

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

ABORTION (NORTHERN IRELAND)  
REGULATIONS 2021

*Monday 26 April 2021*

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**The Committee consisted of the following Members:**

*Chair:* STEWART HOSIE

† Antoniazzi, Tonia ( <i>Gower</i> ) (Lab)	† Mann, Scott ( <i>Lord Commissioner of Her Majesty's Treasury</i> )
† Britcliffe, Sara ( <i>Hyndburn</i> ) (Con)	† Merriman, Huw ( <i>Bexhill and Battle</i> ) (Con)
† Cates, Miriam ( <i>Penistone and Stocksbridge</i> ) (Con)	† Miller, Mrs Maria ( <i>Basingstoke</i> ) (Con)
† Davies-Jones, Alex ( <i>Pontypridd</i> ) (Lab)	† Nichols, Charlotte ( <i>Warrington North</i> ) (Lab)
† Dines, Miss Sarah ( <i>Derbyshire Dales</i> ) (Con)	† Richardson, Angela ( <i>Guildford</i> ) (Con)
† Elmore, Chris ( <i>Ogmore</i> ) (Lab)	† Smyth, Karin ( <i>Bristol South</i> ) (Lab)
† Graham, Richard ( <i>Gloucester</i> ) (Con)	† Walker, Mr Robin ( <i>Minister of State, Northern Ireland Office</i> )
† Hayes, Sir John ( <i>South Holland and The Deepings</i> ) (Con)	
† Johnson, Dame Diana ( <i>Kingston upon Hull North</i> ) (Lab)	Liam Laurence Smyth, <i>Committee Clerk</i>
† Lockhart, Carla ( <i>Upper Bann</i> ) (DUP)	† <b>attended the Committee</b>

**The following also attended (Standing Order No. 118(2)):**

Girvan, Paul (*South Antrim*) (DUP)

Shannon, Jim (*Strangford*) (DUP)

# First Delegated Legislation Committee

Monday 26 April 2021

[STEWART HOSIE *in the Chair*]

## Abortion (Northern Ireland) Regulations 2021

4.30 pm

**The Chair:** Before we begin, I remind Members to observe social distancing and to sit only in the places clearly marked. I also remind Members that Mr Speaker has stated that masks should be worn in Committee. *Hansard* would be most grateful if Members could send their speaking notes by email to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk).

**The Minister of State, Northern Ireland Office (Mr Robin Walker):** I beg to move,

That the Committee has considered the Abortion (Northern Ireland) Regulations 2021 (S.I. 2021, No. 365).

I recognise the clear will of the House for the Government to deliver on its statutory duty with respect to access to abortion services in Northern Ireland. It was on the basis of human rights that, during an absence of devolved Government, this House decided that it was time to step in. Colleagues will recall previous debates in 2019 and 2020, and the outcome of those debates. Today's debate is not about reopening or unpicking the 2020 regulations, but to ensure implementation of the law that has been in place for over a year.

I acknowledge and respect the deeply held views that Members have on this issue, and I am glad that the decision of the usual channels to allow a free vote will allow all Members to vote according to their conscience. As the Committee will be aware, we previously made the Abortion (Northern Ireland) Regulations 2020, which came into force on 31 March 2020, to set out the new legal framework for the provision of abortion services in Northern Ireland.

In March 2020, the Secretary of State wrote to the relevant Northern Ireland Ministers asking them to implement the respective recommendations under paragraphs 85 and 86 of the 2018 United Nations Committee on the Elimination of Discrimination against Women report, an inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the optional protocol to the convention on the elimination of all forms of discrimination against women.

It has always been our expectation and preference for the Northern Ireland Department of Health to drive forward the commissioning of abortion services, with the relevant legal powers, policy and operational expertise to do so, and to ensure that abortion becomes normalised and embedded as a healthcare service into the health and social care system in Northern Ireland. Over the past year, the Northern Ireland Office has continued to work closely with the Department of Health and other relevant Northern Ireland Departments, trying to progress that work.

We understand that managing the covid-19 response has been an immense challenge, and has placed the health and social care system in Northern Ireland under considerable pressure. However, over one year later, women and girls are still unable to access high-quality abortion and post-abortion care locally in Northern Ireland. The commissioning of full abortion services, consistent with the conditions set out in the 2020 regulations, has still not happened.

We have been working since the 2020 regulations came into effect to ensure that the duties under section 9 of the Northern Ireland (Executive Formation etc) Act 2019 can be implemented in full at the earliest opportunity. I recognise that some abortion services have been provided since April 2020, and more than 1,100 abortions have taken place in Northern Ireland, but that falls far short of what is required by law. Services have not been formally commissioned, supported or funded by the Northern Ireland Department of Health, and there has been no guidance issued or official support measures put in place.

At the heart of this matter are the women and girls in Northern Ireland who have been, and continue to be, denied the same reproductive rights as women in the rest of the UK. Throughout the covid-19 pandemic, some women and girls have still been forced to travel to England. I have learned of the distress and the unacceptable circumstances that they continue to face at a time when local access should be readily available, given that the law was changed by this Parliament over a year ago. The ongoing covid situation and limitations on travel make it even more important that local access to services is available, and for the current services to be properly supported by the Department of Health, particularly as women should not be forced to choose to travel or to resort to unsafe or unregulated measures at this time.

The Secretary of State takes his statutory duties very seriously, and recognises that the current impasse is unacceptable. That is why we have made these further regulations. The Abortion (Northern Ireland) Regulations 2021, which came into force on 31 March 2021, will provide the Secretary of State with the power to direct a Northern Ireland Minister, the Northern Ireland Department of Health, the Health and Social Care Board and the Public Health Agency to take the action necessary to implement all the recommendations in paragraphs 85 and 86 of the CEDAW report. I draw the Committee's attention to the wording of the regulations, which makes it clear that this is also a binding direction on the First Minister and the Deputy First Minister of the Northern Ireland Executive.

We recognise that this is a big step, but it is a crucial one. We have given the Department of Health and the Executive plenty of time to move forward, and we have engaged extensively to see how we could best support delivery, but those efforts have not so far given us results. I have already begun engaging with Minister Swann and his Department again, and I have communicated to him that the Secretary of State is clear that the Department of Health must take concrete steps towards the commissioning of abortion services in Northern Ireland in advance of the summer recess. I have asked my officials to work closely with the Department of Health to ensure that urgent progress is made on this issue. I would welcome the Executive's considering a full proposal for commissioning, but we need to see

movement coming forward. The Secretary of State stands ready, if we do not see significant progress before the summer recess, to issue the direction empowered by these regulations.

We recognise that this is a sensitive and personal issue for many people. Indeed, we have heard many differing views across this House, as well as from Members in the Northern Ireland Assembly, in relation to abortion, including in the context of the debates and the reports under the EF Act. However, women should not be forced to choose to travel, or to resort to unsafe and unregulated measures, when the law is in place to ensure that services are in place for Northern Ireland.

Although I recognise the range of passionately held views on this issue, support for the new regulations is clearly evident. The all-party parliamentary group on sexual and reproductive health in the UK, 88 cross-party MPs and 24 representative organisations for the women's and LGBTQ sector in Northern Ireland have written letters to the Northern Ireland Minister of Health, urging him to take action on the issue.

I place on record my thanks to the medical professionals who have ensured that women and girls have had some access to local abortion services in Northern Ireland to date, and to the organisations that have supported this work, including Informing Choices NI, for providing a pathway to abortion and counselling services, particularly in the current circumstances and amid the wider strains on the health system. I would also like to pay tribute to the late Professor Jim Dornan, a leader in his field and a passionate advocate for health issues such as cancer and women's reproductive rights.

It is our firm view that the regulations made in 2020 provide a legislative framework that is operationally sound, works best for Northern Ireland and delivers on the Government's statutory duty. Those regulations were consulted on and sought to meet the requirements of CEDAW in a way that would bring outcomes for women and girls in Northern Ireland into line with the rest of the UK. That is why we do not intend to amend the regulations. We are here today to do everything we can to demonstrate how committed we are to fulfilling the Government's statutory obligations and ensuring that women and girls in Northern Ireland have access to high-quality abortion and post-abortion care in Northern Ireland, consistent with the conditions set out in the 2020 regulations.

As right hon. and hon. Members will be aware, abortion remains a devolved issue, and the Assembly can seek to amend regulations in a way that remains compliant with convention rights. We recognise the sensitivities of these issues and the concerns from, for instance, those who have suggested that sex selection could be an issue. We take the matter very seriously, but sex selection is not one of the grounds on which abortion is allowed under the 2020 regulations, and we will be clear in guidance that that is the case. We also recognise that this will be an important matter for the Department of Health to consider in the guidance that it produces alongside the full commissioning of services, as well as factors that medical professionals should be looking out for so that they can raise any safeguarding concerns.

I commend these regulations to the Committee.

**The Chair:** Before I call the Labour Front Bench, let me say that, because there is no call list, Members should bob up and catch my eye so that I can see that they wish to speak.

4.37 pm

**Alex Davies-Jones** (Pontypridd) (Lab): Thank you, Mr Hosie. I thank the Minister for his engagement and constructive approach on this issue. Like him, I respect the dearly held convictions of all those who make their case here today. I appreciate the strongly held, long-standing views of all those who have spoken and will speak today. But it is important to remember how we have reached this point and why these regulations are so important for women and girls in Northern Ireland. According to the United Nations, as we have heard, the existing laws amounted to a grave and systematic violation of women's rights in Northern Ireland. This Parliament had, and still has, a duty to act to uphold those rights.

The amendment tabled by my hon. Friend the Member for Walthamstow (Stella Creasy) to the Northern Ireland (Executive Formation etc) Act 2019 gave women in Northern Ireland a right to a safe, local abortion service. Parliament and MPs from political parties across the House made their will clear. No longer will we ask women to use unsafe, unregulated services or to make a heartbreaking journey across the Irish sea to seek an abortion in Britain. That is why, in the vote on it, the amendment tabled by my hon. Friend passed overwhelmingly. Nineteen months on from that vote, it is simply unacceptable that women and girls are still being denied safe, local services. This failure means that although the Act came into force more than a year ago, women are still being forced—in the middle of a pandemic—to make the heartbreaking journey across the Irish sea to seek an abortion.

It is worth reflecting on how an already cruel journey has been made even crueller in a pandemic. Many women and girls will have been forced to travel alone to unfamiliar cities that have been all but shut down, and denied a consoling hand or a smile. They have been forced to do so by political failure. Every single day that passes denies women the safe, local service that they are entitled to. At any time, that would be unacceptable; in a pandemic, it is morally unjustifiable.

**Sir John Hayes** (South Holland and The Deepings) (Con): The hon. Lady has cited the hon. Member for Walthamstow (Stella Creasy) and what she said at the beginning of this process. At that time, she described the efforts that she was making as a mission to address "international obligations". Are these international obligations or are they, as the explanatory notes say, not so?

**Alex Davies-Jones:** We have seen that this is an international obligation, and also a moral obligation, on us all. The CEDAW Act is clear, as is the UN, that we need to do the right thing to protect these women and girls.

I welcome the regulations before us today, which the Labour party wholeheartedly supports. They represent an important step forward in ending the cycle of inaction. However, I would be grateful if the Minister, in summing up, could provide some clarity on when exactly the

[Alex Davies-Jones]

powers would be used. He mentioned before the summer recess that this matter really cannot wait any longer. These women and girls need action now. Will the Government please give us an exact deadline for when the Secretary of State intends to use the powers in the regulations? He knows there is a court case in May relating to the human rights implications of the failure to commission these services. Will he act before then?

The Minister also mentioned that he has engaged extensively with Minister Swann, so will he provide an update on the discussions he has had with the Minister of Health and the Executive since the Government announced their intention to introduce fresh legislation? Has there been any indication of an intention to finally commission abortion services from the Executive? Will he also provide the Committee with an estimate of the number of women and girls already impacted by this inaction—those denied local services, those forced to use unregulated services and those who have been forced to travel to Britain?

As a Welsh Member of Parliament, I understand well the sensitivities around the devolution settlement, but I believe that the United Kingdom is at its best when we work together to uphold fundamental rights, and the obligation to do that lies with this Parliament and this UK Government. The Labour party has always been clear that where such rights are denied, there is a moral and legal duty for the Government to act. That is happening now in Northern Ireland. Quality healthcare and safe, local abortion services are a basic right. The time to act has long come and gone. For the sake of women and girls in Northern Ireland, it is vital that access to services is commissioned immediately.

4.42 pm

**Mrs Maria Miller** (Basingstoke) (Con): I support the delegated legislation before us today, and I want to question the Government on the extent of the direction that they seek to give the Northern Ireland Executive to ensure that the law on abortion in Northern Ireland is implemented in full and in the best interests of the people of that part of the United Kingdom.

Devolution is now part and parcel of our United Kingdom. We recognise that some services can and should be delivered locally in different ways, but when it comes to the core values that bind us together, including our commitment as a country to human rights and the rule of law, we take a UK-wide approach. Decisions to sign up to conventions such as the UN CEDAW convention to eliminate discrimination against women are taken at a UK Government level for the whole of our nation. Such conventions and obligations triggered the change in the law in Northern Ireland that we are discussing today. Decisions on whether domestic policies are human rights-compliant are taken by the UK-wide Supreme Court.

These are not matters where, as a United Kingdom, we feel there should be differences. We stand together so that every citizen has the same rights and protections no matter where they live. When the UK Parliament legislated to bring Northern Ireland's approach to sexual and reproductive health into line with the recommendations in CEDAW's 2018 report, it was acting democratically

with that in mind and following the 2018 Supreme Court judges' majority view that the then law on abortion in Northern Ireland was incompatible with human rights law. Whether we represent constituencies in Northern Ireland or not, this becomes a matter for everybody in this Parliament—doubly so because the Northern Ireland Executive was not in existence when the UN reported and when the Supreme Court made its views clear, at a time when UK Ministers in this Government were clearly legally responsible for those elements usually handled under devolution.

To bring the situation in Northern Ireland into compliance with human rights law, changes were made on access to abortion in Northern Ireland more than a year ago. In law, abortion services should now be available as a regular healthcare service in Northern Ireland so that women and girls can safely access local services. However, we have heard from hon. Members who have already spoken, that is not the case, and those women and girls continue to be denied the same reproductive rights as women and girls in the rest of the UK. Services that should be available by law are not. Despite broader access to abortion now being legal in Northern Ireland, the Northern Ireland Department of Health has not commissioned or funded services to reflect that. That has resulted in patchy and unsustainable local provision. Early abortion services are currently run by local health trusts without funding or commissioning, which has put them at risk of temporary or permanent closure.

The Royal College of Obstetricians and Gynaecologists has said that its chief executives and medical directors in Northern Ireland are supportive, particularly of early medical abortion services. But trusts have cited a lack of funding, intense workload and uncertainty about the permanence of the services due to a lack of commissioning. Currently, there are no services beyond 10 weeks in any trust in Northern Ireland. Just this Friday, Western Trust announced that it has ceased providing all abortion care, and will refuse referrals.

We know that the impact is greatest on those who are most vulnerable, particularly those who are victims of domestic violence or who may have significant mental health problems. Nobody can fail to be moved by some of the heartbreaking stories of women being forced to carry full-term babies who medical professionals advise are not able to survive through birth.

I would very much appreciate the Minister taking the opportunity, while talking through the regulations, to answer some specific questions that are important context for us all as we move forward. The hon. Member for Pontypridd talked about having a timetable so that we can be clear on how long the Government feel it is reasonable to consider this issue, in terms of their having available to them a power to direct the Northern Ireland Executive to move forward.

Individuals who lead the provision of sexual health services in Northern Ireland have already produced a comprehensive set of proposals for the roll-out of sexual health services in Northern Ireland. The report by Northern Ireland Abortion and Contraception Taskgroup includes widespread recommendations on how we move forward from here. I do not think anybody can question the professional integrity of that group, because it includes the Northern Ireland representative of the Royal College of Obstetricians and Gynaecologists, among a great array of professional people.

Does the Minister agree that there are good recommendations for the Executive in that report, as well as recommendations specifically addressing commissioning abortion services and underlining the importance of a co-ordinated and cohesive approach, including on investing in sexual health more broadly, removing barriers to contraception and updating relationship and sex education? To what extent does the Minister expect those responsible in Northern Ireland to liaise with the Royal College of Obstetricians and Gynaecologists on practical issues such as those outlined in the report?

Can the Minister confirm which organisation will oversee the roll-out of the new services in Northern Ireland? Presumably, the Regulation and Quality Improvement Authority will have a role to ensure that there is compliance with the direction that the Minister will potentially give to the Executive. If it has a role, will it produce reviews and, if so, how frequently?

On primary care, we all know as constituency MPs that GPs play a crucial role in delivering sexual health services and referrals. Does the Minister expect the Royal College of General Practitioners to play an active role in supporting the implementation of these important new regulations? On contraception, will the Minister make it clear in his direction that contraception is an inherent part of a quality sexual health service for women and that it will be an absolute necessity for it to be part of the services commissioned?

Another issue brought up by the body that I was just talking about, which has been putting together recommendations on this area, is protests outside clinics. That is another obstacle to individuals' access to abortion services. Although I in no way want to restrict people's right to freedom of speech, the Northern Ireland Abortion and Contraception Taskgroup's recommendations clearly state that space outside, or in close proximity to, an abortion service or pregnancy counselling centre is not an appropriate location to oppose abortion provision. Will the Minister be taking a view on that as part of what he would expect in the roll-out of recommendations on abortion services in Northern Ireland?

I know that many hon. Members want to speak in this debate, so last, but by no means least, relationships and sex education is a crucial part of any good sexual health service in our country. To what extent will the Minister be keeping a close eye on the way in which relationships and sex education is reformed in Northern Ireland to ensure that it is entirely in line with a full sexual health service for women and girls in Northern Ireland and, indeed, the whole population?

Although issues to do with abortion are rightly matters of great debate and concern, as a United Kingdom, we believe that women and girls should have access to top-quality sexual health education and medication, including abortion services. That is underlined by our support for international conventions, which we have already discussed. As a United Kingdom, we also believe in the rule of law. No one, including the Governments of devolved nations, should be above the law. The Government are acting correctly today to ensure that the law is enforced. I want to take this opportunity to thank the organisations that have worked tirelessly on this issue on behalf of women and girls in Northern Ireland, many of which have provided very important factual briefings for this debate.

4.51 pm

**Dame Diana Johnson** (Kingston upon Hull North) (Lab): It is a pleasure to see you in the Chair, Mr Hosie. I thank the Secretary of State and the Minister for bringing forward these regulations to ensure that women in Northern Ireland can access abortion services, as was agreed by this place more than a year ago. We all understand that taking this action is a very significant step—a big step, as I think the Minister said in his opening speech. We have also heard that there have been many attempts over the past year to try to ensure that proper provision is put in place in Northern Ireland so that women can access reproductive healthcare and abortion services, as required by law.

Although abortion is legal in Northern Ireland and women are no longer criminalised, challenges remain regarding the implementation of services as set out in the legal framework. In particular, there is no public information about abortion services from the Department of Health in Northern Ireland. Telemedicine is not permitted in Northern Ireland, despite it being available in England, Wales and Scotland. The existing service is not supported by the Department of Health, and it is patchy and fragile. In fact, the Northern Ireland Department of Health has failed to commission and fund services properly, and has actively blocked attempts to do so. Alongside that, no central funding is available to allow women and girls to access appropriate services. That job is currently being done by the voluntary sector. I would be interested to know what steps the Minister believes should be put in place to ensure that there is proper signposting and help to access services, supported by public funds.

The Northern Ireland Human Rights Commission has initiated legal action against the Secretary of State for Northern Ireland, the Northern Ireland Executive and the Department of Health in Northern Ireland for failing to commission and fund abortion services in Northern Ireland. The commission believes that the failure of the Northern Ireland Executive and Department to agree to fund and commission these services breaches the European convention on human rights.

The law states that abortion services should be available in Northern Ireland. It is therefore our job at Westminster to ensure that that happens, in line with all our international obligations relating to the human rights of women and girls. I am grateful that the Minister has indicated that he is looking for progress before the summer recess, but I also wonder, alongside my hon. Friend the Member for Pontypridd and the right hon. Member for Basingstoke, whether he could give a more specific timetable and set out what his intention will be if that progress does not happen.

It is certainly worth reflecting on the effect of the failure to act by politicians and Ministers in Northern Ireland on women and girls in Northern Ireland. Over the past three months, three different local health boards have, for a period, stopped providing abortion services. On 5 October 2020, the Northern Health and Social Care Trust suspended its services because the trust had to transfer staff back into other sexual and reproductive healthcare services, and therefore ceased to take any new referrals for termination services. The service resumed in December. During the break in service, 89 women were denied treatment within the NHS in Northern Ireland. On 5 January 2021, the South Eastern Health and Social Care Trust ceased providing a service, as the

[*Dame Diana Johnson*]

only staff member doing the work went on maternity leave and no replacement had been found. That resulted in a further 24 women being denied local NHS treatment. Those women could not be accommodated in other trusts, so the majority used unregulated online providers. Other trusts did not have the resources to pick up the work in either of those two trusts.

Just last week, as has been referred to, the Western Health and Social Care Trust announced that from 5pm on Friday 23 April, it would stop early medical abortion services. The service had been maintained over the past year by just one doctor, working without any support, and that had become unsustainable. That development also highlights the conditions that service providers currently face and underlines the need for the regulations that we are considering.

Amnesty International has described the situation in Northern Ireland as a “postcode lottery”. Added to the picture is the fact that there are currently no routine services for pregnancies beyond 10 weeks, and no local service for women between 10 and 12 weeks’ gestation. That is because those women will need to be seen in hospital and none of the trusts is prepared to provide that service without it being funded by the commissioning process. Clinicians estimate that in excess of 100 women a year fall into that category. Those women are at increased risk when taking pills unsupervised, and are also at increased risk of complications from surgical procedures. Currently, the only option available to them is to travel to England, even during the pandemic, to access abortion services under the Abortion Act 1967.

The ongoing uncertainty and the cancellation of services have made life even more difficult and challenging for women and girls seeking reproductive healthcare and access to abortion in Northern Ireland. The situation for far too many women and girls has resulted in their having to travel from Northern Ireland to England to access those services. We have all heard the horrific stories of women and girls having to travel, and about the emotional impact of being away from family and loved ones at such a difficult time, but that is even more stark and cruel in the middle of a pandemic, as my hon. Friend the Member for Pontypridd said. I am told that up to five women a week are still travelling to England to seek abortion care. That is during a time of restricted travel and risk of transmitting covid-19—it is unacceptable. Doctors have continually stated that the resultant harm to women will be severe, and clinicians in Northern Ireland have expressed frustration and dismay at the lack of provision of abortion services. Has the Minister made any assessment of how many women in Northern Ireland have had to travel to other parts of the UK to access abortion services during the covid-19 pandemic?

I think it is right to highlight, in the current pandemic, how the failure to act has further impacted on women and girls. It appears that at the outbreak of covid-19, funding was diverted from cancelled services to commission abortion services, and all trusts were able to commission 10-week early medical abortions. However, all the clinics appear to have been in a precarious situation regarding being able to offer care pathways.

Telemedicine is not permitted in Northern Ireland under the Abortion (Northern Ireland) (No. 2) Regulations 2020, despite it now being available in England, Wales

and Scotland. Telemedicine has been a vital way of accessing reproductive healthcare for women in England, Scotland and Wales during the pandemic. Its availability has provided women with a safe option that has allowed them to minimise travelling to clinics. That was essential, particularly during the first lockdown, when stay-at-home orders were in place across the whole United Kingdom.

The largest ever study of UK abortion care, by the British Pregnancy Advisory Service, the University of Texas at Austin, MSI Reproductive Choices and the National Unplanned Pregnancy Advisory Service, found that telemedicine is safe, efficient and reduces the waiting period for women accessing abortion services. Professor Dame Lesley Regan, the past president of the Royal College of Obstetricians and Gynaecologists, said:

“This study proves there is no medical reason not to make the current telemedicine service permanent.”

The fact that telemedicine has not been available in Northern Ireland represents another failure of women and girls by the Northern Ireland Executive and the Northern Ireland Department of Health. Has the Minister made any assessment of the need for telemedicine in Northern Ireland during the covid-19 pandemic, and what steps would he look for to ensure that it is rolled out as part of future abortion care?

I once again thank the Secretary of State and the Minister for all their hard work in taking this action to ensure that the UK’s legal obligations to women and girls are upheld, and for moving towards ensuring the provision of, and access to, abortion services in Northern Ireland, for which this Parliament has already legislated.

5 pm

**Miriam Cates** (Penistone and Stocksbridge) (Con): The regulations, if passed, will compel Northern Ireland Health Ministers to commission abortion services in line with the legal framework outlined in the 2020 regulations. Abortion is a devolved issue, and the only legal or moral basis for the 2019 intervention by the UK Government was that there was no sitting Northern Ireland Assembly at that time. As we are all aware, that is no longer the case, and the Assembly has shown itself to be perfectly competent in developing its own legislation. I believe therefore that there is no longer any justification for the UK Government to impose the regulations.

Pressing ahead, as we are doing today, is a breach of the Belfast agreement and weakens the trust and respect upon which devolution is founded. Not only does the legislation threaten the devolution agreement, but the nature of the regulations shows disregard for the democratic will of the Northern Irish people. Every MP representing Northern Ireland who took their seat in Westminster voted against the 2020 regulations, and the Northern Ireland Assembly opposes the regulations. When the people of Northern Ireland were consulted on the regulations last year, 80% rejected them. I, as an English Conservative MP, have a free vote on this legislation; the people of Northern Ireland and their representatives have no vote at all.

Not so very long ago, members of the Government campaigned passionately to take back control. The British people have rejected the rule of a remote Brussels, preferring to make our own laws according to our own British values and customs. In 2005, the European Court of Human Rights ruled that the UK’s blanket ban on prisoner voting contravened international law and must be rectified. Parliament refused, upholding

our UK belief—enshrined in statute since 1870—that those who do not abide by the law of the land do not have the right to vote. Parliament never conceded, and 15 years later, we left the EU with our sovereignty intact.

Prisoner voting is not as emotive an issue as abortion, but it is a conscience issue all the same. How can the UK Government, with integrity and without hypocrisy, impose legislation against the democratic will and values of communities in Northern Ireland when they have spent so long resisting similar attacks on our own sovereignty by the EU?

**Karin Smyth** (Bristol South) (Lab): I am slightly confused by what the hon. Member is saying. The Minister in Northern Ireland has said that the law is the law, and that he has put forward to the Northern Ireland Executive provisions to enact the law, but they have refused, so I am not entirely sure what she means when she says that they have been doing so. They have absolutely not done so, which is why we are here.

**Miriam Cates:** I thank the hon. Lady for her intervention. I understand that the regulations are law as things stand, but I will urge the Government later in my contribution to repeal section 9, which I believe is the right and moral thing to do.

It would be one thing for this legislation to bring Northern Ireland's abortion framework in line with that for Great Britain, but the measures go beyond Great Britain equivalents. They mandate an abortion regime that is quite unrestricted and, I believe, unsafe. Unlike in England and Wales, there will be no requirement for two doctors to certify, and abortion will be routinely available at GP's surgeries rather than only in restricted places. Although I appreciate the Government's requirement for safeguards, the regulations could permit sex-selective abortion by default, as they allow abortion for any reason until 12 weeks' gestation.

**Sir John Hayes:** What my hon. Friend is saying is, frankly, shocking. She is saying that, far from the claim that we are bringing Northern Ireland into line with the rest of the United Kingdom, Northern Ireland's laws on abortion will be entirely different from those that pertain to the rest of the United Kingdom—considerably more permissive, and therefore further out of line with local opinion even than the laws that prevail in England, Wales and Scotland.

**Miriam Cates:** I thank my right hon. Friend for his intervention. I appreciate that this is a very emotive issue, as other hon. Members have said. Many of us have different opinions—I fully accept hon. Members' opinions—but I would like to make progress on the particular point of view that I bring to this issue.

The enforcement of the regulations could not only permit sex-selective abortion, but allow abortion up to birth for babies with disabilities—even those disabilities that do not prevent people from living fulfilling lives. I am particularly concerned that, without necessary safeguards, women in abusive relationships may be coerced into abortions. The regulations and their enforcement introduce new possibilities for sex and disability discrimination, and go far beyond what is legally necessary or even safe.

**Tonia Antoniazzi** (Gower) (Lab): Will the hon. Lady give way?

**Miriam Cates:** No, I am going to make some progress.

However, the Government overreach in this legislation goes beyond abortion regulations. Paragraphs 85 and 86 of the CEDAW report, which were put into statute by section 9 of the 2019 Act, cover matters extending to health, education and the role of women. One provision in paragraph 86 calls on the Government to:

“Adopt a strategy to combat gender-based stereotypes regarding women's primary role as mothers”.

As a woman and a mother, I find that statement rather patronising. Is it the Government's job to tell me how I should value my identity as a mother? Rather than celebrating and promoting the vital role of women in nurturing the next generation, this statement speaks of motherhood in negative terms, and reinforces a different stereotype—one that views motherhood as second best.

I have a degree from Cambridge University, I am a fully qualified science teacher, and I became the first Conservative MP to be elected in Sheffield in nearly 30 years, but my greatest achievement, which I value far beyond those others, is being mother to my three children. There are hundreds of Conservative MPs and tens of thousands of science teachers, but my children have only one mum and no one can replace me. Their lives, their wellbeing and their future depend in large part on how well I do my job as a mother.

**Tonia Antoniazzi:** As the hon. Lady correctly stated, this is a very emotive subject. I was a member of the Women and Equalities Committee when the right hon. Member for Basingstoke was its Chair and we went to Northern Ireland. I have a Roman Catholic background, and I appreciate everything that the hon. Lady says, but I listened and spoke to those women who gave evidence. They had to go through the most horrific experiences. I know that she, as an educationalist, as I am myself, would have great empathy and sympathy for those women. The situation cannot remain as it is.

**Miriam Cates:** I have deep empathy for women in that situation—not only in Northern Ireland but across the world, under all different circumstances. As I said, I will come on to that point.

The fact that the legislation is not only limited to abortion regulations, but reaches far beyond that, concerns me. Motherhood is valuable, honourable and a deep responsibility—it is a privilege. If that is a gender stereotype that is being put forward in legislation as negative, I reject that, and I imagine that many mothers in Northern Ireland would also do so. Even if the Secretary of State chooses never to use these directive powers, I do not see how anyone can vote for them without sending the impression that the importance of motherhood is questionable or second best.

The regulations tear up the principles of devolution and disregard the democratic will of the people of Northern Ireland. They could enforce a potentially unsafe abortion regime and represent an overreach of the state into the role of motherhood.

**Mrs Miller:** My hon. Friend is making a powerful speech, but surely this debate is about the rule of law. As parliamentarians, we either uphold the rule of law or we do not. A law has been passed, but it has not been adhered to. Surely she agrees with the rule of law.

**Miriam Cates:** I absolutely agree. The law is in place, but the question is whether it is the role of the UK Parliament to enforce the commissioning on the Health Ministers. As I will argue, I believe that the right way forward, given that the Northern Ireland Assembly is sitting again, is to repeal the legislation and let abortion return to being a devolved matter.

I believe the most sensible action is to repeal section 9, which is a measure I would gladly support. As has been made clear, however, the Government do not intend to take that course of action and instead will continue to press ahead with the regulations. For obvious reasons, there is plenty of support among Members from different parties. Why are the Government choosing to follow that course? From the perspective of someone who does not support such action, I have no doubt that Ministers would be wary of a backlash if they chose to withdraw the legislation, but I am also prepared to believe that Ministers and many right hon. and hon. Members genuinely hold that this is the morally right thing to do. I want to explain why that is.

There seems to be a view that the presence or absence of an abortion regime is somehow an indicator of attitudes toward women's equality and that, in not having such a regime in Northern Ireland, the approach that the Government are taking is justified in order to bring Northern Ireland into line with the rest of the United Kingdom. However, I strongly question the belief that any particular abortion regime, liberal or otherwise, is indicative of women's empowerment and whether women are being discriminated against.

The UK has the second highest abortion rate in western Europe, which sadly means that hundreds of thousands of women each year feel that they have no choice but to have an abortion. I empathise with people who are in a position where they have no choice but to terminate their pregnancy and their opportunity to become a mother. In a country where contraception is free, and where there is now very little social stigma attached to having a baby regardless of whether someone is married, is in a relationship or is single, how is that something to be celebrated?

Whatever our personal views on abortion, we have to ask what the abortion figures really demonstrate. I believe that they demonstrate not the freedom of women in the UK, but the way that we have devalued family life and failed to support parents in their crucial role of raising the next generation. In a country where our tax policy makes families worse off than in many comparable countries, where child benefit is not available for third and subsequent children, and where social policies drive parents into longer and longer hours at work—*[Interruption.]* I am going to make progress, as I have nearly finished.

We are sending a powerful message about how we value families in Great Britain, and we need to learn from the comparisons between GB and Northern Ireland. Instead of seeking to impose an even more liberal version of what we have in GB, perhaps we should reflect on what Northern Irish communities have to teach us about valuing families.

**Dame Diana Johnson:** Will the hon. Lady give way?

**Miriam Cates:** No, I am going to make progress because I know many other Members want to speak.

In not withdrawing the legislation, Ministers are sending a signal that they believe the right of a woman to choose whether to end her pregnancy trumps all other rights and freedoms at stake here: the right of the unborn child to live, the right of disabled people not to be discriminated against, the right of Northern Irish people to have their deeply held values respected, and the right of women to be protected against coercion and potential abuse. I ask Ministers what moral criteria we have to rank those competing rights. If we see the issue only as a question of rights, we will soon tie ourselves in knots. Using rights to construct a moral framework is deeply problematic, because if we base morality on the protection of the rights of different groups and individuals, we will always reach a point of unresolvable conflict.

However, we do not have to view the debate through the lens of competing rights. We can instead view it through the lens of the social covenant that exists among us and that defines us as individuals, families, communities and nations by the relationships we share and the responsibilities we owe each other. That covenant—that shared identity—is strengthened by trust and cultural diversity. The covenant is weakened when those in power seek to impose their cultural views on those whom they rule, as we have seen so clearly over the past five years.

The regulations are unnecessary, dangerous and overreaching, and they threaten the trust and tolerance on which our Union depends. I urge the Government not to press ahead, but instead to repeal section 9 and restore agency, democracy and dignity to the people of Northern Ireland.

5.14 pm

**Carla Lockhart** (Upper Bann) (DUP): The regulations are not just based on the false premise that they are a requirement of international law; they represent a grievous breach of the devolved settlement. For those reasons, and because I believe that the regulations do not reflect the will of the people of Northern Ireland, I cannot support them. We are told that the regulations are being introduced to satisfy the requirements of section 9 of the Northern Ireland (Executive Formation etc) Act 2019, but to understand the constitutional problem that is section 9 it is necessary to appreciate that the case for the vote on 9 July 2019 was greatly strengthened by a claim that it is now clear was not true.

In urging the House to vote for the amendment that became section 9, its proponents suggested that it was required because we in Northern Ireland were in violation of our international human rights obligations. That was completely inaccurate. The CEDAW convention, which is international law and is supposed to define the terms of reference of the CEDAW committee, does not even mention abortion, let alone define a right to it. Moreover, the CEDAW committee is not a judicial body, and it does not have standing to read in a right to abortion, as demonstrated by Professor Mark Hill, QC.

While the Government were deafeningly silent on that point when it mattered during the debate on 9 July 2019, the explanatory memorandum to the regulations belatedly recognises that paragraphs 85 and 86 do not constitute international obligations—the very term that was used to describe them in July 2019. The document states:

“The section 26 power cannot be relied on by the Secretary of State to ensure that the recommendations in paragraphs 85 and 86 of the CEDAW Report are implemented. In particular, those recommendations are not binding and do not constitute international obligations.”

It could not be any plainer, so despite what has been claimed, it is clear that the regulations are not a requirement of international law.

The suggestion that the Government are compelled to act as a matter of domestic law is equally dubious. What exactly is required by virtue of section 9 is a matter of debate; that the Government have an overwhelming majority in the House of Commons is not. The Minister suggests that Parliament gives him no choice in the matter, as though Parliament cannot change an Act of Parliament that it introduced when there was no Assembly, now that the Northern Ireland Assembly has returned. I strongly disagree.

To consider the proper responsibility of the Government, as custodians of the Union, in relation to Northern Ireland, one must first remember that the legitimacy of section 9 and the regulation-making powers rests on a vote on 9 July 2019 on what was not just Northern-Ireland-only legislation, but legislation on a devolved matter, in relation to which 100% of the Northern Ireland MPs who take their seats voted no. Notwithstanding that, the radical and deeply controversial legislative change proposed in what became section 9 was imposed on Northern Ireland by the votes of MPs from the rest of the United Kingdom, none of whom had a mandate to represent Northern Ireland on the issue.

I do not question the fact that Parliament is legally entitled to legislate for Northern Ireland, notwithstanding the fact that certain powers are devolved to the Assembly, but I do question the wisdom of it, and the enduring damage that it will do to the devolved settlement. It opened the door to a regulation-making power, and in principle there is no limit on the number of times the Secretary of State could try to make section 9 regulations. We had one set last year; we have another set this year. All that, even though the Minister of Health in Northern Ireland has stated that there is no legal duty under the current regulations for his Department to commission abortion services.

Each time new section 9 regulations are introduced, they reopen the constitutional sore upon which they rest. Each time, with devolution restored, the powers are used, the Government send out a message that the Northern Ireland Assembly and our current constitutional arrangements are not fit for purpose. Do the Government have no idea how dangerous and how damaging such a message is in the current circumstances? It is also more serious in the sense that it jeopardises an important, distinctive of the part of the Union, which is Northern Ireland, and because we have developed, over more than 50 years, our own approach to valuing the unborn, choosing life and having distinctive life-affirming laws.

The Both Lives Matter “One Hundred Thousand” report, using robust statistical methods, has established that over 100,000 people were alive in Northern Ireland in 2017 who would not have been had the 1967 Act been embraced by the Province. Some people took exception to that and complained to the Advertising Standards Authority, but after a five-month investigation, involving leading statisticians, the Advertising Standards Authority rejected the complaint, concluding that 100,000 was a reasonable claim.

That is in stark contrast to the 9 million aborted here in GB—one baby every two minutes. By the time I finish my speech, another three lives will have been lost or ended. That might not matter very much to some in England, Scotland or Wales, but it matters very deeply to many people in Northern Ireland, touching on a core Northern Ireland distinctive—choosing life.

Reflecting on that, it is vital to remember that the United Kingdom is a Union—a relationship of component parts that are not all the same in every respect. In coming together, we are more than the sum of our parts. Our Union is no more uniform than it is unitary. That means that there is one reason, and one reason only, that Northern Ireland has been overruled. It is not because of any international human rights imperative; it is because a majority of Members of Parliament from Great Britain chose to impose this on Northern Ireland against the wishes of its people and their representatives.

**Richard Graham** (Gloucester) (Con): I understand the conundrum the hon. Lady is in. She says that the regulations do not reflect the resolved position of Northern Ireland. Surely we are here today precisely because there is not a resolved political position among the representatives of the people in the Northern Ireland Assembly, although the vast majority of people in Northern Ireland want to have the same regulations and rules on abortion that we have in the rest of the United Kingdom and in the rest of the island of Ireland?

**Carla Lockhart:** The hon. Gentleman will know that I disagree with his assessment. As someone who has her roots firmly in Northern Ireland—

**Richard Graham:** As I do, too.

**Carla Lockhart:** Well, living in Northern Ireland and representing a large constituency there, I know that the vast majority of people in Northern Ireland want laws that choose life. They want life-affirming laws and they want laws that help life to continue. That is why, in common with the hon. Member for Penistone and Stocksbridge, I call on the Government to repeal section 9.

**Mrs Miller:** The hon. Lady is doing a very good job putting her case, but I note that she does not refer to the majority view of the UK Supreme Court, which found that it was entirely likely that the position in Northern Ireland would be out of kilter with human rights law. Surely she sees that, at that point, there was a need to act.

**Carla Lockhart:** I thank the right hon. Lady for making that point, which gives me the opportunity to say that had that ruling been binding, which it was not, and as she will be aware, it would have changed Northern Ireland’s abortion laws in only a very, very minor way around foetal abnormality. That does not weigh up against the far-reaching laws that the Government are forcing on the people of Northern Ireland, which are among the most liberal in Europe.

**Angela Richardson** (Guildford) (Con): This is an emotive subject, as many hon. Members have said. Does the hon. Lady accept that once these regulations have been passed, when the Northern Ireland Assembly is sitting,

[Angela Richardson]

they can be amended, because abortion is devolved to Northern Ireland, as the Minister said in his opening speech?

**Carla Lockhart:** I thank the hon. Lady for her intervention. It undermines the devolution settlement for the UK Government to continue to railroad through abortion legislation that is not wanted by the people and legislators in Northern Ireland and the people who are elected to take decisions on the matter. There might well be an opportunity to amend or repeal—I trust there will be—but the regulations undermine the Union, and they undermine Northern Ireland’s place within the Union.

**Angela Richardson:** Will the hon. Lady give way?

**Carla Lockhart:** I am sorry; I really do want to make progress.

Northern Ireland has been overruled not because of a human rights imperative, but because the majority of Members of Parliament have decided to overrule the wishes of the people of and representatives in Northern Ireland. In that context, the Government have to confront another dimension of the sovereignty of Parliament: the fact that no Parliament can bind its successors. Most GB MPs who were persuaded to vote for section 9 thought that they were voting for a measure for the time when there was no functioning Assembly. As custodians of the Union, rather than welcoming the restoration of Stormont by imposing more regulations on us through a power that rests on what can only be described as a humiliating majority, the Government should read the introduction to the Act in which section 9 is located, which states that it makes certain changes “subject to the formation of an Executive”.

Now that the Executive have reformed and the timeframe of the Act has passed, rather than saying, “There is nothing we can do apart from introduce new regulations,” the Government should do the responsible, Union-affirming thing, which is to recognise that times have changed, that Stormont has been restored, and that the Parliament that voted for section 9 no longer exists. In that context, it is incumbent on the Secretary of State not to place the Union under the intolerable pressure of yet more regulations resting on the anti-Northern Ireland majority of 9 July 2019, but to ask this new Parliament to repeal section 9.

**Karin Smyth:** I am grateful to the hon. Lady for giving way. I have listened to her talk a great deal about this undermining the Union. How does she feel that 1,000 women a year seeking refuge in Britain strengthens the Union? We were proud to support those women in their hour of need, but surely it is time for Northern Ireland to take on its responsibilities as a mature society and support its own people.

**The Chair:** Before we move on, I remind all Members please to wear masks when they are not speaking, unless there is a reason not to.

**Carla Lockhart:** Thank you, Mr Hosie, and I thank the hon. Lady for her intervention, which I am trying to recall following your announcement about masks.

I hear much about the 1,000 women, and I empathise with them. I want pathways for those women to choose life. We need services in Northern Ireland that put their arms around those women and say, “Do you know what? There are other options. The option is to choose life.” I want to see those pathways. I want to see investment in the family unit and in women choosing life. I hear much about the women, and I empathise fully with them, yet I hear so little about the unborn. I hear so little about the baby being aborted. Unfortunately, those little babies do not have a voice, so I feel that I have to have a voice for those that are going to be aborted, their life ended so brutally in the womb.

I call on all Members who believe in the Union and recognise the huge damage resulting from repeatedly using a regulation-making power designed for a time that Stormont was suspended, when it is now fully functional, and whose mandate rests on a vote that, rather than expressing the reality of our Union, manifests instead the humiliation of Northern Ireland, to vote against the regulations. I call on them to press the Government to propose the repeal of section 9, and leave the issue with democratically elected politicians in Northern Ireland.

We are all “fearfully and wonderfully made”, and all unique individuals. As I left for London this morning, I left my little two-year-old boy Charlie, and walked away from him with a broken heart, thinking of the millions of babies whose lives have already been ended, and those that will potentially, under the regulations, be ended in Northern Ireland. I want to impress on Members that they should vote against the regulations and allow Northern Ireland legislators to decide on the issue. I assure everyone that the battle has not ended and the last has not been heard from me and many in this Parliament who will continue to be a voice for the voiceless, and stand up for both lives in every pregnancy.

5.30 pm

**Huw Merriman (Bexhill and Battle) (Con):** Given the various opinions and comments that I have been listening to, I thought it was poignant and relevant to reflect on the words of Lady Hale in the Supreme Court judgment of 2018, when the Court determined the matter of abortion in Northern Ireland. She said that

“this is not a matter on which the democratic legislature enjoys a unique competence. It is a matter of fundamental human rights on which, difficult though it is, the courts are as well qualified to judge as is the legislature. In fact, in some ways, the courts may be thought better qualified, because they are able to weigh the evidence, the legal materials, and the arguments in a dispassionate manner, without the external pressures to which legislators may be subject.”

I contend that she might have had this room and this debate in mind when she made that point.

**Sir John Hayes:** Will my hon. Friend allow me to intervene?

**Huw Merriman:** How could I refuse?

**Sir John Hayes:** My hon. Friend is making an extremely contentious point, of course, with his usual style and elegance. He is saying that the Court took the view that it was better able to judge sensitive, controversial matters than democratically elected people are. That is, by the way, precisely the same view it took about Brexit, and it is extremely controversial and in my view reprehensible.

**Huw Merriman:** It should not be unusual for a court to determine its views on the law and indeed on whether the Government and Parliament are complying with the law of the day. I would have thought that that was a fundamental separation of powers point. If we do not have a court taking that role I suggest there is something fundamentally wrong with our constitution, which has served us well over hundreds of years. No doubt my right hon. Friend will want to expand on that point in his speech.

The matter has been looked at by each of the institutions that are key to our separation of powers principle, as I have just mentioned with regard to the Supreme Court. In its judgment on 7 June 2018 it made a declaration that the legal position for abortion provision in Northern Ireland was incompatible with articles 3 and 8 of the European convention on human rights, and therefore the UK's legal obligations. The Supreme Court made it clear that Parliament had three options, one of which was—again, I quote Lady Hale—to

“share our view and pass an Act of Parliament to put things right, which is appropriate if the matter is not simple and easy to solve, and complex arrangements have to be put in place.”

That of course is exactly what Parliament duly did in July 2019. It is at that point that I take exception to the reference made by my hon. Friend the Member for Penistone and Stocksbridge to Parliament's response to the previous ruling on prisoners' rights. This is a completely different matter, because in this instance Parliament legislated to take the court's determination into account. Obviously in the example that my hon. Friend raised it did not.

That takes me on to the second institution in our separation of powers model—ourselves. Section 9 of the Northern Ireland (Executive Formation etc) Act 2019 provided for reform of Northern Ireland's abortion law and placed a legal obligation on the Secretary of State to make it possible to get access to local abortion care in Northern Ireland. I was actually here at the time; the hon. Member for Upper Bann tells me that I was somehow fooled into thinking that we passed that just because the Northern Ireland Executive was not sitting. I voted very much on the basis that it was clear that the Court had told Parliament that our legislation was out of kilter with our legal requirements. As this is the mother of Parliaments, I regard it as my job to ensure that Parliament complies with the law by creating new laws to do so. I certainly was not fooled as far as that was concerned.

**Carla Lockhart:** Does the hon. Gentleman accept that the explanatory notes outline that it was not an international law requirement? In hindsight, that was misleading.

**Huw Merriman:** I do not think it was, because I come back to the Court's interpretation—a clear determination that on two of the articles of the European convention on human rights, the UK was failing its legal obligations. Notwithstanding my interest in ensuring that our abortion laws are updated, I took the fundamental view that it is Parliament's right to make a determination that we comply with our international legal obligations. My goodness, if we do not on matters such as this, where does it end? How can we lecture other countries around the world about their need to comply with those obligations?

As I say, the votes in favour were 328, and 65 against. There was no whipping, and there was an opportunity for a grace period to be inserted should the Northern Ireland Executive and Assembly come back together.

Let me move to the third institution: the Executive. I note that Parliament placed a legal obligation on the Secretary of State to enable access to local abortion care in Northern Ireland. The original iteration of the regulations changed legal frameworks around abortions, but did not require that services be commissioned or funded. As we heard, in April 2020, the Northern Ireland Minister of Health, having failed to gain the agreement of the Northern Ireland Executive, refused to commission or fund abortion services. As a result, the only abortion services being funded and put together were those run by health trusts out of their existing budgets and staffing.

The regulations simply empower the Secretary of State to direct local bodies to fund and commission services, ensuring that abortion services are and remain available locally. I fully support the granting of the regulations; they are the final part of the powers that started with the Court's determination that the UK—and, indeed, Northern Ireland—rules did not comply with our international obligations. Parliament voted in a free vote to fix those rules and ensure change in Northern Ireland, which the Executive have done their best through the Government to deliver, but it needs these further powers to do so.

I have tried to give a legal justification for where we are. I could return to the reasons why, to a certain extent, Lady Hale thought that perhaps we were not best placed to make that determination, because we are driven by other matters. I have been to Northern Ireland. I have met the women who have suffered incalculable harm and damage as a result of the law in Northern Ireland. It is an absolute outrage that that has occurred, and it is down to this Parliament to make sure that matters are fixed so that women are treated with much more dignity in the future than they have been in the past.

5.38 pm

**Karin Smyth:** It is a pleasure to follow the hon. Member for Bexhill and Battle. He spoke very eloquently about the experience of so many people in that last Parliament who perhaps had not been to Northern Ireland, as I have been in the last 30 years. They suddenly saw something in the United Kingdom that was completely abhorrent to them. People had their minds changed.

I welcome the measures and commend the work by the Minister and the Secretary of State, who have also heard those stories and were shocked by what they saw—we heard that from the Secretary of State at the Dispatch Box recently. I cannot believe we are here again. The reason we are here is that every obstacle has been put in the way to prevent women in Northern Ireland from being trusted to choose the best care option for themselves, their families and their loved ones. The message to the women in Northern Ireland who relived their trauma to many of us and tried to educate people in the rest of the UK, to women who are desperately in need of a service, and to women in the future, is this: whatever the pretext, whatever the

[Karin Smyth]

prevarication, whatever politicking is going on, you have been heard. Right is on your side and the law is the law. You are part of the United Kingdom, a country that proudly supports the reproductive rights of women and girls across the globe, and proudly recognises those rights as a basic human right. This country will support those rights at home in Northern Ireland.

I thank the healthcare professionals who continue to support women in the most difficult of circumstances. Whatever one thinks of the campaigns of politicians over the past 50 years, including those of my party, who turned a blind eye to the situation in Northern Ireland, refused to engage and used various reasons not to support those women, that situation has ended. There has been no concern for human life for the women who travelled; it was just cruel. During a pandemic, it is even more cruel and barbaric. The situation we find ourselves in is not acceptable, but given the political dynamics in Northern Ireland, it is perhaps understandable. We should try to support legislators there to find a way through, but ultimately our obligation is to women.

The Minister of Health, who has had a difficult job during the pandemic—I commend him for the work he has done—in a response to Paula Bradshaw MLA stated the position very clearly. I do not have time to read it now for the record, but it is very clear. The thing that astonished me in his statement is that he said:

“My Department does not dispute that women in Northern Ireland are legally entitled to abortion services. The legal advice that was received by my Department states that the Abortion (Northern Ireland) Regulations 2020 do not require my Department to commission the relevant services.”

There is no dispute that the law is the law; the dispute is whether the Minister should commission a service. The Northern Ireland Executive have not taken any decisions; that is what I mean by prevarication. This situation, led by people who simply do not support abortion services, could go on for a great deal of time. It has already been more than 50 years. How much longer do we think it is acceptable for Britain to receive these women, particularly in the circumstances of covid, and not somehow find a way to resolve the situation in Northern Ireland? What the Secretary of State is bringing here today is a way forward to try to resolve that impasse, which is why we have to support it.

There are many voices, although those from Northern Ireland might not be here today. Those of us who have worked on this issue for many years know of them. I was proud to be part of the British-Irish Parliamentary Assembly’s investigation into cross-jurisdictional issues under the chairmanship of Lord Dubs. It looked at issues that affect all parts of the United Kingdom family. A particular issue that we need to address is the very late, very tragic terminations for women, because the clinical expertise does not exist. Those are the sorts of issues that we need to concentrate on. We need to support clinicians to support healthcare for women.

We heard from a doctor in the Western Health and Social Care Trust, who talked about his 37-year career and the dreadful, stressful situation due to a lack of support. He is trying to keep the trust’s sexual and reproductive healthcare services running during a pandemic. The women who have had early medical abortion services

are truly supportive of the work we have done so far, but clinicians are clear that commissioning is vital, and it is actually quite simple.

The hon. Member for North Down (Stephen Farry) could not travel here today, but as an MP from Northern Ireland, he says:

“It remains a major frustration and concern that some Ministers in the Executive feel they are above the law, as is evidenced by the requirement even to direct the First Minister and deputy First Minister to take action.

On behalf of the pro-choice majority in Northern Ireland, I urge committee members to support the new regulations.”

We have to avoid any more situations where women are travelling or having to relive their trauma in a court case. I find it abhorrent, as do those of us who have met some of those women. Let me address just one issue relating to motherhood. There are many women who already are mothers or are desperate to be mothers but, because of their clinical situation, are forced to carry a child who will die on delivery, and are forced to travel to Britain to do that. Often, they are forced to travel and to bring their foetal remains in boxes, and they are stopped at the border—

**Miriam Cates** *rose*—

**Karin Smyth:** I will finish the point in a moment.

There was no attempt by those people who speak about the situation in Northern Ireland to help those women with the transfer of foetal remains, or indeed to support women knowingly giving birth to a baby who will die. I will now give way.

5.45 pm

**Miriam Cates:** I do not disagree that there are women in appalling situations, such as the ones the hon. Lady has just described, and my heart goes out to them. The point I made in my speech was that the regulations reach into the state’s view of motherhood and that implicit in those CEDAW paragraphs is that motherhood is a negative issue. I have no doubt that for many women who choose abortion in the UK—in GB—each year, it is the fact that there is not the support available to become a mother that is the issue, and that is where we should focus our efforts.

**Karin Smyth:** We do not have time to debate this issue now, but it is a well-debated issue. However, of the people whom we are talking about, many of them do not choose for many reasons—that is their choice, in my view; the hon. Lady and I disagree about that—to continue a pregnancy, for whatever reason. Of course, what this process catches—it is why it is cruel and barbaric—is also those women who are desperate to have a family, but their child is going to die. They are carrying back those foetal remains in the most barbaric of circumstances. Nobody had concern for those women. In conclusion—

**Carla Lockhart:** Will the hon. Lady give way?

**Karin Smyth:** I will finish; I need to finish now. Practical steps are needed. In Britain, for example, there are many good examples of third-sector provision of sexual health services. I have pressed the Minister on this issue before. We need to learn the lessons about sexual health services from the rest of Britain. For over

20 years, we have been commissioning third-sector providers to run our sexual health services in Britain and I think that Northern Ireland deserves that quality of service.

I echo the points made by the right hon. Member for Basingstoke, because the CEDAW recommendations do not just apply to abortion; they apply to sexual health services and education, particularly for young people, in general. When we hear so much currently about violence against women and girls, and the prevalence of pornography and so on in images for young people and how young people are targeted, there is real and deep concern about education provision for young people in Northern Ireland, and how they will understand their own sexual health, and how we ensure that they have a good attitude to sexual health and relationships. That is more crucial now after the pandemic than it was before, and these regulations also allow us to do that.

5.48 pm

**Jim Shannon** (Strangford) (DUP): First, I thank you, Mr Hosie, the Secretary of State, and right hon. and hon. Members for giving me the opportunity to come and present my case to the Committee, even though I am not a member of it.

I want to echo the opinions of my hon. Friend the Member for Upper Bann, and reiterate those points. This is a matter that I have very strong views on—personal views, and the views of my constituents, who have asked me to come and voice their opinions here in this Committee today. I say very respectfully to the Secretary of State—I have a good relationship with him; he knows that—and put on the record that through these new regulations he has taken sweeping powers of direction to take actions to implement paragraphs 85 and 86 of the CEDAW report. There has been no consultation on these regulations with those who are opposed to this matter.

The accompanying explanatory memorandum states that there was consultation in 2019 prior to the Abortion (Northern Ireland) Regulations 2020, suggesting that that consultation should suffice. I say respectfully that it does not suffice. That consultation was censured by the Secondary Legislation Scrutiny Committee for being far too short, and 79% of submissions opposed the proposals. Again, the figures are very clear. Moreover, that consultation did not suggest that the Secretary of State would be taking these powers within 18 months of the consultation—powers that go beyond abortion into other areas, including education, which is also a devolved matter, and health more broadly.

As I am sure members of the Committee are aware, the Secretary of State is able to make a direction to Ministers and Northern Ireland Departments under the Northern Ireland Act 1998 in a limited number of situations, including the need to meet some international obligations. It was argued by many that the Secretary of State needed to agree to the proposed section 9 of the Northern Ireland (Executive Formation etc) Act 2019 because it was required to meet international obligations. I believe it is clear that those arguments were false. The Government cannot give a direction under the 2019 Act because the CEDAW recommendations are, in the words of the explanatory memorandum to the regulations,

“not binding and do not constitute international obligations.”

I made that argument last June, so in one sense I am pleased that the Government now agree with me on the matter. However, I am distressed to note that soon after the 2 June 2020 vote, in which the Assembly rejected the 2020 regulations and expressly rejected an amendment to limit that rejection to the provision of abortion on the basis of disability, the Secretary of State dismissed that vote when asked about it by the BBC on 4 June, saying our convention obligations overruled it. Specifically, he said that the regulations must

“comply with a UN convention.”

The CEDAW convention does not even mention the word abortion, let alone define a right to it, and it is hard to overstate the anger felt in Northern Ireland when the Government misconstrue arguments in an attempt to render empty votes of the Northern Ireland Assembly as a means of getting their way.

The powers of direction that the Secretary of State has taken for himself are “similar to” the powers in section 26 of the Northern Ireland Act 1998, but cannot be justified by that precedent because they extend far beyond it. Crucially, they allow directions to go not merely to Executive Ministers, but directly to organisations such as health authorities. Moreover, the scope of directions extends beyond the 2020 abortion regulations to other devolved matters such as sex education.

I know the Minister does not have to respond to me—I asked only to address the Committee—but perhaps in responding to those Members who will vote he will explain what precedent there is for such a wide-ranging direction. How on earth can Assembly Departments plan budgets if they do not know when a directive might be issued that impacts on health, education or the role of women, or what it might say? The potential is great. How many plans might have to be abandoned because of the arrival of an uninvited direction requiring the redirection of funds? That would constitute an intolerable precedent for any devolved Government and is deeply humiliating not only for Northern Ireland Ministers, but for the people of Northern Ireland.

On top of all that, and not surprisingly, given the constitutionally flawed foundation on which they rest, the regulations are in any event dysfunctional because they come without a credible enforcement mechanism. The only way to enforce the law is for the Secretary of State to initiate a judicial review, which is absurd. The experiment with section 9 of the 2019 Act since July 2019 provides a powerful object lesson on why embarking on an attempt to unpick an aspect of devolution—it is as critical as that—invites the creation of a dangerous constitutional mess. The truth is that section 9 must be understood in terms of the Act in which it is located, the purpose of which was the restoration of the Executive. That is now in place; the Executive have been restored. I therefore call on the Government to withdraw the regulations, and propose the repeal of section 9.

I end by reminding the Committee of the words of the then Secretary of State in 2018:

“Abortion has been a devolved matter in Northern Ireland since it was created in 1921, and it would not be appropriate for Westminster to seek to impose its will, or to be the arbiter of an issue that has long been devolved to the people of Northern Ireland. The Government believe that the question of any future reform in Northern Ireland must be debated and decided by the people of Northern Ireland and their locally elected, and therefore accountable, politicians.”—[*Official Report*, 5 June 2018; Vol. 642, c. 220.]

[Jim Shannon]

That would be the elected Members of the Legislative Assembly of Northern Ireland. The regulations adopt the exact opposite position. The 2020 regulations do not require that services have to be commissioned. Whether they should be or how that should be done is a matter for the Northern Ireland Executive, not, with the greatest respect, the Secretary of State or the Minister of State.

I reiterate that I speak for all those unborn babies who have not had the chance to enjoy a real life. I believe that opportunity should be there for them. Their rights have to be reinforced. Again, I respectfully call on all right hon. and hon. Members to reject the regulations.

5.54 pm

**Sir John Hayes:** It is a cause of regret when a confused Parliament does the wrong thing, but it is a cause of sorrow when a Government make that worse. The prevailing parliamentary confusion is based on a calumnia. To highlight the absurdity of where we stand, the Government now effectively acknowledge that today's vote was secured on the basis of a misunderstanding, a misinterpretation, a mistaken grasp of what we had to do and must do. The argument of its protagonists on 9 July 2019 about section 9, to which these regulations pertain, was that it was vital to ensure that we met "our international obligations". Indeed, after 9 July, even the Government suggested that that was the case. When confronted with the Stormont vote of 2 June 2020, the Secretary of State explicitly told the BBC that it made no difference because of our convention obligations.

However, the explanatory notes for today's Committee make it crystal clear that none of that is the case. They say, of paragraphs 85 and 86 of the CEDAW report—I draw the Committee's attention to these explanatory notes, for the purpose of clarity—that

"those recommendations are not binding and do not constitute international obligations."

That directly contradicts what the House was told by the hon. Member for Walthamstow (Stella Creasy) and others in July 2019. I have here her speech, in which she describes them as just that, "international obligations" that must be addressed.

The most striking thing about the regulations before us is how different they are from the last section 9 regulations—those of 2020. The 2020 regulations were concerned with abortion, but these regulations are much wider in scope, as my hon. Friend the Member for Penistone and Stocksbridge said. A clumsy, catch-all, calamitous approach is typical of the way Westminster has handled this topic. It still seems extraordinary to me that we should have greeted the restoration of Stormont in January 2020 with a vote only five months later to undermine devolution in respect of such a sensitive policy area.

We have heard from the Northern Irish representatives here, who after all speak directly for those who are affected by the regulations we are debating. Quite what the feeling is like in that place, a feeling expressed both in public consultation and in the votes in the now reconstituted Assembly—

**Charlotte Nichols** (Warrington North) (Lab) *rose*—

**Sir John Hayes:** I will come back to those matters in a moment; first, I happily give way to the hon. Lady.

**Charlotte Nichols:** The point that the right hon. Gentleman made regarding people being directly affected by this is, I think, false. When I was a teenager and had my own abortion at the Liverpool Women's Hospital, there were women and girls from Northern Ireland and the Republic of Ireland who had travelled to Liverpool for that service, and we have heard today about the number of people who are travelling over. It is not only people in Northern Ireland who are affected by this, because in areas such the one I represent, in GB, there will be people who are struggling to get on the waiting list for these services because people who should be able to access them in their own communities in Northern Ireland are having to travel here to get them. That is what we are seeking to address today.

**Sir John Hayes:** But these regulations apply to Northern Ireland, and what I said was that the people in the Committee who are elected in Northern Ireland by the people of Northern Ireland have spoken with absolute clarity about the views there—expressed not only in the Assembly and by both communities in Northern Ireland, by the way, but in every poll and test of opinion that has been taken in Northern Ireland, including among women. I think we have to pay some heed, rather as I pay heed to the hon. Lady's experience from her own part of the country, to those who speak for and represent Northern Ireland.

It is unsurprising—

**Huw Merriman:** Will my right hon. Friend give way?

**Sir John Hayes:** I will. I am going to give my hon. Friend a short lecture on law in a minute, because he is confused about it, as he was the last time we met in this Committee. Before I give way, perhaps he will chew on this. The Act to which the Good Friday agreement gave rise, the Northern Ireland Act 1998, says, at section 26, that there are only three grounds on which Westminster can intervene in a devolved matter in Northern Ireland: giving effect to international obligations; safeguarding defence or national security; and protecting public safety or public order. Given that we now know, from the explanatory notes for the Committee, that these were not international obligations, on what grounds are we doing what this Committee is being invited to do today, and on what grounds did we in Parliament pass the law that gives rise to these regulations?

**Huw Merriman:** I do not need a lecture in law because, quite frankly, I do not think my right hon. Friend is qualified. I referenced the judgment from the Supreme Court, which is qualified to give a judgment, that made it absolutely clear that the international obligations with regard to articles 3 and 8 of the European convention on human rights were not being complied with. Ultimately, neither of us is qualified on that front, unless he is going to become a Supreme Court judge.

The point that I wanted to make was on the suggestion that the Government, in what was a free vote, managed to dupe MPs to vote 328 in favour and 65 against. My right hon. Friend knows as well as I do that, when the

Government try to fix free votes, Parliament, because it knows its own mind, tends to do the opposite of what the Government say. Does he really think that MPs are completely stupid in a free vote and do not know their own mind?

**Sir John Hayes:** I would never say that all MPs are completely stupid, as you know, Mr Hosie, but if my hon. Friend does not value as highly as he ought to the 1998 Act and the devolution settlement that arose from the Good Friday agreement, perhaps he will recognise two other pieces of law that are directly pertinent to our considerations.

The first is the 2005 agreement, whereby the devolved constitutional settlement in Northern Ireland established the consent for constitutional change, described as a fundamental principle of devolution. It made clear that in terms of constitutional change it was essential that the Northern Ireland Assembly took a view, and indeed made a decision, that was consistent with anything that this Parliament did. That is the underlying principle of consent in the devolved arrangement.

Moreover—I know my hon. Friend will have read his papers very closely before coming to the Committee—the Delegated Legislation Committee that looked at the matters before us made it very clear that what we are being asked to do today is entirely exceptional in terms of the devolution settlement for Northern Ireland or anywhere else in the United Kingdom. Unprecedented was the word that the Committee that studied the regulations before they came to us used to describe them.

It is unacceptable to argue that because we took a decision when there was no Assembly, now that the Assembly has been re-established, we should ride roughshod over the view that it took and that it takes about the issue. It is inexcusable that the explanatory memorandum should suggest that the new regulations, which are so much wider than the 2020 regulations, should depend on the consultation process for the 2020 regulations, which in any event was sharply criticised as being far too short and deeply controversial.

Having had a deeply controversial and inadequate consultation process for the first regulations, we have now introduced regulations that are more wide ranging and that could, as my hon. Friend the Member for Penistone and Stocksbridge suggested, lead to—

**Mr Walker:** Will my right hon. Friend give way?

**Sir John Hayes:** Before I give way to the Minister, I pay personal tribute to him, because he has been incredibly courteous throughout; I have had many exchanges with him on the matter. I know that his personal views on these matters are not a million miles from mine, but I do not want to embarrass him by saying more than that. The truth is that he knows that with these regulations there is a possibility of us ending up with, rather than a circumstance whereby the availability of abortion in Northern Ireland is equivalent to that in the other parts of the United Kingdom, a circumstance, as my hon. Friend the Member for Penistone and Stocksbridge said, whereby abortion in Northern Ireland is offered more permissively than elsewhere. Perhaps he can correct me.

**Mr Walker:** I am very happy to correct my right hon. Friend on that point. I am certainly happy that we have had constructive engagement, and I hope that all Members on both sides of the House, and on both sides of the debate, will recognise the willingness to engage on these issues.

May I come back to my right hon. Friend's suggestion that today's regulations are wider in some way than the 2020 regulations? This is simply about the implementation of the 2020 regulations. Today's regulations make no change whatever to them; they are simply about ensuring that what the House put into law in 2020 is delivered.

**Sir John Hayes:** The Minister says that, but it is clear from reading the regulations that, in certain circumstances, abortion can take place up to birth and that the 1967 Act's insistence on two medical practitioners authorising abortion will not necessarily apply in Northern Ireland. I regard both those things as a more permissive application of the law than the one that pertains.

The 1967 Act may well be applied in theory more than in practice—I should not want to comment on that—but at the very least the risk of the more permissive regime that my hon. Friend the Member for Penistone and Stocksbridge described concerns the people of Northern Ireland, who fear that what is imposed on them might not only go against the expressed will of the people, but be altogether worse than that.

The hon. Member for Walthamstow made it perfectly clear that the essence of the argument used when the law was passed was that as there was no Assembly we had to act. She argued:

“I understand that, if it was not for the fact that we do not have an Assembly, this would absolutely not be the right way forward”.—*[Official Report, 9 July 2019; Vol. 663, c. 183.]*

That is what she said, with not a great deal of elegance; none the less, her point is made: it would absolutely “not be the right way forward.”

If it was “not the right way forward”, why on earth have we continued to pursue this path? When the Assembly was reformed, with a new Government, we had an opportunity to think again. It would not have been a huge step, given that the Assembly had the chance to vote on the matter. It has all the appearance of the Government dictating their will and of Parliament insisting that devolution counts only when the devolved Assemblies agree with people here. That is not something that you, Mr Hosie, I nor any democrat in this place could possibly sanction.

We must think too about the consequences for the Union and the continuing pertinence and relevance of devolution. If people in Northern Ireland come to believe what I have suggested—that their right to self-government is condoned by a Parliament that is so arrogant that it says that when they do not agree with the prevailing view here their rights can be torn away from them—how can they possibly continue to believe in the settlement or, indeed, even in the Union?

I was recently contacted by a clergyman from County Fermanagh, who decried the regulations as the final nail in the coffin of devolution. Indeed, an open letter was sent to the Prime Minister from 250 church leaders opposing today's proposals. On at least four occasions, we have actively ignored the expressed will of Northern Ireland's representatives on a matter of great importance

[*Sir John Hayes*]

to many in the Province. First, as has been noted, on 19 July 100% of Northern Ireland Members who take their seats voted against the process that resulted in section 9—a Northern Ireland-only provision on a devolved matter. Let me repeat that: a Northern Ireland-only provision on a devolved matter—a matter expressly devolved to Northern Ireland, yet it was imposed despite that opposition from Members who hold a specific mandate to represent the people there. At that moment we told the people of Northern Ireland that the voices of those elected to represent them would be ignored, and their history and deeply held views on this matter of conscience disregarded. By extension, we told the people of Northern Ireland that their opinion did not matter.

Secondly, we ignored the voice of the people of Northern Ireland in the consultation on the 2020 regulations, in which 79% of participants said they did not want the measure to proceed—seventy-nine per cent. is an even greater percentage than I managed to secure of the vote in South Holland and The Deepings—not much greater, but somewhat.

Thirdly, we ignored the voices of the people of Northern Ireland when we insisted on welcoming the restoration of the Northern Ireland Assembly while simultaneously ignoring its clear vote last year to reject the 2020 regulations. We now seek to forsake them again by forgoing further public consultation on the new regulations, at a time when the Assembly is working as intended, providing extensive and conscientious scrutiny of an imposed policy of the utmost sensitivity and profound local concern.

**Carla Lockhart:** I noted this with regard to my own speech but did not reference it. If the Committee was forcing a devolved issue on Scotland or Wales, would Members in this place agree to it? I think back to two examples. In 1957, Westminster voted to impose the flooding of the Tryweryn valley in Wales—

**The Chair:** Order. I have allowed the hon. Lady lots of leeway, and although some of this does touch on constitutional issues, the 1957 flooding in Wales is outwith the scope of the debate.

**Carla Lockhart:** Thank you, Mr Hosie. My point is that Welsh MPs voted against that, but the Government forced it through, which was recently described as “shameful”.

The same applies with the poll tax in Scotland, about which David Cameron apologised in 2006. One would hope that the lesson had been learned about not forcing things on the devolved Administrations, because that undermines and damages the Union. Therein lies my broad point.

**Sir John Hayes:** That is true, and the Committee that considered this issue before this Committee said that it was unprecedented in respect not only of Northern Ireland, but of any of the devolved nations. The decision that this Committee looks set to take—I will not put it more strongly than that—in supporting the regulations is so exceptional as to be noteworthy, as I described, and the hon. Lady has amplified.

It has been acknowledged that these issues understandably give rise to strong views, but on a matter as sensitive as this what is happening is particularly reprehensible. It would be reprehensible on a constitutional basis, regardless of the issue, but on a matter that causes such grave concern in Northern Ireland it is all the more so.

Today’s regulations are the continuation of a process that has fallen far short of the standards to which we as legislators should hold ourselves. I am not for one minute suggesting that people in Scotland and Wales think as the people of Northern Ireland do concerning abortion, but the precedents flowing from the way in which we are treating Northern Ireland with respect to the sustainability of the current devolution settlement across our kingdom are obvious.

Do not tell me that this is a matter of the sovereignty of Parliament, which we have heard suggested once or twice. Parliament has been sovereign since 1707. The fact that it can do certain things does not mean that it must do all things or should even do those things that it can. Parliament is sovereign by way of our constitution. By that constitution, it constrains itself by convention, and there are few more important conventions than upholding the Union and the Acts of Parliament that underpin it.

I recommend our Attorney General’s views on judicial activism and the creeping role of the Supreme Court in making public policy. If those views are not sufficiently persuasive, I recommend the views of the former Supreme Court judge, Lord Sumption, who has been clear that democratic legitimacy relies on the judiciary knowing what its constraints should be.

**Mrs Miller:** Surely my right hon. Friend is arguing against himself. If the Committee decides not to act today in introducing laws that improve the situation in Northern Ireland the Supreme Court will have no better action to take than effectively to put law in place of a vacuum. The current situation has been judged to be in convention with human rights, so we have no choice other than to act on that particular point.

**Sir John Hayes:** My right hon. Friend is right; the Government’s best course of action is to repeal the changes that were made when there was no devolution settlement. There is the prospect of further legal challenge, which I would certainly strongly support given all the things I said earlier about the 1998 Act establishing the devolution settlement; about the fact that this has been described again today by a Committee of this Parliament as being unprecedented; and about the basis on which the Assembly was reassembled and its legal underpinning. What we are doing today is highly questionable and I recommend that the Government think again.

The Minister says that Northern Ireland has some opportunity to interpret the regulations and come forward with its own settlement that stays within the law but does not go as far as some would want. That is true. Northern Ireland can come forward with a settlement, but these regulations are effectively a gun to the head of the people of Northern Ireland, saying, “Either you do what we want by your own decision or we will decide for you.” I hesitate to say anything critical of the Minister because I regard him highly, but it is a slightly deceptive argument to suggest that the Northern Irish can sort this out when a gun is being placed against their heads.

Not for nothing are many people in Northern Ireland very proud of the “One Hundred Thousand” report, confirmed by the Advertising Standards Authority as showing that probably 100,000 people are alive in Northern Ireland today who would not be had the Province embraced the Abortion Act 1967.

Moreover, when talking about the sovereignty of Parliament we must recall that a key aspect is that no Parliament can bind its successors. Section 9 was passed in a Bill the introduction of which defined its purpose in terms of the restoration of the Executive. That was in a previous Parliament and it could have been—it would and should have been—this Government’s course of action to say, “That was then and now is now.” A different Parliament and a different set of arrangements in Northern Ireland necessitates a different approach. That would not have been unreasonable given what I said about the need to maintain the integrity of devolution.

Rather than asking Parliament to pass these regulations, the Government should recognise the current reality and instead ask our new Parliament to welcome the restoration of the Assembly and to repeal section 9, as I said in response to my right hon. Friend the Member for Basingstoke. In making that point, I would say to the advocates of abortion that that would be a debate to have across the House, but more especially in Northern Ireland. If those who want abortion to be more widely available in Northern Ireland make their case and persuade their elected representatives to share that view, living in a democratic kingdom, the majority view will prevail.

It is important to say that the regulations are of course about abortion and its availability in the Province, but they are about something much more: how much we value devolved decision making, how much we respect the different opinions that prevail in different parts of this kingdom and how much we really believe that the sovereignty of this Parliament is enhanced when we are big enough to say that people in different parts of the kingdom can come to different conclusions from the majority view here.

Do we care so little about the distinct regional identities of our Union, unless we take exactly the same approach to abortion in Northern Ireland as in the rest of the United Kingdom, that we would extinguish people’s opinions and eliminate the majority view there? Are we to honour devolution only when those to whom we give power agree with us? Will the Government be content to build their future on past mistakes? Is this an Administration who listen, or do they dictate?

To misunderstand the salience of those questions, or the significance of the answers, would be among the worst political miscalculations of any Conservative Government since the Union began in 1707. As we sit under the gaze of Joseph Chamberlain—

**Karin Smyth:** Will the right hon. Gentleman give way?

**Sir John Hayes:** Before I come to my exciting conclusion, of course I give way.

**Karin Smyth:** The Act of Union 1707 did not apply to Ireland, only to Scotland.

**Sir John Hayes:** That is true, but I did not claim otherwise. I said this would be one of the biggest mistakes since then.

As we sit under the gaze of Joseph Chamberlain, the radical who in the end became allied to the Conservative Government, and who always put conviction above convenience, perhaps today members of the Committee should put principle and conviction first, not convenience, and think again about the regulations. I invite Conservative members of the Committee—and, I hope, members across it—to oppose the regulations because that would send a signal to Government to think again, to listen, to redraw their plans and to behave in a way that maintains our Union, respects devolution and shows that, rather than ploughing ahead regardless, the Government are sensitive to the wishes and interests of the people in every part of the United Kingdom.

6.23 pm

**Mr Walker:** Thank you, Mr Hosie, for your patient chairmanship of the Committee.

We have heard a wide range of strongly held personal views and varied contributions on all aspects of the regulations from Members representing all parties. I thank the hon. Member for Pontypridd, who speaks for the Opposition, for her constructive approach to the debate and our previous engagement on the issue. I particularly commend the speeches of my right hon. Friend the Member for Basingstoke; the right hon. Member for Kingston upon Hull North, who has spoken passionately on the issue for a long time; my hon. Friend the Member for Bexhill and Battle; and the hon. Member for Bristol South, who used to face me across the Committee.

My closing remarks will address several of the points made during the debate. I recognise the strength of the speeches of the hon. Member for Upper Bann, my hon. Friend the Member for Penistone and Stockbridge, and my right hon. Friend the Member for South Holland and The Deepings, who is never knowingly understated, but who, as ever, spoke powerfully.

While some people might wish to use the opportunity to reopen the discussion on the framework established by the 2020 regulations, as my right hon. Friend the Member for South Holland and The Deepings did for a large part of his speech, that time has passed and we are focused on ensuring that the legal right of women and girls to access full abortion services in Northern Ireland is implemented. Let me be absolutely clear that we are not proposing to repeal section 9 of the EF Act. Although we have heard in the debate from some who would like to do that, they are in a small minority in the House and in the Conservative party. As my hon. Friend the Member for Bexhill and Battle pointed out, there was a five to one majority in favour of the Act, as amended. It remains our preference that, this now being the law of the United Kingdom, the Department of Health should drive forward the commissioning of abortion services, with the support of the Executive, and we will continue to work to see whether progress can be made on the ground in Northern Ireland before the Secretary of State has to consider issuing a direction.

We all recognise that abortion is a hugely emotive subject, but we must not lose sight of the women and girls in Northern Ireland who are at the heart of the matter. It is unacceptable that there are women and girls in any part of the United Kingdom who cannot access these fundamental rights. That is a decision that was

[Mr Robin Walker]

taken by the House of Commons in enacting the previous regulations and the EF Act. Even though the law was changed 12 months ago, services have still not been commissioned in full, leaving many women and girls in vulnerable situations.

My right hon. Friend the Member for Basingstoke made clear the concerns of health professionals at the lack of commissioning. I thank the Northern Ireland abortion and contraception taskforce for its report. The CEDAW report and its recommendations require that evidence-based protocols are adopted in the provision of services in Northern Ireland. The Royal College of Obstetricians and Gynaecologists has also published guidance to help medical professionals. I strongly urge the Department of Health to engage with both groups on the practical issues outlined in their reports.

I have spoken personally to many women and healthcare professionals in Northern Ireland, and some of their experiences are truly harrowing. Many women and girls still have to travel to other parts of the United Kingdom to access the care that should be available to them. One story of which I was informed was of a wanted pregnancy where, sadly, doctors told the mother that the baby would not survive outside the womb. The woman had to travel to London without a network of family support in order to access abortion care. She described to me a harrowing ordeal—unable to travel back on a flight home because of complications with bleeding, stranded in London, alone, grieving and in pain. I have also been made aware that two women have attempted suicide in the past year after their flights were cancelled and they were unable to travel to England.

The distress and the circumstances that women and girls continue to face when local access should be readily available, given that the law changed over a year ago, are unacceptable. It is only right that women and girls in Northern Ireland can make individual, informed decisions with proper patient care and provision of information, and with support from medical professionals, based on their own health and other circumstances—similar to women and girls living elsewhere in the UK.

The right hon. Member for Kingston upon Hull North made an important point about funding for voluntary services. I have made it clear that we would expect to see that in place before the summer recess so that we can avoid the use of a direction. We want the Executive to move forward on it.

We have heard understandable concerns about respecting the importance of the devolved institutions. I have been clear repeatedly about our desire to work with the Executive, the Department of Health and the Assembly to ensure that the regulations are implemented effectively in a way that works for Northern Ireland, but, after more than a year, it has become clear that without further steps being taken, that would not happen. Even at this stage, we do not wish to have to use the power of direction and we will pause, following the conclusion of the Committee, to give the Department of Health another opportunity to implement the regulations. If we see real evidence of commissioning of a CEDAW-compliant regime, and support for the provision of advice and guidance ahead of the summer, there is no reason a direction should be required. If we do not, we will have no choice other than to meet our legal obligations.

We have already given the Executive and the Department of Health a year to move forward with commissioning services, following the abortion regulations coming into effect last March, and we are disappointed that no progress has been made. We continue to give the Executive, the Minister of Health and his Department further time to move forward on their own terms. Should the Committee approve the regulations on the power of direction, we will pause and give them one final opportunity to make progress on commissioning services. However, we will not let progress be drawn out indefinitely.

We want to see concrete progress towards the commissioning of abortion services before the summer recess. If that is not achieved, we will not hesitate to issue a direction immediately so that the rights of women and girls are properly upheld, and they can have safe and lawful access to abortion services in Northern Ireland.

I have been asked to estimate the number of people who have had to travel. I note that over 1,100 women and girls have been able to access local services since April last year. That should not be overlooked when services have not been formally commissioned. We have seen a significant reduction in the number of women and girls having to travel over the past nine to 12 months, and we appreciate that, while covid has played a part in that, the change to the law in Northern Ireland and local access have also been key.

We expect that the Department of Health and Social Care will publish the figures for people who have had to travel as standard practice over the coming months. Tempting though it is, I do not wish to estimate—I want the figures. We know that the number is significantly lower than before, but any number at this stage is too many.

**Karin Smyth:** I appreciate the difficulty, but that is really disappointing. Coming out of the pandemic, flights are beginning to be scheduled, but they are getting more expensive, and it will be more difficult for women to travel as families try to reunite across these islands and society begins to reopen. It will be another four to five months—between now and some point in the summer, if something happens—with really difficult travelling circumstances and more women in distress. Is that date as much as we can get from the Minister today?

**Mr Walker:** I recognise the strength of the hon. Lady's feelings and the fact that she is pushing for the most rapid delivery. It is our preference that the Executive and the Minister of Health move forward with this at once, and that they act on what is already in place so that the requirement to travel can be removed as soon as possible. We want to give the Executive every opportunity to do this themselves without being directed, so there will be a pause.

My right hon. Friend the Member for Basingstoke made an important point about education. She is right that the CEDAW report's requirements, the regulations and the EF Act require us to go beyond the area of health. Sexual and reproductive health education is an important component in ensuring that women and girls are well informed of the choices available to them. One of the recommendations in the CEDAW report, which

we must ensure is implemented, is to make age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights a compulsory component of the curriculum for adolescents, covering the prevention of early pregnancy and access to abortion, and to monitor its implementation.

The implementation of that recommendation falls into an area for which Northern Ireland's Department of Education has responsibility. We have written to the Minister and continue to work with the Department to ensure appropriate implementation in Northern Ireland, but I would point out that the Northern Ireland Human Rights Commission, as part of its work for this year and in accordance with that recommendation, will publish a report on the provision of education services in Northern Ireland.

The right hon. Member for Kingston upon Hull North asked about telemedicine. As she will recognise, the temporary approval made in England under the abortion legislation Act cannot be extended to Northern Ireland, but the power was placed in legislation to enable the Northern Ireland Minister of Health to consider other appropriate settings. In this jurisdiction, during the covid situation, that power has been used under UK legislation. I have certainly urged the Minister to consider that, but it needs to be looked at as part of the wider package of the Executive and the Department of Health accepting their responsibilities for this and using the powers available to them.

My right hon. Friend the Member for South Holland and The Deepings mentioned the Constitution Committee. I recognise that, to some extent, we are in unprecedented territory, but I agree with the Committee's conclusion that the UK Government and the Northern Ireland Executive should engage in a constructive manner. The Secretary of State is under a clear legal duty under section 9 of the EF Act to ensure that all the CEDAW recommendations are implemented in Northern Ireland—a duty that was placed on him by the House of Commons. However, we have been repeatedly clear about our desire to work with the Executive, the Department of Health and the Assembly to ensure that the regulations are

implemented effectively in a way that works for Northern Ireland. It remains our preference for them to deliver on that and to move forward with the full commissioning of services in line with the regulations. That is why we are giving them every opportunity to act on the matter.

I conclude by saying that I have no desire to be here today. Like the hon. Member for Bristol South, I cannot believe that we are here again. The House set out the law and delivered a single compliant set of regulations for Northern Ireland over a year ago. At every stage, we have sought to get those regulations delivered through the proper devolved channels, and the power that the regulations will grant provides a mechanism to unblock the political obstacles that have been placed in the way of their delivery. I therefore commend the regulations to the Committee.

*Question put,*

*The Committee divided: Ayes 13, Noes 3.*

**Division No. 1]**

**AYES**

Antoniazzi, Tonia  
Britcliffe, Sara  
Davies-Jones, Alex  
Dines, Miss Sarah  
Elmore, Chris  
Johnson, rh Dame Diana  
Mann, Scott

Merriman, Huw  
Miller, rh Mrs Maria  
Nichols, Charlotte  
Richardson, Angela  
Smyth, Karin  
Walker, Mr Robin

**NOES**

Cates, Miriam  
Hayes, rh Sir John

Lockhart, Carla

*Question accordingly agreed to.*

*Resolved,*

That the Committee has considered the Abortion (Northern Ireland) Regulations 2021 (S.I. 2021, No. 365).

6.37 pm

*Committee rose.*

