh for women who felt they had to or chose to sell sex, whatever the case may be.

There is great controversy, but the all-party group's report struck the correct balance. There is no way in which a man purchasing sex is in an equal relationship with the person selling it. So many stories come out of the sex trade of the abuses that align with the purchase of the sexual act: the violence, the attitudinal degradation that is put on many involved in the sex trade, even if they think they are free to sell themselves. They find themselves in dangerous and degrading situations, or potentially such, at all times.

I do not know what the Minister will say about the amendment. This is an opportune moment. I am glad my hon. Friend has taken the opportunity to put it before us. We may not agree to put it in this Bill, but hopefully we will get an indication from the Government that they will join with the vast majority of people in the United Kingdom who think it is an offence for a man to buy a woman's body in any circumstance.

Fiona Bruce: We might not agree on many issues, but on this one there is barely a sliver of paper between the hon. Member for Slough and me. I commend her excellent speech and support her proposed new clause 21. Given that the biggest single reason for trafficking into the UK is the demand for paid sex—accounting for 40% of all victims referred to the NRM in 2013, compared with 36% for labour exploitation and 11% for domestic servitude—any credible British Modern Slavery Bill must do something to address it. We must send a strong message to those men—I am sorry to say it is predominantly men—who exploit a trafficked person for sex that this is not acceptable in our society.

I am aware that some will respond by saying that paying for sex is already subject to legislation, thanks to section 14 of the Policing and Crime Act 2009, to which the hon. Lady has referred. However, as she has already said, because that involves evidence of force, it is simply ineffective. More needs to be done and the Bill provides us with an opportunity to do it. I also agree with the findings of the all-party group on prostitution and the global sex trade, which has been referred to. As is the case in Finland, this offence is difficult to enforce because of the need to prove that the person concerned is subject to force. We need to accept that it has provided no real deterrent to buying sex from those who are trafficked.

That is in sharp contrast to the experience of other countries. As has already been mentioned, in Sweden, where it is now simply an offence to buy sex, that legislation has proved easier to enforce, and there have been approximately 3,000 convictions. The message has gone out loud and clear that there is no point trafficking people to Sweden to sell sex. As we have heard, conversations between traffickers have been intercepted, in which they have said, "Don't bother sex trafficking to Sweden." No such conversations have been intercepted in relation to the UK since the passage of section 14 of the 2009 Act.

5.30 pm

Some people will respond by pointing out that legislating simply to make buying sex an offence would provide a workable law for addressing the demand for trafficking for sexual exploitation, and it could also affect the demand for paid sex when the people concerned have not been trafficked. My response is, good. The evidence from countries such as Sweden and Norway on the one hand, and Finland, England, Wales and Northern Ireland on the other, shows that offences that target buying sex only from trafficked people do not work. Countries that introduced a general offence have affected the level of trafficking. We have to acknowledge that that is the only credible legal mechanism for addressing the global demand for sex trafficking. It is the only way to do something about it in this country.

Academics who have reviewed global data about prostitution and trafficking have concluded:

"countries that implement harsher laws regarding prostitution seem to get a lower prevalence of trafficking."

In contrast, countries such as the Netherlands and Germany that have legalised prostitution now face the challenge of continued exploitation and high rates of trafficking. A retired police detective from Germany described that country as a

"centre for the sexual exploitation of young women from Eastern Europe, as well as a sphere of activity for organized crime groups from around the world."

A chief superintendent from that country said—I grieve to read this—

"The sex buyers are looking for fresh meat. Nowadays, the average woman in prostitution in Germany is a 18-20 year old trafficked girl from Romania."

As well as addressing demand for sex trafficking, this mechanism will address the demand for paid sex where people have not been trafficked, and I believe it will be a source of great good in addressing a number of other issues. Evidence from the Home Office and multiple academic studies demonstrates that the majority of people who sell themselves for sex are incredibly vulnerable and subject to real exploitation. They are often homeless, living in care and suffering from debt, substance abuse or violence. They have often experienced some form of coercion either through trafficking or from a partner, pimp or relative. They are very young, often having entered the sex industry well before the age of 18, and they are frequently addicted to class A drugs.

Some say that there is a minority of people who sell sex because they really want to, but, like the hon. Member for Slough, I find that difficult to accept. It must be a tiny minority. I believe that at the heart of it, there will always lie some form of oppression or abuse. In the majority of cases, even when there is no element of trafficking, real exploitation is taking place.

We as legislators have to make a decision. If the law cannot be fashioned in everyone's best interest, we must ask whether we should prioritise fashioning it out of primary regard for a small minority who engage in that role without compulsion. Our law should embrace new clause 21 and have primary regard for the great, vulnerable majority.

Mr Burrowes: I support new clause 21 and the amendments in the name of the hon. Member for Slough. She said that she wants to be able to say, "They did it my way." My reason for rising to speak is so I can say, "They did it our way," because there should be cross-party momentum. Some say prostitution is the oldest profession, but, as far as I am concerned, it is the oldest form of exploitation and commodification of people's bodies—predominantly women. We must not turn a blind eye and walk on the other side of the street. Prostitution, sexual exploitation and trafficking are inextricably linked.

My reason for keeping the Committee for a few minutes longer is because this issue is of particular concern in my constituency, after the recent conviction of a gang that sexually exploited more than 100 people in brothels in my area and around London. It must be tackled. We need that integrated strategy. We do not have the time to scrutinise this all in detail now, but we must show our willingness to recognise that this is a link to a strategy. As a defence solicitor, I saw at Haringey court a number of prostitutes who were victims rather than criminals and had drug problems or had been abused. We need to recognise that link.

We have been here before. The right hon. Member for Delyn will remember that, as shadow Justice Minister, I tabled and spoke to a similar amendment many years ago. That eventually led to section 14 of the Policing and Crime Act 2009 that took us a stage further but it is not, by any means, effective enough. This is an opportunity to not only show our commitment and reduce human trafficking in all its forms but to drive down demand for trafficking, including making the purchasing of sex illegal.

In its "Trafficking in Persons" report in 2014, the US State Department remarked that

"The UK government did not demonstrate efforts to reduce demand for sex or labor trafficking."

I very much hope that, by the time it gets to the next report in 2015, we will have shown good progress.

Mark Durkan: I take very well all the points that have been made and am very supportive of the amendment, which I know is a probing one. A Bill is going through the Northern Ireland Assembly and among its provisions is one that would have a similar effect to the amendment. That is an example of something related to this area potentially being an offence in Northern Ireland, in legislation to come, but not being an offence here. I make that point not in relation to the merits or demerits of the amendment, which I fully support—I also fully support the Bill in the Assembly—but in reply to the Minister's point.

Sarah Teather: I do not want to detain the Committee by making a speech, but I put on record that I am also very supportive of the amendment tabled by the hon. Member for Slough.

Mark Durkan: If the Minister's and the Government's argument is that we should not consider such a provision in this area of law, while one is being built into the related area of law in Northern Ireland, that points to some of the anomalies and difficulties that could exist, given the Bill's scope. Will the Minister bear that in mind?

Karen Bradley: I will not detain the Committee, as I realise that it is late. I thank the hon. Member for Slough for her amendments, which I know she feels very strongly about. Contributions to the debate have made it clear that many Members feel a great passion about the issue. However, the hon. Lady also said that this is not the place for this particular change to be made. The proposals need a much wider and more extensive debate, as well as time for the public and others to consider them.

Fiona Mactaggart: The Minister is in a position to help to lead such a debate. Does she plan to discuss ways of doing that with her colleagues in the Home Office? I think we would find that very reassuring.

Karen Bradley: My focus at the moment is entirely on modern slavery and ensuring that the Modern Slavery Bill becomes an Act of Parliament. That is what I spend most of my waking moments doing. I know that the words of the hon. Lady and other Committee members are on the record and have been heard and considered by people outside this room. I also note the useful point from the hon. Member for Foyle about Northern Ireland, which is perhaps a helpful example of a difference.

Clause 5 sets out the penalties related to an offence committed under clauses 1, 2 and 4. It is critical that the courts have the necessary sentencing powers to give appropriately severe sentences in such serious cases. Any person who is found guilty of an offence of slavery, servitude and forced or compulsory labour under clause 1 or human trafficking under clause 2 can face a life sentence, which is an increase on the current maximum of 14 years. That will ensure that those who abuse and exploit others can expect to get lengthy custodial sentences to reflect the seriousness of their crimes. The clause 4 offence of committing an offence with intent to commit a human trafficking offence will carry a maximum sentence of 10 years in most cases. Where a person has committed the offence by kidnapping or false imprisonment, however, they too can face a life sentence.

Our approach to penalties for those who commit modern slavery is clear. If someone is prosecuted and convicted of a modern slavery offence, they are guilty of one of the most serious crimes on the statute book and can face life in prison as a result. Strengthening our sentencing powers for modern slavery offences will send a strong signal to those thinking of getting involved in slavery and trafficking that the UK will not tolerate any form of abuse or exploitation of others.

Mr Burrowes: I know that the particular responsibility for prostitution is in the portfolio of my right hon. Friend Minister for Crime Prevention. Will the Minister take up the discussions of the Committee with him so that we can see where he is heading with the strategy?

Karen Bradley: As I said, my focus is entirely on modern slavery and I would not wish to comment on the focus or commitments of any of my colleagues.

I hope that when the Chair puts the question, Committee members feel able to support clause 5 and that the hon. Member for Slough feels able to withdraw her amendment.

Fiona Mactaggart: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 5 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Damian Hinds.)*

5.42 pm

Adjourned till Tuesday 9 September at twenty-five minutes past Nine o'clock.