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Looking Across the Border: Comparing Gendered Policy Frameworks

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ABSTRACT

This article explores changes in public policy and services with a strong gender dimension in the Republic of Ireland and Northern Ireland since the Good Friday Agreement, in terms of an observed gap between actual policy and service provision and activists' views. On abortion services, welfare benefits, levels of poverty, and gender recognition and transgender rights, the Republic's policy framework and supports are more focused on gender equality than the equivalent regimes in Northern Ireland. Perceptions of equality issues have changed in the aftermath of the abortion and marriage equality

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referenda in the South, but the level of detailed knowledge of policy on the ‘other’ side of the border is low, even for those active in women’s organisations. Cross-border perceptions were often not supported by contemporary evidence. This comparative analysis shows that in the Republic, policy and practice have produced stronger gender equality outcomes in almost every area of the women’s rights agenda.

INTRODUCTION

This article is a contribution to the heightened public discussion on potential future relationships on the island of Ireland that was triggered by the Brexit referendum of 2016, and the subsequent threat of a hard border on the island of Ireland.¹ It focuses on the gendered aspects of the public policy frameworks in the two jurisdictions on the island, specifically their key differences. It also examines the views of those campaigning on a women’s rights agenda on current policy frameworks, North and South, and the direction of future policy reform. The article is one of two based on a comparative analysis of public policy North and South and an analysis of cross-community and cross-border relationships between women’s groups, in the context of the international debates on Women, Peace and Security (WPS).² Along with an analysis of law and policy, the research included a series of interviews conducted for this study in 2021 and 2022, and two consultative seminars (one held in Dublin and one in Belfast in late 2022). The interviewees and seminar participants were civil society activists, community workers, politicians and academics on the island of Ireland who are engaged on issues with

¹ The research for this paper was supported by the Reconciliation Fund of the Irish Department of Foreign Affairs [grant no. RECFUND-000001124] and by Dublin City University, for which the authors are grateful. The authors also wish to acknowledge the contribution of the National Women’s Council of Ireland and the Women’s Resource and Development Agency in Belfast in facilitating discussion of draft research outcomes. None of these organisations or their staff have any responsibility for the analysis or the views expressed in this paper.

² UN, *Preventing conflict, transforming justice, securing the peace: a global study on the implementation of United Nations Security Council resolution 1325* (New York, 2015); Susan Willett, ‘Introduction: Security Council Resolution 1325: assessing the impact on women, peace and security’, *International Peacekeeping* 17 (2) (2010), 142–58. The second (forthcoming) paper on this project explores the nature of cross-border cooperation and the views of activists: Tajma Kapic, Eileen Connolly and John Doyle, ‘Gender and cross-border co-operation on the island of Ireland’, *Irish Studies in International Affairs* 34 (2) (2023).

a significant gender dimension.³ The aim of this article is to determine how key policies with a strong gendered dimension compared North and South, and how these policy differences were perceived by the research participants.

We began with a list of key policy areas drawn from the published agendas of the main women's organisations with a gender equality focus on both sides of the border, and used an iterative process during the interviews and seminars to refine the areas covered. Early in the process it was clear that while individuals were aware of the details of legislation and policy in the jurisdiction in which they worked, they had very little knowledge of the 'other' jurisdiction, and in many cases their assumptions about policy in that jurisdiction were inaccurate and based on preconceived stereotypes. It was also clear that within most organisations whose members were interviewed there was very little meaningful cross-border activity on gender issues, with activists pointing to the very limited funding available to support such cross-border links, in a sector dominated by project funding.

This lack of funding and focus on gender equality policies was not a recent development but can be traced back to the period of the Good Friday Agreement (GFA) and its weak engagement with gender issues. The 'Good Friday' negotiations and the following implementation period did not integrate a gender equality perspective, in spite of the election of the Northern Ireland Women's Coalition (NIWC) to the Northern Ireland Forum in 1996 and the first post-GFA Northern Ireland assembly in 1998. The election of candidates from the NIWC was a result of women activists opportunistically taking advantage of the low threshold of votes required for engagement in the 1996–1998 negotiation process, which was designed to ensure the inclusion of loyalist groups with weak electoral support. During the negotiations the members of the NIWC were consistently the target of sexist abuse by prominent conservative

³ Interviewees or their organisations are not named, so those people could speak freely about cross-border and cross-community relationships. Most interviewees were members of NGOs and civil society groups concerned with the issue of gender equality and women's rights, both in the Republic and in Northern Ireland. The participants included a broadly representative section of those active in women's groups in Northern Ireland and the Republic, by age and background. They included people who mainly worked at community level in Northern Ireland, often in areas largely or exclusively made up of members of one of the main political communities there, and people who worked primarily in cross-community groups. In the South, interviewees reflected a mix of community-based and national-level advocacy organisations working on a wide range of issues. In addition, academics with a track record of engagement on these issues were interviewed as experts and politicians were interviewed about their perspectives on how women's groups engaged with the political system in advocacy work.

unionist politicians who questioned their capacity, as well as their right, to participate in the peace negotiations.⁴ This ongoing antagonism and the failure to integrate gender equality in the GFA at any level can be seen in the agreement's policy outcomes. For example, while the establishment of the new police service included an outcomes-driven policy of balanced recruitment of those from a nationalist and a unionist background, there was no equivalent gender quota, and as a result there has been almost no progress in the representation of women within the service.⁵ Although the GFA was negotiated before the consolidation of the internationally recognised WPS agenda that embeds a gender equality perspective into peace processes and the development of post-conflict states, its implementation, including the reform of policing, took place over a longer period, when such a gender perspective was being promoted internationally. This neglect of gender issues has had a negative impact on the space that has been given to policy reform in this area, in the political work of the Northern Ireland assembly and in the funding framework available to civil society to work on gender issues. Therefore, although at a community level the GFA made the impact of the border much less noticeable in terms of everyday life, at the level of governance and the integration of policy and policy implementation the two jurisdictions did not become more aligned, and this has been particularly true for social policy with a gender dimension.

This article begins with a discussion of the development of the two polities and the way in which each has broadly perceived the other in the policy areas where a gendered impact is most visible. This provides a context for the following comparative discussion of individual gendered policy areas.

GENDER AND THE TRAJECTORIES OF POLICY DEVELOPMENT NORTH AND SOUTH

At the time of partition there was a gulf between the level of economic development in the North compared to the South of Ireland. While the South

⁴ Kate Fearon, 'The Northern Ireland Women's Coalition: origin, influence and impact', *Hiroshima Journal of Peace* 1 (2018), <https://ir.lib.hiroshima-u.ac.jp/00045350>; Cera Murtagh, 'A transient transition: the cultural and institutional obstacles impeding the Northern Ireland Women's Coalition in its progression from informal to formal politics', *Irish Political Studies* 23 (2008), 21–40; Carmel Robinson, 'Women's Coalition called "feckless"', *Irish Times*, 7 June 1997.

⁵ John Doyle (ed.), *Policing the narrow ground: lessons from the transformation of policing in Northern Ireland* (Dublin, 2010).

was primarily an agrarian society with little industry, the North was much wealthier with an economy built around linen, engineering and shipyards. Belfast was a larger city than Dublin, and an estimated 80% of the island's GDP was derived from three of the six counties in the current territory of Northern Ireland. In terms of gendered public policy frameworks at the foundation of the state, the South took on a conservative Catholic perspective on moral issues. While the rest of Northern Ireland was less progressive than its metropole on gender issues, it assumed a comparative veneer of liberal Protestantism in contrast to what was perceived as the backward-looking, 'priest-dominated' South. This view was strengthened by the superiority of the post-Second World War education, health and social welfare systems put in place in the UK, even if implemented in Northern Ireland in the face of opposition from the Northern Ireland government at Stormont. By comparison, free secondary education was introduced in the South only in the mid-1960s, while health and welfare systems were developed slowly over the second half of the twentieth century by the poorer state, relying on a mix of provision by the state, religious organisations and charities.

The Northern Ireland economy went into decline shortly after partition and the 1930s saw widespread public protests about levels of poverty and hunger. This relative economic decline continued through the twentieth century. While there was widespread public debate about an economic dividend for the island as a whole in the aftermath of the 1998 agreement, this did not materialise in Northern Ireland and the long-term relative economic decline, whether compared to the Republic of Ireland or to Western Europe more generally, continued.⁶ From the late 1940s the emerging Northern Ireland welfare state was supported financially from London, reducing the impact of the declining economy; however, the retrenchment in the National Health Service (NHS) and welfare spending from the Thatcher era onwards had particularly severe impacts in Northern Ireland due to the weakness of the local economy, and low wage levels. This curtailment of the traditional welfare state has had a strong gendered dimension, with women being disproportionately and negatively impacted.⁷ On social issues, Northern Ireland

⁶ Adele Bergin and Seamus McGuinness, *Modelling productivity levels in Ireland and Northern Ireland*, ESRI Research Series 152 (Dublin, 2022); Adele Bergin and Seamus McGuinness, 'Who is better off? measuring cross-border differences in living standards, opportunities and quality of life on the island of Ireland', *Irish Studies in International Affairs* 32 (2) (2021), 143–60.

⁷ Ellie Mae MacDonald, 'The gendered impact of austerity' (LSE, 2018), available at: <https://blogs.lse.ac.uk/politicsandpolicy/gendered-impacts-of-austerity-cuts/> (5 September 2023).

benefited from the liberalisation of policy in the UK in some areas such as contraception, but in other areas such as abortion rights and later LGBT+ rights the Northern Ireland parliament resisted reform, and even after direct rule from London was introduced in 1972, there was little appetite in London to use its new powers to force through change—opening up some significant differences between law and practice in Northern Ireland compared to Britain.

The South tentatively began a process of gendered policy change in the late 1950s and 1960s, and continued it more strongly in the 1970s and 1980s.⁸ This included, in the 1970s, employment equality legislation and social welfare reform to include benefits for women as mothers whatever their marital status, and, in the 1980s, the beginning of the liberalisation of access to contraception. These changes, especially employment legislation, have been inaccurately analysed as only conforming to an EU policy framework, a perspective that ignores the fact that before its introduction in 1976 by an Irish EU commissioner there was no gendered employment equality framework in the EU.⁹ An exclusive focus on the EU dimension also ignores the domestic modernising trends in Ireland at this time of major global social upheaval.

Contraception was initially legalised in the South in 1979 and liberalised in 1985; in 1995 a close-run referendum introduced divorce. By the 1990s there was a noticeable and growing gap between public opinion and the views expressed by political parties and individual politicians on issues of morality and gender policy, with public opinion in advance of political elites. This dichotomy was played out in the series of referenda on abortion, with the public rejecting the 1992 attempt by politicians, prompted by the Catholic right, to insert the details of anti-abortion legislation into the constitution following the so-called ‘X case’.¹⁰ Following the 1998 GFA and amid rising scandals about the Catholic church, the South witnessed a rapid secularisation. Rising living standards, secularisation and an increasingly progressive public resulted in the passing of the marriage equality referendum in 2015 and the repeal of the constitutional prohibition on abortion (the eighth amendment) in 2018.

⁸ Eileen Connolly, ‘Durability and change in state gender systems: Ireland in the 1950s’, *European Journal of Women’s Studies* 10 (2003), 65–86; Eileen Connolly, ‘Women and public policy: Ireland’s equality contract’, in Yvonne Galligan, Eilis Ward and Rick Wilford (eds), *Women and politics in Ireland* (Boulder, 1998), 74–89.

⁹ See Connolly, ‘Women and public policy’; Patrick Maume, ‘Patrick Hillery’, *Dictionary of Irish Biography*, available at: <https://www.dib.ie/biography/hillery-patrick-john-a9635> (5 September 2023).

¹⁰ Ailbhe Smyth, ‘The “X” Case: women and abortion in the Republic of Ireland, 1992’, *Feminist Legal Studies* 1 (2) (1993), 163–77.

In contrast to this picture of economic, political and social progress in the South, post-1998 Northern Ireland has seen very limited change in social policies in the aftermath of the GFA. Many interviewees identified the intermittent nature of the functioning of the Northern Ireland executive and assembly and the strong community divide as limiting the political space for policy reform. Recently this has been especially clear in the DUP's refusal to implement a reform of abortion policy or marriage equality in the North. The DUP has frequently deployed the 'petition of concern', allowing a de facto legislative veto by a majority of unionists, to prevent legislative change. This provision was contained in the GFA as a counter to the fear of unionist majoritarianism in the new assembly, but in practice it has been mostly used by unionists to block liberal reform. Sinn Féin has not used the veto, and has supported reform of abortion laws and marriage equality, but it has been a less radical voice in the North than in the South: a product of the much wider social base of party supporters in Northern Ireland, which now has approximately 70% support among the culturally nationalist population. The SDLP, UUP and Alliance Party do not impose party discipline on social questions such as abortion, but most Alliance MLAs have supported reform, while the SDLP and UUP are more evenly divided between conservative and liberal members. The most significant changes in the law on women's rights since 1998 have been imposed by legislation from Westminster, to overrule the DUP's veto of legislation on abortion and marriage equality (as well as Irish language legislation). However, lower-profile policy areas have largely remained unreformed.

The South historically was poorer than the North and was seen as more inward-looking than the UK and more conservative on social issues, as the dominant role of the Catholic church was seen as limiting social policy reform. In the period since the GFA there has been dramatic change in the economic wealth of the South compared to the North, in the island's relationship to Europe and the wider world, and in social policy. The Republic of Ireland is now significantly wealthier than Northern Ireland, with the average standard of living estimated to be 12 per cent higher.¹¹ The Republic via its EU membership has a significantly more internationalised economy and is more outward-looking in its political life. It was notable, however, that many interviewees in Northern Ireland were relatively unaware of policy change in

¹¹ Bergin and McGuinness, 'Who is better off?'

the Republic, or inaccurately assumed that the public service reversals in the North were also happening ‘down South’. Other interviewees to some extent used older frames of reference to discuss their perceptions of the ‘other’, acknowledging some change but explaining the changes in the South as mere ‘window dressing’ in order to promote a European identity, and claiming that the policy reforms did not have strong roots in the community.

In parallel, participants from the Republic were often poorly informed on the impact of public spending cuts on health and welfare in Northern Ireland. They had limited knowledge of the gendered impacts of the severe cuts to welfare and health spending by Conservative governments at Westminster between 2010 and 2022 that reinforced the Thatcher-era cuts in welfare provision. There was no awareness of the crisis in the NHS, or of the low level of social welfare payments, or that Northern Ireland is now one of the poorest areas in the UK, with the worst health service provision. Comments on assumed welfare provision and its gendered impact in Northern Ireland were often based on a very dated view of the British welfare state, and an assumption that it still provided Northern Ireland with higher standards of health and welfare than the Republic.

The interviews for this research produced contradictory responses—awareness of a growing liberalisation in the South compared to the North simultaneously with a dismissal of its significance, along with some very dated views in the South on the British welfare state. Therefore, in order to provide a basis on which to assess both the actual comparative policy positions North and South and the mutual lack of knowledge on gendered public policy and legal frameworks, the following section analyses the key policy and practice differences between the North and South in selected areas.

COMPARING LAW AND POLICY ON GENDER EQUALITY NORTH AND SOUTH

The policy areas chosen for analysis below reflect the key concerns of activist women’s groups and those campaigning on gender equality issues, during the period of this research, as outlined in their policy documents and in the interviews. It is not an exhaustive list of topics that should be addressed in a debate on the future of the island, but it does include many policy areas that would form the basis of a gender equality framework for a new and united Ireland. The topics are women’s political representation; employment

equality, particularly gender pay gaps; childcare and maternity leave; social welfare benefits and poverty; abortion; marriage equality; gender recognition; gender-based violence; and healthcare.

Political representation

Despite the absence of any quota system, Northern Ireland has made significant progress on women's representation in politics in the period since the GFA. In 2023, at the time of writing, the leaders of Sinn Féin and the Alliance Party are women. The Green Party is an all-Ireland party but its current deputy leader in Northern Ireland and its previous leader in Northern Ireland have been women. Arlene Foster previously led the DUP and held the post of first minister and the current Sinn Féin vice president, Michelle O'Neill, became the first minister designate following the May 2022 Northern Ireland assembly elections. 36% of MLAs elected in May 2022 were women, an increase from 31% in 2017. There were significant differences in the proportion of women candidates run by unionist parties compared to nationalists and 'others': Sinn Féin (56%), Alliance Party (50%), SDLP (45%) UUP (33%), DUP (25%) and TUV (10%). The percentage of women elected, at 35.5%, is just ahead of the UK House of Commons (34%), but below the Scottish parliament (45%) and Welsh Senedd (43%). The comparative success of Northern Ireland in this area is attributable to the impact of the framework provided by the international WPS agenda on post-conflict societies, and also the initial success of the NIWC in the first, defining elections in 1996 and 1998.

In contrast, the representation of women in Dáil Éireann is very poor by international standards at just 22.5%. There is a 30% quota for candidates for political parties since the 2020 election, with parties losing state funding if they do not comply. Apart from the small Social Democrats, who ran 55% women candidates, most parties were just above the required quota—Sinn Féin (33%), Labour (32%), Fianna Fáil (31%) and Fine Gael (30%). This quota will rise to 40% in 2023. As yet, there is no quota for local government elections, next due to take place in the South in 2024, and such a quota is a significant demand by advocacy groups, supported by a Citizens' Assembly, given the importance of local councils as a pathway to national office and the clear international evidence that quotas are an essential tool in moving towards balanced political representation.

Employment equality

There has been a growing international focus on gender pay gaps, in recognition of the fact that formal policies of 'equality of opportunity' have had

limited impact on beneficial labour force outcomes for women.¹² Reflecting this debate, in March 2021, the European Commission published proposals for binding pay transparency measures and Eurostat now publishes data on the gender pay gap, defined as ‘the difference in the average hourly wage of men and women across a workforce’.¹³ Using this measure, the gender pay gap in the Republic of Ireland was estimated at 11.3% in favour of men in 2018, the most recent year for which statistics are currently available. This is lower than the EU average, which in the same year stood at 14.1%.¹⁴ To facilitate the collection of better data on this topic, in the Republic of Ireland the Gender Pay Gap Information Act 2021 requires organisations to report on the hourly gender pay gap for their employees across a range of metrics.¹⁵ Information based on this exercise, which will allow a more detailed analysis of gaps in different sectors, is not yet available, as the first data collection period began only in June 2022.

As in many other public policy areas, comparing data North and South is not straightforward, as the definitions used by the UK’s Office for National Statistics (ONS) and Eurostat are not identical and Northern Ireland data are not available via Eurostat reports. Using the best available data, which are comparable to the Eurostat approach, indicates that men in Northern Ireland earned 8.2% more than women on an hourly basis (excluding overtime) in 2021.¹⁶ Even allowing for data differences, this is a narrower gap than in the Republic (11.3%). The most likely explanation of this better result for Northern Ireland is the small scale of the private sector economy in Northern Ireland compared either to the South or to the EU as a whole. Pay gaps are wider in the private sector in most countries.¹⁷ This is also true in Northern Ireland, where the private sector pay gap is 16% compared to just 2.9% in the public sector, but the small size of Northern Ireland’s private sector means that the greater equality in the public sector has a much greater impact on Northern

¹² Judith Squires, *The new politics of gender equality* (Basingstoke, 2007).

¹³ See ‘How to report on the gender pay gap’, available at: <https://www.gov.ie/en/campaigns/0cb29-gender-pay-gap-information-act-2021/> (5 September 2023).

¹⁴ Eurostat, ‘Gender pay gap in unadjusted form’, available at: https://ec.europa.eu/eurostat/databrowser/view/sdg_05_20/default/table?lang=en (5 September 2023).

¹⁵ ‘What is the Gender Pay Gap Information Act 2021?’, available at: <https://www.gov.ie/en/publication/29606-what-is-the-gender-pay-gap-information-act-2021/> (5 September 2023).

¹⁶ NISRA, ‘Employee earnings in NI 2021’, available at: <https://www.nisra.gov.uk/news/employee-earnings-ni-2021> (5 September 2023).

¹⁷ Eurostat, ‘Gender pay gap statistics’, available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics#Gender_pay_gap_higher_in_the_private_sector (5 September 2023).

Ireland's overall average figure than in more typical European economies or the South.

It is worth noting that other gender pay gap measures are widely used in UK policy reports, and the most common UK measure is hourly median earnings (excluding overtime) for *full-time* employees. Using this measure, the difference in male and female pay has moved from males earning 11.7% per hour more than females in 2000 to females earning 4.6% more than males in 2022.¹⁸ This 'reverse' gender pay gap (by this measure) has existed in Northern Ireland for thirteen years.¹⁹ However, while all gender pay gaps are averages, breaking down these data produces more dramatic complexity in the results for Northern Ireland.

For Northern Ireland there is a gender pay gap in favour of men in most definitions on which reports are based, such as gross annual pay, total weekly pay, total hourly pay for all employees, hourly private sector pay and hourly public sector pay. For example, in terms of gross annual pay the gap is quite significant, with women in Northern Ireland earning, on average, 31.1% less than men.²⁰ The ONS average figure that seems to show women earning more than men is based on average hourly pay for *full-time* workers, *excluding overtime*, and the positive result for women is driven by a number of factors. The gender pay gap, as mentioned above, is much greater in the private sector than in the public sector in Northern Ireland.²¹ Women are also more likely to work part-time in both sectors, and female part-time employees can be more skilled: they are more likely to be part-time 'by choice' in better-paid roles, and are therefore less likely to do overtime.²² As a result, the UK definition applied to Northern Ireland, focusing on hourly rates, excluding overtime and including the large Northern Ireland public sector with a lower pay gap, can produce a statistic that shows women's average hourly pay (excluding overtime) as higher than men's, at the same time that women earn substantially less than men by most other definitions, including that used by Eurostat.

¹⁸ ONS, 'Gender pay gap in the UK: 2022', available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2022#gender-pay-gap-data> (5 September 2023).

¹⁹ Northern Ireland Assembly, 'Northern Ireland gender pay gap, a 2021 update', available at: <https://www.assemblyresearchmatters.org/2021/03/08/northern-ireland-gender-pay-gap-a-2021-update/> (5 September 2023).

²⁰ Northern Ireland Assembly, 'Northern Ireland gender pay gap': see Figure 2.

²¹ See NISRA, 'Employee earnings in NI 2021'.

²² NISRA, 'Employee earnings in NI 2021', 1.

Setting aside the definitions used to calculate pay differentials, causes of pay gaps are similar both sides of the border: different promotion prospects, the impacts of maternity leave on career progression, under-representation of women in senior roles, expensive childcare leading women to leave the labour force or seek part-time work, and low pay in the sectors where most employees are women, including childcare and social care.

Research participants saw the cost of childcare as a major barrier to women entering or remaining in full-time employment, in particular for those on relatively low salary levels, and the island of Ireland, North and South, stands out as a place with expensive and inadequate childcare. The OECD has compared childcare costs as a percentage of average wages for a couple, for 23 countries for which data are available.²³ The UK as a whole had an average cost of 37% of wages for a couple, and was the most expensive country for childcare in the comparison group. Ulster University Economic Policy Centre compared Northern Ireland to the results of this OECD dataset, based on a survey of local childcare costs, and found that Northern Ireland was marginally cheaper than UK averages. While the Republic was more affordable than Northern Ireland, at 28% of average wages for a couple, it was next worst to the UK (including Northern Ireland).²⁴

There is a higher-profile political debate on the issue of childcare costs in the South compared to Northern Ireland, driven by public perceptions of the cost of childcare as a barrier to women remaining in employment and media reports of inadequate and unsuitable childcare facilities.²⁵ From employers' and the government's perspective, the debate has been driven by labour and skill shortages rather than a commitment to equality.²⁶ These two aspects of public discourse have resulted in some significant improvements in the South. The first ever employment regulation order (ERO) for the early-years sector was approved, which set minimum pay rates well above the statutory

²³ OECD, 'Net childcare costs', available at: <https://data.oecd.org/benwage/net-childcare-costs.htm> (5 September 2023).

²⁴ Ulster University Economic Policy Centre Productivity Report (Belfast, 2020) (Northern Ireland data are from a survey).

²⁵ Sorcha Pollak, 'Soaring childcare costs "pushing women out of workforce"', *Irish Times*, 28 August 2018; RTÉ, *Prime Time Investigates*, 25 July 2019: see <https://www.rte.ie/news/ireland/2019/0724/1064890-rte-investigates-creches/> (5 September 2023).

²⁶ Government of Ireland, *The economic rationale for government investment in early childhood education* (Dublin, 2021); Ibec, 'Ibec publishes guide to labour market supports following event on labour market challenges and solutions', available at: <https://www.ibec.ie/employer-hub/latest-hr-and-ir-news/news/2021/10/28/labour-market-challenges-and-solutions> (5 September 2023); Ibec, 'Improving the childcare sector is critical for Ireland's competitiveness - CSI', available at: <https://www.ibec.ie/connect-and-learn/media/2021/09/22/improving-the-childcare-sector-is-critical-for-irelands-competitiveness---csi> (5 September 2023).

minimum wage, starting at €13 per hour, and increasing for ‘room leaders’ and managers to €15.50 per hour. As part of the package, state funding was made available to cover the additional costs to providers who met minimum criteria and did not increase their charges. An estimated 27,000 people, 98% of whom were women, working in the childcare and early-education sectors benefited from that regulation, which the trade union SIPTU supported as a ‘first step’ towards improved wages and conditions in the sector.²⁷ Also, a significant increase in the state subsidy to childcare was announced in the Irish government budget of September 2022, with a budget of €1bn designed to cover up to 25% of the cost of full-time childcare with registered childcare providers, which is designed to start a process whereby childcare costs will reduce to European norms.²⁸

While maternity leave, North and South, is well above the minimum threshold in EU directives, which is only fourteen weeks, the main difference between the two jurisdictions is that while maternity leave is longer in the North (39 weeks’ paid maternity leave compared to 26 in the South), maternity benefit payments are considerably higher in the South (€250 per week, compared to £151 per week in Northern Ireland). Conditions of entitlement for paternity leave and the rate of benefit are better in the South but hardly adequate in either jurisdiction.

Maternity leave in the Republic of Ireland is guaranteed to all employees regardless of the length of their employment or the number of hours worked per week. As noted above, the current length of paid maternity leave in Ireland is only 26 weeks, with a right to a further 16 weeks of unpaid maternity leave.²⁹ Employers must continue to pay salary for time spent at antenatal or post-natal care, at antenatal classes and where work is restricted for health and safety reasons. However, employers are not obliged to pay an employee while on maternity leave, though many good employers do, and, if they pay salary, they are entitled to receive the equivalent of maternity benefit as a wage subsidy. If an employer does not pay salary during maternity leave, maternity benefit at the level of €250 per week is paid for 26 weeks, but not for the ‘additional’ 16 weeks.

²⁷ SIPTU press release, 7 September 2022, available at: https://www.siptu.ie/media/pressreleases2022/othernews/fullstory_23124_en.html (5 September 2023).

²⁸ Simon Carswell, ‘Record State spending to reduce childcare fees may not be enough’, *Irish Times*, 27 September 2022.

²⁹ HSE, ‘Benefits and entitlements when you have a baby’, available at: <https://www2.hse.ie/wellbeing/babies-and-children/parenting-advice/services-supports/benefits-and-entitlements/> (6 September 2023).

In Northern Ireland, there is an entitlement to 52 weeks of maternity leave. This applies regardless of length of employment or hours worked, as in the South. Statutory maternity pay is available but is more restricted than the right to maternity leave, being restricted to those who have continuously worked for an employer for 26 weeks, and an employee must be earning enough to be paying National Insurance contributions.³⁰ Statutory maternity pay is paid for 39 weeks: for the first six weeks at 90% of average weekly earnings, and for the next 33 weeks at the *lower* of the standard rate of £151.20 or 90% of average gross weekly earnings. While maternity pay is paid by the employer, there is a state subsidy for some or all of the cost, based on National Insurance contributions. For those not entitled to statutory maternity pay, a maternity allowance of up to £151 per week is paid for up to 39 weeks. This means that if someone takes the full 52 weeks' statutory maternity leave, the final thirteen weeks will be unpaid.³¹

Both Northern Ireland and Ireland permit two weeks of paternity leave. In Ireland, under the Paternity Leave and Benefit Act, the statutory right to paternity leave is not affected by how long a person has been working nor how many hours they work each week.³² Paternity benefit is paid for two weeks at the rate of €250 per week, but additional unpaid paternal leave can be taken for up to 26 weeks. In Northern Ireland, statutory paternity leave is granted only to people who have been working with their employer for at least 26 weeks and entitlement is limited to two weeks of statutory paternity pay.³³

Social welfare benefits and poverty

UK benefit levels have been in continuous decline since the Thatcher era of the 1980s, and while the Republic of Ireland also saw periods of retrenchment in social welfare spending in the 1980s and 1990s, benefits payments, though still below what is needed for a dignified life, are much higher than their Northern

³⁰ NI Direct, 'SMP – an introduction', available at: <https://www.nidirect.gov.uk/articles/smp-introduction> (6 September 2023).

³¹ NI Direct, 'Entitlements during statutory maternity leave', available at: <https://www.nidirect.gov.uk/articles/entitlements-during-statutory-maternity-leave> (6 September 2023).

³² WRC, 'Paternity leave', available at: https://www.workplacerelements.ie/en/what_you_should_know/leave/paternity%20leave/ (6 September 2023).

³³ NI Direct, 'Paternity leave', available at: <https://www.nidirect.gov.uk/articles/paternity-leave#toc-2> (6 September 2023).

Ireland equivalents.³⁴ The level of punitive treatment is also a stronger feature of the welfare system in the UK, with payments withheld for five weeks after a claim is made (a key factor in the depth of poverty experienced by those on welfare payments), and harsh reviews of people on disability benefits.³⁵ The most notorious aspects of the UK system—the ‘Chinese-style’ two-child policy that limits welfare support for larger families, and the ‘bedroom tax’, a benefit cut for those with a spare room—have particular impacts on women, who make up the majority of single-parent households. Rolling reform of the UK benefits system has introduced a system that integrates tax, support for those on low income and welfare payments called universal credit. While it is claimed that this system will be more efficient and simpler to use, its introduction has been used to cut benefits, particularly for those with children. These changes have increased poverty levels in Northern Ireland, particularly for single parents, who make up almost one in three of the households claiming universal credit.³⁶ Without increases in social welfare, Save the Children Northern Ireland and the Child Poverty Action Group (CPAG) estimated that child poverty will continue to grow and that by 2024–2025, 25% of all children in Northern Ireland will be living in poverty.³⁷

When the Northern Ireland Executive was functioning it was able to partly reverse some of these cuts in benefits, but only at the cost of using a very considerable part of its discretionary budget, meaning deep cuts in other areas such as education and infrastructure. An independent review, commissioned by the responsible Northern Ireland minister, of the longer-term capacity of the Executive to depart from benefits levels set by Westminster reported in 2022, supporting the measures and recommending they be extended.³⁸ However,

³⁴ Benefit payments are complex but standard job seeker’s allowances in 2023 are €220 per week in the Republic and £85 in Northern Ireland. Benefit for a single parent aged sixteen or seventeen is only £59 in Northern Ireland and €220 plus €42 to €50 per week per child depending on their age in the Republic. Child benefit is €140 per month in the Republic (equivalent to €32.30 per week) and in Northern Ireland the rate is £24 per week for the first child and £15.90 per week for others.

³⁵ See for example Patrick Butler, ‘Stephen Timms: Universal credit’s five-week delay is indefensible’, *The Guardian*, 22 June 2020; Patrick Butler, ‘Disability benefits process is “inherently flawed”, MPs told’, *The Guardian*, 6 March 2017.

³⁶ BBC, ‘Universal credit reduction will hit NI hard’, 7 September 2021, available at: <https://www.bbc.com/news/uk-northern-ireland-58475377> (6 September 2023).

³⁷ Child Poverty Action Group, ‘Brighter futures: the future path of child poverty in Northern Ireland’, 11 November 2021, available at: <https://cpag.org.uk/policy-and-campaigns/briefing/brighter-futures-future-path-child-poverty-northern-ireland> (6 September 2023).

³⁸ Department for Communities, ‘Hargey welcomes independent review panel’s findings on welfare mitigations’, 25 October 2022, available at: <https://www.communities-ni.gov.uk/news/hargey-welcomes-independent-review-panels-findings-welfare-mitigations> (6 September 2023).

given that the Executive does not have the authority to raise taxes on higher incomes or on wealth, being restricted to regressive taxes such as rates and charges, there is very limited political capacity to fund further welfare measures without penalising others on low incomes.³⁹ With the collapse of the power-sharing executive in February 2022 following the DUP's withdrawal of its first minister, there is little possibility that British Conservative ministers will agree to fund measures to dilute the impact of welfare cuts that their own party imposed from London.

There are clear cross-border aspects to poverty issues. There are active campaigns by women from within the Traveller community, where levels of poverty North and South are extremely high, driven by discrimination and exclusion and consequential poor access to education. Migrant women, as well as being more likely to be in poverty North and South, are legally impacted by the border in a way that Irish and British women are not. Crossing the border for work, to seek accommodation, for social meetings and even for activism is limited by the nature of visas that people hold, and this is a significant contributing factor to poverty and exclusion.

Campaigning on poverty and the gendered nature of poverty in the Republic is less focused on benefit levels and more on the need for a living wage, housing, education and childcare. Partly this reflects the different scales of poverty between the two jurisdictions. 15.9% of individuals in the Republic of Ireland are in households with an income less than 60% of the national average, compared to 23.8% in Northern Ireland.⁴⁰ It also reflects political discourse. In the UK campaigners are still often forced into defending the status quo against further cuts, or are dragged into debates on draconian measures such as the two-child policy. Representative women's advocacy groups in the Republic seek increases in benefit payments, and believe governments are not doing enough, but even conservative politicians rarely engage in the direct attacks on benefits seen in the UK. In the South neither the banking crisis nor the COVID-19 pandemic was used opportunistically to cut benefit levels, as was the case in the North. However, in the South low-income families are strongly impacted by the cost and availability of housing, the cost of childcare and the barriers to transitioning to education and well-paid work, and there is

³⁹ Ryan Miller, 'Welfare mitigations need a significant impact despite tight finances', *Scope NI*, 15 December 2021, available at: <https://scopeni.nicva.org/article/welfare-mitigations-need-a-significant-impact-despite-tight-finances> (6 September 2023).

⁴⁰ Bergin and McGuinness, 'Who is better off?'

well-documented international evidence that such issues disproportionately impact on women.

Abortion law

Given the scale of the campaign and the media attention it received, it was not surprising that women's reproductive health, and abortion in particular, were raised by almost every participant in this research as an issue that demonstrated the depth of change in the South and one in which the North and South were now divergent. The 2018 referendum in the Republic to repeal the eighth amendment of the Constitution is considered a 'watershed moment for human rights and equality in Ireland'.⁴¹ Following the referendum, from the beginning of 2019, the health service in the South was empowered to provide abortion care without charge to women in Ireland, under the following conditions:

- up to twelve weeks of pregnancy. Women under nine weeks pregnant are mainly cared for by GPs. Women between nine and twelve weeks pregnant are cared for in hospitals;
- where there is a risk to the life or of serious harm to the health of the pregnant woman;
- where there is a condition likely to lead to the death of the foetus before or shortly after birth.

The use of mifepristone at home is also permitted.⁴²

In 2019, more than 6,500 women and girls were able to receive abortion care within the Irish health system, but predictable problems were apparent from the first provision of these services. Advocacy groups have highlighted the poor geographical spread of services, the chilling effect of anti-abortion protests outside healthcare settings and the inadequate nature of referrals from healthcare professionals who refuse to provide services to those who do provide them. Abortion services are envisaged as a universal and free service that is consistent with services such as the breast cancer screening service.

⁴¹ ICCL, 'Members' report on referendum to repeal the 8th', available at: <https://www.iccl.ie/members/members-report-8thref/> (6 September 2023).

⁴² Mifepristone, also known as RU-486, is a medication typically used in combination with misoprostol to bring about an abortion. This combination is 97% effective during the first 63 days of pregnancy. It is also effective in the second trimester of pregnancy.

But, unlike screening services that are centrally administered, accessing abortion services relies on referrals primarily from GPs. Most GP practices are privately run and are contracted by the state for services they provide; as a result, abortion services in small towns and rural areas remain very limited, in some cases almost non-existent, as only a third of GP practices provide medical abortion services and just over half of maternity hospitals had rolled out services by the spring of 2023: a situation described as ‘unacceptable’ by the health minister, who said he was aiming to increase that to seventeen of the nineteen hospitals by the end of 2023.⁴³ Women from Northern Ireland can access abortion services in the Republic, but they have to pay a fee (up to €450) plus travel and, in some cases, accommodation.⁴⁴

The 1967 British Abortion Act was never extended to Northern Ireland, forcing women to travel to England, or in recent years to illegally purchase abortion pills online. There were efforts to reform the law following the referendum in the South. However, under the terms of the GFA, 30 MLAs can require new legislation to be supported not just by a majority of the assembly, but also by a majority of nationalist MLAs and a majority of unionist MLAs. Almost all members of the DUP, a majority of other unionists and some members of the SDLP have opposed all efforts at liberalising legislation. Therefore, unionist MLAs were able to block attempts at reform in the Northern Ireland assembly.

In 2019 Westminster voted to liberalise abortion law in Northern Ireland, with regulations setting out abortion access, which was initially intended to become effective in March 2020.⁴⁵ The conditions under which services were to be available were set out as follows:

1. The law allows access to abortions up to twelve weeks’ gestation (eleven weeks + six days), without conditionality; it is to be certified by one medical professional that the pregnancy has not exceeded its twelfth week.

⁴³ See Minister Stephen Donnelly, Replies to Questions, Dáil Debates, 20 April 2023; NWCI, ‘Half of counties in Ireland have less than 10 GPs offering abortion care’, 24 May 2022, available at: https://www.nwci.ie/learn/article/half_of_counties_in_ireland_have_less_than_10_gps_offering_abortion_care (6 September 2023).

⁴⁴ NWCI, Submission to review of abortion services, 2022, available at: https://www.nwci.ie/images/uploads/Abortion_Working_Group_joint-submission_final_March_2022.pdf (6 September 2023).

⁴⁵ Fiona Bloomer, ‘New abortion legislation in Northern Ireland’, Oxford Human Rights Hub, 30 June 2021, available at: <https://ohrh.law.ox.ac.uk/new-abortion-legislation-in-northern-ireland/> (6 September 2023).

2. Abortions beyond twelve weeks' gestation are lawful in specified instances, including when severe fetal impairment and fatal fetal abnormalities are detected.
3. At home, mifepristone is not permitted under the Northern Ireland regulations.

However, the implementation of this legislation was actively blocked, with the Northern Ireland government minister with executive powers, UUP health minister Robin Swann, refusing to act on the issue. Some healthcare trusts did provide interim services following legal advice that they could, but others either refused to do so or opened and then closed services, for financial reasons or due to the absence of a Northern Ireland-wide scheme.⁴⁶ In 2021, the Northern Ireland human rights commission announced that it was taking legal action against the secretary of state, the Northern Ireland executive and the Department of Health for Northern Ireland for failing to commission and fund abortion services in Northern Ireland. The British government did eventually order the provisions but implementation remains slow and in most parts of Northern Ireland, despite legislative change, only early medical abortion up to ten weeks is provided. Women seeking abortion after ten weeks still have to go to England, even though such services are legal in Northern Ireland.⁴⁷ At the beginning of 2023 the wider provision of services remained unresolved.

Marriage equality

The Republic of Ireland introduced civil partnerships for same-sex couples in 2010, providing legal recognition with broadly the same rights and obligations towards each other as then 'married' couples. Following the passing of the referendum in 2015 on legalising same-sex marriage and the enactment of the Marriage Act 2015, civil partnerships are no longer granted in Ireland as, rather than an innovative form of legal relationship, they were in reality a substitute for same-sex marriage. Civil partnerships that existed before 2015

⁴⁶ BBC, 'Abortion can now be carried out in NI', 9 April 2020, available at: <https://www.bbc.com/news/uk-northern-ireland-52234712> (6 September 2023).

⁴⁷ BPAS, 'Abortion services for women from Northern Ireland', available at: <https://www.bpas.org/abortion-care/considering-abortion/northern-ireland-funded-abortion-treatment/> (6 September 2023).

are still recognised, and for legal clarity existing partnerships are automatically dissolved if the couple decide to marry.

Same-sex marriages had been allowed in England, Scotland and Wales since 2014, but the DUP blocked a change in the law in Northern Ireland by using the ‘petition of concern’ mechanism to veto legislation in the Northern Ireland assembly, despite a clear majority of MLAs being in favour of reform. Eventually, as with abortion law, legislation was passed in the British parliament overriding the DUP’s veto in the Northern Ireland assembly, and the law came into effect in January 2020.

Gender recognition and transgender rights

In 2015, the Gender Recognition Act in the Republic of Ireland provided a process enabling people to achieve full legal recognition of their preferred gender (by self-determination) and allowed for the acquisition of a new birth certificate that reflects this change. The Gender Recognition Act allows all individuals over the age of eighteen to self-declare their own gender identity. Young people aged sixteen to seventeen can also apply to be legally recognised, though the process is more onerous.

The Gender Recognition Act 2004 of the UK, which provides for a person’s change of gender to be officially recognised, applies to Northern Ireland. Under this legislation, in order to change gender, a person had to demonstrate ‘gender dysphoria’ to medical professionals and to have lived in the gender they wished to be recognised as for two years before applying for a gender recognition certificate. Before the 2020 introduction of same-sex marriage, a person had to be unmarried before changing their legal gender. In May 2021, a Northern Ireland court judgment made a binding ruling that medical diagnosis of ‘gender dysphoria’ is no longer legally required: based on a WHO decision in 2019, saying that ideas on ‘gender identity disorder’ were outdated, as an individual who wanted to change their recognised gender was not suffering from a mental illness or mental disorder. The law is, however, still based on an application requiring medical and legal approval, leading to very long delays given the lack of adequate resourcing. In the South the framework supporting gender recognition is also criticised, particularly for its lack of funding of necessary healthcare and the inherent transphobia in the system, but the legal framework is seen as broadly adequate and, unlike in the UK, has not been politically controversial in any mainstream political debate.

Gender-based violence and violence against women

Gender-based violence is a very significant issue on both sides of the border, with repeated high-profile cases of murder, rape, assault and harassment. The policy regimes are similar and share many of the same weaknesses. While women are the majority of those suffering violence, advances in transgender rights and marriage equality have been accompanied by increasing levels of violence against LGBT+-identifying individuals. Advocacy groups have called for more proactive public policies across a range of areas, including education, policing, law enforcement and service provision. Given the escalating scale of violence against women there have been demands on both sides of the border for greater disaggregation of crime statistics so that the specific interactions of racism, hate crime and sectarianism with violence against women can be better analysed. Similarly, it is necessary to disaggregate different forms of gender-based violence, including the target community and the generation of an environment that encourages and normalises this form of violence, including online misogyny and targeted online harassment and threats. Without these disaggregated data it is much more difficult to analyse the different types of gender-based violence in order to guide policy change.

Legislation and state practice on rape North and South share many weaknesses, and are a target for campaigning groups on both sides of the border. In response to acquittals in a very high-profile rape trial in 2018, involving well-known rugby players, there was a renewed focus on rape law, with a particular focus on the question of ‘reasonable belief in the complainant’s consent (the “reasonable belief threshold”)’ and also on court practice, including the need for independent legal representation for victims/survivors and to limit or abolish cross-examination based on prior sexual history.⁴⁸ While there was new legislation in Northern Ireland in 2022, it did not address these most crucial issues. The Irish government announced in July 2023 that it had approved the introduction of new legislation to abolish the defence of so-called ‘honest belief’ and to require the courts to acquit on that basis only if this was ‘objectively reasonable’.⁴⁹

⁴⁸ Eithne Dowds, “‘I presume she wanted it to happen’: rape, reasonable belief in consent, and law reform in Northern Ireland”, *Northern Ireland Legal Quarterly* 73 (2022), 74–102.

⁴⁹ Department of Justice, ‘New Bill to strengthen laws around consent and character references in court published’, 12 July 2023, available at: <https://www.gov.ie/en/press-release/112d1-new-bill-to-strengthen-laws-around-consent-and-character-references-in-court-published-by-minister-mcentee/#> (6 September 2023).

The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) has been signed by both the Irish and UK governments; it was ratified into law in Ireland in 2019, but has yet to be ratified in UK law. The Irish government launched a new national strategy on ‘domestic, sexual and gender-based violence’ in June 2022, which was widely welcomed by campaigning groups. The National Women’s Council said that ‘this strategy is victim centred and all encompassing, covering every aspect of violence against women ranging from domestic abuse, to sexual violence and prostitution and sexual exploitation’.⁵⁰ The Northern Ireland assembly passed new legislation on domestic abuse in 2021, also in response to the Istanbul Convention, but in the absence of a functioning executive, further progress is unlikely.

Healthcare

During this research many participants, North and South, expressed the view that healthcare in the North was considerably better and fairer than in the South, that this was a significant issue for women, and that it would be a key reason why the electorate in the North would reject the idea of a united Ireland. For some the idea of a health service that was free at the point of use was a point of principle that would prevent them supporting a united Ireland without a major programme of healthcare reform in the South. Despite these very strong perceptions, an examination of the detail of the two health systems shows a pattern of change, with the South slowly improving in many key areas, as the NHS in the North has very significantly disimproved. Perceptions of the two health services are, however, still based on the ideal of what the UK NHS was at its peak and not on the current reality.

In Northern Ireland public healthcare is free at point of access—paid by general taxation. The private medicine sector is a very small, but growing, part of the system. The reduced value of the health budget in real terms is managed by limiting access to health services at all levels, with long waiting times for GP appointments and very long hospital waiting lists compared to either England or the Republic.

⁵⁰ NWCI, ‘National Women’s Council welcomes most significant strategy for women’s equality’, 28 June 2022, available at: https://www.nwci.ie/learn/article/national_womens_council_welcomes_most_significant_strategy_for_womens_equal (6 September 2023).

The Republic of Ireland has a more complex hybrid healthcare system. Those on low incomes, and some of those with ongoing chronic diseases or children in long-term home care, have free healthcare ('medical cards')—this is typically 35% to 40% of the population. In addition, all the over-70s, children aged seven and under, those on carers' benefits, and those whose incomes are below the average median income but who are above the 'medical card' means-test limit can visit their GP without charge. Therefore 50% of the population based on income, plus everyone over 70 and under seven regardless of income, now get free GP visits. Hospital treatment in public hospitals is free for all but, as in Northern Ireland, public budgets are managed by limiting access to hospital services, so waiting times can be long (but not as long as in Northern Ireland). To date, GP services are generally available without a waiting time in the Republic, though there are concerns about future GP availability in some rural areas. Prescriptions are free for medical card holders; otherwise a family or single individual pays up to €80 per month, after which costs are covered by the state. Almost all medical expenses qualify for tax relief at the 20% rate. Approximately 45% of the population pay for private medical insurance, primarily to avoid waiting lists for hospital procedures by accessing private healthcare. In theory the health system in the South is moving to a free-at-point-of-access model based on an agreed all-party Oireachtas report entitled *Sláintecare* that was adopted in 2017.⁵¹ Progress towards implementing the report has, however, been very modest, leading in 2021 to the resignation of the chairperson of the *Sláintecare* Implementation Advisory Committee, Professor Tom Keane, and the executive director of the programme team, Laura Magahy.

The health outcomes in these two systems as measured by standard international measures such as life expectancy and maternal deaths have significant differences, but they are in stark contrast to the widespread perceptions voiced in interviews. By almost every measure where comparable data exist, health outcomes and availability are better in the South. Life expectancy in the Republic of Ireland was historically lower than in the UK including Northern Ireland, but it surpassed the figure for Northern Ireland in 2005 and the gap has been slowly growing since then. On average people in the Republic of Ireland will now live 1.5 years longer than people in Northern Ireland. Infant mortality (defined as the rate of deaths under one year per

⁵¹ See outline of the proposed *Sláintecare* reforms: <https://www.gov.ie/en/campaigns/slaintecare-implementation-strategy/> (6 September 2023).

1,000 live births) is a common international measure of health and is often used as an indicator of different health outcomes for men and women. Infant mortality in Northern Ireland is the highest of all regions in the UK, at 4.2 deaths per 1,000 live births.⁵² The equivalent figure in the Republic is 3.1;⁵³ the average for the UK is 3.4.⁵⁴

The public's perception of their own health confirms these high-level statistics. In surveys conducted using a similar methodology across Europe, 82.9% of the population of the Republic self-reported that they were in 'good or very good health', while the equivalent Northern Ireland figure was 71%.⁵⁵

Waiting lists for healthcare are another measure of the extent to which a health system is meeting the needs of the population it serves. However, comparisons need to be made with a warning that the definition of 'waiting list' varies from country to country. Patients in the Republic can generally see a GP on the day they call or the following day. In Northern Ireland, waiting times to see a GP can be up to two weeks—fifteen days now being the UK-wide average.⁵⁶ In terms of hospital procedures, in the Republic in 2022 approximately 629,500 people were waiting for an outpatient procedure and approximately 200,000 of these had been waiting longer than a year.⁵⁷ In Northern Ireland outpatient waiting times are by far the worst in the UK. In 2022, 378,400 patients were waiting for their first outpatient appointment; 315,900 of these patients (83.5%) were waiting more than nine weeks, compared to a UK government 'nine-week' target of 50%; while 49.9% (188,750) of all patients were waiting more than a year for a first consultant-led outpatient appointment, compared to a UK government target that no one should have

⁵² BBC, 'Infant mortality rate in NI is the worst in the UK, report finds', 4 March 2020, available at: <https://www.bbc.com/news/uk-northern-ireland-51725510> (6 September 2023).

⁵³ CSO, 'Vital statistics yearly summary', available at: <https://www.cso.ie/en/releasesandpublications/ep/p-vsyst/vitalstatisticsyearlysummary2021/> (6 September 2023).

⁵⁴ Macrotrends, 'U.K. infant mortality rate 1950–2023', available at: <https://www.macrotrends.net/countries/GBR/united-kingdom/infant-mortality-rate> (6 September 2023).

⁵⁵ Eurostat, 'Archive: Quality of life in Europe – facts and views – health', available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Archive:Quality_of_life_in_Europe_-_facts_and_views_-_health&oldid=237015 (5 September 2023); Government of Ireland, 'Health in Ireland – key trends 2019', available at: <https://www.gov.ie/en/publication/f1bb64-health-in-ireland-key-trends-2019/> (6 September 2023); Health Survey Northern Ireland 2019', available at: <https://www.health-ni.gov.uk/topics/doh-statistics-and-research/health-survey-northern-ireland> (6 September 2023).

⁵⁶ Tom Pilgrim, 'Average wait for GP appointment breaches two-week mark for first time', *Belfast Telegraph*, 11 August 2019.

⁵⁷ Government of Ireland, 'Health in Ireland key trends 2022', available at: <https://www.gov.ie/en/publication/fdc2a-health-in-ireland-key-trends-2022/> (6 September 2023).

to wait this long.⁵⁸ These figures for Northern Ireland do not include those who are waiting for a second, 'review' appointment before being added to the waiting list for an actual procedure. To put the figures in context, just over 1,000 people in England were waiting more than a year for a first appointment in 2019—with a population of 55 million.

Waiting times for healthcare are therefore very substantially worse in Northern Ireland than in the Republic. GP-visit waiting lists are practically unknown in the South and are an estimated 15 days in Northern Ireland. For hospital procedures, the overall hospital outpatient waiting lists in Northern Ireland were, allowing for population differences, 61% worse than in the Republic. In terms of those waiting longer than one year for a hospital outpatient appointment, the Northern Ireland hospital waiting lists, allowing for population size, are 151% worse than the South.

Another aspect of healthcare mentioned by interviewees was the access to in vitro fertilisation (IVF) procedures North and South. At the time this research was conducted, assisted human reproduction services, including IVF, were not provided by the public health system in the Republic but were available in specialist private clinics. Tax relief could be claimed on the costs incurred by these procedures, and the medications used as part of the treatment are covered by the Drugs Payment Scheme in Ireland, which caps the total cost of drugs in any given month to €80, after which the state covers the cost. In the September 2022 Budget the Republic announced that the roll-out of publicly funded and provided IVF services would begin in 2023. In Northern Ireland, even though these procedures are covered by the NHS, only the transfer of one fresh and one frozen embryo is funded. In Scotland, by comparison, couples are offered three IVF treatments funded by the NHS.

One of the challenges of comparing health provision North and South, either in terms of its gendered nature or more generally, is the absence of reliable comparative data. An analysis is needed of different areas of healthcare, different types of procedures, comparative outcomes and the potential to create greater scale in centres of excellence by developing cross-border service provision, not least to attract and keep expert staff. However, even with the limited data available it is striking that the perception of the majority

⁵⁸ Department of Health Northern Ireland, 'Northern Ireland waiting times statistics: outpatient waiting times quarter ending December 2022', available at: <https://datavis.nisra.gov.uk/health/ni-outpatient-waiting-times-dec-22.html> (6 September 2023).

of research participants, North and South, was that the health service was better in Northern Ireland, while by almost every available actual measure, apart from model of payment, the evidence tells us that health provision is now significantly better in the South.

CONCLUSION

The policy and public service analysis in this paper shows a very significant change in the relative position of the two parts of the island of Ireland in the period since the GFA. This is a reversal of the historic position, but knowledge on the comparative positions is very limited, is often out of date and does not reflect the changes since the late 1990s.

The imposition of liberalising UK legislation and the funding of universal public services from the late 1940s, even if often against the wishes of Stormont, opened up clear policy gaps North and South on the island of Ireland. A conservative political culture in the South, along with the lower level of economic development, meant that the extension of public services in education, health and welfare benefits occurred significantly later than in Northern Ireland. In addition, social policy, much of it with a strong gendered nature, in areas such as divorce and contraception was very different North and South in the period before the GFA.

There was widespread recognition that things had changed dramatically since 1998, with almost every participant in the research interviews acknowledging the change, but some questioned how deep it was or how far it went beyond the two high-profile referendums on abortion rights and marriage equality. The interviews also highlighted very low levels of knowledge about policy on gender equality in the 'other' jurisdiction. This lack of cross-border knowledge was similar North and South, and even extended to knowledge of the specific policy areas where organisations and individual participants were most focused.

The analysis of the key policy areas mentioned by women's activists and groups campaigning on gender equality during the research for this paper shows that the gender equality policy gap between North and South not only has closed but in almost every area has been reversed, in a process of liberalising change in the Republic from the 1990s onwards. The analysis of the specific detail of the gendered nature of law and policy in this paper shows that in the period since the GFA, for most of the policy areas

explored, public policy on women's rights was more advanced in the South or had liberalised there first. This is true across a very wide spread of policy areas and goes well beyond the high-profile issues of abortion and marriage equality.

On abortion services, the level of welfare benefits, levels of poverty, and gender recognition and transgender rights, the Republic's policy framework and supports are significantly more progressive and more focused on gender equality than the equivalent regimes in Northern Ireland. This is most starkly seen in the level of welfare benefits, including child benefits paid to low-income single parents (who are overwhelmingly women). On childcare, recent policy changes and additional public funding in the South have started a process with the declared aim of reducing the cost of childcare to more typically European levels. The first phase of that new policy has already reduced costs by approximately 25%, opening up a significant North–South gap in affordability.

Government-level strategy on gender-based violence is a little more advanced in the South, at least in the declared intention to implement further reform, but both jurisdictions have serious issues to address. Paid maternity leave is longer in Northern Ireland (39 weeks compared to 26 weeks) and, unlike the South, has a salary-related guarantee for six of those weeks, while maternity benefit is much higher in the South at €250 per week compared to £151 per week. Gender pay-gaps show a complex picture depending on the precise definition used—highlighting an opportunity and a need for intervention on this issue.

The North–South analysis of healthcare shows the complexity of both policy comparison and public perception. Notwithstanding the strong perceptions voiced in interviews that healthcare was a key and positive differentiating factor for Northern Ireland, and the importance of the principle of 'free-at-point-of-use' healthcare in Northern Ireland, by every measure where we were able to source comparable data, actual health outcomes are better and waiting lists are shorter in the South. Participants North and South held more positive views of healthcare in Northern Ireland, and more negative views of healthcare in the Republic, than is justifiable by the evidence. In a similar vein, there were widespread inaccurate assumptions, North and South, about the UK welfare state and how it compares to the Republic of Ireland, which do not reflect the undermining of the UK system both in the Thatcher era and again since the mid-2000s.

The area where Northern Ireland performed most strongly compared to the South was in women's political representation: women make up 35.5% of the Northern Ireland assembly, compared to just 22.5% of Dáil Éireann. There is no gender quota for the Northern Ireland assembly, so this is a relatively unusual positive outcome in Northern Ireland. The only plausible explanation is that it is a legacy of the intervention by the NIWC in the years immediately before and after the signing of the GFA, combined with the impact of the UN WPS agenda for post-conflict societies on this issue.

This research suggests that if the implementation focus of the UN's WPS agenda is limited to the important but narrow area of 'participation' in negotiations and post-conflict governance, UN Security Council Resolution 1325 and its aftermath will have very little to say in the context of the island of Ireland, North or South, where the 'local' agenda of women's rights also includes healthcare, pay, childcare, abortion rights, marriage equality, poverty and maternity leave. On the other hand, a more inclusive vision of WPS can ensure that post-conflict rebuilding includes a focus on gender equality that meets the actual needs of a local community. Beyond Ireland, this broader and more inclusive vision of WPS is also more likely to meet the needs of other post-conflict societies. This aspect of the research is more fully explored in another paper from this project.⁵⁹

Perceptions of equality issues have therefore certainly changed in the aftermath of the abortion and marriage equality referenda in the South. However, beyond those high-profile issues there is a clear perception time lag, and the level of detailed knowledge of the 'other' system is low, even for those active in women's organisations. There are clearly important challenges both North and South in areas such as gender-based violence, political representation, childcare and maternity leave, and the needs of migrant women, Travellers and women with disabilities. However, this North–South comparative analysis shows that in the Republic, despite important remaining challenges, policy and practice in areas with a significant gender equality impact have become significantly more liberal than in Northern Ireland, producing stronger gender equality outcomes in almost every area of the women's rights agenda—well beyond the issues of abortion and marriage equality.

It is a significant weakness in the WPS agenda that it has not provided an international framework to include the mainstreaming of gender equality across new and renegotiated public policy frameworks. It therefore did

⁵⁹ Kapic et al., 'Gender and cross-border co-operation on the island of Ireland'.

not encourage or support the ongoing development of gender equality policy over the long period in which the GFA was embedded. The experience since 1998 also highlights the need to include these policy issues, from the beginning, in discussions on the future shape of the island.