

**Robert Buckland, MP**

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to be economically active in our country**

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**F**or the best part of 20 years before my election to the UK Parliament, I worked as a criminal barrister, both prosecuting and defending in Crown Courts in England and Wales. My stock in trade was the pursuit of justice, either on behalf of the state or on behalf of individuals who had been accused by the state. Very often, the allegations were grave and serious, which meant that the accused person's liberty was at stake. Almost without realising it, I was working in the field of human rights from my earliest days as a lawyer. It was a natural progression, therefore, for human rights to feature as part of my work as a Member of Parliament (MP). I am honoured to chair the Conservative Party's Human Rights Commission and am now a member of the UK Parliament's Joint Committee on Human Rights.

It was my long experience as a lawyer that first ignited my interest in the Sergei Magnitsky case. I am also a Russophile who has visited the country both before and after the end of Soviet rule. The Magnitsky case and its aftermath do not reflect well upon the Russian government. As others in this book will bear testament, Mr Magnitsky's incarceration and death at the hands of the Russian authorities is a black mark on the reputation of Russia. As a fellow lawyer, his treatment struck particularly close to home. Mr Magnitsky would have been 41 this year, not a dissimilar age to me. In Britain, I was able to practice without fear or favour; Mr Magnitsky was not

able to enjoy the same basic freedoms that I enjoyed.

A simple reciting of the facts demonstrates the grave injustice that has been done to Sergei Magnitsky and the rule of law in Russia. Mr Magnitsky uncovered a US\$230 million fraud against the Russian state, committed by its own officials. For this, he was imprisoned by the very same officials, mistreated and eventually died in captivity. To add insult to injury, he was then put on posthumous trial in Russia, accused of the fraud he uncovered. Put so simply, this shows the enormity of the crimes committed by these Russian officials.

As a Member of the Houses of Parliament of the UK, I have been encouraged by the numerous debates held to debate this appalling case and to call for action against those who were involved in this injustice. I personally had the honour recently of holding an adjournment debate to further raise the case of Sergei Magnitsky in April 2013. I was pleased that I was able to call for the UK Government to take action to target the individuals implicated in Mr Magnitsky's case by applying visa and capital restrictions, similar to measures that have been passed by the US Senate via legislation to enact visa bans. This followed on from a debate held in March 2012 that was led by Dominic Raab, MP, which called for much the same action.

The sad fact is that, in the time that elapsed between these two debates, the situation had worsened. Mr Magnitsky's posthumous trial now places Russia in the theatre of the absurd. As I said to the British Parliament in April 2013, "It (the trial) is redolent of the ninth century, when a posthumous trial of a pope was held by his successor - Pope Formosus was already dead when he was tried for his crimes. We have moved on 1,100 years, but Russia seems to be going backwards." The Russian response to the US Senate's Sergei Magnitsky Rule of Law Accountability Act was to ban Americans from adopting Russian children. What sort of a response is this?

I take heart that not only has the US Senate taken action but that the European Parliament passed another resolution on the Magnitsky case in October 2012, recommending that sanctions be enacted on the Russian officials concerned. This was prompted by the laughable closure of the investigation into Mr Magnitsky's death by Russian officials; we are to believe that he suffered no mistreatment or that his experience was not related to his

revelations about the US\$230 million fraud. I also am reassured that many legislators in parliaments in France, Sweden and Germany, among others, have all taken a similar opportunity in the past year to debate and condemn this scandal, just as the UK Parliament has done.

The case of Sergei Magnitsky is also of particular importance to me because of my role as chair of the Conservative Human Rights Commission. In July 2012, we released a report called “Professionals in the Firing Line”, in which we conducted an inquiry into the way that professionals are treated across the world, the importance of supporting their work in vulnerable societies and policy recommendations for the Government to help protect them. Mr Magnitsky’s treatment was a main part of our inquiry into human rights violations of business people, along with the Khodorkovsky case. It is clear to me as both a lawyer and a parliamentarian that without human rights all the stable foundations of a modern society crumble. It is particularly important that professionals like Mr Magnitsky are supported when they attempt to bring injustices to light.

I have always been clear that I do not view the Russian people in the same light as the officials embroiled in this sordid affair. They are great people with a remarkable history and their culture has added so much to world civilisation. Our emerging trade relationship with Russia is also extremely important; Russia has a key role to play in Europe’s economic future, our regional security and issues further abroad, such as in Syria. However, we should not turn a blind eye to the gross injustice of the case of Sergei Magnitsky. As I said in the debate in April 2013: “I understand the diplomatic complexities that we face in poking a stick into a hornet’s nest,” but we must send a clear message to the Russian officials involved and the Russian people yearning for a more just and democratic state that we will not stand idly by and see fundamental human rights being trampled underfoot.

How best, then, to speak up for human rights in Russia? We should not approach this issue in a heavy-handed manner, or repeat the error of harming innocent “bystanders”, such as Russia has done by banning American adoptions of Russian orphans. Neither should we seek to intervene in the judicial processes of another country. Nonetheless, it is our right as a free country to offer constructive criticism and to operate our borders in a way that we see fit. That is why it is now time for visa restrictions, at the very least, to be enacted

against the Russian officials involved in this case.

Too often we find convenient and often eminently reasonable arguments for why we should not take action abroad in defence of universal human rights. It is deeply seductive to believe that the only way we can help is in fact to not help, as if action will only result in negative reaction. We should not be afraid of speaking out forthrightly, scared as if it is overbearing or arrogant. These values are universal and should not be denied to anyone. In my eyes, both professionally and personally, we have a moral duty to do what we can. I wish that we could simply offer our support to the Russian people in unravelling this financial conspiracy and subsequent crimes, but in the absence of such moral leadership by the Russian government, we must send a clear message to those implicated in this scandal that it will not go unnoticed.

There are two ways of doing that in the UK: either by using existing powers to deny visas to those who are implicated or by passing legislation à la the US Magnitsky Act.

I note that the Foreign Affairs Committee of the UK House of Commons has previously issued recommendations asking for the list of banned human rights violators to be made public, with specific reference to the Magnitsky case. This follows on from the well-established presumption that, as the UK's Minister for Europe the Rt. Hon. David Lidington, MP has said: "Someone against whom there is evidence of human rights abuses will not be admitted to the United Kingdom." This certainly would be one way for the Russian officials involved to be penalised.

However, the UK government has made it clear that it will not routinely discuss the details of individual cases. I understand the Government's view that each case should be judged on its individual merits, and I am reassured that it will take action where credible evidence of human rights abuses exist. Nonetheless, without the mechanism of public disclosure, the public impact of this policy is diminished. Those who have acted with impunity in Russia with regards to Sergei Magnitsky will continue to do so, safe in the knowledge that they can apply for a UK visa without fear of public condemnation.

Given that the use of existing powers will not achieve the objective of speaking up for human rights in Russia and bringing some degree of justice

to the Russian officials involved, it is quite right that MPs have turned to new legislation. Just as in the US, for some time it has been my intention, shared with many of my colleagues, to bring forward our own version of the US Magnitsky Act. By this, I mean legislation that will provide for targeted visa bans against any officials or individuals found to be involved in some way with the case of Sergei Magnitsky; this would cover the initial fraud uncovered by Mr Magnitsky, his incarceration and subsequent maltreatment ending in his death, and finally, the closure of the investigation into Mr Magnitsky's death and his posthumous trial.

The UK government may feel like it is between a rock and a hard place, but ultimately we must do what is right. In 2012 the House was reassured by Alistair Burt, MP, the Under-Secretary of State for Foreign and Commonwealth Affairs, that the UK government has expressed numerous serious concerns to the Russian government about this matter. We were also told that we would be prudent to wait and see how other countries such as the US acted before we do so ourselves. This is eminently sensible. However, as I have mentioned before, the US has now taken action and many other countries are also moving in a similar direction. The case of Sergei Magnitsky has sadly not been resolved; it has dramatically worsened. It is time for the UK to take action.

In my adjournment debate in April 2013, the Minister for Europe told the Commons that the passage of a US-style Magnitsky Act would not bring us the outcome we want to see, that is, justice for Mr Magnitsky's family and a proper investigation into his death. I am somewhat more persuaded that a targeted visa ban would be of some effect in bringing a degree of justice to Mr Magnitsky's family, or indeed in influencing the internal debate in the Russian government about investigating this matter.

A visa ban would be effective because of the lifestyles of many of the Russian officials involved. They are part of the Russian elite that so often come to London to sojourn, shop and stay. We are an attractive destination for this key group, who exert great influence over the sometimes Byzantine decision-making of the Russian government. We should exploit this to put some indirect pressure on the Russian government to take action against its own corrupt officials and to bring justice to Mr Magnitsky's family. It may not be the most direct way of doing so, but that does not mean that we should

not avail ourselves of it. As I have said previously: “It is a matter of reproach that such people are allowed to be economically active in our country while a glaring injustice remains unaddressed.”

In short, I think that the arguments against the enactment of a Magnitsky Law in the UK are becoming more difficult to maintain. As a lawyer, I am proud to work in a free and open legal system and only wish that this could be extended elsewhere. As a parliamentarian, I believe we have a duty to defend human rights on the global stage and take such action as we can on a national level to campaign for justice. As a husband, father and son, I can only imagine the pain that Mr Magnitsky’s family has suffered; by our actions, we can go some way towards bringing justice to them. I recall the words of Mr Magnitsky’s widow, Natalya Zharikova, who said, “If it’s not possible to get justice in Russia then it should be found elsewhere.” I want to see a Russia that acknowledges the sins of its past, deals with them properly and joins the free world in full. Our very own Magnitsky Law would play a notable role in bringing about this destiny.