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FOREWORD

Dr Helen Johnston
Chairperson, Centre for Cross Border Studies



The publication of our 2018 Journal comes at the end of another difficult year during which the ongoing ‘Brexit’ negotiations have overshadowed all political, social and economic life on the island of Ireland and continued to dominate the work of the Centre for Cross Border Studies. Meanwhile, our work promoting and supporting cross-border cooperation has been further constrained by the continued collapse of the institutions established by the Belfast/Good Friday Agreement of 1998 – the Northern Ireland Executive under Strand 1 and the North South Ministerial Council under Strand 2. The year did see the very welcome revival of East-West cooperation (Strand 3) through the British-Irish Intergovernmental Council (BIIGC). As the co-guarantors of the 1998 Agreement, the two sovereign governments must reprioritise the BIIGC as a vehicle for ensuring that the gains of the past two decades are not further eroded, particularly in the context of the impending UK exit from the EU. It is imperative that they together take the lead in ensuring that the intertwined political crises at Stormont and Westminster do not provide an opportunity for the 1998 Agreement to be unravelled. Likewise, the British-Irish Council should take on an enhanced role of supporting practical cooperation between our islands to protect and nurture the diversity of relationships that have been achieved in past years.

On behalf of the Centre for Cross Border Studies, I would like to express our gratitude for the continued generosity of the Irish Government, which has consistently demonstrated its confidence and support for what we do by providing core funding over many years. Additionally, in 2018, the Department of Foreign Affairs and Trade’s Reconciliation Fund has once again funded our flagship Border People project and our research project, *‘Bringing the Agreement Home’* that concludes in 2019. We look forward to a changed political landscape in which the work of the Centre for Cross Border Studies receives public funding from both sides of the border and we very much appreciate the support we have received from political parties in both jurisdictions for our efforts in this regard.

I would like to thank here also, the Joseph Rowntree Charitable Trust and the Community Relations Council Northern Ireland, who have supported research activities over the past year.

The Centre has also benefitted from the contributions of the post-graduate interns who have worked with us this year – Tobias Heyduk, from the University of Applied Sciences in Kehl; Clothilde Raspail, from Strasbourg University; Béibhín Gallagher, from Utrecht University; Martina Řádová, from Technical University of Liberec; and Dominik Knappe, from Ludwigsburg University of Applied Sciences. We are very appreciative that the EU Erasmus programme has made it possible for the Centre to offer post-graduate placements that are mutually beneficial to CCBS and the students involved. CCBS has been pleased to also host one volunteer this year: Hollie Keating Akehurst, who is completing her MSc at the University of Bristol.

The Belfast/Good Friday Agreement

Our 2018 Annual CCBS Conference, *The Good Friday Agreement in All Its Parts: Safeguarding the totality of relationships*,¹ brought together more than 100 participants – some of whom were centrally involved in drafting and implementing the 1998 Agreement and the Devolution settlement for Northern Ireland. Among the participants were others who have since had responsibility for its implementation; along with many individuals whose work as peacebuilders and cross-border cooperation practitioners has given life and substance to the ethos and objectives of the Agreement through good times and bad.

Safeguarding the totality of relationships has been a consistent theme for us this year. The *'Bringing the Agreement Home: in all its parts'* project started in January and will conclude in March 2019. The project has undertaken an accessible analytical review of the Good Friday Agreement and subsequent agreements (i.e. St Andrews; Stormont House; Fresh Start). This is being complemented by a series of workshops and an 'All-Island Conversation' to inform and engage community organisations on the island of Ireland about the provisions of the agreements and the institutions and bodies they created. In particular, the workshops will highlight the current operation of North-South *and* East-West relations, and how they support socio-economic relations within and between these islands. The project will culminate in an All-Island Dialogue bringing together representatives from the preceding workshops.

The dysfunction of the institutions established under the 1998 Agreement has been a challenge to everyone engaged in public administration and public policy, north and south. Early in the year, following a written submission from CCBS, Ruth Taillon was invited to present evidence to the NI Affairs Committee on the democratic deficit.²

Civic Engagement

Likewise, we have been focussing strongly on supporting 'hard to reach' and 'seldom heard' groups and communities to engage with public policy, particularly in respect of developing a grassroots agenda for cross-border cooperation. With funding from the Joseph Rowntree Charitable Trust and the Community Relations Council, our Deputy Director, Dr Anthony Soares has worked since 2015 with participating groups to develop and agree a 'New Common Chapter for cooperation within and between these islands.' This subsequently involved a wide-ranging community-led consultation and promotion process on the New Common Chapter through a series of dissemination events on the island of Ireland. In the final stages of the project currently underway, the groups from the island of Ireland are being supported to undertake a process of East-West community engagement, involving three workshops in England, Scotland and Wales respectively, and an evaluation seminar in Northern Ireland. While the workshops will allow the groups from the island of Ireland to present their draft New Common Chapter to community organisations in Great Britain, and to discuss it with them, the evaluation seminar will see representatives from all the groups coming together to reach agreement on a final version of the document. The final stage of the project involves the groups promoting the New Common Chapter to political representatives and policy-makers across these islands.

Our Public Lecture Series gives us an opportunity to move slightly away from our public policy and practical support to cross-border cooperation and to initiate conversations with new audiences. In April, we held the third Spring Lecture in partnership with the Armagh Robinson Library. Our speaker, Dr Annaleigh Margey, spoke on the subject, *'Interpreting the treasures of two eighteenth century libraries: maps from the collections of Armagh Robinson Library and Marsh's Library, Dublin.'*¹³ The annual Sir George Quigley Memorial Lecture on 21 June was on *'The Economic Geography of the Island of Ireland,'*¹⁴ presented by Professor Edgar Morgenroth. Our speaker in July for the CCBS talk at the John Hewitt Summer School, Professor Arthur Aughey, chose the topic, *'An Ulsterman considers his passport.'*¹⁵ The final 2018 lecture (launching this Journal) will be delivered by Mr Les Allamby, Chief Commissioner at the Northern Ireland Human Rights Commission, whose theme will be *'Human Rights, Equality and Citizen's Rights: the Potential Impact of Leaving the European Union.'*¹⁶

Promoting and Supporting North-South Cooperation

Border People, our cross-border mobility information service is a partnership with the North South Ministerial Council (NSMC) Joint Secretariat. A 2001 report commissioned by the NSMC, *'A Study of Obstacles to Mobility'*, explored the wide range of obstacles which hindered people moving across the Irish border to live and work. The report presented 50 recommendations/solutions, the second of which was:

A one-stop cross-border mobility information website should be established which would provide comprehensive and easily accessible information on key aspects of jobs, learning opportunities and living conditions on both sides of the border.

In response to this recommendation, the NSMC awarded a contract to CCBS to develop the Border People website⁷ as a central access point for all cross-border mobility information on the island of Ireland. Border People was initially developed with EU PEACE and later INTERREG funding. In 2017 and 2018, it received project funding from the Department of Foreign Affairs and Trade's Reconciliation Fund (DFAT).

Throughout 2018, Welfare Reform – and of course Brexit — drove most of the demand for Border People's services. While no longer offering telephone and email support directly to citizens, Border People now supports citizens' advisors with complex cross-border queries through training seminars, and via telephone, email and Facebook. A Facebook discussion group was set-up early in the year to foster some discussion around cross-border challenges and Brexit concerns. In the first half of the year, efforts were focussed on development of the website (with funding from DFAT) in anticipation of the changes to the rights and entitlements of people crossing the border after the UK withdrawal from the EU. Additional funding from DFAT later in the year has supported policy seminars, information sessions for the advice sectors, and podcasts aimed at citizens.

The Centre continues to provide secretariat services for two important cross-border networks: Universities Ireland and the Standing Conference on Teacher Education, North and South (SCoTENS). Applications for Universities Ireland's North/South Postgraduate Scholarship scheme⁸ closed in May and four scholarships of €15,000 were awarded. The aim of the North/South Postgraduate Scholarship scheme is to encourage outstanding

students from the Republic of Ireland and Northern Ireland to cross the border to undertake postgraduate study and experience life in the other Irish jurisdiction. In 2018 Universities Ireland also awarded four bursaries of €6,500 to students undertaking postgraduate study on a topic relating to the 1912-1923 period in Ireland, the decade of the First World War and the division of the island into the states of Ireland (Irish Free State) and Northern Ireland. The Universities Ireland History Bursaries and the annual History Conference together comprise the *1912 -1923: Reflecting on a decade of war and revolution in Ireland* initiative. This year's conference, *Votes for the people: 1918, Ireland's first democratic election?* on 1 December 2018 has brought together some of Ireland and Britain's leading historians of the period to explore both the high politics of the moment and its wider social context.

Another important strand of our work on behalf of Universities Ireland is to support the Scholars at Risk, Ireland section. Scholars at Risk (SAR) is an international network of higher education institutions dedicated to protecting threatened scholars, preventing attacks on higher education communities and promoting academic freedom worldwide. SAR groups from Irish universities are planning events to take place in 2019.

An important event in the teacher education calendar is the SCOTENS annual conference each October. Coming out of the 2016 conference at which Professor Etienne Wenger was a keynote speaker, the SCOTENS Steering Committee undertook a self-evaluation/research project, *'Reimagining SCOTENS using a Wenger-Treyner Value Creation Framework'*. The findings from this research have been submitted to a number of academic conferences and journals and an article is also included in this *Journal*.

The 2018 SCOTENS Annual Conference on the theme, *'Education as a common good: the role of teacher education'*⁹ invited debate on how 'the common good' – an alternative conception to 'the public good' – can help us think about our approaches to teacher education. Each year, SCOTENS awards funding to a number of cross-border research projects in the field of teacher education. This year, €20,000 was awarded to seven projects.

In June, at the request of the Association for Health Promotion Ireland (AHPI), CCBS hosted a roundtable of health promotion practitioners to explore key areas for collaboration and cross-border work including networking, training and CPD opportunities. The Centre is also participating in an informal network for CEOs of cross-border bodies that was initiated this year by the Institute of Public Health in Ireland.

CCBS has continued to convene the North South Social Innovation Network Steering Committee that undertook to begin work on a Social Innovation mapping exercise, led by Dublin City University early in the year. As part of its mission to share best practice occurring in the two jurisdictions on the island of Ireland in the field of social innovation, and to provide opportunities for practitioners to identify cross-border and North-South collaborations, the North South Social Innovation Network continued to facilitate relevant events. This included a workshop in Monaghan in November on cross-border cultural policy and practice, organised in collaboration with the Cultural Policy Observatory Ireland.

CCBS Director, Ruth Taillon also continued in her role as Chair of the Graduating to Success Cross-Border Team under the auspices of the Department for the Economy (NI). The team brings together representatives of the Northern Ireland Department of Education and the Department for the Economy; NUS/USI; the Association of Northern Ireland Colleges; the Higher Education Authority and the Technological Higher Education Association in support of the cross-border objectives of the Higher Education Strategy for Northern Ireland, *Graduating to Success*.

Ruth Taillon is also a member of the Oversight Group for Ireland's Second National Action Plan (NAP 2) on Women, Peace and Security. Following the final review of NAP 2 (2011-2013), a NAP 3 Working Group has been established, to which Ruth Taillon has again been appointed by the Minister. A call for Public Submissions regarding what should be considered as issues and priorities in the development of the NAP 3 opened in November.

Over the course of the year, the Centre has shared our expertise and brought a cross-border perspective to some important research projects led by others. Ruth Taillon has represented the Centre on the research advisory groups for these projects:

- The Next Generation Ireland Taskforce was a research project that took the two moments of the 20th anniversary of the Belfast/Good Friday Agreement, and Brexit – both of which have had and will continue to have an effect on the lives of young people across Ireland and Northern Ireland. 1,000 young people across the island were surveyed, seeking to analyse the conditions that support young people and allow them to reach their potential as fulfilled, productive and active citizens. The report of this research is now available.¹⁰
- The Commission for Victims and Survivors has been appointed to manage a £250,000 PEACE IV-funded research programme, comprised of three research projects to be carried out over three years. The three areas of study are 1) Review of Trauma Services; 2) Transgenerational Legacy and Young People; and 3) Advocacy Services (in the use of historical information recovery).¹¹
- YouthPact, the Quality and Impact body for the EU PEACE IV Children and Young People's Programme (Action 2.1), was officially launched in March. The role of YouthPact is to engage with the delivery agents and their partners in funded projects to enhance the quality and maximise the impact of their work with young people by supporting a high-quality youth work approach, and nurturing a strong change and outcomes focus.

Brexit

Of course, while we have remained committed to a broad agenda of policy issues, Brexit has been the dominant factor shaping the Centre's policy interventions over the past year. Members of the Centre's staff and board have participated in numerous conferences and seminars that have considered every imaginable aspect of how Brexit will impact on social, economic and political life in both jurisdictions of Ireland and among different communities and sectors. In addition to these public events, at the request of DFAT, CCBS Information Manager, Annmarie O'Kane made a presentation to a delegation of UK think-tanks in May.

Again at the request of DFAT, Annmarie made a presentation to a visiting delegation of German and EU officials.

Similarly, we responded to many requests from press and broadcast journalists from around the globe and closer to home for our views; most of these related to what is or might be happening with the Brexit negotiations and their impacts.

The Centre made written and oral submissions to several public policy consultations related to Brexit. These included the House of Lords EU Home Affairs Sub-Committee inquiry on Brexit and reciprocal healthcare¹²; the House of Lords Select Committee on the European Union, on 'Brexit: UK-Irish relations'¹³; the House of Commons European Scrutiny Committee's inquiry into dispute resolution and enforcement in the draft Withdrawal Agreement;¹⁴ and the All-Party Parliamentary Group for Post-Brexit Funding for Nations, Regions and Local Areas on Post-Brexit funding Inquiry.¹⁵ In May, Ruth Taillon attended a meeting in Derry with Michel Barnier, Chief Negotiator, Sabine Weyand, Deputy Chief Negotiator and Nina Obermaier, Adviser to the Deputy Chief Negotiator, EU Commission's Task Force 50 hosted by the Mayor of Derry City and Strabane District Council.

At the beginning of the year, we began a new Briefing Paper series, '*Brexit and the UK-Ireland border*'. The series, published on our website, offers an overview of the expected likely and varied effects of Brexit on the future of the UK-Ireland land border.¹⁶ Additionally, we have published a number of opinion papers related to the Brexit negotiations: *CCBS Response to UK Government White Paper: Legislating for the Withdrawal Agreement between the United Kingdom and the European Union*;¹⁷ *CCBS Response to UK Government White Paper: The Future Relationship Between the United Kingdom and the European Union*;¹⁸ *The Belfast/Good Friday Agreement and the negotiations on the UK's withdrawal from the EU*;¹⁹ *Strengthening the Partnership Principle in Border Regions: For greater cross-border cooperation*;²⁰ *Statement on draft Agreement on the Withdrawal of the United Kingdom from the European Union*;²¹ *CCBS Position Paper: Brexit and the UK-Ireland Border: What We Need to Remember*;²² and *Centre for Cross Border Studies Statement on the draft Political Declaration Setting out the Framework for the Future Relationship between the European Union and the United Kingdom*.²³ Over the course of the year the Northern Ireland Assembly has produced successive updates of its '*Brexit and Northern Ireland: A Reading List*'²⁴ that includes all CCBS's publications related to Brexit.

Beyond Brexit, CCBS has also responded to other public policy consultations, submitting written evidence to the Irish Government's National Risk Assessment,²⁵ and the Northern Ireland Office's inquiry on 'Addressing the Legacy of Northern Ireland's Past'.²⁶

Cohesion Policy

For the past number of years, the Centre for Cross Border Studies has framed and given impetus to our work within two public policy imperatives for cross-border cooperation. The first is the Belfast/Good Friday Agreement and the second is EU Cohesion Policy, with its focus on social, economic and territorial cohesion. Even though the UK will be leaving the EU, Cohesion Policy post-2020 will continue to have relevance for Northern Ireland; not least because its neighbour will continue to be an EU Member State. Currently worth one third of the EU budget, the EU's cohesion policy reduces regional disparities, creates

jobs, opens new business opportunities and addresses major global issues such as climate change and migration.

The Cohesion Alliance is a coalition of those who believe that EU cohesion policy must continue to be a pillar of the EU's future. The Alliance was created through cooperation between the leading European associations of cities and regions and the European Committee of the Regions. It demands that the EU budget after 2020 makes cohesion policy stronger, more effective, visible and available for every region in the European Union. The Centre for Cross Border Studies has joined the Cohesion Alliance as a partner and has signed the Alliance Declaration.²⁷

Our first policy seminar of the year – on 23 March – was on the topic, *'EU Cohesion Policy Beyond 2020'*. The seminar, in the Belfast premises of the European Commission, was organised as the EU's Cohesion Policy's future priorities, geographical scope and funding are currently being discussed throughout the European Union as part of the wider debate on the EU's overarching priorities and how these will be financed by the EU's budget. In March also, CCBS submitted a response to the European Commission's public consultation on Cohesion Policy that included a *'Position Paper on the future of Cohesion Policy'*.²⁸

Looking Outward: Cooperation with other Border Regions

The CCBS Mission is to be 'a catalyst for *empowering citizens for cross-border cooperation*, across sectors and jurisdictional boundaries both on the island of Ireland and, increasingly, elsewhere in Europe.' Our long-standing participation in the Transfrontier Euro-Institute Network (TEIN) is an important element of this commitment. TEIN brings together organisations and academic institutions from nine EU border areas to share experience and expertise and to work together practically to support and build capacity for cross-border cooperation. CCBS Director, Ruth Taillon travelled to the Czech-Polish border at the end of February for the final study visit of the 'TEIN: Platform for Dialogue' project. This project, funded by the Micro-projects strand of the CZ-PL INTERREG IVA programme, involved participants from the Poland/Czech Republic, France/Germany, Austria/Slovenia and France/Spain (Catalan) border regions; all of which, like CCBS, are members of TEIN.

A special meeting of TEIN at the office of the Permanent Representation of Ireland to the EU in Brussels was convened in September to revise the TEIN Charter and internal structures and to develop plans for future shared projects. Before commencing discussion on internal TEIN business, TEIN members were privileged to hear a short presentation by the Irish Ambassador to the EU, Mr Declan Kelleher, who explained the Irish Government's perspective on the Future of Europe and provided an update on the Brexit negotiations.

Ruth also participated in the 'Castle Talks' series of seminars hosted by University of Strasbourg, another TEIN partner. Ruth was a keynote speaker in March, on *'Fostering Intercultural Understanding Through Cross-Border Cooperation'*²⁹ and was a panellist in November at a seminar on the theme, *'The Identity Crisis of Europe Euroscepticism in border region'*.³⁰ Ruth also contributed to another project led by University of Strasbourg, to be published in 2019 – a *'Critical Dictionary on Cross Border Cooperation in Europe'*. Our intern, Martina Řádová, co-authored the entry on the Irish Border Region.

We have now established a tradition of hosting one of our policy seminars each year in Brussels, coinciding with the DG REGIO Open Days in October. This year's event was on *'Strengthening the Partnership Principle in Border Regions: For greater cross-border cooperation'*³¹

Once again, I would like to take this opportunity to thank our funders: in particular the Irish Government through the Department of Education and Skills and the Department of Foreign Affairs and Trade's Reconciliation Fund. Finally, I would like to thank the CCBS staff, our interns and volunteers for their hard work and commitment to the many achievements and continued success of the Centre. I would also like to thank my colleagues on the CCBS Board, who have shared their knowledge and expertise and helped to guide the Centre during these tumultuous times.

Notes

- ¹ crossborder.ie/ccbs-annual-conference-2018-good-friday-agreement-parts-safeguarding-totality-relationships/
- ² www.parliament.uk/business/committees/committees-a-z/commons-select/northern-ireland-affairs-committee/inquiries/parliament-2017/devolution-and-democracy-in-northern-ireland-inquiry-17-19/
- ³ crossborder.ie/ccbs-armagh-robinson-library-present-lecture-entitled-interpreting-treasures-two-eighteenth-century-libraries-maps-collections-armagh-robinson-library-marsh/
- ⁴ crossborder.ie/centre-cross-border-studies-invite-3rd-annual-sir-george-quigley-memorial-lecture-given-professor-edgar-morgenroth-professor-economics-business-scho/
- ⁵ crossborder.ie/ulsterman-considers-passport-talk-professor-arthur-aughey-emeritus/
- ⁶ crossborder.ie/2018-journal-cross-border-studies-ireland/
- ⁷ www.borderpeople.info
- ⁸ universitiesireland.ie/northsouth-postgraduate-scholarships/
- ⁹ scotens.org/conferences/
- ¹⁰ Next Generation report
- ¹¹ www.cvsni.org/what-we-do/policy-and-research/peace-iv-research/
- ¹² crossborder.ie/submission-house-lords-eu-home-affairs-sub-committee-brexite-reciprocal-healthcare-inquiry/
- ¹³ crossborder.ie/ccbs-submission-northern-ireland-affairs-committee-inquiry-devolution-democracy-northern-ireland-dealing-deficit/
- ¹⁴ crossborder.ie/house-commons-european-scrutiny-committee-publishes-ccbs-response/
- ¹⁵ bit.ly/2PjCnkn
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- ²⁰ crossborder.ie/strengthening-partnership-principle-border-regions-greater-cross-border-cooperation-2/
- ²¹ crossborder.ie/centre-cross-border-studies-statement-draft-agreement-withdrawal-united-kingdom-european-union/
- ²² crossborder.ie/ccbs-position-paper-brexite-uk-ireland-border-need-remember/
- ²³ crossborder.ie/centre-cross-border-studies-statement-draft-political-declaration-setting-framework-future-relationship-european-union-united-kingdom/
- ²⁴ www.niassembly.gov.uk/globalassets/documents/raise/publications/2017-2022/2017/brexite/2917.pdf
- ²⁵ www.parliament.uk/business/committees/committees-a-z/commons-select/european-scrutiny-committee/inquiries/parliament-2017/dispute-resolution-and-enforcement-draft-withdrawal-agreement-17-19/
- ²⁶ Publication withheld until report published
- ²⁷ <https://cor.europa.eu/en/engage/Documents/Cohesion%20Alliance/declaration-cohesion-alliance.pdf>
- ²⁸ crossborder.ie/submission-house-lords-eu-home-affairs-sub-committee-brexite-reciprocal-healthcare-inquiry/
- ²⁹ crossborder.ie/ccbs-director-keynote-speaker-castle-talks-cross-border-cooperation/
- ³⁰ crossborder.ie/cbs-director-ruth-taillon-attends-castle-talks-identity-crisis-europe-eurosepticism-border-regions/
- ³¹ crossborder.ie/strengthening-partnership-principle-border-regions-greater-cross-border-cooperation-2/

Introduction

Ruth Taillon

Director, Centre for Cross Border Studies



As we were publishing the Journal one year ago, we noted that there had been no Northern Ireland Executive and Assembly in place for almost a year, with no prospect of their reestablishment. At the time of writing (November 2018), this remains the case and it appears unlikely we can expect a restoration of the devolved institutions any time soon. Nor do we yet have clarity about the Brexit ‘deal’ (or ‘no deal’). The confluence of these two prolonged and inter-linked political crises has seen increased uncertainty over the future of the Belfast/Good Friday Agreement.

In this edition of the Journal, therefore, we continue our focus on the ‘Brexit’ debate. Brian Ó Caoidealbháin, Co-operation Ireland’s Research and Evaluation Officer, notes that while, “Debate and commentary about the potential impacts of Brexit on the island of Ireland have rumbled interminably on over the past two years, ...” public conversation has been dominated by business and political interests and the voices of younger generations, in particular, have been largely absent. In response, Co-operation Ireland created the *Together Apart* project to provide a platform for young people across the island to raise awareness of their views on Brexit and to highlight their priorities for the future relationship between the UK and the EU/Republic of Ireland. He reports here on the project that provides an important insight into the hopes and fears of young people from North and South as the UK edges towards departure from the EU. It is clear, he tells us, that young people – North and South – are uncertain and fearful about the future. The key message is that “young people want their voice heard” and there is an onus on policy-makers to listen to these concerns.

Two contributions that explore some of the human rights issues raised by the impending UK withdrawal from the EU are included in this year’s Journal.

Les Allamby, Chief Commissioner, Northern Ireland Human Rights Commission, sets out the current position on protecting human rights and equality as the negotiations between the EU27 and the UK government reach a critical phase. European Union law has provided significant rights protections for people living in Northern Ireland. After Brexit, the UK government will be free to decide what elements of European Union law it wishes to preserve or discard; “*subject to any fetter put in place during the negotiations of the terms of leaving by the European Union.*”

Thus, the protocol on Northern Ireland/Ireland in the Withdrawal Agreement takes on critical importance. Les Allamby reports here on the work of the joint committee of the Human Rights Commissions North and South – NIHRC and IHREC – and others to ensure the strongest possible human rights and equality protections are secured. He analyses a number of key issues which will have a significant impact as a result of the UK government’s

decision to leave the European Union, many of which lead back to the 1998 Agreement. In conclusion, he reminds us that

“the reality of Northern Ireland being the only part of the United Kingdom with a land border with another member state has ramifications beyond the movement of commercial goods and services ... maintaining existing human rights and equality protections and ensuring future progressive developments is critical.”

In their article, addressing the nature of border controls, racial discrimination and the implications of free movement of people into Northern Ireland after Brexit, Daniel Holder and Amanda Kramer note that although Northern Ireland’s land and sea frontiers have become centre stage in Brexit discussions, the focus has been primarily on the freedom of movement of goods, trade and customs; while that in relation to the freedom of movement of people has been marginal. Despite the marginalisation of the issue in mainstream discourses, the implications of the future arrangements of free movement of people into and within Northern Ireland are very serious – particularly for migrant and minority ethnic communities.

Their article argues that post-Brexit free movement and border arrangements carry a significant risk of facilitating widespread racial discrimination. They provide an analysis of how the UK government has attempted to resolve the conflicting commitments to not ‘harden’ the land border (or at least to keep it as ‘frictionless’ or ‘seamless’ as possible) and not to impose a ‘border in the Irish Sea’. *“We have found,”* they write,

“that not only has there already been a detrimental shift in the treatment of Northern Ireland-resident EU26 nationals, there is also a lack of transparency in relation to post-Brexit operational planning for both the CTA and internal immigration controls in NI.”

The primary concern is that there will be a resultant increase in selective checks that target persons on the basis of skin colour or other ethnic indicators – the form of discrimination known as racial profiling. Secondly, there is an intention to regulate migration through ‘in country’ controls with a reliance on an intensification of the use of ‘hostile environment’ measures. They question the assurances about the Common Travel Area (CTA) – which provides for free movement of Irish and British citizens but requires ‘non-nationals’ to carry documents, raising concern about racial profiling by immigration officers and police. There is evidence suggesting the existence of selective *de facto* passport controls already in place that *“appear not to have led to much opposition from those most opposed to a border in the Irish Sea”*. However, should this be the approach agreed, important questions surrounding racial profiling would need to be considered if this strategy were adopted post-Brexit.

Irrespective of the impacts of Brexit, people coming from elsewhere have encountered a society divided by conflict and their acceptance in a contested land. In his article, Michael Potter examines how people settling in this geographical space encounter different frontiers – both seen and unseen – and how they are viewed through the prism of the

conflict. While Northern Ireland remains the least ethnically diverse region of the UK, the picture is complex. He draws here on two pieces of research: a 2009 study looking at how minority ethnic and migrant worker populations encounter the phenomena associated with the conflict in Northern Ireland; and another undertaken in 2015 that investigated whether power-sharing systems designed to manage conflicts between specific communities exclude 'other' identities. Both projects sought to address the question posed by this article: How do people from outside Northern Ireland encounter the social and political landscape shaped by the conflict in Northern Ireland? Many people arriving in Northern Ireland are oblivious to the realities of the conflict legacy until it affects them directly, or someone tells them about it. They may not even realise that an international border divides the island. On the other hand,

“The unseen and unstated conflict-related process in relation to people whose origin is not from Northern Ireland is one of appropriation or, more commonly, rejection. Individuals arrive as rounded beings with complex identities, but are viewed one dimensionally through the prism of the conflict.”

Outsiders can be seen as interlopers, their identity allocated according to “*established conflict markers*”, with assumed ‘Protestant’ or ‘Catholic’ designations. He discusses how sectarianism and racism are both similar and different, and require different policy approaches.

“Having crossed international borders to get here, there are unseen borders that remain hidden until they are stumbled across, sometimes ... enforced through violence or the threat of violence. This is part of the residue of the conflict in Northern Ireland.”

Of course, the legacies of life in a divided society in a contested land continue to constrain the lives of individuals and families from the ‘traditional’ communities on both sides of the border who have been adversely affected by the conflict. Neil Foster reports on the ongoing PEACE IV Victims and Survivors Research Programme under the auspices of the Commission for Victims and Survivors.

The Victims and Survivors Research Programme is providing a significant opportunity to examine the continuing impact of the Troubles/Conflict legacy on victims and survivors and wider society in Northern Ireland and the Border Region of Ireland. In the context of the *Strategy for Victims and Survivors*, three research studies will inform the coordination of services for victims and survivors and others affected by the conflict’s legacy: Review of Trauma Services; Trans-generational Legacy and Young People; and Effective Advocacy Services. His paper focuses on how each of the three studies builds on existing knowledge and practice around the often complex and varied conflict-related needs of victims and survivors and the different strategic, policy and service orientated responses to address them. He notes that,

“The scale and complexity of meeting a range of often complex and enduring needs interlinked with the wider process of effectively tackling long-standing unresolved legacy issues is remarkable two decades after the Belfast/Good Friday Agreement.”

The research projects are just one element of the PEACE IV Victims and Survivors Programme (2017-2021) focussed on supporting the needs of victims and survivors and their families across Northern Ireland and the Border Region of Ireland. The rationale for the PEACE IV Victims and Survivors Research Programme is about furthering the three interrelated areas at the centre of the *Strategy for Victims and Survivors*, namely the development of high quality services delivering measurable improvements in the wellbeing of victims and survivors, dealing with the ‘past’ and building for the future. The Programme is also responding to the external political environment informed by existing government policy on victims and survivors and wider political negotiations.

At the heart of our purpose at the Centre for Cross Border Studies is to build capacity and promote good practice in cross-border cooperation on the island of Ireland and further afield. The Centre provides secretariat services for the cross-border network SCoTENS (the Standing Conference on Teacher Education, North and South). In their article, Dr Lesley Abbott and members of the SCoTENS Steering Group examine the value created by a unique network of teacher educators from north and south of the Irish border which was first conceived following the Belfast/Good Friday Agreement (GFA) in 1998. SCoTENS was set up to create a safe and welcoming space for teacher educators to come together and discuss issues of common interest and to explore ways of co-operating closely together. Since 2016 the SCoTENS committee has initiated and invested heavily in an evaluation which represents a systematic effort to prepare SCoTENS for a more uncertain future than we might have hoped. The article draws on this recent evaluation and provides a strong sense of the value of the cross-border learning which occurs within the key components of SCoTENS’ work.

Mátyás Jaschitz and Gyula Ocskay share the ‘cohesion-based cross-border planning’ methodology they have developed at the Central European Service for Cross-Border Initiatives (CESCI) where their work focuses on cooperation across Hungarian borders. They note that,

“the main mission of cross-border cooperation in the EU consists of weakening separating effects of borders, strengthening the spirit of partnership and mutual understanding and enhancing social, economic and territorial cohesion between the member states and at the level of the European Union.”

They point out, however, that evaluation of the impacts of cross-border cooperation programmes has been problematic and in their experience,

“it is typical that the local stakeholders consider the cross-border cooperation (CBC) funds as additional resources for achieving their local aims; in these projects, cross-border aspects are applied in a superficial, not-sustainable way.”

They argue that despite tools developed separately – by ESPON, ITEM and CCBS – new definitions and methods are needed by programmes to ensure

“stronger cross-border territorial integration, a stronger regional territorial cohesion and a more sustainable and shared exploitation of the territorial potential: the territorial capital of a border area.”

We include in this year’s Journal a number of reviews of books and other publications related to borders and cross-border cooperation.

Two of these are personal accounts of travelling along two very different borders. Darrach MacDonald’s new book, ***Hard Border: Walking through a Century of Irish Partition*** is reviewed here by Hollie Keating-Akehrst, who at time of writing is a volunteer researcher with the Centre. A detailed and insightful travelogue of the 50-mile route extending the length of the Ulster Canal, the book foregrounds *“descriptions of border people which are sensitive, nuanced and evocative of lived experience.”* ***Border: A Journey to the Edge of Europe***, reviewed here by CCBS Research Officer, Dr Milena Komarova, is another type of ‘travelogue’, but more than that, it is the human story of the people of the border – in this case, ‘the last border in Europe... where Bulgaria, Greece and Turkey converge and divide’. This is the once-upon-a-time deadly ‘southernmost Iron Curtain’ of Europe. *“It is also,”* Komarova tells us, *“a journey in time – personal and historical – and one into the phenomenon of borders: social, political, and of the psyche.”*

Two publications under review provide insights and analysis of border laws and politics. ***Border Politics in a Global Era: Comparative Perspectives*** focuses on the impact of policies and decision-making – often made in centres of power far away from the border – in the borderlands and on border communities. The book gives a unique Borderland perspective on government decision-making by focusing completely on borders and the border communities rather than on the broader statewide relations. It is reviewed by CCBS Administrative Assistant, Mark McClatchey, who comments, *“Border Politics in a Global Era gives excellent examples and insightful analysis on how government policy can benefit or damage border regions and on how border communities are affected.”* ***The Law & Politics of Brexit***, reviewed here by Queen’s University Belfast’s Professor Colin Harvey, offers evidence of this thesis from closer to home. It is a significant collection of essays that has been gathered together by Federico Fabbrini, the Director of the Brexit Institute at Dublin City University. The book, Colin Harvey tells us, *“quickly dispels the notion of Brexit as a simple exercise in ‘taking back control’. The scale of legal and political complexity unleashed is remarkable and there is no sense that this will lessen any time soon.”*

We review here also two publications that each present a collection of essays giving theoretical and practical perspectives on cross-border cooperation. CCBS Chair, Dr Helen Johnston, reviews the book ***Castle-talks on Cross-Border Cooperation***, produced in three languages and containing 27 contributions giving both ‘top-down’ and ‘bottom-up’ perspectives on borders. Both the current and former Directors of the Centre for Cross Border Studies, Ruth Taillon and Andy Pollak are contributors to the book – on ‘Cross-Border Cooperation and Peace-Building in Ireland’ and ‘Irish-British Relations, 1998-2012: from Provincial Conflict to European Tensions’ respectively. ***Euroregions, Excellence and Innovation across EU borders: A Catalogue of Good Practices*** (available as an e-book) offers a comprehensive collective work gathering both theoretical as well as practical aspects of cross-border cooperation in a form of a catalogue/dictionary of cross-border

cooperation. The *Catalogue* is intended to be a supportive tool for better understanding cross-border cooperation activities conducted by organisations known as Euroregions. It is reviewed here by Dr Hynek Böhm, of the Technical University of Liberec who, as a cross-border practitioner working in the Czech-Polish border region, has worked with CCBS on a number of projects over several years.

Protecting Human Rights and Equality after Brexit:

The implications for Northern Ireland

Les Allamby

Chief Commissioner, Northern Ireland Human Rights Commission

This article sets out the current position on protecting human rights and equality as the negotiations between the EU27 and the UK government reach a critical phase. The issues at play are significant and will have ramifications for both the preservation of existing rights and for the development of rights going forward. The Northern Ireland Human Rights Commission (NIHRC) and the Irish Human Rights and Equality Commission (IHREC) alongside the Equality Commission have been working diligently to ensure the best possible outcome in what are difficult circumstances. A number of human rights NGOs and academics have also been playing a vital role in ensuring ongoing rights protections remain on the agenda.¹

Background

European Union law has provided significant rights protections for people living in Northern Ireland. Laws governing the maximum number of hours a person is required to work; statutory entitlement to four weeks paid leave; equal treatment in social security; an end to compulsory retirement age; and additional maternity protection have all stemmed from or been enhanced by EU law.

The United Kingdom government's approach, in essence, has been to pave the way for the repeal of the European Communities Act 1972 – the legislation which currently provides for the supremacy of European Union law. European Union law as it stands at the moment of exit will then be converted into domestic law before leaving the European Union. Post-exit, the UK government will be free to decide what elements of European Union law it wishes to preserve or discard; subject to any fetter put in place during the negotiations of the terms of leaving by the European Union. The passing of the European Union (Withdrawal) Bill in the Westminster Parliament reflected this ambition. Alongside this aim are a number of UK government red lines; including no longer being beholden to the Court of Justice of the European Union which interprets European Union law in cases referred by domestic courts and leaving the Charter of Fundamental Rights of the European Union. In addition, the UK government has announced that it will not consider any reform or repeal of the Human Rights Act until at least after the EU Exit.² From their position, the UK government has argued that human rights and equality will not be adversely affected up to leaving the European Union; and that beyond this, the government has no desire to dilute or diminish rights protection.

On 8 December 2017, the joint report from the negotiators of the EU and the UK government on progress towards the UK withdrawal from the European Union was published. The report contained two particularly important paragraphs in the section on Ireland and Northern Ireland. Paragraph 52 reaffirms the Belfast/Good Friday Agreement (the 1998 Agreement) provision for people in Northern Ireland to choose to be Irish or British or both and be accepted as such while setting out that “the people of Northern Ireland who are Irish citizens will continue to enjoy rights as EU citizens, including where they reside in Northern Ireland”. Moreover, at paragraph 53 the report acknowledges the important provision on Rights, Safeguards and Equality of Opportunity in the 1998 Agreement before stating “the United Kingdom commits to ensuring that no diminution of rights is caused by the departure from the European Union including in the area of protection against forms of discrimination enshrined in EU Law”. On the surface, both of these paragraphs appear to provide important human rights and equality protections beyond those available elsewhere in the United Kingdom.

Within the protocol on Northern Ireland/Ireland ... is the commitment to no diminution of rights, safeguards and equality of opportunity within the relevant part of the Belfast/Good Friday Agreement; including protection against discrimination as enshrined in specific parts of EU law listed in a separate annex. This disappointingly appeared to reduce substantially the wider “no diminution of rights” implied in the joint report to one specific section of the 1998 Agreement.

The December 2017 report is not a legally binding document and acknowledges the classic Northern Ireland approach to political negotiations that ‘nothing is agreed, until everything is agreed’. In practice, the provisions of the joint report now had to be turned into a legally binding document. On 19 March 2018, the draft Agreement on the withdrawal based on the December joint report was published by the European Commission Task Force who lead the EU negotiations. The text was colour coded: green signifying agreement subject to

technical legal revisions; yellow where policy objectives are agreed but, drafting changes or clarification are still required; and white where agreement has still to be reached.

Within the protocol on Northern Ireland/Ireland and colour coded yellow is the commitment to no diminution of rights, safeguards and equality of opportunity within the relevant part of the Belfast/Good Friday Agreement; including protection against discrimination as enshrined in specific parts of EU law listed in a separate annex. This disappointingly appeared to reduce substantially the wider “no diminution of rights” implied in the joint report to one specific section of the 1998 Agreement. The protocol also committed the United Kingdom government to setting up a dedicated mechanism to implement the ‘non-diminution’ provision in practice. The dedicated mechanism proposed is the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Joint Committee of the Human Rights Commissions of Northern Ireland and Ireland - a committee established under the 1998 Agreement.

The draft protocol also confirmed – colour coding in green – the continuation of the Common Travel Area respecting free movement for European Union citizens and their family members regardless of nationality to, from and within Ireland.

Divining what the draft Withdrawal Agreement including the protocol, the UK government's EU Withdrawal Bill and a blizzard of other legal and policy documents issued by the UK government mean in practice has occupied the joint committee of NIHRC and IHREC, the Equality Commission and others over the past few months.

The work of the joint committee

The joint committee of the NIHRC and IHREC has actively sought to ensure the strongest possible human rights and equality protections. The joint committee published a policy statement in March 2018 setting out six key principles namely:

- Ensuring the commitment to 'no diminution of rights' is evident and enforceable in the final Withdrawal Agreement;
- Safeguarding North-South equivalence of rights on an ongoing basis;
- Guaranteeing equality of citizenship in Northern Ireland;
- Protecting border communities and migrant workers;
- Ensuring evolving justice arrangements comply with the commitment to non-diminution of rights; and
- Ensuring the continued right to participate in public life for EU citizens in Northern Ireland.³

The joint committee also commissioned a discussion paper on Brexit: assessing the human rights implications of the EU (Withdrawal) Bill; the jettisoning of the EU Charter of Fundamental Rights; citizenship rights; the value of the Common Travel Area against EU law protections; justice and security arrangements; and the maintenance of equivalence rights North and South as envisaged in the 1998 Agreement.⁴

The joint committee has also met with Michel Barnier and his Article 50 taskforce team in Dundalk and Brussels, the Irish and UK governments at ministerial level and the Irish and UK Ambassadors to the European Union and the United Nations.

The joint committee commissioned a further detailed paper on the Common Travel Area to examine its practical scope and operation alongside – most importantly – what falls outside the Common Travel Area (CTA). In particular, the paper will also examine how to strengthen the legal underpinnings of the CTA. A further paper examining the cross-border civil and criminal justice implications is also about to be commissioned. This fine-grained analysis of the potential rights implication of Brexit is vital as 'the devil is always in the detail' as the negotiations come to fruition.

An analysis of the rights implications

There are a number of key issues which will have a significant impact as a result of the UK's decision to leave the European Union. In particular, many lead back to the 1998 Agreement.

a) The loss of the Charter of Fundamental Rights of the European Union (the Charter)

The Charter came into force in December 2009 through the Treaty of Lisbon. The Charter incorporates rights contained in the European Convention on Human Rights but goes further: including specific provision on protection of personal data; the right to engage in work and to conduct a business; the right to asylum and protection in the event of removal, expulsion or extradition; cultural, religious and linguistic diversity rights; children's and older people's rights; integration of persons with disabilities; environmental and consumer protection; health care and social security rights; the right to good administration and to access documents; the right to fair and just working conditions; and freedom of movement and residence. The rights contained in the Charter can only be exercised in conjunction with European Union law.

The UK government has long argued that the Charter strengthened existing legal principles, rather than creating new rights enforceable in court. Moreover, they have stated that the rights contained in the Charter are all available within domestic legislation and judge-made common law and as a result no loss of rights will occur; and that the EU (Withdrawal) Bill will preserve EU law at the point of leaving the European Union. One might dryly observe that if this is the case why the need to get rid of the Charter?

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A legal opinion for the Equality and Human Rights Commission (EHRC) in Britain strongly refutes the UK government's assessment: noting that the Charter creates additional valuable rights and sustains and ensures no compromise on retaining existing human rights protection. The EHRC argues that common law and current UK legislation does not comprehensively cover the Charter rights and that retention of the Charter creates legal certainty.⁵ In addition, placing all the rights within a single Charter provides a more accessible way of promoting the rights available to citizens.

While the difference of opinion may keep lawyers in work, the loss of the Charter has particular resonance for Northern Ireland. In effect, there is a Northern Ireland rationale for retaining the Charter alongside a wider UK argument. The 1998 Agreement still has two pieces missing from its original provision. First, is the absence of a civic forum to provide an institutional link between wider civic society and political institutions. Secondly, a Bill of Rights for Northern Ireland was to be introduced through Westminster legislation. The Bill of Rights was to provide rights supplementary to the European Convention of Human Rights (ECHR), drawing on appropriate international instruments and experience and reflecting the particular circumstances of Northern Ireland. In practice, the Bill of

Rights was to take an ‘ECHR-plus’ approach. The Charter is the nearest thing we have to filling the gap; albeit without directly referencing the circumstances of Northern Ireland. Retention of the essentials of the Charter either until a Bill of Rights is enacted or alternatively, utilising it as a basis for a Bill of Rights would provide important and durable human rights guarantees extending beyond the transition period after the UK leaves the EU. The Charter has been in place for almost ten years so arguably it provides those sceptical of rights protection with succour that no-one is plunging into the unknown. Moreover, a Bill of Rights whether based on the Charter or otherwise, comes into its own at times of economic and political instability and few would argue that we are not about to enter into a period of turbulence, economically and politically post-Brexit. There are issues to be ironed out within the Charter as a foundation stone for a Bill of Rights – including its restriction to being applied only alongside EU law – and how it would be enforced legally in practice. Nonetheless, there remains a compelling argument for the UK government looking again at the need for a Bill of Rights.

In addition, there is already a body of work to build on including the Commission’s advice on a Bill of Rights for Northern Ireland published in December 2008 and more recently, research done on a Bill of Rights for Northern Ireland including a model bill by Anne Smith and Colin Harvey.^{6 7}

b) An equivalency of rights across the island of Ireland

The 1998 Agreement tasked the Irish government with strengthening its own human rights protections including incorporating the European Convention on Human Rights into its domestic law. This was to mirror the UK government’s commitment to do the same with the planned introduction of the Human Rights Act. The measures in the Agreement “would ensure at least an equivalent level of protection of human rights as will pertain in Northern Ireland”. The idea of equivalent (though not the same) rights across Ireland has come into sharp focus as rights have developed at a different pace North and South. The South now has equal marriage legislation and is about to enact legislation to permit abortion following the repeal of Article 8 placing it within the mainstream of laws in Europe on women’s reproductive rights. Northern Ireland remains in the slow lane with no extension of same sex marriage beyond civil partnerships, the continuing criminalisation of women, clinicians, and others who seek or assist abortions locally and the absence of a single Equality Act to enhance equality and non-discrimination laws.

The joint committee has argued strongly that the equivalency of rights across the island of Ireland envisaged in the 1998 Agreement could be promoted, for example, through the retention of the EU Charter and a Bill of Rights. In practice, this is a further route to protect existing rights both now and in the future. The gap in rights provision between Northern Ireland, the rest of the UK and elsewhere in Ireland is becoming increasingly stark. With the UK leaving the European Union, any additional rights created after leaving the EU and the transitional period will no longer automatically be adopted by the UK and its devolved administrations. Moreover, under domestic law, the development of rights protections in areas of devolved competence will fall to the Northern Ireland Executive and Assembly. Based on recent experience, as equality and human rights protections develop in domestic law elsewhere in the UK and (through European Union and domestic law) in Ireland the prospect of the current gap becoming a chasm is not a fanciful one. Such a scenario is

good for neither Northern Ireland nor the United Kingdom as a whole. The UK government seeks to promote human rights, equality and non-discrimination on a global stage while experiencing significant problems in its own backyard. From first-hand experience as Chair of the Commonwealth Forum of National Human Rights Institutions, seeking to promote LGBTI rights in a number of African countries is not aided by the perception of Northern Ireland's human rights and equality record. Moreover, attracting international economic investment is not enhanced by political instability or a reputation for illiberalism or intolerance.

Despite the arguments the UK government maintains that the 1998 Agreement does not create any ongoing equivalence of rights, merely, instead reflecting the context at the time. The rejection of the equivalence of rights approach squanders an opportunity to ensure human rights and equality protections are maintained beyond leaving the European Union.

c) Citizenship rights

The joint report's agreement that the people of Northern Ireland who are Irish citizens will retain EU rights raises a conundrum. The 1998 Agreement recognises an individual's right to identify as British, Irish or both without adverse consequences. The retention of European Union legal rights for Irish citizens in Northern Ireland appears to run counter-intuitively to the 1998 Agreement. There are considerable political and practical implications of offering more rights to people in Northern Ireland who identify as Irish than those offered to their next-door neighbour who sees him or herself as British. The degree of significance will be magnified by what this actually means in practice. To date, the joint committee has not been able to gain clarity from either the European Union or the UK government. The European Union emphasises that the rights retained or developed going forward will be around accessing services and rights elsewhere in the European Union without providing the details as to which rights will be accessed and in what circumstances. The UK government appears relaxed to the point of being laissez-faire in accepting that an asymmetry of rights will occur while noting that on this issue the ball is in the court of the European Union. Moreover, the UK government remains optimistic that many of the rights in play will be retained for all UK citizens as an outcome of the final negotiations for example, continued access to the European Health Insurance Card.

The practical outworkings are also important. By way of illustration, a person in Northern Ireland who has to wait an undue length of time for health care treatment can travel elsewhere in the European Union, pay for treatment and then bill the NHS who must then refund the person.⁸ For the Irish government, post the UK's EU exit, the prospect of an Irish citizen living in Northern Ireland exercising this right and charging the Irish government for the failings of a Northern Ireland NHS is an unattractive one. Further, will an Irish citizen in Northern Ireland who after the EU exit, exercises his or her freedom

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of movement as a worker elsewhere in the European Union, meets a partner and wants to return home with that person be able to do so without restriction? In addition, how any additional rights will be exercised remains to be determined. Will it be based on holding an Irish passport or some other assertion of identity or residence? The discussion paper commissioned by the joint committee identified at least nine different forms of citizenship among people living in Northern Ireland.⁹ Providing these additional rights based on lawful residence in Northern Ireland would be administratively more straightforward but, there is no sign as yet that this is the solution that will be adopted.

d) The Common Travel Area and cross-border Issues

The Common Travel Area (CTA) allows for easy travel and reciprocal advantages including access to social security, healthcare and education for people lawfully resident in the UK, Ireland, Channel Islands and Isle of Man. It predates the UK and Ireland joining the European Union with freedom to travel going back to partition. Following the Second World War, the United Kingdom enacted the Ireland Act 1949 paving the way for the introduction of the Common Travel Area from 1952. The Common Travel Area is a collection of legal provisions across its members, which ensure Irish and UK citizens can be treated almost identically within both countries. European Union law recognises the Common Travel Area within Protocol 20 of the Treaty on the Functioning of the European Union. In practice, the Common Travel Area provides additional rights and advantages to its beneficiaries over and above those offered to European Union citizens from outside the UK and Ireland. This has particular importance for Irish citizens in accessing key means-tested social security benefits in the UK as residence in the CTA provides an exemption to the increasingly restrictive residence clauses attached to entitlement to those benefits. The combination of the CTA and EU freedom of movement has contributed to relatively seamless cross-border arrangements, for example, in healthcare. In effect, the Co-operation and Working Together (CAWT) partnership between the NHS in Northern Ireland and Irish Health Service in border counties allows a variety of healthcare schemes and initiatives to be run based on bilateral arrangements utilising the CTA and the 1998 Agreement underpinned by European Union law. Such schemes include the sharing of Ear, Nose and Throat surgeons between hospitals in Craigavon, Newry and Monaghan.¹⁰ The question of accessing emergency services across the border was also highlighted in a recent Westminster Parliamentary Inquiry into healthcare, which reported that though the numbers benefitting were small, the need where it applied was critical.

The December report and March draft Withdrawal Agreement both emphasise the continuance of the Common Travel Area. It is clear that both the UK and Irish governments are keen to continue to apply CTA arrangements. Nonetheless, the relative flexibility and informality that characterises the CTA will no longer be guaranteed by the underpinning of European law. In practice, there is a strong case for placing the Common Travel Area on a much stronger legislative footing for example, through an international treaty. An international treaty could still allow the CTA to develop further arrangements

A second outstanding issue is that without EU law, some of the key rights derived from the CTA will depend on Irish citizens entering the UK from Ireland, the Isle of Man or the Channel Islands and not from elsewhere in the European Union.

after the UK's EU exit while guaranteeing the reach of existing bi-lateral agreements. It would also provide certainty in the event of future relations between the UK and Irish governments ever deteriorating.

A second outstanding issue is that without EU law, some of the key rights derived from the CTA will depend on Irish citizens entering the UK from Ireland, the Isle of Man or the Channel Islands and not from elsewhere in the European Union.¹¹

A further issue is that while politicians have often cited the Common Travel Area as the panacea for all cross-border economic and social ills it does not provide comprehensive coverage of economic, social and cultural rights. The right to access child care support in Working Tax Credit for cross-border workers is currently guaranteed by EU law, namely, Article 56 of the TFEU (the freedom to provide and receive services) and Directive 2006/123/EC rather than through domestic law or CTA arrangements. For a concrete example of the current situation, see Box 1 below.

Box 1: Cross-border childcare and EU Law

NB was a lone parent living and working in County Fermanagh and on a low wage. She placed her two youngest children in a childcare service in County Cavan as the staff there were trained and conversant in dealing with the disability affecting one of her children. Working tax credit allowed up to 70 percent of childcare costs up to a maximum sum. Under UK tax credit regulations, support is only available where the childcare provider is accredited with UK childcare authorities. The accreditation system was confined to UK providers and those in armed forces bases outside the UK. When the HMRC discovered the childcare provider was from across the border the financial support was removed and an overpayment of £10,000 was sought. NB appealed successfully to a Social Security Commissioner under EU law, which allows for the freedom to provide and receive services and sets out the right to receive services including arrangements for any authorisation schemes. As a result there had been no overpayment of Working Tax Credit.

The issue of cross-border workers extends beyond reaching an agreement to avoid a hard border. In practice, many cross-border workers are on low pay so retention of entitlement to social and economic rights are particularly important. This is precisely why the detailed scrutiny of what is and is not covered by the Common Travel Area is so important.

e) Security and Justice Co-Operation

This is an area where the UK government has been clear and pro-active about what it wants. The UK government wishes to retain the current information and data sharing arrangements, retention of the European Arrest Warrant alongside other policing and prosecution operational arrangements. Moreover, the UK government would like to retain a seat in as effective and influential form as possible on EU wider security and justice bodies developing policies for the future. For more details of the data sharing mechanisms and key agencies see Box 2.

Box 2: Key Organisations and Data Sharing Mechanisms for EU wide Law Enforcement Co-operation

Schengen Information System (SISII)	A database containing 35,000 people wanted under European Arrest Warrants and alerts on suspected foreign fighters, missing people and objects of interest to EU law enforcement agencies.
European Criminal Records Information System (ECRIS)	A secure electronic system for exchange of information on convictions between EU member states. ECRIS is also used for employment vetting and immigration purposes.
Passenger Name Records (PNR)	A scheme regulated by EU law to ensure airlines and other travel carriers submit name, date of birth, nationality and passport numbers and other information to border agencies.
Prüm Treaty	Allows for reciprocal database searches for DNA profiles, vehicle registration and fingerprints.
Europol	The EU agency which provides a forum for EU member states to share information and co-operation.
Eurojust	The EU agency which supports and strengthens the co-ordination of co-operation between prosecuting authorities. This includes handling requests for mutual legal assistance for European Arrest Warrants and provides legal, technical and financial support to joint investigation teams working on cross-border specific cases.

The clarity of the UK position may reflect the National Crime Agency, the Security Services and the Association of Chief Policy Officers desire for certainty. Unlike a similar clarion call from business leaders, which has largely fallen on deaf ears, it is considerably more difficult to resist the demands from security and policing organisations. Moreover, there are fewer internal political difficulties within the UK government on these issues. In fact, it is the European Union who are dragging their feet – no doubt for negotiating purposes – though in practice, they too will want to retain seamless security co-operation. Cross-border policing relationships locally remains strong, yet memories of how toxic the issue became during the political conflict also remain fresh.

The UK government remains acutely aware of the importance of securing an effective deal. Following the Lisbon Treaty the UK government exercised a block opt-out to 130 pre-Lisbon treaty police and criminal justice measures while simultaneously accepting that the enforcement powers of the European Commission and full Court of Justice of the European Union legal jurisdiction would apply from December 2014. Without a deal, the UK would once again be leaving those arrangements including the European Arrest Warrant.

The European Arrest Warrant was adopted by the EU to enable the extradition of individuals between member states facing prosecution for a crime or to serve a prison sentence for an outstanding conviction. The Chief Constable of the Police Service of Northern Ireland, George Hamilton, has regularly proclaimed the importance of the European Arrest Warrant, outlining it is “essential in tackling terrorism, organised and volume crime across the island of Ireland”.¹² It is clear there is no Plan B if the UK was to no longer have access to the European Arrest Warrant leaving it to negotiate bi-lateral agreements with 27 other countries. The UK government’s position is that enforcement and dispute resolution within the European Arrest Warrant are two distinct issues. This would pave the way for an alternative judicial oversight mechanism to the Court of Justice of the European Union to be developed by the UK – a bespoke arrangement for dispute resolution. There appears little appetite within the European Union to facilitate this approach.

In an early sign of judicial concern about the state of future protection the Irish Supreme Court and Irish High Court referred cases to the Court of Justice of the EU (CJEU) seeking clarity as to whether it was appropriate to continue to agree to European Arrest Warrant requests from the UK given the uncertainty surrounding the rights and safeguards that will apply after exit. The CJEU ruled that notification of the intention to leave the EU is not of itself grounds to postpone or refuse to execute a request under the European Arrest Warrant unless substantial grounds exist to indicate that rights under the European Arrest Warrant and the Charter of Fundamental Rights will not be applied. At the time of writing this appears likely to be followed by the Irish Supreme Court. This leaves open the question of what might happen in circumstances where the Charter and the CJEU is no longer recognised by the UK government.¹³

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The importance of existing safeguards and rights will sorely test the UK government’s red line of leaving the CJEU altogether. It is difficult to see how the scope of the safeguards can be easily replicated in UK bespoke alternative arrangements.

Where Are We Now?

At the time of writing, it is clear that the dedicated monitoring mechanism will cover monitoring/supervision, enforcement and future development of rights. It will cover a number of anti-discrimination directives to be included in the Annex to the draft Withdrawal Agreement and these rights will be both preserved after the EU exit and keep pace with EU law as it develops.

Discussions continue to seek to extend the scope of the Annex to cover additional EU law that can be linked back to the relevant parts of the 1998 Agreement. It is worth noting that the EU directive that secured cross-border workers’ rights to childcare services is not

included in the Annex. Moreover, ensuring effective individual rights and redress beyond the enforcement role of the NIHRC, ECNI and joint committee is also critical to the arrangements to preserve human rights and equality protections. A means of including the final arrangements within a clear legal framework and securing resources commensurate with the role are also essential building blocks for any effective and meaningful dedicated mechanism.

More widely, the reality of Northern Ireland being the only part of the United Kingdom with a land border with another member state has ramifications beyond the movement of commercial goods and services. This, combined with Northern Ireland's recent troubled political past and the contested political approach to rights means that maintaining existing human rights and equality protections and ensuring future progressive developments is critical. Realising a Bill of Rights for Northern Ireland 20 years after the 1998 Agreement, retaining the core elements of the Charter of Fundamental Rights of the European Union and ensuring a strong and meaningful dedicated monitoring mechanism with individual rights of redress and a broad scope would be an important platform to build on. Without this and other key ingredients Northern Ireland risks becoming 'a place apart' when it comes to maintaining economic and social rights compared to the rest of these islands.

Notes

- ¹ For example the Committee for the Administration of Justice, Queen's University Belfast's School of Law and Transitional Justice Institute collaborating as Brexit NI, the Human Rights Consortium, Irish Congress of Trade Unions and Children's Law Centre among others.
- ² See Parliamentary answer from Sir Oliver Heald, Minister of State, Minister of Justice to David Nutall, Conservative MP Bury North, 24 January 2017.
- ³ Joint Committee of the Irish Human Rights and Equality Commission and Northern Ireland Human Rights Commission: policy statement on the UK withdrawal from the European Union, March 2018.
- ⁴ Discussion paper on Brexit – Colin Murray, Aoife O'Donoghue and Ben Warwick.
- ⁵ Legal opinion by Jason Coppel QC, January 2018 available on the EHRC website at www.equalityhumanrights.com/en
- ⁶ A Bill of Rights for Northern Ireland: advice to the Secretary of State, 10 December 2008, NIHRC.
- ⁷ Where next for a Bill of Rights for Northern Ireland and a draft model bill, Anne Smith and Colin Harvey, UU Transitional Justice Institute and QUB School of Law (2017).
- ⁸ See *Yvonne Watts v Bedford Primary Care Trust and Secretary of State for Health*, Case C372/04 Judgement of Grand Chamber 16 May 2006.
- ⁹ See discussion paper on Brexit – Colin Murray, Aoife O'Donoghue and Ben Warwick, March 2018, p29.
- ¹⁰ For more details see Brexit : reciprocal healthcare, Chapter 7 : House of Lords EU Committee 13th Report of Session 2017-2019, March 2018.
- ¹¹ For more detailed discussion of the implications see Brexit and Irish citizens in the UK: How to Safeguard the rights of Irish citizens in an uncertain future: The Traveller Movement, December 2017.
- ¹² See for example evidence to Northern Ireland Affairs Committee on implications of Brexit for cross-border policing and criminal justice, 13 December 2016.
- ¹³ See RO judgement of CJEU case 327/18PPU, 19 September 2018 and in the matter of European Arrest Warrant and O'Connor Irish Supreme Court, 9 October 2018.

The Border Controls that have Hardly Spoken their Name?

Racial discrimination and the implications for free movement of people into Northern Ireland after Brexit

Daniel Holder and Dr Amanda Kramer, BrexitLawNI¹

I am very happy to reinforce the clear statement that there can be no racial profiling at a border, whether it be routine, quixotic or even accidental ... there cannot be even a hint of that going on at the border... There will be no checks whatever for journeys across the land border between Ireland and Northern Ireland, nor between Northern Ireland and Great Britain.²

The above statement was made by NIO Minister Lord Duncan, House of Lords 25 April 2018, responding to questions regarding non-‘routine’ passport controls into Northern Ireland post Brexit. The following testimony is from passenger Jules Gnezekora on the same day:

I was queuing [in Cairnryan port] with approximately 15-20 people to board the boat. I was the only black person in the queue that I could see ... I passed through the check-in area ... and was called to the side by one of the officers who were present, immigration or police. I remember clearly that I was asked to produce my passport, which I did ... A few hours later, the ferry docked at Belfast. I disembarked and was passing through the exit area in the ferry terminal. Apart from [...] two black people [...] who were waiting to collect their luggage off the boat, I was the only black person leaving the docks at that time that I could see. The only form of control that I could see in this disembarkation area was immigration control. The two officers were letting the people who were ahead of me pass through. I did not see them ask anyone for any identity documents. ... When I approached the officers, I was taken to one side. This was the fourth leg of my return trip within eight days and I had been subjected to this treatment on every single occasion...³

Introduction – passport controls and the 5%

In Autumn 2018, as the shifting deadline approached, in asserting that the Brexit deal was ‘95% done’ Theresa May pointed to the ‘considerable sticking point’ of the Irish border as the outstanding 5%.⁴ Northern Ireland’s land and sea frontiers having been almost absent from the referendum debate – despite a Brexit mobilisation that strongly focused on ‘taking back control of borders’ – had long since become centre stage in Brexit discussions. However, such discussion has tended to focus entirely on the freedom of movement of goods and hence on trade and customs; with the implications, and policy direction, in relation to the freedom of movement of people by contrast having been quite marginal.

The February 2018 Ireland/Northern Ireland draft Protocol to the Withdrawal Agreement reflects this. A total of 18 provisions deal with freedom of movement of goods,⁵ and a sole article in two parts, deals with the free movement of people in the UK-Ireland Common Travel Area (CTA).⁶ The provision is limited to stating the UK and Ireland can continue to make their own arrangements for the CTA, provided Ireland does so compatibly with EU law.

Despite the marginalisation of the issue in mainstream discourses, the implications of the future arrangements of free movement of people into and within Northern Ireland are very serious – particularly for migrant and minority ethnic communities. This article argues that post-Brexit free movement and border arrangements carry a significant risk of facilitating widespread racial discrimination. This is based on recent and current practice in relation to immigration policing and border control and the experiences of migrant and minority ethnic people with these practises, as well as indications of the future direction of these policies and practises in the UK and the Republic of Ireland.

A starting point for this relates to how the migration control agenda of Brexit will be resolved in the context of the repeated promises not to ‘harden’ the land border (or at least to keep it as ‘frictionless’ or ‘seamless’ as possible) and not to impose a ‘border in the Irish Sea’. This article will provide an analysis of how the UK government has attempted to resolve these conflicting agendas – something which is particularly complicated given that the Conservative party’s leadership and the Democratic Unionist Party (DUP) are strong advocates of migrant control agendas. As Home Secretary, Theresa May was responsible for the ‘hostile environment’ policy (a series of far reaching duties on the public and private sectors targeting perceived irregular migrants), and has characterised the referendum as ‘a vote to take control of our borders, laws and money’ whilst advocating that the terms of Brexit ‘must respect this’.⁷ The DUP, who support the government in a Confidence and Supply arrangement, have also been advocates of ‘tougher’ migration controls.⁸ It is this setting that has shaped the parameters of the type of Brexit the UK

is prepared to pursue. Notably, neither government nor opposition are willing to support continued single market membership in the context of this requiring continued EU freedom of movement.

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We have found that not only has there already been a detrimental shift in the treatment of NI-resident EU26 nationals, there is also a lack of transparency in relation to post-Brexit operational planning

for both the CTA and internal immigration controls in NI. For example, immigration policy officials were not permitted to engage with BrexitLawNI research, and little clarity provided even to Westminster committees. That said, some information about the UK’s approach to the CTA and internal immigration controls has been made publically available. First, in relation to the CTA, the UK’s position has been limited to ruling out ‘routine’ passport controls. There is little clarity as to what ‘non routine’ controls in the CTA will look like. The primary concern here is that there will be a resultant increase in selective checks that target

persons on the basis of skin colour or other ethnic indicators – the form of discrimination known as racial profiling.

Second, there is also an intention to regulate migration through ‘in country’ controls with a reliance on what one official document refers to as an ‘intensification’ of the use of hostile environment measures. The government has sought to rebrand the ‘Hostile Environment’ as the ‘compliant environment’ following the Windrush scandal, yet its main provisions remain intact. BrexitLawNI heard evidence that there has already been a significant shift in the treatment of EU26 nationals in Northern Ireland in relation to the querying of their entitlements and difficulties in accessing essential public services. It is important to note however, that it was not always clear if such changes were the result of formal policy changes or the result of attitudinal changes among decision makers since the referendum. This article will explore the parameters of the CTA arrangements as a passport free zone, examine the extent to which CTA-free movement is underpinned by the Belfast/Good Friday Agreement (GFA), the direction of travel on the CTA during the Brexit process, including existing immigration enforcement operations and the implications for law enforcement, before finally examining the implications of the hostile/compliant environment. Throughout this discussion, the existing and potential impacts for migrant and minority ethnic communities will be emphasised.

A Common Travel Area only in name?

In a general sense, the CTA is a passport-free zone between the UK and Ireland (as well as the Channel Islands and Isle of Man-which are not in the EU). It is a loose administrative arrangement not underpinned by a treaty or overarching legislative instrument. The central provision in UK law is found in the Immigration Act 1971, which provides that arrival in and departure from the UK from elsewhere in the CTA cannot be subject to (passport) control.⁹ Whilst the CTA pre-dates EU freedom of movement, its existence has been far from secure. As recently as 2008 the then UK government sought to amend the 1971 Act to permit full border controls. The proposed policy was to introduce ‘ad hoc’ checkpoints targeting *non* British and Irish citizens on the land border. Assurances were simultaneously given that British and Irish citizens would still not have to carry passports.¹⁰ There was also to be passport control at Northern Ireland ports and airports on domestic journeys to Britain. The Northern Ireland Human Rights Commission raised concerns that the ‘ad hoc’ checks would lead to widespread racial discrimination. Coupled with unionist opposition to the air and sea checks, the provision was defeated in Parliament.¹¹ Despite the maintenance of a legislative prohibition on passport control on local journeys in the CTA, the UK Border Force has nevertheless conducted checks. This has included asking passengers for passports or other ID at Northern Ireland ports and airports to and from domestic journeys to Britain. Statistics published for the year of the referendum (2016) for ‘Operation Gull’, (an operation in Northern Ireland ports involving officers targeting entry over the land border), record the ‘interception’ of 775 suspected irregular migrants in the 2015/2016 year, an increase of 66% on the previous year.¹² As highlighted in the quotes at the beginning of this paper, the concerns about racial profiling have been borne out.¹³

Ireland did change its laws on the CTA in 2004. Section 11 of the Immigration Act 2004 contained a requirement for anyone embarking or landing in the Irish state (including over the ‘land frontier’) to carry a passport or equivalent document. The provision applies to

CTA journeys but only to ‘non-nationals’; with nationals defined as Irish or British citizens. This therefore legislates for the scenario whereby only non-Irish/British citizens have to carry documents, begging the question as to what criteria immigration officers and Gardaí use to tell the difference. A provision in Section 12 of the same Act required non-nationals to carry and produce passports at all times, although this was subsequently found to be unconstitutional.¹⁴ In relation to CTA passport checks, both the Irish Human Rights Commission and National Consultative Committee on Racism and Interculturalism (NCCRI – a national equality body) subsequently raised concerns about racial profiling, with the latter urging victims to record such instances as racist incidents.¹⁵

The GFA and the free movement of people in the CTA

The British government has interpreted the Belfast/Good Friday Agreement (GFA) as providing for a ‘seamless’ border on the island of Ireland, this interpretation has generally been supported by nationalism and contested by unionism.¹⁶ The UK’s Northern Ireland Brexit Position Paper states that although the CTA precedes the GFA,

*... the principle of free movement between the UK and Ireland carries symbolic significance in implementing the Agreement’s commitment to the continued respect of the civil, political, social and cultural rights of the communities in Northern Ireland. It is a tangible example of East-West cooperation between the UK and Ireland ...*¹⁷

A government Minister, in debating the EU (Withdrawal) Bill also stated that the CTA is ‘an integral element – not a symbolic but an integral element – of the Belfast/Good Friday Agreement. That should not be underestimated’.¹⁸ It should also be noted that the GFA implementation agreements themselves, under provisions on security ‘normalisation’, contain detailed provisions on the dismantlement of border checkpoint infrastructure.¹⁹

There are clearly also strong practical impediments to passport controls on a land border with an estimated 208 crossing points and an estimated 110 million annual crossings; the majority of which it would be fair to describe as essentially local journeys. Whilst, on a practical level it would be more feasible to conduct controls at Northern Ireland ports and airports, this has equally been met with political opposition. For example, take the following comments of DUP MLA Christopher Stalford to BrexitLawNI:

*From my perspective the one thing I will not tolerate is people getting on the Larne to Cairnryan ferry having to produce their passport. We’re British citizens, we’re citizens of the United Kingdom and we should be treated equally and on that basis ... the idea of a border up the Irish Sea was just completely unacceptable to be honest.*²⁰

However, it is important to note that there is evidence suggesting the existence of selective *de facto* passport controls already being in place. For example, experiences like those cited at the beginning of this article (in that instance reporting passport requests in Belfast and Cairnryan ports) and the aforementioned ongoing Operation Gull, illustrate that passport checks have been taking place. Such selective *de facto* controls however appear not to have led to much opposition from those most opposed to a border in the Irish Sea. This

raises the possibility that this model could be augmented and increased in the Brexit context. Further, as highlighted in the quotations at the beginning of this paper, the existence of these checks have raised important questions surrounding racial profiling that would need to be considered if this strategy were adopted post-Brexit.

Bolstering the UK Border Force – a roll back of Patten?

A further GFA compliance question relates to the arrangements for the accountability for law enforcement agencies in Northern Ireland, which flow from the Independent Commission on Policing (the Patten Commission) established further to the GFA.²¹ As part of the bilateral agreements of the peace process, the UK committed to the full implementation of the Patten Report.²² The Commission has internationally become a much-examined blueprint for policing reform. The reforms entailed a new framework for human rights compliance, including new binding codes of ethics and powerful accountability bodies including the Northern Ireland Policing Board and Police Ombudsman. The model did not envisage ‘tiered’ law enforcement in Northern Ireland and there has been considerable controversy in recent years regarding attempts to introduce new tiers of law enforcement that circumvent the Patten accountability architecture.²³

Brexit may lead to a much greater role for the UK Border Force (UKBF) which is currently not accountable to the Policing Board and has limited accountability to the Police Ombudsman. The Home Office Immigration Enforcement and Compliance Teams, who will be responsible for implementing ‘in country’ ‘hostile/compliant environment’ measures also sit outside the Patten accountability architecture. This office, which operates from a base in Castlereagh, Belfast, currently has 49 Northern Ireland staff, 30 of whom were Immigration Officers.²⁴

According to the Public and Commercial Services Union (PCS), the UK Border Force currently has around 57 Northern Ireland-based officers. Controversial recruitment exercises have been run to increase the numbers of UKBF officers. In late 2017, UKBF advertised for 300 new ‘mobile patrol’ officers for various locations including Belfast, but would not disclose to the media how many would be Belfast-based.²⁵ This recruitment exercise and a second aborted exercise in 2018 seeking 21 new Belfast-based posts (an increase of staffing by around a third) were controversial. First, these exercises involved the recruitment of border officers when assurances were being given regarding no further border controls. Second, the criteria for the posts conflicted with the GFA and legislation preventing sectarian discrimination, which led to a withdrawal of the criteria following intervention by the Equality Commission.²⁶ The whole episode demonstrates a lack of awareness or indifference in the Home Office to the specifics of the law enforcement reforms resulting from the peace settlement. Beyond recruitment, should these agencies exercise broadly drafted powers in an arbitrary or discriminatory manner against a new ‘suspect community’ of perceived migrants, the historical parallels with law enforcement practices that were to be superseded with the GFA-driven blueprint, will be further evident.

The CTA and Brexit policy

Brexit has created an unprecedented situation whereby one CTA state is in the EU and the other is not. This challenges what had been the prior direction of travel towards UK-Ireland ‘convergence’ on CTA immigration rules,²⁷ as Ireland will have continued freedom of movement for EU/EEA nationals and the UK will not. Whilst the UK does not appear to be inclined to make EU26 nationals ‘visa nationals’ (require a visa to enter the UK), admission checks on existing non-visa nationals (e.g. Brazilian, Japanese, US citizens) are usually undertaken at ports of entry, which would not happen at the land border. Post-Brexit immigration policy is still not firmed up, but the UK has put forward the option of electronic pre-clearance for EU26 travellers into the UK. While this kind of system may work for pre-planned journeys from Warsaw to London, it is difficult to foresee its practical application to a spur of the moment decision for a Polish national to pop out of county Monaghan into county Armagh to go to a shop.

The UK has given regular assurances that the CTA will continue after Brexit.²⁸ The small print in the UK’s 2017 *Northern Ireland and Ireland Brexit Position Paper* is notable however in that it only commits to not introducing fixed border controls, stating: “[t]he development of our future immigration system will not impact on the ability to enter the UK from within the CTA free from **routine** border controls.” (emphasis added)²⁹

The UK-EU *Joint Report* of December 2017 contains a number of paragraphs on avoiding a ‘hard border’ but these relate to the freedom of movement of goods.³⁰ One paragraph does deal with the CTA, but is limited to reiterating that the UK and Ireland may continue to make arrangements for the CTA between themselves, provided such arrangements respect EU law.³¹ This is also reflected in the subsequent draft protocol. Despite deferring to bilateral arrangements that are not dependent on UK-EU negotiations, and assurances from both states that arrangements are being worked upon, there is to date no publicly visible sign of any progress in codifying or safeguarding the rights of the CTA.³²

Government policy on non-routine CTA border checks was drawn out through amendments tabled to the EU (Withdrawal) Bill. Baroness Helena Kennedy raised concerns that “*at the moment, there really seems very little that is solid around the movement of people ... the question then turns to how the Government will enforce their desire for such significantly increased migration control while maintaining an open border*” and also highlighted the risks of widespread racial profiling.³³ In response, the NIO Minister in the Lords, Lord Ian Duncan of Springbank, gave assurances that “*...there will be no impediment at the land border to the movement of people – no checks and no profiling, full stop*”. That is the ambition and the policy of the UK Government.³⁴

Peers also pressed the Minister on the question of what ‘non-routine’ checks meant. Baroness Ludford directly asked “*what is the meaning of ‘routine’ in the Northern Ireland Position Paper of last August ... A lot hangs on that adjective ... can the Minister please elaborate on what that means and on what border controls will be allowable?*”³⁵ The Minister responded by stating that the word ‘routine’ did not have a special meaning in the paper, rather “[i]t is simply saying that these are the methods that we have been using thus far and will continue to use.”³⁶ The difficulty with this assurance is that it is precisely

the current methods that have drawn concerns about racial profiling, including the widely reported experiences of Jules Gnezekora, cited at the beginning of this article. In responding to the media about Mr Gnezekora's experiences the Home Office stated:

Immigration Officers speak to members of the travelling public using these routes, regardless of appearance, and a consensual request for photographic ID can form part of that conversation.³⁷

This response highlights the absence of a statutory power for such checks. It is also essential to note that it is typically not clear to passengers that the CTA checks are in a strict legal sense 'voluntary'.

We heard numerous personal experiences of individuals who had been singled out for such checks. This included people being singled out on cross-border buses in recent months where experiences were described as having picked out people of colour, being 'intimidating', and little information being offered as to what was happening. There were also situations with UKBF at Belfast airports on domestic flights that included the questioning of children. One interviewee stated:

The BrexitLawNI research team consistently heard that there was an existing problem of racial profiling in selective checks taking place on both sides of the land border and at Northern Ireland ports and airports, and that the situation had deteriorated since the Brexit referendum.

We see that anyway at Belfast City Airport and Aldergrove, certain flights attract attention, other flights there's nobody to meet you anywhere, and people who are singled out on those flights tend to be people of colour. And I have one personal example of travelling with a friend, who's more British than I am, whose family goes back more generations than mine do, who was singled out for a check with UK Border Force and asked all sorts of insulting questions and detained for about 45 minutes, purely based on her colour.³⁸

There were also negative experiences of extensive questioning of EU26 nationals by UKBF when arriving on international flights into Belfast airports. This has included questioning about a person's level of fluency in English, current living or working arrangements, family and other matters, and has involved the separation of friends and family members. We heard that these practices on EU nationals were not experienced before the referendum – and were occurring despite ongoing freedom of movement in the EU at present. It is difficult to see how some of the questioning can be considered as verification that EU nationals are exercising treaty rights. We heard testimony that some EU26 nationals are now avoiding Belfast airports and instead flying back in to Dublin - in the words of one respondent to "avoid being treated like shit."

Operation Gull, Operation Bi-Vector and port and border controls

Our engagement with officials as part of this research appeared to indicate that there was little clarity or planning from government for any specific border arrangements following

Brexit. In relation to existing operations, the Home Office and UKBF are involved in the aforementioned 'Operation Gull' targeting irregular migrants in the CTA.³⁹ In response to a question from Nigel Dodds MP in April 2018 on the future operation of Operation Gull, the government stated that no discussions had yet been held by the Home Office with Northern Ireland authorities as to the future of this operation after Brexit.⁴⁰ The media have reported around 800 detentions under Operation Gull in the first year following the Brexit referendum; along with political and academic calls for its discontinuation due to the concerns over the use of racial profiling.⁴¹ To an extent, some UK immigration controls have already been 'subcontracted' to Ireland;⁴² although future use of such powers on EU26 nationals would likely come into conflict with EU free movement rules.

The main concern is therefore that this emergency-type 'counter terrorism' power may be being misused for routine immigration purposes.

A further strategy for CTA policing is Operation Bi-Vector; a PSNI C3 (intelligence branch) UK-wide counter terrorism operation within the CTA routes. There is little information available about it. That said, there have been concerns raised about the use of Port and Border Control powers

of examination under Schedule 7 of the Terrorism Act 2000 (TACT). This refers to the extensive powers of questioning that can be exercised in Northern Ireland by PSNI, Immigration and Customs officers at ports and airports or the 'border area' (a mile-wide strip of land around the land border).⁴³ The concerns here are in the context of a current high use of the powers in Northern Ireland (12,479 times from 2013-2016) without a single resultant detention under TACT.⁴⁴ The current Independent Reviewer of TACT powers, Max Hill QC, refers to his predecessor David Anderson QC's assessment of the Northern Ireland pattern as 'remarkable' and worthy of further investigation. The PSNI subsequently highlighted to the Policing Board that whilst none of the persons examined under Schedule 7 were detained under TACT for over an hour, not all were released as they were of interest and referred to other agencies such as immigration and HMRC.^{45 46}

Furthermore, despite the assurances of 'no checks' in the CTA, legislation (the Counter-Terrorism and Border Security Bill) has now been introduced into Parliament which would grant a further unfettered 'no suspicion' power of examination of persons crossing the land border – purely to ascertain if they are crossing the border. Like the Terrorism Act 2000 it includes powers to request a passport or other identity document. This is being presented as a 'border security' rather than immigration measure, and government denies any relationship with Brexit.⁴⁷

In country controls – intensifying the hostile environment

One can conclude that ... an EU citizen travelling through Dublin post-Brexit, travelling north, will do so just as they do today. ... but there would have to be, you would've thought, a different process of in-country checking when they would attempt to register for any service or ... employment. And it seems that a lot of, a lot of these things I think will end up with a risk-based approach ...⁴⁸

The use of ‘in country’ controls to regulate migration is alluded to in the UK Brexit position paper on Ireland and Northern Ireland. In relation to future plans for immigration controls, it sets out that *‘controlling access to the labour market and social security have long formed an integral part of the UK’s immigration system.’*⁴⁹ This reference is in the background context of the ‘Hostile Environment’ measures, introduced under the 2014 and 2016 Immigration Acts which involve the ‘subcontracting’ of duties to police immigration to numerous public sector and private actors. This subcontracting has raised serious concerns regarding racial discrimination and other resultant human rights abuses that became common knowledge through the ‘Windrush’ scandal.⁵⁰ Not all the measures have been rolled out yet in Northern Ireland, but the logic of Brexit would extend such measures to EEA as well as non EEA nationals – a prospect that has raised alarm at the Westminster Home Affairs Committee alluding to the existing policy causing ‘errors and injustices’ and unnecessary distress.⁵¹

There is a risk that reliance on ‘in country’ controls will be even more pronounced in Northern Ireland, given that advocates of further migration controls view the region as a potential ‘back door’ to the UK following Brexit.

There is a risk that reliance on ‘in country’ controls will be even more pronounced in Northern Ireland, given that advocates of further migration controls view the region as a potential ‘back door’ to the UK following Brexit.⁵² One interviewee, a senior legal practitioner, argued that such an approach had caused distress, dislocation and homelessness for families in Britain and would be:

... an absolute disaster for anyone who has any belief in human rights, civil liberties, in the peace process, in anti-discrimination. ... [in Great Britain] they introduced this notion of backdoor security checks by landlords and employers etc which is one of the things being suggested by part of the frictionless border, that you move the checks into the private sector ... one of the things that strikes me, you are firstly ... going to have a situation where there are a number of categories of people who are all going to be treated differently, within the law. The law will be mandating discrimination ... You’re then transferring law enforcement to non-law enforcers...⁵³

In the course of our research we heard testimony from EU migrant workers in Northern Ireland regarding (to adopt the terms used by the Home Affairs Committee) errors and injustices and unnecessary distress that the existing hostile environment measures have already caused them.⁵⁴ This includes significant problems and costs in relation to interacting with banks and accessing public services where entitlements are increasingly questioned. We have consistently heard that the situation has deteriorated since the 2016 referendum. Again, it is not always clear as to whether such changes are the result of formal policy changes or attitudinal changes among decision-makers. The Northern Ireland Affairs Committee in its report on the border has called for clarity as to the intentions for in-country controls, and for such checks in Northern Ireland not to be any more onerous than those in Great Britain.⁵⁵

The Government’s response to the Committee’s recommendation stated, in June 2018, that it was ‘carefully considering a range of options’ for a future UK immigration system

and ‘initial plans’ would be set out in coming months.⁵⁶ Whilst such proposals are still awaited, references however to increased ‘intensification’ of the hostile environment measures under the 2014 and 2016 Acts are already explicit in other official documents. For example, the ‘Forward Look’ section of the Organised Crime Task Force (Northern Ireland) 2017 ‘*Annual Report and Threat Assessment*’ states:

*Immigration Enforcement will seek to fully exploit all the measures in the Immigration Acts 2014 and 2016 to tackle illegal immigration; the team in Northern Ireland was the first in the UK to convict an individual (rather than an employer) for the offence of illegal working.*⁵⁷ (emphasis in original)

Notably there is nothing in the report that would indicate this conviction – for three persons working in a restaurant – related in any way to organised crime. The immigration section of the Organised Crime report also alludes to Immigration Enforcement continuing its work with UKBF and An Garda Síochána “in conducting intensification campaigns to tackle cross border and wider immigration crime”.⁵⁸ There are therefore clear indications that within the Home Office there is a desire to “fully exploit” the hostile/compliant environment measures. To date however it is unclear which form this will take.

Conclusion

Although the border issues have yet to be settled, ‘taking back control over the borders’ was one of the key messages in the referendum campaign and something of which Theresa May has been a strong advocate. Very little elaboration of how exactly control over borders will be ‘taken back’ in relation to freedom of movement of people in and out of Northern Ireland has however been set out. At the moment, we know that ‘routine’ passport controls in the CTA have officially been ruled out by the British government, but what exactly ‘non routine’ border controls will look like remains to be defined. If such controls involve the continuation or expansion of Operation Gull-type operations or other ‘selective checks’, then we would express serious concern at the risks of racial profiling. There are particular risks associated with the unexplained high use of terrorism act powers for what may be routine immigration purposes and a lack of records being kept with PSNI referrals to the UKBF. Similarly, if immigration controls are to be increasingly pursued through the use of ‘in country’ controls as part of the discredited hostile environment, there are serious risks of further discrimination. As outlined above, BrexitLawNI heard a number of examples of migrants being denied or having serious difficulty accessing essential public services.

If Brexit does lead to a greater role for the UK Border Force, which is not accountable to the Policing Board and has limited accountability to the Police Ombudsman, the accountability gap is widened. ... this also raises questions regarding the British government’s commitment to the Patten architecture.

In recognition of these issues, it is therefore imperative that all ‘border security’, freedom of movement, and immigration policing strategies are rigorously evaluated from a human rights and equality standpoint – with particular attention to racial profiling and discrimination. Further, the government must ensure that adequate forms of accountability are in place to adequately respond to potential cases of discrimination

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Notes

- ¹ Members of the BrexitLawNI team – a collaborative ESRC-funded research project between the Law Schools of Queen’s University Belfast and Ulster University, and the region’s leading human rights organisation, the Committee on the Administration of Justice (CAJ). The project examines the constitutional, conflict transformation, human rights and equality consequences of Brexit. For more, see www.brexitlawni.org
- ² HL Deb 25 April 2018, vol 790, col WA1609
- ³ CAJ, Statement made by Jules Gnezekora (30 April 2018).
- ⁴ ‘Theresa May says 95% of Brexit deal is done’ *BBC News* (22 October 2018) www.bbc.co.uk/news/uk-politics-45938444
- ⁵ TF50, ‘Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland and the European Union and the European Atomic Energy Community’ (19 March 2018) ch III and Arts 3-9
- ⁶ ‘Chapter II, Movement of persons, Article 2, Common Travel Area: 1. The United Kingdom and Ireland may continue to make arrangements between themselves relating to the movement of persons between their territories (the “Common Travel Area”), while fully respecting the rights of natural persons conferred by Union law. 2. The United Kingdom shall ensure that the Common Travel Area and associated rights and privileges can continue to operate without affecting the obligations of Ireland under Union law, in particular with respect to free movement for Union citizens and their family members, irrespective of their nationality, to, from and within Ireland.’ TF50 (n 47) ch II, art 2
- ⁷ Theresa May, ‘Our Future Partnership’ Speech (2 March 2018, Mansion House London) blogs.spectator.co.uk/2018/03/theresa-mays-our-future
- ⁸ For example, the DUP ‘Northern Ireland Plan’ included among their ‘wants’ from Westminster: “proper border controls and a tougher immigration policy” see DUP, ‘The Northern Ireland Plan’ (2015) 9 www.mydup.com/publications/view/the-northern-ireland-plan
- ⁹ Immigration Act 1971, s 1(3). The CTA is not as wide-reaching as the Schengen area arrangement elsewhere in the EU that has abolished internal borders in favour of a single external border and has common rules and procedures for short stay visas and other matters. During the Brexit process there has been increased talk of the ‘associated reciprocal rights of the CTA’, this present article however focuses on the CTA as a passport free zone.
- ¹⁰ The Home Office set out their policy intention that: ‘There will be no fixed document requirement for the land border for CTA nationals [British and Irish citizens] ... [but] ... individuals who are unable to satisfy the [UK Border Agency] that they are CTA nationals will be subject to investigation in the same manner as in land detections’. Correspondence to the NI Human Rights Commission from Lyn Homer, Chief Executive, UKBA (9 October 2008) cited in NIHRC ‘Submission on the Borders, Citizenship, and Immigration Bill for the House of Lords Second Reading’ (11 February 2009) footnote 18
- ¹¹ See, CAJ ‘One Big Border? BREXIT and passport and Border Controls in Northern Ireland - A Briefing Note for the House of Lords Report Stage of the EU Withdrawal Bill’ (April 2018) caj.org.uk/2018/04/25/one-big-border-brexit-passport-and-border-controls-in-northern-ireland-a-caj-briefing-note-for-the-house-of-lords-hl-report-stage-debate-on-the-eu-withdrawal-bill-april-2018/
- ¹² These figures, the majority of which relate to persons suspected of routine immigration offences rather than crimes, were nevertheless included in an organised crime annual threat assessment report. See Organised Crime Task Force, ‘Annual Report and Threat Assessment 2016’ DoJ NI (June 2016) 13 www.octf.gov.uk/Publications/OCTF-Annual-Report-And-Threat-Assessment/OCTF-Annual-Report-Threat-Assessment-2016

- ¹³ In one high profile case supported by the Equality Commission, the Home Office settled a case (for £2000 without admission of liability) brought by a British woman who was stopped at Belfast City Airport by an immigration officer. The victim, who was not even a passenger but was dropping off a relative in the airport, reports she was told by the immigration officer she had been singled out as she 'looked foreign and not from here'. In her view she was stopped because she is black. See BBC, 'Belfast City Airport: Black woman "stopped for looking foreign"' BBC News (20 July 2016) www.bbc.co.uk/news/uk-northern-ireland-36846314
- ¹⁴ *Dokie v DPP*, [2010] IEHC 110, See 'Section 12 of Immigration Act 2004 not constitutional, judge finds' Irish Times (16 May 2011) www.octf.gov.uk/Publications/OCTF-Annual-Report-And-Threat-Assessment/OCTF-Annual-Report-Threat-Assessment-2016. These changes occurred at a time which could be characterised as Ireland's own 'Brexit moment' when a referendum changed the basis of birth rights to Irish citizenship on the island of Ireland from a *jus soli* (place of birth) to a *jus sanguinis* (dependent on parentage) approach, which itself led to a reinterpretation of the B/GFA.
- ¹⁵ See Irish Human Rights Commission, *IHRC Observations on the Immigration, Residence and Protection Bill 2008* (March 2008) part III, para 8 www.ihrec.ie/ihrc-observations-on-immigration-residence-protection-bill-2008/; NCCRI 'Submission to the Joint Committee on Justice, Equality, Defence and Women's Rights: Immigration, Residence and Protection Bill 2008' (March 2008) para 4 cited in NI Human Rights Commission 'Submission on the Borders, Citizenship, and Immigration Bill for the House of Lords Second Reading' (11 February 2009) para 30
- ¹⁶ For the former see, for example, comments by Sinn Féin MEP Martina Anderson that '[it] is not acceptable that we have any kind a physical infrastructure emerging in Ireland because it does challenge the Good Friday Agreement' (BrexitLawNI, Interview, 16 February 2018) for the latter see Lord Empey and Jeffery Donaldson MP's reaction to this position by the UK Prime Minister at a Speech in the Waterfront Hall in Belfast in July 2018 in Stephen Gamble, 'Seamless Irish border not specified in Belfast Agreement: DUP' *Newsletter* (23 July 2018)
- ¹⁷ HM Government, *Northern Ireland and Ireland Position Paper* (16 August 2017) para 20 assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/638135/6_3703_DEXEU_Northern_Ireland_and_Ireland_INTERACTIVE.pdf
- ¹⁸ HL Deb 25 April 2018, vol 790, col 1610WA
- ¹⁹ See, in particular, 2003 Joint Declaration of the British and Irish Governments, Annex 1, paras 6-9
- ²⁰ BrexitLawNI, Interview with Christopher Stalford, DUP MLA (Belfast, 7 February 2018).
- ²¹ 'A new beginning: Policing in Northern Ireland: The Report of the Independent Commission on Policing for Northern Ireland' (September 1999) cain.ulst.ac.uk/issues/police/patten/patten99.pdf
- ²² 'Implementation Plan issued by the British and Irish Governments (UK-Ireland) Agreement 2001' (1 August 2001) para 8
- ²³ This was particularly the case with the Home Secretary who had sought to legislate to introduce the National Crime Agency (NCA) into NI in a manner which bypassed accountability of the Policing Board. In response, the operational policing powers of the NCA were blocked in NI for around a year by the NI Assembly. It was only following a U-turn conceding accountability to the Board that the legislation passed at the Assembly, albeit in a controversial fashion. For further details, see 'Explanatory Memorandum to the Crime and Courts Act 2013 (National Crime Agency and Proceeds of Crime) (Northern Ireland) Order 2015' (2015) www.legislation.gov.uk/ukdsi/2015/978011128299/pdfs/ukdsiem_978011128299_en.pdf and regarding the controversy over the LCM see Colin Harvey and Daniel Holder, 'The Great

- Repeal Bill and the Good Friday Agreement – Cementing a Stalemate or Constitutional Collision Course?’ UK Constitutional Law Blog (6 Jun 2017) ukconstitutionalaw.org/2017/06/06/colin-harvey-and-daniel-holder-the-great-repeal-bill-and-the-good-friday-agreement-cementing-a-stalemate-or-constitutional-collision-course/
- ²⁴ Baroness Suttie, ‘UK Visas and Immigration: Northern Ireland: Written question - HL7341’ (26 April 2018) www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2018-04-26/HL7341/
- ²⁵ Connla Young, ‘Concern at recruitment of 300 new Border Force Officers’ Irish News (19 December 2018) <http://www.irishnews.com/paywall/tsb/irishnews/irishnews/irishnews/news/brexit/2017/12/19/news/concern-at-recruitment-of-300-new-border-force-officers-1214183/content.html>
- ²⁶ When advertised, the posts had initially been restricted to British citizens only and sought previous military or police experience, this was subsequently removed in the first then second exercises. However, the removal of the experience criteria led to a separate judicial review at which the UKBF agreed not to make any appointments from the recruitment exercise. They also committed to applying consistent criteria across the UK, regardless of the differences in anti-discrimination law. See Alan Erwin, ‘Court annuls 2018 Border Force staff drive’ *Belfast Telegraph* (20 October 2018) www.belfasttelegraph.co.uk/news/northern-ireland/court-annuls-2018-border-force-staff-drive-37438822.html
- ²⁷ Following the defeat of Westminster legislation in 2008 (which would have permitted internal UK CTA controls), the approach of the UK and Irish governments has been one of ‘convergence’ of immigration systems, including examination of ‘joint standards of entry’. This is set out in more detail in a 2011 Joint Ministerial Statement – see ‘Joint Agreement between Ireland and the United Kingdom regarding cooperation on measures to secure the external Common Travel Area border’ (20 December 2011) www.inis.gov.ie/en/INIS/Pages/Joint%20Agreement%20between%20Ireland%20and%20the%20United%20Kingdom%20regarding%20cooperation%20on%20measures%20to%20secure%20the%20external%20Common%20Travel%20Area%20border; In 2015, further to these arrangements the UK and Ireland issued their first British-Irish mutual CTA visa recognition scheme whereby a visitor visa for Indian and Chinese nationals for the UK or Ireland would also be valid in the alternate jurisdiction, see UK Visas and Immigration, ‘British-Irish visa scheme’ (10 December 2015) www.gov.uk/government/publications/british-irish-visa-scheme/british-irish-visa-scheme
- ²⁸ For example, see the Letter from Prime Minister Theresa May to President Donal Tusk (29 March 2017) p 5, which triggered Article 50, where reference is made to wanting to maintain the CTA
- ²⁹ HM Government, Northern Ireland and Ireland Position Paper (16 August 2017) para 20 assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/638135/6_3703_DEXEU_Northern_Ireland_and_Ireland_INTERACTIVE.pdf
- ³⁰ TF50, ‘Joint report from the negotiators of the European Union and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 TEU on the United Kingdom’s orderly withdrawal from the European Union’ 19 (8 December 2017) paras 49-51
- ³¹ *ibid*, para 54.
- ³² The Joint Communiqué of the GFA-mandated British Irish Intergovernmental Conference on the 25 July 2018, makes general reference to future bilateral cooperation in the context of BREXIT, with proposals to be considered at a future meeting of the Conference, there is however no specific reference to the CTA. See, Cabinet Office, Northern Ireland Office, The Rt Hon Karen Bradley MP, and The Rt Hon David Lidington CBE MP, ‘Joint Communiqué of the British-Irish Intergovernmental Conference 25 July 2018’
- ³³ HL Deb March 2018, vol 789, cols WA1675-7

- ³⁴ HL Deb March 2018, vol 789, col WA1703
- ³⁵ HL Deb 25 April 2018, vol 790, cols WA1606-8
- ³⁶ HL Deb 25 April 2018, vol 790, col WA1609
- ³⁷ See for example, Connla Young, 'Lawyer alleges he is victim of "racial profiling"' *Irish News* (7 May 2018) www.irishnews.com/news/northernirelandnews/2018/05/07/news/lawyer-alleges-he-is-victim-of-racial-profiling-1322941/
- ³⁸ BrexitLawNI, Interview with Anonymous Interviewee 1 (4 December 2018).
- ³⁹ Operation Gull has been a cross-border operation since 2003. It involves the Garda National Immigration Bureau, and is known as 'Operation Sonnet' in the Republic of Ireland, where there were around 140 resultant detentions between 2015-2017 see Claire Daly TD, 'Written Question 225' Dáil Éireann (5 December 2017) www.oireachtas.ie/en/debates/question/2017-12-05/225/
- ⁴⁰ Nigel Dodds, 'Immigration Controls: Northern Ireland: Written Question - 136699' (19 April 2018) answered by Caroline Nokes MP, 24 April 2018 www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-04-19/136699/
- ⁴¹ Kevin Mullan, 'Calls for suspension of ongoing 'racist' Operation Gull initiative' *Derry Journal* (2 June 2017) www.derryjournal.com/news/calls-for-suspension-of-ongoing-racist-operation-gull-initiative-1-7988713
- ⁴² For example, under Irish law there are powers to refuse entry or arrest without warrant a person lawfully in Ireland if officers think they may try and enter NI without lawful authority See: Immigration Act 2004, s4(3)(h) where persons can be refused entry at e.g. Dublin Airport by an immigration officer if they think they intend to travel (whether immediately or not) to NI (or Great Britain) and would not qualify for admission there. See also s78(c) International Protection Act 2015 (amending the Immigration Act 1999) which allows the arrest without warrant of a person subject to a deportation order if the officer thinks they might leave the State and enter another without lawful authority.
- ⁴³ Terrorism Act 2000, sch 7
- ⁴⁴ The usage is many times greater than its proportionate number of passenger journeys compared to GB, where the powers in recent years have resulted in between 1,522 and 1,760 TACT detentions annually. Max Hill QC, 'The Terrorism Acts in 2016: Report of the Independent Reviewer of Terrorism Legislation on the Operation of the Terrorism Acts 2000 and 2006' (January 2018) para 5.17 terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2018/01/Terrorism-Acts-in-2016.pdf
- ⁴⁵ *ibid*, paras 5.17-5.18.
- ⁴⁶ Baroness Suttie, 'UK Visas and Immigration: Northern Ireland: Written question - HL7341' (26 April 2018) www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2018-04-26/HL7341/
- ⁴⁷ James Rothwell 'Home Office's Stop and Search Proposal for Irish border risks return to Troubles era say critics' *Daily Telegraph* (11 August 2018) www.telegraph.co.uk/politics/2018/08/10/home-office-plan-northern-ireland-stop-search-zones-sparks-fears/
- ⁴⁸ Senior Official interviewed by BrexitLawNI
- ⁴⁹ HM Government (n 30) para 33.
- ⁵⁰ For information on the Windrush Scandal see, www.theguardian.com/uk-news/windrush-scandal
- ⁵¹ "We are very concerned at the possibility that the hostile environment could be extended to include EEA nationals and apply to an estimated three million more people living legally in the UK without any evidence that the policy is working fairly and effectively. This has the potential to create further errors and injustices, which we have already seen causing unnecessary distress, and to increase the administrative burden on individuals, employers

and landlords, without any evidence that the system works” Home Affairs Select Committee, ‘Home Office delivery of Brexit: Immigration’ (7 February 2018) para 122 publications.parliament.uk/pa/cm201719/cmselect/cmhaff/421/421.pdf

⁵² See, for example, Dominic Yeatman, ‘The Brexit backdoor to Britain: Fears over “free entry” at Ireland border’ *Metro* (17 August 2017) www.metro.news/the-brexit-backdoor-to-britain-fears-over-free-entry-at-ireland-border/712428/

⁵³ BrexitLawNI, Interview with Senior Official (26 October 2017).

⁵⁴ In February 2018, BrexitLawNI with NGO and trade union partners and the Stronger Together network held a major conference on the implications of Brexit for migrant workers in NI - a report from which is pending.

⁵⁵ “We recommend the Government sets out in detail how it proposes to apply existing, or whether there will be new, internal immigration controls for EU nationals. In the Committee’s view, the residents of Northern Ireland should not be subject to more onerous documentary checks to determine entitlement to stay and to access public services and the labour market than anywhere else in the UK. It must also establish the resource implications of conducting checks on people away from the border” Northern Ireland Affairs Committee, ‘The land border between Northern Ireland and Ireland’ (16 March 2018) para 31 publications.parliament.uk/pa/cm201719/cmselect/cmniaf/329/329.pdf

⁵⁶ House of Commons and Northern Ireland Affairs Committee, *The land border between Northern Ireland and Ireland: Government Response to the Committee’s Second Report* (15 June 2018) publications.parliament.uk/pa/cm201719/cmselect/cmniaf/1198/1198.pdf

⁵⁷ Organised Crime Task Force, *2017 Annual Report and Threat Assessment* (6 February 2017) p 18 www.octf.gov.uk/OCTF/media/OCTF/documents/articles/publications/OCTF-Annual-Report-2017.pdf?ext=.pdf

⁵⁸ *ibid.*

Negotiating Invisible Borders: *Minority identities and Northern Ireland*

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During the conflict in Northern Ireland, minority ethnic populations remained small and generally hidden. From 2000 onwards, more people from other places have come to Northern Ireland to live and work. This article looks at how people coming from elsewhere have encountered a society divided by conflict and their acceptance in a contested land. Having crossed international borders, the article examines how people settling in this geographical space encounter different frontiers – both seen and unseen – and how they are viewed through the prism of the conflict.

Introduction

The geographical space that today constitutes Northern Ireland has traditionally been one where people have left to go to other places. While net outward migration reduced significantly in the 1960s, the balance did not tip to net inward migration until the 1990s, peaking in 2006-7 and reducing again. Estimates suggest that around 32,000 more people were in Northern Ireland in 2014 than in 2000 due to international migration.¹

On Census Day 2011, 1.8% of the population identified as belonging to a minority ethnic group, which, while more than double the proportion from 2001, still left Northern Ireland as the least ethnically diverse region of the UK.²

But this picture is complex. Defining who is and who is not from a 'minority ethnic' background is not an exact science, and 'international migration' would include people who might not regard themselves as minority ethnic at all. These nuances are important, as how people see themselves and how others see them have significant implications for people who have come to Northern Ireland to live.

There is also the indigenous Irish Traveller identity in Northern Ireland, although numbers are hard to officially establish, which is a reflection of the social and administrative distance from the rest of society that this group experiences.³ The specific experiences of Travellers – conflict or non-conflict related – will not be discussed here.

This article draws on two pieces of research. The first was carried out by the South Tyrone Empowerment Programme (STEP) in 2009, looking at how minority ethnic and migrant worker populations encounter the phenomena associated with the conflict in Northern Ireland.⁴ The second relates to field work undertaken in 2015 as part of a project investigating whether power-sharing systems designed to manage conflicts between specific communities exclude 'other' identities.⁵ Both projects sought to address the question posed by this article: How do people from outside Northern Ireland encounter the social and political landscape shaped by the conflict in Northern Ireland?

Social frontiers

Decisions around moving to a new country entail many difficult choices and people come to Northern Ireland for many different reasons: for safety, for family reunification, for a better life, but mostly for work. The key considerations for arrival in the host country address fundamental questions: Where will I live? How will I get to work? Will I manage with my level of language ability? Where will my children go to school? How much will everything cost? The answers to these questions follow a logical continuum: Accommodation will be the cheapest and most appropriate for my family circumstances that is close enough to where I work; my children will go to the nearest school; etc.

The difficulty is that in a divided society, these apparently straightforward decisions have meanings in the context of the conflict. The most affordable accommodation will be located in poorer areas and many of these areas will be associated with one community or the other. In addition, such areas will have been disproportionately affected by the conflict, which impacts on how people coming into an area are viewed – ‘friends or foes?’ – and in many cases, there will be a degree of territoriality, i.e. who owns what ground and who lives there.

When the key focus is on practical issues associated with moving to another country, there is no reason why such subtleties should be known in advance. Indeed, many people coming for work know very little about the context into which they were arriving: a third of people surveyed in the STEP research thought they were coming to Britain and 38% did not realise there was an international border between the north and south parts of the island. The reality is that many people arriving in Northern Ireland are oblivious to the realities of the conflict legacy until it affects them directly, or someone – accurately or inaccurately – tells them about it.

The unseen and unstated conflict-related process in relation to people whose origin is not from Northern Ireland is one of appropriation or, more commonly, rejection. Individuals arrive as rounded beings with complex identities, but are viewed one dimensionally through the prism of the conflict. This phenomenon is common to conflicts, described as ‘mediated’⁶ or ‘insular’ reality,⁷ where people involved in conflict over a period of time interpret the world through subjective, conflict-related reference points. This unidimensional perspective works in two ways: firstly, outsiders can be seen as interlopers on the ground that has been hard fought for, which is ‘ours’; secondly, the identity of outsiders is allocated according to established conflict markers, with assumed ‘Protestant’ or ‘Catholic’ designations.

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One feature of this process has been that a large proportion of people coming to Northern Ireland, particularly in the immediate post-2004 period, have been perceived as Catholic. Regardless of levels of religiosity in home countries, social mores connected with speaking about one’s religion or even whether a person actually professes a Protestant or Catholic faith, identities such as Polish (and by extension, other eastern Europeans), Filipino/a, Portuguese, etc., are assumed to be Catholic and are therefore attributed to one

particular side of the conflict. In the main, newcomers in many Loyalist areas are therefore treated with some suspicion, in extremis, they are threatened or attacked until they leave the area they are deemed not to 'belong' to.

That racism has become associated with Loyalism has been explained by some that racism is a product of colonialism and that Loyalists are the heirs of British colonialism in Ireland and therefore by definition racist.⁸ This view considers that sectarianism is merely a form of racism born of British colonialism.

Sectarianism has traditionally referred to conflicts between two religious entities, usually of the same religion, such as Sunni and Shi'a Islam, or Protestant and Catholic Christianity. In Northern Ireland (and Scotland), this has become a community or political marker, rather than one of theological disagreement. Racism is the belief that humanity is divided into distinct 'races' and that there is a hierarchy, usually with white people at the top and various shades of darker skin towards the bottom. Popular in the late 19th and early 20th Century, this view of humanity has been thoroughly discredited.

John Brewer undertook to compare sectarianism and racism.⁹ Structurally, there are a great many similarities. He also observed key differences. One is that the racist relies on physical appearance to identify a victim. In sectarianism, you have to know something about the person you want to attack, because it is not immediately obvious. The other is that the identity in relation to sectarianism is not fixed, but can be changed. In the Balkans under the Ottoman Empire, avoidance of official discrimination of Christians could be overcome by (at least nominal) conversion to Islam. Put another way, the England footballer Wayne Rooney carries a marker of his Irish descent through his surname, but there is no question that he would be subject to sectarian prejudice. Had his ancestors been black, he would still be a target for racism.

The point here is that, while there are similarities between the two, sectarianism is related to the conflict and racism is a far more extensive and universal issue, so both require different policy approaches. If the conflict were no longer there, sectarianism would have no place, but racism would still remain. The two have been conflated in Northern Ireland due to the appropriation of other identities into the conflict paradigm. That is not to say that sectarianism is any less severe than racism to the victim, only that the two differ in nature.

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The association of Loyalism with racism has also been couched in conflict terms. Not only is there a perception that minority ethnic identities would not be safe living in Loyalist areas, but they are actively discouraged from doing so. The STEP research confirmed that Loyalist areas were perceived to be more racist, but there was also ample evidence of minorities living safely in Loyalist areas and of racism in Republican areas. There was no clear or simple correlation to evidence the perception that other identities would be safer in Republican areas than in Loyalist areas. The notion of racism itself has been sectarianised, but the reality is far more complex, and there requires to be considerably more understanding of the dynamics of Loyalist communities to establish what is actually occurring within them.

Beyond direct encounters with the reference points of the conflict, people coming to Northern Ireland contend with subtle behaviours learned over years of potential danger. This has been perceived as dislike, as 51% of respondents to the STEP survey agreed that 'people in Northern Ireland appear very friendly but really they do not like foreigners'. This perceived polite distance could be attributed to the forces of conflict compounding community identity as a safety mechanism, leading to people feeling more comfortable with homogeneity.

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These influences of the conflict on newcomers are not universal: many do not encounter such things, whether because they are not the experience of all or because they are simply not noticed. Equally, many people from other parts of the world find integration easy and interaction with people in Northern Ireland unproblematic. It should also be said that, in general, people do not experience racism any worse in Northern Ireland than in many other places. It could be argued that as a legacy of

the conflict there are structures in place that mean violence is more manifest: the recourse to violence has been a mode of political expression during the conflict and there are organised groups of people in communities who utilise violence and the threat of violence as *modus operandi*.

Fundamentally, while not the experience of all people who come to work and settle in Northern Ireland, having crossed international borders to get here, there are unseen borders that are less obvious and remain hidden until they are stumbled across, sometimes eventually explained in no uncertain terms or enforced through violence or the threat of violence. This is part of the residue of the conflict in Northern Ireland.

Political Frontiers

One indicator of the extent of integration of an immigrant or migrant population is in political representation. There has been one minority ethnic Member of the Legislative Assembly (MLA) since 1998, Anna Lo, who sat for the Alliance Party 2007-2016. There has also been minority ethnic or migrant representation at local council level: at the time of writing, Vasundhara Kamble in Lisburn and Castlereagh council and Oksana McMahon at Newry and Mourne council. However, one minority Member in the history of the Assembly and two out of 462 councillors cannot be said to be representative.

While it can be argued that minority identities are under-represented in all (or rather, most) legislatures,¹⁰ this is more prevalent in Northern Ireland. This can be explained by the dominance of the conflict paradigm in political life. The conflict in Northern Ireland is generally regarded as ethno-national in nature and political systems in the transition from ethno-national conflict – at least, democratic ones – tend to reflect the identities of the groups in contention.¹¹

The research on politics and minority ethnicity in Northern Ireland in 2015 found that people coming to Northern Ireland or those from minority ethnic backgrounds living in Northern Ireland perceive that issues relating to the conflict take precedence over other

matters in political life. The ordinary, everyday policy considerations that affect everyone, regardless of background, and issues directly affecting minority communities have been subordinated to the constitutional question.

Engagement with politics by members of minority communities is said to be low due to two factors: firstly, because the mainstream political environment concerns itself with the Nationalist/Unionist divide, minority identities feel that matters that concern them are marginalised and are therefore put off from politics in Northern Ireland; secondly, the electable face of Unionists and Nationalists has to resemble the community being represented. In an ethno-national political context, being of a different ethno-nationality is a barrier.

But involvement is uneven depending on ethnic background, and while the view is that minorities are less engaged in political processes such as voting, lobbying and political party membership, the evidence is ambiguous. Nationality restrictions apart, there is no indication that minority ethnic voting is lower in Northern Ireland than in the rest of the UK.

... political institutions that are intended to manage opposing identities through a form of power-sharing or consensus necessarily exclude identities not associated with the conflict.

Another claim is that the design of the political system creates ethno-national exclusivity in societies in the transition from conflict. The logic is that political institutions that are intended to manage opposing identities through a form of power-sharing or consensus necessarily exclude identities not associated with the conflict. The challenge is that they squeeze out the middle ground in favour of political parties that are part of the special arrangements to make the government work.

In the case of Northern Ireland, it pays to be Unionist or Nationalist, because the system is designed for Unionists and Nationalists to share power. The reference points of the conflict become the primary focus of political life. More than this, parties then benefit politically from contending with parties from their own community background to show that they represent their community better, in a process referred to as ‘ethnic outbidding’.¹²

It is unclear to what extent political systems in divided societies take on these characteristics due to the forces of conflict alone, or whether the design of political institutions solidifies and exacerbates divisions. Certainly, the evidence from the research is that such arrangements in themselves are not thought to foster diversity or the inclusion of ‘other’ identities.

Mechanisms to include minority ethnic groups have been tried in post-conflict political institutions elsewhere. In Kosovo, which is of a similar size and population to Northern Ireland, ten seats are reserved for named minority groups in the 120-seat Assembly.¹³ This gives these groups representation that is disproportionate to the demographic make-up of Kosovo, but means that their participation has more potential impact. Such a system also falls foul of the charge that it solidifies ethnic identity and leads to the institutionalisation of ethnic parties. But it is an example of how the issue is acknowledged

and how non-conflict related identities are being considered in political structures in the transition from conflict.

Co-opting other identities into a conflict-aligned system is clearly not the answer. The reality is that people settling in Northern Ireland are faced with a polity that at first glance is expected to deal with the everyday issues of health and education needs, social policy, economic development or infrastructure, but is tinged with the traditional divisions of the conflict. From the outside, the choice is to either refrain from engaging in a system designed for someone else, or else to play the sectarian game and take a 'side', provided that side is willing to let you play with them.

It would be wrong to say that politicians in Northern Ireland are not interested in issues for minority ethnic communities. All are united to condemn racism and intimidation. The promotion of other cultures is seen as a positive thing for Northern Ireland. But fundamentally, minority ethnic communities do not have much voting power and the opportunities to demonstrate conflict-related ethno-national credentials are few. As with negotiating social borders, the sense from the research is that of 'thus far, but no further' in the political sphere also. Such issues simply do not matter enough to compete with the constitutional issues.

Negotiating frontiers

Borders abound in Northern Ireland. There is an international border between the north and the south parts of the island which, unless one is paying attention to road signs and markings, is generally undefined (unless Brexit changes all that). People coming from other parts of the world, whether to live, stay briefly or to just pass through, can easily fall foul of the two different immigration regimes in the two different jurisdictions, as people formally resident in Northern Ireland are generally oblivious to such restrictions when flying in or out of Dublin Airport or going on holiday to Donegal. All-island visas would partially solve this issue. But that is not what this article is about.

There are also borders between communities. Many of these, particularly in urban areas, are marked by flags, murals, painted kerbstones or memorials. Sometimes it must be bewildering to someone not from Northern Ireland to understand why a Palestinian or Israeli flag, or a French or Scottish flag, have political and social meaning in Northern Ireland. But many inter-communal boundaries are not marked. In rural areas, the dividing line might be the edge of a field or the bend in a road, which is just as much a psychological barrier as if it were a wall. But such borders only have significance to people not from Northern Ireland if they mark areas that will impact on their own safety.

Frank Wright wrote about 'ethnic frontiers',¹⁴ where two cultures exist in one space and neither is sufficiently dominant to absorb the other, but both are large enough to be perceived as a threat to the other. Unlike somewhere like South Africa, there is no obvious phenotype to rely on in distinguishing Catholic from Protestant, Unionist from Nationalist. Instead, there were myriad ways during the conflict that potential threats or potential targets were identified. These subtle indicators are still in use today, as they have been learned by necessity and are now unconscious and unspoken processes of habit. In poker, these are referred to as 'tells': the slight or subconscious actions of individuals that betray who they are, their intentions or how they feel. A picture of to whom you are talking is constructed from a set of casual assumptions.

On occasion during the conflict, such assumptions have been mistaken. How much more difficult would it be for someone who knows nothing of such signs to negotiate? That is not to advocate newcomers to learn the skill of establishing the community background of people from Northern Ireland. Rather, it helps to know what people here make of an outsider's identity, and it may also explain some of the apparent reluctance to engage beyond a certain level.

These are embedded social mores that are difficult to unlearn. Also, for many, there is still a conflict and such habits are still keeping people safe. But there is a far greater issue and that is the sectarianisation of others. Attributing personal characteristics of people coming from elsewhere to conflict-related reference points reduces them to a narrow version of themselves as human beings. People are viewed through a single window and their existence in all its diversity is reduced to whose side they are on.

But every person from Poland is not necessarily Catholic. And if they were, they might or might not have a view on whether Northern Ireland should be ruled from London, Dublin, Belfast or anywhere else. Those facts, were they of any great consequence to that individual or not, might not be anybody's business but their own.

More than pigeonholing individuals according to pre-determined conflict-related reference points, people coming from elsewhere have been mobilised as weapons of the latest phase of conflict in Northern Ireland. It is a process of demonstrating legitimacy, of proving that 'our' community is better than 'their' community. But demonising a community as 'racist' places the presence and identities of immigrant and migrant communities into the sphere of conflict. Such a process is unlikely to promote integration.

There is evidence from the research that newcomers are advised not to live in Loyalist areas, as they will not be safe. Indeed, there are also instances where statutory agencies have avoided housing people in such areas for the same reason. That is not to say that people should be sent to places where they are likely to come to harm just to be even-handed. But such decisions should be based solely on actual evidence that a particular family would be unsafe in a particular locality, regardless of the cultural background of people who live there. And if it were the case that individuals might be unsafe in a particular area – whoever they are – that is a matter for the community and statutory agencies to address, just as it would be for anyone whose roots are here.

Individuals fleeing conflict in the Middle East have been seeking refuge in Northern Ireland. For the most part, these vulnerable families have been welcomed with sensitivity and goodwill. For some, the sympathetic connection has been made between the experiences of conflict for individuals in Northern Ireland and the forces that have compelled people to leave Syria, for example. Refugees need to first know that they are safe. Secondly, they need to know that the needs of their families will be taken care of until such time as they are able to take care of their own. Thirdly, they will want to integrate into the communities in which they find themselves. What refugees do not need is to be weaponised in someone else's conflict.

The choice many newcomers crossing our borders have to make is which of the dominant community identities to integrate into, or to integrate into neither. That choice (if choice it is) will also be dependent on how receptive a given community will be to integration. In a society where the reference points of conflict are still a factor in many parts of social and

political life, this is a hard choice for people to make. There may be a place in society in Northern Ireland where people can go about their business, make rational choices and contribute to the community around them without conflict-related divisions affecting the dynamics of how such everyday activities happen. But sooner or later, the legacy of the conflict impinges on how these things happen.

Not everywhere in Northern Ireland is divided. But division is acutest in the least affluent areas. This suggests that dealing with the legacy of the conflict goes hand in hand with dealing with poverty and social disadvantage. Also, rich people can be just as xenophobic as poor people, but the pressures for resources are more harshly felt in areas of higher deprivation. There is also a strong correlation between deprivation and the presence of paramilitaries, who have direct and violent means for controlling communities, including deciding who belongs and who does not.

Dealing with the past has many elements to it. One of these elements is increasing efforts to address issues for communities that have suffered during the conflict and in some ways are still affected by organised groups of people who wield coercive power in those communities. The Executive Action Plan for Tackling Paramilitary Activity, Criminality and Organised Crime is intended to address this.¹⁵ But dealing with the legacy of the past is also about building a different future and new communities should have an equally important role to play in this process.

Crossing borders to settle in another country is a taxing business, with so many unknowns and challenges to overcome. There are additional unseen and unexpected borders for those coming to Northern Ireland that are a legacy of the conflict. While moving beyond conflict is a difficult and trying process, perhaps the concerns of the past (and for some, the present) do not need to be transferred onto unsuspecting others arriving in Northern Ireland to pursue a new life.

Notes

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- ⁸ Robbie McVeigh and Bill Rolston (2007), 'From Good Friday to Good Relations: Sectarianism, Racism and the Northern Ireland State', *Race and Class*, vol. 48, no. 1, 1-23.
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- ¹⁰ Black and Minority Ethnic (BME) MPs comprised 8% of those elected in the 2017 Westminster election: Lukas Audickas, Oliver Hawkins and Richard Cracknell (2017), *UK Election Statistics: 1918-2017*, House of Commons Briefing Paper CBP7529, p.29:
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- ¹¹ Jack Snyder (2000), *From Voting to Violence: Democratization and Nationalist Conflict*, New York: WW Norton and Co.
- ¹² Donald Horowitz (2000), *Ethnic Groups in Conflict*, Berkeley: University of California Press, p.346.
- ¹³ There are also ten seats reserved for Serbs.
- ¹⁴ Frank Wright (1988), *Northern Ireland: A Comparative Analysis*, Totowa: Barnes and Noble.
- ¹⁵ Tackling Paramilitary Activity, Criminality and Organised Crime - Executive Action Plan:
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Addressing their Needs and Contributing to a Better Future for Victims and Survivors: *The PEACE IV Victims and Survivors Research Programme*

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The PEACE IV Victims and Survivors Research Programme will directly inform the Commissioner's policy advice in a number of key areas of service delivery which will be timely in the context of the implementation of the different elements of the Stormont House Agreement – including the potential implementation of the new legacy mechanisms and the establishment of the new Mental Trauma Service (now referred to as the Regional Trauma Network). Meanwhile, with the development and implementation of the new phase of the *Strategy for Victims and Survivors* – the three research studies: *Review of Trauma Services; Trans-generational Legacy and Young People; and Effective Advocacy Services* – will inform the coordination of services for victims and survivors and others affected by the conflict's legacy. At the time of writing, the Research Programme is currently at the initiation stage, with two research teams appointed and a third team in the process of being appointed. Therefore this paper will focus on how each of the studies builds on existing knowledge and practice around the often complex and varied conflict-related needs of victims and survivors and the different strategic, policy and service orientated responses to address them. The paper will outline how the Research Programme will explore the continued impact of conflict-legacy issues on victims and their families including in the areas of psychological trauma, historical investigation and information recovery and wider trans-generational impact of the Conflict on children and young people.

Background to the Research Programme

In late 2017, the Commission for Victims and Survivors (CVS) asked a series of questions of the general population in Northern Ireland relating to the continued impact of the legacy of the Troubles/Conflict. 26% of the Northern Ireland population stated that they or a family member continues to be affected by a conflict-related incident. Meanwhile, 58% of the Northern Ireland population responded that it was either 'important' or 'very important' to deal with the past in Northern Ireland. Lastly, when asked about the negative impact of conflict-legacy issues on children and young people, 69% of the population in Northern Ireland believe that paramilitarism continues to negatively impact the lives of children and young people.¹ The responses to these and other related questions provide a useful population-wide perspective of the continuing impact of the legacy of the Troubles/Conflict on the lives and wellbeing of many individuals and families including our young people throughout Northern Ireland. Twenty years after the 1998 Belfast/Good

Friday Agreement, they also provide a stark and timely reminder of both the enduring and unresolved nature of dealing with our troubled past and continued complex challenges involved in doing so.

The Victims and Survivors Research Programme funded through the EU PEACE IV Programme is providing a significant opportunity to examine the continuing impact of the Troubles/Conflict legacy on victims and survivors and wider society in Northern Ireland and the Border Region of Ireland. The Research Programme is an element of the wider £13.4 million Victims and Survivors Programme funded by the PEACE IV Programme with the Victims and Survivors Service (VSS) as Lead Partner. The overall objective of the Programme is to ‘improve the health and wellbeing of victims and survivors’ and is focussed on targeting hard-to-reach and marginalised individuals and communities affected by the legacy of the Troubles/Conflict.²

The impact of the Troubles/Conflict and its enduring legacy on the relatively small population of Northern Ireland has been considerable with it effects far-reaching, inter-generational and deeply embedded within and between our communities and across wider society. In a sense this is not surprising when we consider that the legacy of the Troubles/Conflict has been an omnipresent and pervasive feature of life in Northern Ireland since the late 1960s to the present. As noted by Gallagher and Hamber, “violent conflict has occupied the politics, employment, residential space, public space, movement and social and cultural activities and this has had a profound psychological impact.”³ Further, when we consider that 20 years after the Belfast/Good Friday Agreement paramilitarism remains a part of the life of some of our communities and there has been no implementation of an agreed approach to dealing with the past it is a reflection of the intractable and contentious nature of the Trouble’s legacy.

The scale and complexity of meeting a range of often complex and enduring needs interlinked with the wider process of effectively tackling long-standing unresolved legacy issues is remarkable two decades after the Belfast/Good Friday Agreement.

The scale and complexity of meeting a range of often complex and enduring needs interlinked with the wider process of effectively tackling long-standing unresolved legacy issues is remarkable two decades after the Belfast/Good Friday Agreement. The Troubles/Conflict resulted in the deaths of 3,720 individuals between 1969 and 2006⁴ and inflicted a range of physical injuries estimated to have affected up to 100,000

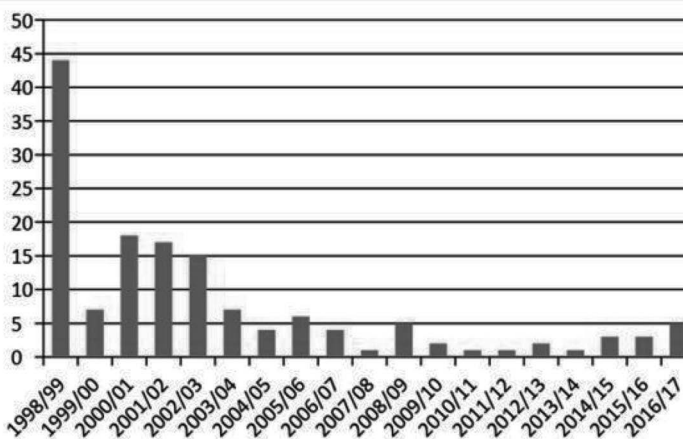
people.⁵ These figures include 267 fatalities that occurred outside of Northern Ireland including 121 conflict-related deaths in the Republic of Ireland.⁵ In terms of the prevalence of conflict-related experience in Northern Ireland and the Border Counties, Muldoon and Downes (2007)⁷ reported that 42% of their sample (comparable to the general population) had experienced a traumatic conflict-related incident. Of this sample, 10% of respondents met the criteria for posttraumatic stress disorder (PTSD) with double the prevalence of PTSD in Northern Ireland (12%) compared with the Republic of Ireland (6%).⁸ These findings echoed those in other studies⁹ and reflected in the figures in Table 1 that the level of conflict-related experiences resulting in deaths and injuries disproportionately impacted in certain areas of Northern Ireland including north and west Belfast.¹⁰

Table 1: Troubles/Conflict-related deaths¹¹

Location	Number of deaths
Belfast	1,687
Belfast West	(691)
Belfast North	(566)
Belfast South	(217)
Belfast East	(143)
Central	(70)
Armagh	520
Tyrone	359
Derry	358
Antrim	211
Down	206
Great Britain	128
Republic of Ireland	121
Fermanagh	112
Europe	18
Northern Ireland total	3,453
Outside NI	267
Overall total	3,720

Many individuals and families continue to suffer conflict-related bereavement and have sustained serious psychological and physical injury as a consequence of ongoing paramilitarism. Since the ceasefires, scores of individuals and their families have been the victims of bereavement and physical and psychological injury linked to loyalist and republican paramilitary activity. According to the PSNI, by April 2018 158 people had lost their lives from ‘security related killings.’¹²

Table 2: Security-related killings since 1998 (including the Omagh bomb)¹³



The range of ongoing paramilitary activity orchestrated by both dissident republican and loyalist groups continues to represent a serious threat to the lives and livelihoods of many individuals and families including children and young people across Northern Ireland. Threat perception can seriously affect the psychological health of many individuals suffering from conflict-related posttraumatic stress disorder (PTSD) and related conditions including clinical depression and substance dependency. Equally, in those areas where paramilitary threat, intimidation and violence is a regular occurrence of community life, these represent serious risk factors (among others) than can result in suicide (Mallon, 2017).¹⁴

PEACE IV Victims and Survivors Programme

The central aim of the PEACE IV Victims and Survivors Programme (2017-21) is to improve the health and wellbeing of victims and survivors. The Programme is focussed on supporting the needs of victims and survivors and their families across Northern Ireland and the Border Region of Ireland through the development, implementation and coordination of a number of new and innovative initiatives including:

- The establishment of a Health and Wellbeing Caseworker Network;
- The establishment of an Advocacy Support Network;
- A resilience programme to address the individual needs of victims and survivors, including level one and level two mental health interventions;
- Development of the capacity of the sector through training and development; and
- Victims and Survivors Research Programme.¹⁵

The rationale for the PEACE IV Victims and Survivors Research Programme is about furthering the three interrelated areas at the centre of the *Strategy for Victims and Survivors*, namely the development of high quality services delivering measurable improvements in the wellbeing of victims and survivors, dealing with the 'past' and building for the future. The Programme is also responding to the external political environment informed by existing government policy on victims and survivors and wider political negotiations including the different proposals agreed in the 2014 Stormont House Agreement. Lastly, in managing the Research Programme, PEACE IV funding has supported the Commissioner for Victims and Survivors in fulfilling her statutory duty to commission research concerning the interests of victims and survivors as set out in The Victims and Survivors (Northern Ireland) Order 2006.

The Stormont House Agreement

The Stormont House Agreement supported by the main political parties in Northern Ireland in December 2014 contains a series of proposals to deal with our troubled past and address the needs of victims and survivors of the Conflict/Troubles. The Agreement included a set of new institutions and mechanisms to potentially create a more effective approach to resolve complex issues relating to legacy investigations and information recovery and supporting the wider ambition of reconciliation in a society emerging from decades of conflict.

The Agreement also contained a number of recommendations to improve the wellbeing of victims and survivors. These included supporting a previous recommendation of the Commission for Victims and Survivors to establish a comprehensive Mental Trauma Service. Two other recommendations focussed on addressing the needs of victims and survivors is progressing work relating to the provision of a pension for severely physically-injured victims of the Conflict/Troubles and ensuring victims and survivors are given access to advocate-counsellor assistance if required. Interestingly, it is important to note that the Agreement advocated for the recognition of the needs of victims and survivors who live outside Northern Ireland.

Regional Trauma Network (Mental Trauma Service)

An important part of the new Regional Trauma Network¹⁶ currently under development will be the partnership arrangement between trauma-focussed psychological therapy services based within the Northern Ireland health and social care system and the VSS-funded victims' organisations presently delivering health and wellbeing support to individuals and families. This process is being strengthened by the appointment of five PEACE IV-funded Health and Wellbeing Case Managers located within the Victims and Survivors Service and 25 Health and Wellbeing Caseworkers based within the funded victims and survivors' organisations in community settings across Northern Ireland and the Border Region of Ireland.¹⁷ This collaborative, cross-sectoral partnership arrangement can provide the required resources, expertise and capacity to effectively address the mental and physical health legacy of the Troubles on individuals and families throughout Northern Ireland. The Regional Trauma Network is due to come into operation in early 2019.

Brexit

While each of the research studies will not particularly focus on the potential impact of Brexit, the wider social, economic and political impact of Brexit will create potentially challenging conditions for those affected by the legacy of the conflict, particularly in the Border Region of Ireland. On 10 October 2017, the Commissioner for Victims and Survivors presented at a seminar hosted by the Centre for Cross-Border Studies in Brussels. The focus of the seminar was to engage in discussion with a range of key stakeholders about the potential impact of Brexit on the island of Ireland including cross-border relations between Ireland and Northern Ireland. Commenting on the ongoing negotiations between the UK Government and the EU, the Commissioner stated that, "We need to see a settlement that does not in any way contribute to a heightening of communal tension in Northern Ireland and in turn play into the hands of elements who would wish to drag us back to the darker days of the past."¹⁸ Since the Commissioner made those comments, the uncertainty highlighted at the seminar around the increasing prospect of a 'no deal' Brexit has only intensified as we edge closer to the deadline of finalising the UK Government's withdrawal agreement. Of particular concern is the increasing resonance among senior security figures including the Chief Constable of the PSNI, George Hamilton in relation to the serious security consequences of Brexit and the impact on the Irish Border. In an interview for the *Sunday Times* (September 2018), the Chief Constable expressed his concern that the future of the Irish Border in the context of Brexit had almost become a peripheral issue for politicians at Westminster. According to the Chief Constable, "There's a feeling that as regards the Troubles and the conflict, Northern Ireland is sorted

and we don't need to worry about it, when actually we're working flat out 24/7 to keep a lid on it." ¹⁹ ²⁰

Clearly, the outworking of the final negotiated agreement between the EU and the UK Government will have significant implications for the social, economic and political life in Ireland and Northern Ireland in the years ahead. From a victims and survivors perspective and to quote the agreed position of the Victims and Survivors Forum, "the past must never happen again". With that in mind, it is imperative that the solution to the Border issue is resolved in a way that does not increase the likelihood of further violence in the Border area or anywhere else in Northern Ireland that has and continues to shoulder a heavy burden from the Conflict/Troubles.

Addressing the needs of victims and survivors

This section will also outline briefly the nature and where possible the scale of victims and survivors needs in the areas of health and wellbeing focusing on psychological trauma, historical investigation and information recovery and trans-generational issues and young people. The section will then detail how, through the wider PEACE IV Victims and Survivors Programme, funding is augmenting existing support and services to individuals and families through the establishment of a Health and Wellbeing Network and Advocacy Support Service.

Health and wellbeing

It is well documented how the legacy of the Troubles/Conflict has continued to have a profound and enduring impact on the mental health of victims and survivors and the wider population in Northern Ireland.²¹ An important conclusion of the Commission's *Comprehensive Needs Assessment (CNA)* published in 2012 was that health and wellbeing is a priority area of need for victims and survivors. Effectively addressing the psychological and physical health needs of victims and their families that secures a measurable improvement in their health and wellbeing remains a priority for the Commission and the Victims and Survivors Service as an important objective within The Executive Office's *Strategy for Victims and Survivors*.

The September 2017 Omnibus survey revealed that 26% of the population in Northern Ireland stated that they or a family member continued to be affected by a conflict-related incident. Of this figure, 6% stated that they had been psychologically affected and 3% had been physically injured by a conflict-related incident.²² This reaffirms findings from previous population-based research studies²³ that while a significant proportion of the local population have had a conflict-related experience, most individuals did not develop an adverse mental health difficulty. Conversely, a significant minority of those who have been exposed to conflict-related trauma have subsequently developed a mental health disorder and/or sustained a conflict-related physical injury. At the population level, the 2011 *Troubled Consequences Report* revealed that an estimated 8.8% of the Northern Ireland population had met the criteria for PTSD at some point in their life while 5.1% met the criteria in the previous 12 months. The report concluded that approximately 18,000 individuals met the criteria for 12-month PTSD that was associated with exposure to

conflict-related events. The study also discovered high prevalence rates of other mental health disorders including clinical depression, complex grief, self-harm and substance dependency. Meanwhile, a report produced by Breen-Smyth (2012)²⁴ commissioned by WAVE Trauma Centre detailed the complex set of needs of individuals who have sustained severe physical injuries during the Troubles/Conflict. This report highlights the interdependency of the impact of physical injury on the psychological state of the individual and their ability to function. The comprehensive study also refers to how the continued debilitating experience of pain management can have a negative effect on psychological wellbeing which can result in alcohol and/or drug dependency. Further, feedback from a substantial number of injured individuals and their families throughout the research reflected how many are concerned about their future economic and financial wellbeing, causing significant psychological stress that has been exacerbated by ongoing welfare benefit reform.

Historical investigation and information recovery

In 2012, the *Comprehensive Needs Assessment (CNA)* made the following observation in relation to the area of Truth, Justice and Acknowledgement:

For victims and survivors of the Troubles, Truth, Justice and Acknowledgement are intense matters concerning their personal experience of violation, loss and indignity. This is a fundamental Area of Need for victims and the most contentious. It concerns the victim's sense of place in society that can seem eager to get back to normality. It concerns the victim's relationship with those who hurt them in ways that were brutal and deep. For ageing victims and survivors, especially, these are urgent matters that do not allow for the luxury of time. Truth, Justice and Acknowledgement are important to the health and integrity of our whole society and its future.²⁵

Dealing with the Past is a complex and multi-faceted subject for victims and survivors and their families, with individuals having different aspirations and needs in seeking resolution to issues around truth, justice and acknowledgement. As the decades have passed following the conflict-related incident, subsequent generations of family members can become involved in the pursuit of seeking information, justice or accountability for the loss of their loved one. A particularly challenging and potentially distressing experience for families living with the legacy of the Troubles is linked to their engagement in ongoing historical investigation and information recovery processes. Families going through these processes have different needs in terms of truth or justice or both and for their pain and hurt to be acknowledged. All wish to find out more about the circumstances surrounding the death of their loved one(s). This can result in families experiencing a range of both positive and negative emotions that can be a source of comfort and reassurance but also frustration and at times

Dealing with the Past is a complex and multi-faceted subject for victims and survivors and their families, with individuals having different aspirations and needs in seeking resolution to issues around truth, justice and acknowledgement.

anger where they feel let down by the system. Consequently, many individuals and families living in Northern Ireland, the Border Region of Ireland and elsewhere will continue to require support and access to services including in the areas of advocacy and health and wellbeing in the years ahead.

Trans-generational issues and young people

Research conducted by the Commission²⁶ and elsewhere indicates that a section of children and young people growing up in post-Agreement Northern Ireland continue to be affected by the legacy of the Conflict/Troubles. A significant proportion of the adult population has developed a range of mental health problems linked to their conflict experience while research informs us that normal family interactions and potentially the psychological functioning of children can be detrimentally affected. The Commission's *Towards a Better Future* study (2015), revealed that approximately 15% or 213,000 adults in Northern Ireland have developed mental health difficulties as a consequence of their conflict-related experiences. The report revealed that the impact of the conflict's legacy is complex involving an interaction of many related factors with the potential inter-generational transmission of conflict-related experiences within families. These can be linked to a young person's exposure to conflict-related parental mental and/or physical ill-health, how parents communicate their experience of the Troubles to their children and maladaptive parenting due to the absence of protective normal parent-child interactions. Meanwhile, the social environment in which many children and young people are living in Northern Ireland is affected by poverty and deprivation and ongoing sectarianism while some

families are subjected to fear and intimidation and in some cases psychological and physical injury linked to paramilitary violence.

A key recommendation contained in the report is the development of a coherent strategy which focuses on supporting interventions with a view to the task of rebuilding a post-conflict community. Central to this strategy is the adoption of a two generation approach as a core principle ...

An important conclusion contained in the *Towards a Better Future* report was that the mental health legacy of the Troubles cannot be effectively addressed in isolation but requires a longer term strategic plan which includes comprehensively recognising and

tackling outstanding legacy issues, including their continued impact on children and young people. A key recommendation contained in the report is the development of a coherent strategy which focuses on supporting interventions with a view to the task of rebuilding a post-conflict community. Central to this strategy is the adoption of a two generation approach as a core principle where the focus is not only on the needs of specific generations but also on the relationships between them. This also involves the task of lessening the potential transmission of prejudice and parental conflict-related traumatic experiences allied to working collaboratively to tackle social, economic and political environmental issues including segregation, sectarianism and paramilitarism.

Current service provision addressing victims' and survivors' needs

Funding from the PEACE IV Victims and Survivors programme has introduced a number of significant new elements to the VSS Health and Wellbeing Programme, including the establishment of the Health and Wellbeing Case Manager and Caseworker Network. Integral to the Network are the five Case Managers who cover each of the Health and Social Care Trust areas. The Case Managers are responsible for key aspects of the assessment, coordination, implementation and effective delivery of the Health and Wellbeing Programme. This includes the application of a personalised approach to reviewing and improving the health and wellbeing of victims and survivors by facilitating support and interventions tailored to meet their needs and circumstances.²⁷

Working closely with the community-based Caseworkers, the Case Managers – as part of the Health and Wellbeing Network – engaged with over a thousand individuals requiring support and access to services in 2017-18.²⁸ While a number of these engagements facilitated referrals into the statutory sector including Family Support Hubs or Community Mental Health Teams, many individuals and families were referred to one of the health and wellbeing providers funded through the VSS Victims Support Programme. Currently of the 56 organisations funded under the Victims Support Programme, 22 offer access to psychological therapy, while 25 organisations are funded to offer complementary therapies.²⁹ According to the VSS in 2017-18, almost 1,700 (1,669) individuals accessed psychological therapy services across Northern Ireland. Overall 59% of individuals who engaged with a funded psychological therapist as part of the VSS Health and Wellbeing Programme experienced a positive outcome.³⁰ Meanwhile, of the almost 2,500 individuals who accessed complementary therapy services in 2017-18, around four out of five individuals report an improvement in their health and wellbeing, including with symptoms linked to anxiety, stress, back pain and depression.³¹

The Advocacy Support Network is another integral part of PEACE IV Victims and Survivors Programme that is augmenting existing Truth, Justice and Acknowledgement activities funded by the Victims and Survivors Service. The establishment of the new Advocacy Support Network comprises six Advocacy Support Managers and 21.5 (full-time equivalent) Advocacy Support Workers³² supported by nine organisations across Northern Ireland with a number of them also operating in the Border Region of Ireland. The purpose of the Network is to access high quality, practical support for individuals and families engaging in historical investigation and information recovery processes including conflict-related legacy inquests and police investigations. Support Managers and Support Workers liaise closely with other stakeholder organisations based in the statutory and non-statutory sectors as part of their Advocacy role. Also, they can link in with the Health and Wellbeing Caseworker network to ensure individuals and families have access to psychological support if required.³³

Building a Better Future for Victims and Survivors:

The three research studies

As highlighted earlier in the paper, 'building for the future' is an important action informing the approach to victims and survivors work identified within the *Strategy for Victims and Survivors 2009-19*. The other two interrelated areas identified within the Strategy are

'dealing with the past' and conducting the Comprehensive Needs Assessment (CAN). The CNA provided a rich source of analysis and advice that supported the development of services for victims and survivors through the Victims and Survivors Service that was established in 2013. Regarding 'dealing with the past', the current focus is around awaiting the outcome from the Northern Ireland Office *Addressing the Legacy of the Past* consultation and progressing the implementation of the legacy mechanisms. While there are significant issues to be addressed within the draft legislation, the enactment of the mechanisms based within the Stormont House Agreement represent probably the best opportunity to finally address the past for victims and survivors and their families.

Effectively dealing with the past and providing timely access to high quality services are clearly linked with the broader ambition of building a better future for victims and survivors and wider society in Northern Ireland and the Border Region of Ireland. Indeed, this is recognised by the *Strategy for Victims and Survivors* which states that, "there is a high level of interrelationship between all three areas and work needs to be taken forward in a coordinated manner which recognises this interrelationship."³⁴ The *Strategy* also highlighted the importance of deepening our knowledge and understanding of the inter-generational impact of the legacy of the conflict including the particular negative consequences on our children and young people.

Review of Trauma Services

The Review of Trauma Services will improve knowledge and understanding of the clinical impact of psychological therapy and other supportive trauma-related services in the treatment of conflict-related mental health conditions in Northern Ireland and the Border Region of Ireland. The study will explore the lived experience of individuals and families that have accessed trauma-focussed psychological therapy treatment and other supportive interventions to address their conflict-related psychological health issues. It will provide a timely and important opportunity to gain a unique insight into the views of service users before entering therapy, their experiences in accessing treatment and capturing their views on their outcomes in exiting their therapy. The study will also elicit the views of trauma counsellors and psychotherapists and managers working in the statutory sector and in funded community-based service providers working directly with victims and survivors.

The Review of Trauma Services will improve knowledge and understanding of the clinical impact of psychological therapy and other supportive trauma-related services in the treatment of conflict-related mental health conditions in Northern Ireland and the Border Region of Ireland.

Research findings and recommendations from this study will directly benefit the lives of victims and survivors across Northern Ireland and the Border counties. Given the recorded high prevalence of conflict-related mental health conditions including PTSD, clinical depression and anxiety as well as substance dependency in the local population this study will enhance existing and future therapy-based treatments for all service users. This will support many individuals and families who may require access to a range of trauma-focussed supportive interventions including therapy as they deal with the emotional

trauma of going through a conflict-related inquest or historical police investigation in the years ahead. Equally, individuals including children and young people who abhorrently become the victims of paramilitary violence through the loss of a loved one or as a consequence of a paramilitary-style shooting and/or assault could benefit from the findings of this study. In this sense, the Review of Trauma Services will assist the building of a better future for victims and survivors through its contribution to enhanced psychological trauma services in the statutory and non-statutory sectors and subsequently help reduce levels of conflict-related trauma at an individual, family and community level.

Trans-generational Legacy and Young People

The Trans-generational Legacy and Young People research project will investigate the continuing inter-generational impact of the Troubles/Conflict on the lives of children and young people aged 14-24 and their parents throughout Northern Ireland and the Border Region of Ireland. The study will broadly examine the nature and extent to which the lives of children and young people and their parents are affected by conflict legacy issues two decades after the Belfast/Good Friday Agreement. The study will adopt a 'two-generation' approach exploring and identifying the experiences and needs of current generations of children and young people affected by the conflict's legacy and their relationships with

The Trans-generational Legacy and Young People research project will investigate the continuing inter-generational impact of the Troubles/Conflict on the lives of children and young people aged 14-24 and their parents throughout Northern Ireland and the Border Region of Ireland.

older generations, many of whom have lived experience of the worst years of the Troubles/Conflict. Through applying a participatory approach to the research across different generations in urban and rural locations over a significant time period the study will analyse any changes in attitudes, perceptions and behaviours regarding the current and future impact of conflict-legacy issues.

This study will build on previous trans-generational research including the *Towards a Better Future* study that had a focus on mental health. It will do so by extending the focus on the social, as well as the health and wellbeing-related impact of legacy and trans-generational issues – within an investigation of the impact on the everyday lives of children, young people and their parents. Importantly, the study will advance our knowledge and understanding of the enduring trans-generational effect of the conflict's legacy through an analysis on three areas that impact heavily on attitudes, opportunities and experiences within and across generations – the family, community life and education.³⁵

Another important element of the study is the examination of the existing policy and programmes aimed at reducing the impact of conflict legacy issues and building a more stable and reconciled society in Northern Ireland and the Border Region of Ireland. This study will assess current, relevant departmental strategies and operational programmes including *Together: Building a United Community* (T:BUC) and the *Tackling Paramilitarism* Programme. This part of the literature review will be critically examined in relation to the views and experiences shared by young people, parents and community workers. In this regard, the study will further a key recommendation of the *Towards a Better Future* report;

adoption of a two-generation approach, understanding the needs of specific generations and the relationships between them of living in a society still emerging from conflict. In examining the key strategic and operational programmes through a victims and survivors perspective still affected by legacy issues, it can support the “rebuilding of post-conflict community with the aim of promoting the wellbeing and resilience, along with the social and economic life of individuals and families”.³⁶

Based on the recommendations informed by consultation with young people and parents, the study will contribute to the development of targeted activities funded under the PEACE IV Victims and Survivors Resilience Programme. The study can also support the work of Health and Wellbeing Case Managers and Health and Wellbeing Caseworkers in providing an important point of referral for young people and their parents directly affected by the conflict’s legacy. In working closely with young people and their parents, Caseworkers can build intelligence sensitively on the trans-generational health and wellbeing needs of victims and survivors living in affected communities.

Effective Advocacy Services

Similar to the other two studies, the Effective Advocacy Services research study provides an important and timely opportunity to explore the psychosocial impact of the Conflict’s legacy on victims and survivors in the wider context of the implementation of the Stormont House Agreement. The two-year qualitative study will examine the effectiveness of advocacy services for victims and their families in Northern Ireland and Border Region of Ireland accessing support in the area of historical investigation and information recovery.

... the Effective Advocacy Services research study provides an important and timely opportunity to explore the psychosocial impact of the Conflict’s legacy on victims and survivors in the wider context of the implementation of the Stormont House Agreement.

The project will benefit from and contribute to other elements of the PEACE IV Victims and Survivor Programme and the wider Stormont House Agreement. The routine collection of service user data by the VSS from the almost 500 individuals who have engaged with the Advocacy Support Service and the qualitative feedback from

individuals accessing other services in the area of Truth, Justice and Acknowledgement can inform the study. Equally, against the backdrop of the consultation on the legacy mechanisms and the possible establishment of new historical investigation and information recovery processes, the research has the potential to contribute to a victim-centred approach to dealing with the past. In reflecting upon the direct experiences of families involved in legacy inquests and historical investigations current and future agencies can consider integrating the learning from this research into their own engagement with victims and survivors. The project also provides a timely opportunity to examine the important role of the Advocacy Support Service and the Health and Wellbeing Caseworker Network in offering a package of support for victims and their families.

According to the Northern Ireland Office, the proposed Historical Investigation Unit will have a caseload of approximately 1,700 conflict-related deaths to consider for investigation. Meanwhile, there are around 50 outstanding legacy inquests with the Coroner’s service

relating to 94 deaths and there are currently 165 historical matters under investigation by the Northern Ireland Police Ombudsman, with a further 250 cases still pending.³⁷ The corollary of this analysis is that given the significant backlog of unresolved legacy cases spanning four decades, many generations of family members will potentially engage with current and/or future legacy bodies. An important element of the Effective Advocacy Services study is capturing the nature and extent to which there has been a trans-generational impact on families in their pursuit of truth, justice and acknowledgment relating to their conflict-related experience. To explore this theme further, the appointed research team will engage with families through focus groups and interviews. As part of the literature review, they will also consider the experiences of families that have or are currently going through historical investigative processes having accessed advocacy support and other related support services. These case studies may include families involved with Inquiries and investigations relating to the Hillsborough Football Stadium Disaster in 1989, Bloody Sunday in 1972 and currently Operation Kenova.³⁸

Concluding summary

The PEACE IV Victims and Survivors Research Programme is providing a timely and important opportunity to develop our understanding of the enduring impact of the Troubles/Conflict's legacy on victims and survivors in Northern Ireland and the Border Region of Ireland. As this paper has highlighted, the Research Programme is being conducted during a significant period politically and strategically in addressing the legacy of the past and the needs of victims and survivors. Collectively, the Research Programme will inform the future design and delivery of services in the statutory and non-statutory sectors for victims and their families in the areas of mental health and historical investigation and information. Equally, the studies will contribute to building a better future by delivering informed analysis and recommendations that can strengthen existing programmes and actions that are tackling complex and enduring legacy issues including paramilitarism and sectarianism. As the Research Programme progresses in the months ahead alongside other elements of the PEACE IV Victims and Survivors Programme and in the context of implementing the different measures within the Stormont House Agreement and Fresh Start Agreement, there will an opportunity to update this paper. The Commission for Victims and Survivors would welcome this opportunity if requested to do so.

Notes

- ¹ NISRA (2018) *Northern Ireland Omnibus Survey* (October/November 2017) - Commission for Victims and Survivors Module.
- ² Information provided by the Victims and Survivors Service in September 2018.
- ³ Gallagher, E. and Hamber, B. (2014) 'Addressing the Psychosocial Needs of Young Men: The Case of Northern Ireland' in *Psychosocial Perspectives on Peacebuilding*, Springer International Publishing: p.55.
- ⁴ McKittrick, D., Kelters, S., Feeney, B., Thornton, C. and McVea D. (2007) *Lost Lives: The Stories of the Men, Women and Children Who Died as a Result of the Northern Ireland Troubles*, Updated edition, Mainstream Publishing Company, Edinburgh.
Breen-Smyth, M. (2012) *The needs of individuals and their families injured as a result of the Troubles in Northern Ireland*, WAVE Trauma Centre: 9.
- ⁶ McKittrick, D., Kelters, S., Feeney, B., Thornton, C. and McVea D. (2007) *op.cit.*
- ⁷ Muldoon, O. and Downes C. (2007) 'Social identification and post-traumatic symptoms in post-conflict Northern Ireland', *British Journal of Psychiatry* 191: 146-49.
- ⁸ Cited in Bolton, D., (2017) *Conflict, peace and mental health - Addressing the consequences of conflict and trauma in Northern Ireland*, Manchester University Press: 82.
- ⁹ See Fay, M, Morrissey, M, Smyth, M. and Wong, T. (1999) *The Cost of the Troubles Study: Report on the Northern Ireland Survey: the experience and impact of the Troubles*, Derry-Londonderry: Incore. Also see Commission for Victims and Survivors (2011) *Troubled Consequences: A report on the mental health impact of the civil conflict in Northern Ireland*, University of Ulster/NICCT/Compass, October.
- ¹⁰ See Dorahy et al (2008) *The experiences and consequences of the 'Troubles' in North and West Belfast from the perspectives of those attending the Trauma Resource Centre*, Trauma Resource Centre, Belfast Health and Social Care Trust.
- ¹¹ McKittrick, D., Kelters, S., Feeney, B., Thornton, C. and McVea D. (2007) *op.cit.*
- ¹² Nolan, P., (2018) 'The cruel peace: killing in Northern Ireland since the Good Friday Agreement, 23 April.
- ¹³ Nolan, P., (2018) *ibid.*
- ¹⁴ Mallon, S. et al (2017) 'The role of intimidation in death by suicide in Northern Ireland', Presentation at the Knowledge Exchange Seminar Series (NI Assembly).
- ¹⁵ Information provided by the Victims and Survivors Service in September 2018.
- ¹⁶ In recent years, the Commission has continued to highlight the inequitable provision of trauma-related services for victims and survivors within the health and social care system in Northern Ireland. Given the significant level of conflict-related mental health needs among many individuals and families affected by their exposure to Troubles-related violence, there remains a very clear need for the implementation of a region-wide coordinated evidence-based response to the mental health needs of victims and survivors. The Commission therefore welcomed the inclusion of the recommendation for the establishment of a 'Mental Trauma Service' by local politicians in the Stormont House Agreement and the 2015 decision by the then Health Minister to develop the new service.
- ¹⁷ It should be noted that the PEACE IV Victims and Survivors Programme is currently funding access to Health and Wellbeing Caseworker provision in Great Britain.
- ¹⁸ Commissioner for Victims and Survivors (2017) *Presentation to the Centre for Cross Border Studies seminar in Brussels*, 10 October.

- ¹⁹ BBC (2018) 'PSNI Chief warning over post Brexit threat', 8 September.
- ²⁰ The security implications of Brexit was a central theme considered in a recently published policy report produced by BrexitLawNI – a collaborative research project between Queens University Belfast, Ulster University and the Committee for the Administration of Justice. Based on their research, including interviews with representatives of dissident republican groupings and reflecting the various statements by the PSNI Chief Constable in recent months, the report concluded that in the event of a 'hard Brexit', the Border will inevitably become a target for dissident republicans opposed to the peace process. – Harvey, C. et al (2018) *'Brexit and the Peace Process, Policy Report, BrexitLawNI: 4.*
- ²¹ See Chapters 3 and 4 in Bolton (2017) for an extensive, detailed overview of a range of research studies demonstrating the significant impact of the Troubles/Conflict on population mental health. Bolton, D., (2017) *Conflict, peace and mental health - Addressing the consequences of conflict and trauma in Northern Ireland*, Manchester University Press.
- ²² NISRA (2018) *Northern Ireland Omnibus Survey* (October/November 2017) - Commission for Victims and Survivors Module.
- ²³ O'Neill, S. et al (2015) *Towards a Better Future: The Trans-generational Impact of the Troubles on Mental Health*, Commission for Victims and Survivors: Ulster University.
- ²⁴ Breen-Smyth, M. (2012) *op. cit.*, WAVE Trauma Centre: 8.
- ²⁵ Commission for Victims and Survivors (2012) *Comprehensive Needs Assessment*, CVSNI, Belfast, February: 15.
- ²⁶ See O'Neill, S., (2015) *Towards a Better Future: The Trans-generational Impact of the Troubles on Mental Health*, Ulster University/CVSNI.
- ²⁷ Information provided by the Victims and Survivors Service in September 2018.
- ²⁸ *Ibid.*
- ²⁹ The term 'complementary therapy' is a title used for a diverse group of health related therapies which are not considered to be part of mainstream medical care. Therapies that have been or are currently funded by the Victims and Survivors Service include body massage, reflexology and aromatherapy.
- ³⁰ *Ibid.*
- ³¹ *Ibid.*
- ³² It should be noted that the PEACE IV Victims and Survivors Programme is currently funding access to Advocacy Support Caseworker provision in Great Britain.
- ³³ Last year, almost 500 individuals accessed the Advocacy Support Service across the nine funded organisations. It is envisaged that the number of individuals and families accessing the Advocacy Support Network will increase significantly in the months and years ahead with the follow up to the Northern Ireland Office's (NIO) *Addressing the Legacy of the Past* consultation and the potential establishment of new legacy mechanisms in the area of historical information and information recovery.
- ³⁴ The Executive Office (2009) *Strategy for Victims and Survivors*, TEO: 6.
- ³⁵ Information provided by the appointed research team from Queen's University Belfast.
- ³⁶ O'Neill, S., (2015) *Towards a Better Future: The Trans-generational Impact of the Troubles on Mental Health*, Ulster University/CVSNI: 106.
- ³⁷ See Northern Ireland Office (2018) *Addressing the Legacy of the Past – Consultation Paper*, NIO.
- ³⁸ Operation Kenova refers to the ongoing independent police investigation led by Bedfordshire Chief Constable Jon Boutcher into a range of activities linked to an individual codenamed Stakeknife. Information accessed electronically in September 2018 at: www.opkenova.co.uk

Our Future after Brexit:

Views of young people from Northern Ireland and the Republic of Ireland

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Introduction

Debate and commentary about the potential impacts of Brexit on the island of Ireland have rumbled interminably on over the past two years. However, while media coverage and political discussions have been dominated by issues of trade, border regimes, and financial settlements, there is a danger that the wider concerns of ordinary people have not received the same attention.

The voices of younger generations, in particular, have been largely absent, with public conversation dominated by business and political interests. Co-operation Ireland – along with other organisations – has been concerned at this gap, recognising that the aspirations of young people need to be listened to if the eventual Brexit settlement is to work for all sections of society.

In response, we created the *Together Apart* project to provide a platform for young people across the island to raise awareness of their views on Brexit and to highlight their priorities for the future relationship between the UK and the EU/Republic of Ireland.¹

While only a snapshot, the project provides an important insight into the hopes and fears of young people from North and South as the UK edges towards departure from the EU.

Drawing on participants' messages, the following were the main themes to emerge from the project:²

- Shaping the UK's withdrawal from the EU
- The Irish border and cross-border relations
- Young people's future opportunities
- Identity and citizenship
- Economy and EU funding

Shaping the UK's withdrawal from the EU

Give young people a voice

The clearest message emerging from the young people was that they wanted a say in the outcome of the Brexit process. Nearly all participants had been under 18 in June 2016 and those from Northern Ireland were therefore not eligible to vote in the referendum. There

was anger and a strong sense of unfairness among participants that this decision – which would have a crucial impact on their futures – had been taken for them by others. They were keenly aware that older people had been more likely to vote to leave the European Union, with some feeling that older generations cared less about the implications of Brexit as they would be cushioned from its effects.³

Most participants believed the only fair solution was to put the eventual withdrawal agreement between the UK and the EU to another public vote and, this time, allow young people aged 16 and over to take part. Participants pointed to the example of Scotland where young people 16 and older were allowed to vote in the 2014 independence referendum and can now vote in local government and Scottish Parliament elections.

An Informed vote

However, the young people argued that holding a second vote would not, in itself, be enough. If people are to be given a meaningful choice, they need to be provided with accurate and trustworthy information so they can weigh up the likely consequences of their decision. Participants felt strongly that the 2016 referendum campaign had seen a lot of misinformation. The claim on the ‘red bus’ that Brexit would allow an extra £350 million per week to be invested in the NHS was regularly raised.

The young people therefore called for a credible public information campaign to be delivered before any second vote. This should be accompanied by organised efforts to challenge ‘fake news’ and misinformation and to hold politicians and the media to account for false claims. They also called for youth-focused education programmes, including, for example, in schools, to help young people understand the issues and what they might mean for their lives.

Consider the interests of everyone in Northern Ireland

The young people were concerned that not only were youth voices being excluded but the interests of Northern Ireland as a whole were not being properly represented in the Brexit negotiations. Northern Ireland clearly faces specific challenges because of Brexit, being the only region of the UK with a land border with another EU state and continuing to deal with the legacy of the conflict. However, because of its small size, participants were concerned that its views were not getting a hearing in the wider UK debate. Also, with the suspension of the Executive, there is no one to formally represent Northern Ireland’s interests. They doubted if policymakers in Britain making decisions about Northern Ireland had a full understanding of the issues.

The young people were also concerned at the divisiveness of the Brexit debate in Northern Ireland. Differing opinions on the UK’s future relationship with the EU, and the best outcome for Northern Ireland, were deepening existing tensions between the Catholic and Protestant communities but also creating new divisions between young and old, between Remain and Leave voters, and between people born in Northern Ireland and migrants.

In response, the young people called on all political parties, including the DUP and Sinn Féin, to work together with the British and Irish governments to represent Northern Ireland’s concerns. They called for the Northern Ireland Assembly to be restored and argued it was time to get beyond looking at Brexit as an Orange and Green issue. They also believed that there needed to be a wider dialogue and consultation with people in Northern Ireland about Brexit to ensure everyone’s views are taken into account.

The Irish border and cross-border relations

Avoiding a hard border

The young people were very clear on the need to avoid a hard border on the island of Ireland. They feared that any return to a hard border would lead to renewed tensions and conflict between communities in Northern Ireland, damaging relations and risking peace. They also spoke of how a hardening of the border would disrupt people's everyday lives, creating delays and limiting opportunities. For young people in the border region this was a particular concern, with fears raised about the impact on people who have to cross the border regularly for work or study. Any restrictions on movement across the border were seen by some as a denial of rights enshrined in the Good Friday/Belfast Agreement.

The young people called for the Common Travel Area to be maintained. They also believed that given the unique circumstances of Northern Ireland, as a region emerging from conflict and – post-Brexit – the only region of the UK sharing a land border with the European Union, special arrangements should be agreed to keep the border open and protect the Good Friday/Belfast Agreement. They argued special arrangements were also justified because a majority of Northern Ireland voters in the 2016 referendum had voted to remain.⁴

Access to cross-border health services

More broadly, there was a fear that Brexit would lead to greater distance between North and South, damaging relations and creating barriers to working together. The young people highlighted the benefits of co-operation in the health sector, with examples including the provision of cross-border cancer treatment at Altnagelvin hospital in Derry/Londonderry and the delivery of children's heart surgery for the entire island at Our Lady's Children's Hospital in Dublin. Co-operation was seen as especially important in the border region as it meant local people had access to a wider range of health services. Participants also noted that accident and emergency services are provided on a cross-border basis and were concerned that any delays due to controls at the border could put lives at risk.

To address these concerns, the young people called for an agreement to maintain access to cross-border healthcare and for both governments to continue to work together to provide health services. Protection of the Common Travel Area would also ensure that people still have rights to healthcare when they move across the border.

While participants hoped that the border would remain open, they recommended that – if controls are implemented – special provisions should be put in place to ensure there are no delays for emergency services crossing the border. Suggestions included the creation of unrestricted emergency lanes at the border to avoid queues and barriers.

Studying across the border

The young people were concerned that, post-Brexit, it would become more difficult to apply to study across the border. Would they still be eligible to apply for support grants? Would they have to pay higher fees? If restrictions are introduced, young people across the island will have more limited education opportunities in future, including reduced course options to choose from.

In response, participants called for an agreement that young people from Northern Ireland and the Republic can continue to study in the other jurisdiction. This would include ensuring that students from across the border do not have to pay higher fees and remain eligible for support grants.

Cross-border crime

The young people feared that Brexit could impede cross-border cooperation between the PSNI and An Garda Síochána, leading to an increase in crime. In particular, they discussed how the UK's withdrawal from the European Arrest Warrant scheme could make it more difficult to arrest and return criminals who cross the border to evade justice.

They called on the UK and Irish governments to agree a replacement for the European Arrest Warrant and for the police services on both sides of the border to continue to work together.

Young people's future opportunities

Travelling and working in the EU

Throughout the project, the most common questions raised by the young people concerned the impact Brexit would have on their futures. In particular, participants from Northern Ireland wanted to know if they would have the same opportunities to travel and work in Europe as previous generations. The situation is currently unclear. When the UK departs from the EU, it will become a third country for travel purposes and is likely to join a list of 60 countries whose citizens can travel to the EU without a visa.

However, the EU is currently developing an electronic system to track travellers from third countries within the Schengen Area – the European Travel and Authorisation System. This will require nationals from visa-free countries to register and receive security clearance before travelling. It is unclear if the UK will be required to participate in the scheme.

The young people hoped that they would be able to continue to travel freely in the EU after Brexit but, if restrictions are put in place, they called for any visa/travel management scheme to be simple and user friendly. They cited the example of the US ESTA scheme which was seen to work well.⁵

Similarly, young people from Northern Ireland hoped that they would retain the right to work in the EU after Brexit. They recognised that the ability to work anywhere in the EU provided them with greater career options and access to wider employment opportunities than those available at home. However, if this is not possible, they called for an accessible and flexible work permit scheme to be put in place, including for working holidays. Successful schemes from around the world were again cited, including examples from Canada and Australia.

The young people highlighted how their opportunities to gain employment in Europe were supported by the current mutual recognition of qualifications between the UK and the EU. They discussed how having UK education awards recognised in EU countries widened their career options and increased the value of their qualifications. They called on the UK government and EU to agree ongoing mutual recognition of qualifications, with the UK

remaining part of the European Qualification Framework (EQF).⁶ They noted that non-EU countries such as Norway and Switzerland also participated in the EQF, suggesting this should also be possible for the UK after Brexit.

In order to support UK citizens travelling and working in Europe after Brexit, the young people also called for the UK to be allowed to continue to participate in the European Health Insurance Card scheme.⁷ They were very aware of the benefits of the scheme, which provides access to public healthcare when travelling in participating countries, and saw it as especially important for young people who might not otherwise be able to afford treatment. They called for the UK and EU to make an agreement which would allow their citizens reciprocal access to healthcare when in their territories. They noted that some non-EU members, including Norway and Switzerland, already participate in the EHIC scheme and believed this set a precedent for the UK to continue to take part post-Brexit.

Studying in Europe

Participants also felt strongly that they should continue to have opportunities to study in the EU, including through the Erasmus programme.⁸ They highlighted the value of student exchange experiences in helping to develop language skills and allowing young people to experience different cultures. This not only benefited individuals but was also good for the economy, with strong language and cultural skills needed by firms looking to export to EU markets. They also highlighted how the presence of foreign exchange students in UK universities enriched college life for all, introducing home students to other cultures.

Outside Erasmus, the young people also highlighted the benefit of having easy access to third level education in other EU member states. This provided students with a greater choice of courses and opportunities to study for qualifications which might not be available in their region.

However, it is currently unclear what opportunities will exist for UK students to study in the EU after Brexit. The UK government has committed to participating fully in the Erasmus programme until the end of 2020 but it is not known what will happen after this point. More broadly, students from the UK are currently treated as home nationals when studying in another EU country. They cannot be required to pay higher fees than nationals of the host country and are eligible for any grants to cover course fees available to nationals of that country. Fees for non-EU students are usually significantly higher. Again, it is unclear what level of fees UK students will be required to pay post-Brexit. Several participants in the discussions outlined how uncertainty over future fees had already led them to reconsider their university plans.

In response to their concerns, the young people called on the UK government to recognise the value of participation in Erasmus, both for individuals and wider society, and to make an agreement with the EU to allow continued participation in Erasmus post-2020. They believed this was a realistic demand as a number of European countries from outside the EU are already full participants in the programme, including Norway, Iceland, and Turkey. They also called on the UK and EU to agree that UK students would continue to be entitled to home national fees in European universities (with EU students entitled to similar treatment in the UK).

Identity and citizenship

Under the terms of the 1998 Belfast/Good Friday Agreement, people in Northern Ireland are entitled to identify as British or Irish, or both, and to hold both British and Irish citizenship.⁹ Those who choose to hold Irish citizenship will nominally remain EU citizens after Brexit.¹⁰ However, the young people were concerned at the practical implications of Brexit for Northern Ireland-born EU citizens. Would they remain full EU citizens or would restrictions be introduced? Would they still be able to access EU citizenship rights while living in Northern Ireland?

The young people were also aware of the potential of the UK's withdrawal from the European Union to create differential citizenship entitlements in Northern Ireland, with Irish citizens potentially enjoying greater rights (in an EU context) than those who choose to hold UK citizenship only. They worried that this could lead to tensions and create further divisions between communities.

In order to address these concerns, the young people called for the entitlement of Irish citizens in Northern Ireland to hold EU citizenship to be protected. They also called on the EU and the British and Irish governments to clarify how Irish citizens in Northern Ireland would continue to access the rights and benefits of EU citizenship after Brexit. The extent to which other residents of Northern Ireland – the majority of whom are entitled to Irish and therefore EU citizenship – can continue to enjoy EU citizenship rights also needs to be clarified. Most participants believed the fairest solution would be to continue to extend EU citizenship to all people living in Northern Ireland.

More broadly, some young people from a nationalist background discussed how they felt Brexit threatened their sense of identity as Irish nationals in Northern Ireland. Individuals spoke of being 'cut-off' from the rest of Ireland and of fears that, in practice, it would become more difficult to have their Irish citizenship recognised. For example, concerns were raised about restrictions being placed on the acceptance of Irish passports as a proof of identity. Individuals also raised concerns that human rights protections would be undermined in the UK after Brexit, with particular fears raised around workers' rights.

Economy and EU funding

Trade and investment

In general, the young people believed that Brexit would have a negative impact on the economy – in both Northern Ireland and the Republic. Participants worried that barriers would be created to trade – between North and South, Britain and Ireland, and the UK and the EU – and that Northern Ireland would no longer be an attractive investment location. There were concerns that existing businesses might leave, leading to loss of jobs. Young people from the Republic highlighted the reliance of some southern firms and sectors on the UK market and were concerned at the potential impact of any trading restrictions.

Individual participants saw potential opportunities in Brexit, with some believing it could lead to new trade agreements and more trade with countries outside the EU. Some argued that Northern Ireland could, if it retained easy access to the EU Single Market through

special arrangements, actually become more attractive for investors. It could potentially have the best of both worlds as a conduit between the UK and EU markets.

Migration

The young people also discussed the likely impact of the end of freedom of movement for EU workers. The majority believed this would damage the Northern Ireland economy, with migrants seen to boost economic growth. They called for the right of EU citizens to seek work in the UK to be maintained, at least in sectors with demonstrated labour shortages. However, there were some dissenting voices who argued Brexit created opportunities to establish more control over immigration into the country. They believed lower migration from the EU could reduce competition in the labour market, leading to more job opportunities for people from Northern Ireland.

Cost of living

Young people from Northern Ireland were also concerned about increases in the cost of living, with a weakened exchange rate leading to more expensive imports. Some feared that people would be less well off after Brexit and have a lower standard of living.

EU funding

EU funding has been a very important support for the economy and wider society in Northern Ireland.¹¹ The agricultural sector, in particular, is very reliant on EU support, with an estimated 74% of farm incomes derived from direct payments under the Common Agricultural Policy in 2015/16.¹² (EU Agriculture Commissioner, Phil Hogan stated in 2016 that 87% of Northern Ireland farm income depends on EU payments).¹³ During discussions, participants identified a broad range of social and economic benefits from EU schemes, including job creation, business growth, infrastructure development, local regeneration, and, under the PEACE programme, support for initiatives to improve relationships between communities.

The young people were concerned that these benefits would now be lost. In particular, they wanted to know what impact Brexit would have on the future funding of peace building and good relations activities. Would Northern Ireland continue to receive PEACE funding? They were also concerned that jobs reliant on EU funding would be threatened.

In response, they called on the UK government to replace any loss of EU funding for youth and community good relations activities, including through the development of new funding schemes. They also called for funding for existing projects to be continued.¹⁴

Public services

Beyond EU programmes, some participants had wider concerns about the future funding of public services. If the economy does not do well after Brexit, will there be an impact on the amount of money available for education and the NHS? What impact would it have on funding for youth and community services? Others worried about the reliance of the health service on migrant workers, fearing that restrictions on freedom of movement could lead to difficulties in recruiting staff.

Individual participants believed, on the contrary, that Brexit could strengthen public services, with the UK able to save the money it had been paying into the EU budget and invest it instead in health, education and other areas.

Conclusion

As the months countdown to the UK's scheduled departure from the EU, there is still little clarity about how Brexit will affect the island of Ireland. Based on discussions with participants in the *Together Apart* project, it is clear many young people from North and South are uncertain and fearful about the future. Despite reassurances from all sides in the negotiations that the peace process and Belfast/Good Friday Agreement will be protected, young people fear that Brexit will represent a return to the past, damaging relations and deepening divisions across the island. Young people in Northern Ireland are particularly concerned that the UK's withdrawal from the EU will negatively impact on their future opportunities, limiting their ability to study and work in Europe.

However, the key message emerging from the project is that young people want their voice heard. As the UK negotiates its withdrawal from the EU, there is an onus on policy makers in Brussels, London, Dublin and elsewhere to listen to these concerns and ensure that the eventual agreement fairly balances the needs and interests of all generations and sections of society.

Notes

- ¹ Over 60 young people, aged 16-18, from six groups across the island – five from Northern Ireland and one from the Republic – took part in the project. After initial workshops, the groups came together to share their views and worked to develop possible solutions to their concerns, with input from policy experts. The young people then developed a series of key messages which they have presented to politicians in Stormont and Leinster House. They have also helped produce a report which has been distributed widely to policy makers in Dublin, Belfast, London, and Brussels. The project was delivered with funding support from CFNI, Department of Foreign Affairs & Trade, Coca Cola Thank You Fund and a private donation.
- ² The views presented are those of project participants. Co-operation Ireland does not take a position on the UK's decision to leave the European Union, but believes it creates legitimate concerns for good relations and prosperity across the island. To address these concerns, we have argued for the final settlement between the UK and the EU to protect the Belfast/Good Friday Agreement, to avoid a hard border, to maintain and strengthen North-South and East-West relations, and to ensure the future economic and social well-being of border communities.
- ³ Across the UK, an estimated 71% of young people aged 18-24 voted to remain – compared to 64% of people aged 65 and over who voted to leave. Figures taken from YouGov, 2016, How Britain Voted - yougov.co.uk/news/2016/06/27/how-britain-voted/
- ⁴ The referendum result in Northern Ireland was 56% remain to 44% leave. See www.bbc.com/news/uk-northern-ireland-36616830
- ⁵ The Electronic System for Travel Authorisation (ESTA) requires travellers from visa-waiver countries to obtain prior approval before entering the USA. Authorisations are valid for up to two years and allow visitors to travel in the USA for periods of up to 90 days at a time.
- ⁶ The European Qualification Framework provides a common benchmark to enable comparison of educational awards across participating countries, supporting cross-border mobility of students and workers. Thirty-five countries, including seven outside the EU, have currently referenced their national qualification frameworks to the EQF. See www.cedefop.europa.eu/en/events-and-projects/projects/european-qualifications-framework-eqf
- ⁷ The European Health Insurance Card (EHIC) entitles citizens of European Economic Area countries (EU member states and Norway, Iceland and Lichtenstein) and Switzerland to free or reduced cost medical treatment in each other's countries. The scheme covers any medical treatment necessary as a result of an accident or illness which occurs while travelling. It provides access to state-run medical services, with holders treated the same as citizens of the country which they are visiting. See www.hse.ie/eng/health/az/t/travel-health/european-health-insurance-card-.html
- ⁸ The Erasmus + programme provides opportunities for young people across Europe – and beyond – to study, train, gain work experience and volunteer abroad. The current programme runs from 2014 to 2020, with a budget of €14.7 billion. At its core, the scheme supports third level students to study abroad for periods of between three and 12 months. The programme also supports youth exchanges, sports projects, and initiatives to support the transition of young people to employment, and provides opportunities for teaching and youth work staff to develop their skills and experience. All EU member states are full programme countries – meaning they can participate in all actions – along with Norway, Iceland, Turkey, Macedonia, and Lichtenstein. Other states in Europe and beyond can also participate in some actions as partner countries. See ec.europa.eu/programmes/erasmus-plus/about_en

- ⁹ Para 1 (vi) (Constitutional Issues) – '[the British and Irish governments] recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland'.
- ¹⁰ Under Art. 20 of the Treaty on the Functioning of the European Union (TFEU), 'Every person holding the nationality of a Member State shall be a citizen of the Union'.
- ¹¹ In the period 2007-2013, EU funding accounted for an estimated 8.4% of Northern Ireland's GDP – see Northern Ireland Assembly, 2015. *The Consequences for the Northern Ireland Economy from a United Kingdom Exit from the European Union*, Briefing Note (CETI/OU, 2/15)
- ¹² DAERA, 2017. *Farm Incomes in Northern Ireland 2015/16*.
- ¹³ www.bbc.co.uk/news/uk-northern-ireland-36248654
- ¹⁴ In October 2016, the Chancellor of the Exchequer guaranteed all funding contracts signed under EU schemes before the date of the UK's departure from the EU would be honoured, subject to value for money criteria and compatibility with domestic priorities.
www.gov.uk/government/news/further-certainty-on-eu-funding-for-hundreds-of-british-projects

Stories from an Ongoing conversation: *SCoTENS as a forum for sustaining cross-border cooperation for teacher education*

SCoTENS
THE STANDING CONFERENCE ON
TEACHER EDUCATION, NORTH AND SOUTH

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Introduction

Set in the broader global context of increasingly buttressed borders, on course towards Brexit and within the distinctive historic-political crucible of Ireland north and south, this paper examines the value created by a unique network of teacher educators from north and south of the Irish border which was first conceived following the Belfast/Good Friday Agreement (GFA) in 1998. Rejoicing in its distinctively unwieldy acronym, SCoTENS (the Standing Conference on Teacher Education, North and South) was set up to create a safe and welcoming space for teacher educators to come together and discuss issues of common interest, and to explore ways of co-operating closely together. It may be the only network of its kind operating across a contested border in the world.

Whilst its deepest *raison d'être* lies in peace building, SCoTENS' objectives are focused primarily on cross-border cooperation for the enhancement of teacher education. SCoTENS operates at a number of levels. It provides seed funding which supports collaboration between groups of teacher educators across two jurisdictions in designing, developing and implementing research projects. SCoTENS also organises an annual conference and a cross-border student teacher exchange. An important additional function of the standing

conference is to give a voice to teacher educators on the island and to a means of advocacy for the quality of teaching at all levels.

SCoTENS is funded by the Department of Education and Science (DES) in Ireland and by members' fees. (Prior to 2016, DES funding was matched by the Department for Education and the Department for the Economy in Northern Ireland, however as a result of financial pressures on government, no funding from the Northern Ireland budget has been available in the past two years.) The funding includes a remit for a part-time Secretariat based at the Centre for Cross-Border Studies, a vital organisational support as all other executive roles are carried out by volunteers in academia, as well as other agencies and organisations with an interest in the formation and development of teachers on the island. Members of SCoTENS and of its Steering Committee are drawn from the stakeholder institutions for teacher education across the island, including Higher Education Institutions, providers of Continuing Professional Development (CPD), curriculum and professional bodies, and teaching unions. This paper is jointly written by Steering Committee members and seeks to draw together the key ingredients for success. It draws on the voice of the membership which is primarily presented as stakeholder comments from a recent evaluation and also outlines some of the key challenges faced as Brexit approaches.

The origins and ongoing work of SCoTENS

SCoTENS is now in its sixteenth year and composing this paper offers a timely opportunity to speak to the ongoing work and value of the organisation as the twentieth anniversary of the Belfast/Good Friday Agreement (GFA) passes by. Its roots are in post-GFA discussions between the late Professor John Coolahan, then Professor of Education at NUI Maynooth (now Maynooth University) and Professor Harry McMahon, then Head of the School of Education at the University of Ulster (now Ulster University). These early plans laid the vision for what SCoTENS is and what it does.

After eight years, an evaluation of SCoTENS (Furlong et al, 2011) examined its continued relevance, image and impact. In addition, the team involved was tasked with investigating its sustainability in terms of its administrative mechanisms, whilst pinpointing potential future priorities. That evaluation was conducted using face-to-face and telephone interviews along with an online survey and documentary analysis. On the whole, the findings of the evaluation were very positive, notwithstanding SCoTENS' limited and sometimes uncertain funding stream as well as high dependence both on its body of volunteers and on a stretched Secretariat. The work of SCoTENS was deemed to be of great value. The reviewers considered that it provided unparalleled opportunities for the development of cross-border teacher educator networks, knowledge exchange and collegial practices. Further, it was thought that these would be at risk if the organisation ceased to exist. Participants also expressed an appreciation of how the existence of SCoTENS had uniquely contributed in a positive way to their personal growth, as well as to supporting and enhancing north-south relations. The report concluded that moving ahead in turbulent and changing times, SCoTENS would have to negotiate issues such as ensuring its continued 'reach' and putting in place mechanisms for succession planning and addressing inevitable financial pressures.

SCoTENS Stories: voices from an ongoing conversation

Since 2016 the SCoTENS committee has initiated and invested heavily in a second evaluation which is seen as both timely and necessary. This represents a systematic effort to prepare SCoTENS for a less-certain future than we might have hoped. The following sections draw on stakeholder quotes from this recent evaluation and provide a strong sense of the value of the cross-border learning which occurs within each of the three key components of SCoTENS' work. These are: the Annual Conference which has taken place every year since 2003; SCoTENS' North South Student Teacher Exchange, and the annual SCoTENS' Seed Funding Scheme for cross-border, inter-institutional collaborative research projects. During 2016 a considerable number of live-interview recordings were made of 'SCoTENS Stories', extracts from which are used below to give a flavour of these three areas of core activity and their impact on participants.

Annual conference

The SCoTENS annual conference is a key fixture in the education calendar on the island of Ireland. It provides a forum where teacher educators can engage in open, critical and constructive analysis of current issues in education with a view to promoting a collaborative response to these issues. In the past two years, a Doctoral Education workshop has been added to the programme which allows student researchers to present their work to their peers in informal seminar groups which each include one of the keynote speakers. Professor Etienne Wenger who spoke at the 2016 conference joined the discussion only after numerous selfies with somewhat awestruck participants. These individual SCoTENS Stories were collected from both doctoral researchers and individual participants at the 2017 annual conference.



SCoTENS Steering Committee members and Conference Speakers 2016

Back row: Dr Noel Purdy, Mr Tomás Ó Ruairc, Prof Etienne Wenger-Trayner, Prof Graham Donaldson, Dr Geraldine Magennis, Ms Ruth Taillon.

Front row: Dr Conor Galvin, Prof Teresa O'Doherty, Dr Maria Campbell, Prof Kathy Hall, Dr Pamela Cowan, Mr David Duffy and Prof Linda Clarke.

Conference participants saw the emergent community of practice as possibly the programme's most important feature – *an added value in recognising that there's a community of teacher educators out there ... (m, s).*ⁱ Another had worked with SCoTENS colleagues to produce *Learning Communities in Educational Partnerships* (Glen, Roche, McDonagh & Sullivan, 2017) which, as well as establishing a research community north and south, had paved the way for contact with other universities to disseminate their work further.

In terms of potential value, the experience of joining SCoTENS has been absolutely fantastic because last year my colleagues, with the research done in a collegiate way ... produced 'Learning Communities in Educational Partnerships' (Glen, Roche, McDonagh & Sullivan, 2017) describing research opportunities that were provided for ourselves and for others in schools in initial teacher education ... a little learning community and we were fortunate enough to have met Etienne Wenger at the last SCoTENS conference. He actually wrote the Foreword to our book. (f, s)

One participant said that her practice had been influenced because of the setting up of a network of educators/researchers across two jurisdictions, also referring to the fact that online features were enhanced by face-to-face experiences:

It has influenced [my practice] dramatically as co-founders of a network of educational researchers in Ireland and we're looking to use the ideas and the formats that SCoTENS has used in supporting the communications within the network. It's online as well as face-to-face, so the practices of face-to-face that happen in SCoTENS were invaluable to us. (f, s)

One respondent said that the realised value of SCoTENS had manifested itself by looking at how technology had been used in conference workshops, then using it in teacher education in respect of thinking, content, research direction and pedagogy. However, it was felt that such changes might be difficult to measure, and that they might sometimes be overlooked.

As an example of the changes in practice, I remember last year looking at the use of technology in workshops. I actually went to one [and] started using that technology in teaching, so I think this conference can influence your thinking about teacher education, it can influence your research direction and ... it can also influence things that you teach about in teacher education to student teachers and it can change how you teach the student teacher which I think is something that is really, really positive. (m, s)

Doctoral researchers valued the chance to produce publications through conference attendance – *really important to have this community approach ... (f, s)*. Professional relationships emerged through national and international networking, *exchanging views and finding commonalities [with] other doctoral participants (m, s)*.

The immediate value of the doctoral meetings was that participants could meet and engage with other doctoral students at different stages of their research, share feedback, experience collegiality and, hence, a sense of community. In one case, having a deadline to plan and present at the round table events provided a welcome stimulus to structure

their study. Thus, these activities and interactions between colleagues in teacher education, north and south, provided an experience of learning together.

I've only been here for a couple of hours, it's my first SCoTENS. I've already contacted two senior people at universities around the island of Ireland, one from [the north] and one in [the south], both of whom want to discuss some interesting research ideas with me, so it has already been valuable, and we're only starting the conference. (m, s)

We're only maybe two or three hours in, but I think what is very interesting is I'm having an opportunity to meet with professionals I would never come across in my day-to-day work. Already I've met with an EU Visiting Professor from Australia who had recently joined the Faculty in [a university in the south] ... also some of my colleagues who I'm studying with in [name of university], (f,s)

Referring to having transformed from teacher to researcher after a long interval and how SCoTENS had helped in this regard, one participant commented very positively:

It gave me a sense of confidence, and sort of a kick start to get going. It's very difficult to turn yourself from a practitioner of decades into a researcher and one who's sort of flying above, looking at what's happening. So the SCoTENS experience definitely helped me take that turn or make that transformation. (f, s)

This participant spoke very warmly of the community of practice afforded by SCoTENS, hoping to take further a project on which she had previously worked and exhorting the programme to continue:

The calibre of people that I have met, the cheerleading from the SCoTENS community has been amazing ... what I love about my second SCoTENS [is that] just in the first hour I've met somebody from my first SCoTENS who is 'me of last year', and I was the one doing the cheerleading and the confidence building, so keep doing what you are doing SCoTENS. It's definitely helping us ancient or latent researchers coming out of our shells. Thank you for everything! (f, s)

Cross-border Student Teacher Exchange

A second core element of the work of SCoTENS is the annual North South Student Teacher Exchange, funded by the Peace II Programme 2003-2008 and which has been funded by SCoTENS since then. Participating student teachers spend three weeks in colleges of education and on school placements in the other jurisdiction, with all travel and accommodation costs paid. Students on teaching practice during the Exchange are assessed by both the host college and their home college.

SCoTENS Stories were collected from students in cross-border pairings, all of whom rejoiced in experiencing different classroom settings that supported professional development. Confidence increased as they worked in a cross-border team, encountering different curricula and using new teaching skills acquired during the practicum. They found that their participation in the programme positively influenced the application of their practice within different education systems and were able to visualise how aspects might be replicated in their own teaching environment. They had mixed with, been challenged by and learned from another education system, experiencing different teaching

methodologies. The students felt that the experience generated greater confidence, self-belief and openness to making differentiated provision, as one student explained, *You're being pushed out of your boundaries.* (f, n).



Directors of Teaching Practice and participants meeting for Orientation Day at Marino Institute of Education.

The student teachers also provided several examples of how SCoTENS had influenced their practice. For instance, contrasts were drawn between their previous educational settings and students were appreciative of the fact that they had been given the opportunity to experience different regions, pupils, curricula, ethnic origins and languages. Reference was made by two interviewees from Northern Ireland to several significant differences in curricular emphasis across the two jurisdictions:

I feel in terms of planning, whenever we would look at our curriculum [in the north] it is very condensed, in that, there's maybe a certain amount of points you have to choose from and from that you make your own plans, whereas the southern one is very guided, everything is kind of there for you, so you read the various strands and you just go from that. (f, n)

... in the Republic it is very specific, and now the new English language one, or the new language in general for English and Irish hasn't been brought into all schools yet. It's only in the junior end, and we haven't done an awful lot of that, but from what I've read it's actually very similar to [Northern Ireland]. It's varied enough that you can explore without a theme or topics, and there is a chance there for a lot of, like, cross-curricular teaching which is something that isn't ... part of everyday teaching back in the Republic, and it's something that I feel I've experienced so much up here, I actually can't wait to go back down ... (m, s)

Two of the student teachers were keen to emphasise in their interviews that the programme had contributed greatly to cross-border relations and that they had been accepted and made welcome in schools from different education systems. One student teacher from the north, for instance, had been concerned that Irish was spoken in her placement school in the south, but in the end this did not pose a significant problem as a result of the practical support and reception offered by the school. Similarly, a Protestant student from the south was wholeheartedly received in a Catholic school in Northern Ireland, despite initial apprehension.

Definitely a brilliant experience especially with the schools, and the families we were staying with ... we couldn't have asked for better. We were so welcomed into their environment; the teachers were completely trusting and welcoming of all that we had to do. They helped us in any way that they could ... I was really scared about the Irish language barrier ... and the school did speak in Irish throughout the day, the signs around the school were in Irish, but I was so welcomed in. The programme made it really, really easy for me to feel accepted ... everybody knew what was going on, everybody was aware of the differences that would lie between us and stuff, but everyone worked together to make learning better. We were allowed to practise different things, and it was just the whole team building from SCoTENS, you know, ourselves, the school, just everybody involved in the programme definitely made it more beneficial and something that I'm so glad that I took part in. (f, n)

The difference SCoTENS has made to north and south ... getting us to the cross-border relations and working along with people we never thought we would have ... an incredible experience to go from something that you're so comfortable in your own environment for me in the Republic of Ireland, and then come up to somewhere where it's completely different. It shows that there [are] great relations there, that we can go and make new experiences. I am a Protestant who [visited] a Northern Ireland Catholic school, something I'd never thought I'd do, but I was completely welcomed throughout the process and was never made to feel any different. (m, s)

The comments of one of the other two student teachers from the south related to their perceived lack of knowledge of the history and culture of Northern Ireland and their lack of understanding of the reality of life during the 'Troubles' as a result of the sectarian divide. The comments also highlight the student's shock at the still visible signs of sectarianism in certain areas of the north, and the help he received from the teacher in his school in explaining what he had seen:

Coming from Dublin ... I had never been up to the North before and I had looked at the history and I wouldn't know an awful lot about it, just general, but I figured everything was pretty fine now and of course it is fine now. I was shocked when I came up and [my] school was in a very nice Church of Ireland area, but to get there you had to drive through a few areas that had a lot of murals ... one day I got the bus home by myself ... my teacher's father was a police officer during the time of all the Troubles and she was filling me in on a lot of stuff ... it really opened my eyes ... all the people from the Republic, a lot of us were the same, and it got us

chatting about it ... but it was something you don't realise is such a big part of being up here. (m, s)

Interestingly, this student not only recognised the learning which had taken place as a result of the exchange programme but also intended to pass on his new knowledge of the cultural differences he had experienced once back home:

There's a cultural difference as well. I know that when I go home a lot of my friends wouldn't be in college. They wouldn't ever have an opportunity to do something like this ... I'll tell them about coming up here and the positive experience that I've had ... it will open their eyes. (m, s)

Seed funding for research projects

A third core area of SCoTENS' work relates to supporting small-scale projects that have a cross-border nature, a focus on teacher education, and which offer the opportunity to do joint research that would otherwise very probably not happen. Each year, SCoTENS provides seed funding to support a number of such collaborative research projects in teacher education in Northern Ireland and the Republic of Ireland. To date, over 100 projects have been funded. Information about funded projects that are now complete (including downloadable reports) can be found on the SCoTENS website. The website also hosts a 'research dating service' which helps interested researchers on one side of the border to find project partners on the other side. The sums allocated are usually in the region of £3,000 - £6,000 (approx. €3,750 - €7,500). All proposals must be submitted by north-south partnerships. The two lead partners must be from institutions that are fully-paid up members of SCoTENS. The Seed Funding SCoTENS Stories were told in pairs.

Funding recipients saw the impetus to conduct cross-jurisdictional educational research, with immediate and longer-term benefits such as engaging in professional dialogue, learning from more seasoned practitioners, finding common interests, and instigating subsequent funding applications:

... for me as a fledgling researcher ... this was my first external funding application, my first funded project working with anybody. The fact that it was cross-border was a bonus ... the value of that, even in terms of my career has been enormous ... (m, n)

This was echoed by the southern partner:

[Our] project ... evolved organically. From that, we put in an application ... because the opportunity that we had to work closely on material that interested us both ... has been a real lynchpin of this project ... to bring together two perspectives which complement each other and, I think, our very strong pedagogical package. (f, s).

The financial support from SCoTENS allowed recipients to apply more confidently for external funding, to learn about the research process, and to disseminate practice beyond the classroom among the student community:

They're learning the protocols, the parameters, the methodologies and project management that we'd have done with those SCoTENS projects. (m, s)

Five funding recipients spoke of having the chance to work with more experienced researchers or else being able to learn from each other and, moreover, to do so for the greater good and in the longer term in respect of all educational levels. There was also the capacity to influence policy-making in both north and south.

... I could see the visibility of what SCoTENS could actually do in trying to harmonise or influence teacher education frameworks and practice on both sides of the border ... I've really enjoyed that ability to work with colleagues from the north ... reflecting on what we're all trying to do in terms of teacher education, initial teacher education and, ultimately, we're all working with the children for the benefit of them and future society ... I think we always hope that what we do can have an influence on policy, it can better influence practice, but SCoTENS money and research has been definitely a success and a win-win in terms of addressing policy ... definitely it has influenced policy in probably both jurisdictions. (m, s)

This last pair of research recipients recounted that a joint conference workshop they gave was 'the initial spark' for their subsequent funding application. The researcher from the north in this partnership commented further on the value that embraced not only sharing outlook and experience, but also 're-interpreting' and considering more deeply issues concerning teaching and learning:

When I think about the immediate value for me in all this ... it's been working with you, gaining your perspective and knowledge about support, changes, issues, positiveness ... and then kind of reinterpreting how I view it. For example, I can remember hearing this term 'funds of knowledge' that you brought into the presentation we did ... also carried on through the seminars from the expert speakers and into our final report from SCoTENS. I hadn't really heard this term ... I'd kind of taken on board the notion of recognition of heritage and culture, but I hadn't gone in at such a deep, cognitive level and I hadn't really explored it properly. I was more concerned with the pedagogy of the teaching and the learning and the techniques ... (f, s)

And I would agree with that wholeheartedly, coming at it from the other perspective and this is why I think that our approaches really complemented each other. I recently re-read the SCoTENS report that we submitted and I was reading through the case study ... you'd put in there ... there are such rich, pedagogical gems within that case study ... about the techniques and the pedagogical approaches. I think our different angles on this create a very rich picture for teachers. (f, s)

As another interviewee stressed, there was the additional value inherent in a more knowledgeable and competent researcher collaborating with a sort of fledgling researcher ... a tremendous benefit (m, n) with no prior experience, and to do so between Northern Ireland and Ireland with the resultant research outputs.

I mean the value of that, even in terms of my career, has been enormous, let alone the opportunity to work in these two really interesting and growing areas of interest within [our research topic], where we did some of the first research in Ireland on [this] and [another related area] and the law which is so timely as well.

This has had considerable impact, particularly in Northern Ireland, so I think there've been benefits for me, but also obviously in terms of the outputs. (m, n)

All respondents could identify actual or potential outputs from their SCoTENS research. Two were planning papers for peer reviewed journals, two had produced a digital resource *out of us working together (f, n)*, one already had an article published, and another had written a report. Another paired respondent spoke of *quite a few publications, outputs, disseminations ... contributions to conferences ... and we've shared on both sides of the border at special events ... college seminars [and] radio and TV interviews (m, s)* the research with his partner culminating in a book which had generated widespread interest.

... so being able to get that message out has been brilliant, and I think as you said there, we have sort of cornered quite a bit of that term [relating to the project] ... we've sort of made it our own ... quite a lot of conferences across Psychology, across Education and ... great scope from SCoTENS to publish [the research] as a book format, and to have it publicly launched as well as the conference. That was great in terms of being able to disseminate it at lots of different events we've had in [university in the south] where I've been able to leave two or three copies for people to pick up at each occasion. (m, s)

What also emerged was recognition that the researchers had been given the freedom not only to establish and develop sound professional relationships across different education systems in the two jurisdictions, or in one case to strengthen existing friendships, but their participation in joint projects had also fostered reflective practice in order to improve their teaching, including the sharing of perspectives and insights, generating new ideas, and raising personal profiles. The point was also made that a great deal had been achieved in respect of value for money since a relatively modest amount had been allocated to each project – *'the reach has been tremendous' (m, n)*, and that this was an argument of which Government should be aware.

These are very small pockets of money, but researchers like ourselves have been able to produce an incredible amount of output from that funding. (m, n)

Moreover, the research had *a social return on investment (m, s)* with a large number of students involved across two jurisdictions with differing education systems:

... a nice vignette of what was possible, and even the hundreds of students who took part in the research, what they learned from it, what they're taking into practice, what they're maybe then disseminating and discussing ... for a small amount of money that was governance light, we were able to just get on with the job ... in terms of what to do for practice and policy and there's not that many places in the world [with] that kind of a border where there's nuances between the education systems and practice. As I always say, geographically close is sometimes culturally different, but with a project like this, it is amazing what can be done. (m, s)

Another interviewee saw seed funding as bringing transformation in the broader context, that is, beyond the practice of participants, pointing to the achievement of his collaborative research reaching the headlines in Northern Ireland, and moreover, making the then-

Minister of Education aware of the findings and their implications for policy which, in turn led to the initiation of legislation.

... I remember when the Minister for Education at the time came to the SCoTENS conference, I handed him personally a copy of our report, and it was certainly one of the factors which encouraged him to think about new legislation. I was interviewed on television and claimed that the policies in Northern Ireland [in this area] were often very poor. [The Minister] brought me up to Stormont to meet him in his office, I handed him another copy of the report, and said, “Schools are looking for more guidance, here’s work that I’ve done with [my research partner] through SCoTENS, north and south of the border”. Indirectly, and I don’t think we can over-state this, it certainly helped persuade him that there was a need for further guidance. That has led to the legislation that was passed last year, the statutory guidance for which is being written at the moment, and I’m involved in writing that. (m, n)

Conclusion

The voices quoted above from some of the many people involved in this recent study of the value of SCoTENS provide insights into three of the key components of the cross-border learning in teacher education which is at the heart of SCoTENS. In every sense they speak for themselves. Taken together they offer powerful evidence of the reach and impact of the organisation and the range of new connections and relations it has catalysed. The word cloud below provides a visual summary of the 2016 SCoTENS Stories in the key words used by participants to describe the value of SCoTENS. What is clear is that SCoTENS has a unique and irreplaceable role for teacher education across the island and that its value points towards the potential for other professional, cross-border networks.



www.wordle.net

There is, however, one very real cloud on the SCoTENS’ horizon, as concern grows that Brexit will resurrect unwelcome divisions which surround the border boundary and will damage the delicate cross-border partnerships, learning and friendships which have flourished during its relative absence. Already, the direct impact has been felt of pressures on the Northern Ireland budget and the breakdown of political relationships in the north, of the collapse of Stormont, and of the loss of northern Departmental funding that ‘matched’ an annual Irish Government allocation. This is unfortunate and somewhat

discouraging but there is considerable momentum behind SCoTENS and an impetus to ensure that it continues to thrive, whatever the impediments:

....it's based in positive and collegial relationships across the border and we can't overestimate the power of that, the power of educationalists working together across borders at a time, when, in the greater political environment, there seems to be growing suspicion. SCoTENS is a ray of sunshine in all of that. (f, s)

More information about SCoTENS at: scotens.org

Notes

- ⁱ Designations such as (f, s), (m, s) etc are used to indicate the gender and jurisdiction of individual speakers

Cohesion-based Cross-border Planning: *A new methodology for integrated cross-border spaces*

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The main mission of cross-border cooperation in the EU consists of weakening separating effects of borders, strengthening the spirit of partnership and mutual understanding and enhancing social, economic and territorial cohesion between the member states and at the level of the European Union. These complex challenges necessitate the application of appropriate governance and planning methods. In our article we intend to give an illustrated overview on the so-called 'cohesion-based cross-border planning' methodology developed by the team of CESCO. We try here to give an overview on this methodology as simply as possible – from a practical point of view.

The challenge: how to measure and valorise cross-border territorial potential?

The evaluation of the achievements and the impacts of cross-border cooperation programmes has always been problematic not only because of the limited financial frames of these programmes but also because of the lack of proper nomenclature, definitions and methods to measure these impacts. Furthermore, very often even the cross-border projects themselves fail the main goal of these programmes, i.e. the cross-border character of the interventions. It is typical that the local stakeholders consider the cross-border cooperation (CBC) funds as additional resources for achieving their local aims; in these projects, cross-border aspects are applied in a superficial, not-sustainable way.

Several attempts have been made (e.g. ESPON TIA Tool;¹ ITEM TIA publications;² CCBS 2015; Medeiros 2014, 2015) to develop tools to measure cross-border territorial impacts. In 2018, a new project started within the framework of ESPON Programme which aims at developing a new methodology adding to these efforts.³

However, the programmes themselves should and could contain those guarantees ensuring a stronger cross-border territorial integration, a stronger regional territorial cohesion and a more sustainable and shared exploitation of the territorial potential: the territorial capital of a border area. For this sake, we need new definitions and new methods to apply. For instance, the third aspect of cohesion policy, namely 'territorial cohesion' should be approached from bottom up: instead of defining it at EU level, from which the local interpretation is deduced, territorial cohesion should be created at local-regional level – from where the territorial cohesion of the entire EU can be built up. In addition, territorial capital is used to be analysed with a regional/national focus, however, border areas

represent a special spatial phenomenon, namely a space with cracks / ruptures. At the same time, these regions have their territorial capital, too, but the methods how to valorise this capital will be different from those applied in central regions. Finally, strategies should be considered as ‘shared narratives’ on the future of a territory. In the case of a border area, this narrativist approach necessitates a hermeneutical support (see the problem of translation) as a basis for shaping a shared borderscape. All the above factors should be taken into account when designing cross-border programmes and projects highlighting the multi-faceted character of cross-border life.

Complexity of cross-border development

In order to identify the role and significance of integrated cross-border planning it is worth exploring the complexity of cross-border developments which are hindered by many factors.

The complexity of obstacles to cross-border cooperation

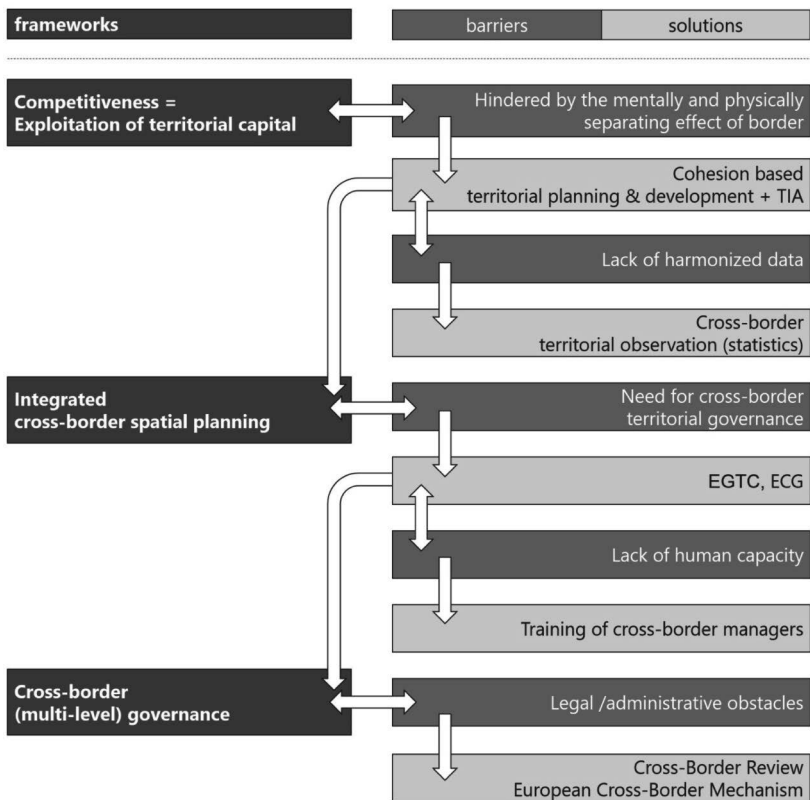


Figure 1: Overview on the complexity of cross-border developments

First of all, in most cases, borderlands are characterised by peripherality: administrative barriers very often strictly limit investment opportunities and access to services; they keep the infrastructure at a lower standard and decrease functional density compared to central territories of a country. Therefore, it is much harder to exploit the territorial capital of a border area than that of a central region. For instance, if there is a hospital or a university on the other side of the border, they represent significant territorial potential but if the border cannot be crossed the proximity of these institutions does not increase the territorial capital, the competitiveness and the attractiveness of the border area.

Within the European Union, this separation seemed for long time to be outdated. Nowadays, we can again witness a kind of separatism but still, state borders are easily crossed, creating a new perspective for cooperation and joint exploitation of territorial potential (see the real cases of a cross-border hospital⁴ and a university⁵).

At the same time, administrative borders persist, giving rise to equally persistent mental barriers. Sometimes, neighbouring countries are separated physically, too. In order to create the shared ownership of the cross-border area (that is the key factor of joint exploitation of its territorial capital), there is a need to identify those territorial assets and potentials present on both sides of the border which can strengthen or complement each other; and to design their common utilisation. The so-called cohesion-based cross-border planning methodology developed by CESCO (see below) aims to respond to this challenge.

The biggest obstacle of common designing work consists of the lack of comparable and reliable territorial data. National Statistical Offices collect data using different methodologies; using different territorial units and within different time frames. Eurostat publishes databases at NUTS III level that is very often irrelevant from the point of view of cross-border development. It is the reason why experts and think-tanks involved in cross-border cooperation urge the development of shared solutions for cross-border statistics.

In order to avoid the model of 'planning for the drawer', as a part of the planning process, there must be shared ownership of the strategy. For this purpose, participatory methods involving local and regional stakeholders representing different sectors are recommended and a permanent structure to oversee the implementation of the strategy must be set up. Otherwise, there will be no guarantee that the strategy will be realised. In the cross-border context, governmental competences are usually problematic (they are overlapping, partly missing and/or competitive – sometimes all in parallel); therefore the best solution is to create a permanent cross-border governance structure. (Perkmann 2007) For this purpose, the models based on the Madrid Outline Convention⁶ (more specifically the Euroregional Cooperation Grouping (ECG)) and the European Grouping of Territorial Cooperation (EGTC) are the most adequate. To sum up, there is no successful cross-border integrated development without appropriate cross-border multi-level governance. However, to build up such structures is not easy. Furthermore, also the necessary human capacities may be missing. To govern a cross-border institution in harmony with two different administrative systems, cultures and language environments needs exceptional skills. The solution can be a special training frame developed for cross-border managers. Luckily, more and more examples⁷ are also known in this field.

Once we have an integrated cross-border strategy and a permanent governance structure theoretically ensuring their realisation, we will face a series of obstacles stemming from

the difference of the legal-administrative systems of the neighbouring countries. Taking into account that these differences are based on the history of these states materialised in stable institutions, it is almost impossible to overcome these barriers. From this point of view, DG REGIO's initiatives, including the 'Cross-Border Review'⁸; the Communication titled, *Boosting Growth and Cohesion in EU Border Regions*⁹ and the tools developed in line with the Communication as well as the new draft *Regulation on a European Cross-Border Mechanism*¹⁰ are remarkable and beneficial steps taken by the European Union. Further best practice examples can be mentioned within the framework of the Benelux Union¹¹ and the Nordic Council of Ministers¹² – and by the initiative of CESCO, similar solutions are planned to be developed within the Visegrad Four¹³ cooperation. The elimination of these obstacles is crucial for the sake of joint development of the cross-border areas. However, the first (and most important) step is to thematise the existence of proximity, the shared (parallel or complementary) territorial potential of the border area and to design for their common future. In the next chapter we intend to present a potential methodology answering this challenge.

One possible solution: CESCO's cohesion-based cross-border planning model

The above illustrated complexity of challenges regarding cross-border development and cooperation asks for an analogically complex mix of answer-tools. One of these tools is addressing the design of a cross-border strategy. It is clear that we need a different way of thinking compared to usual 'inland' planning since the understanding of the concerned space is entirely different. 'Container logic' of spatial understanding is insufficient at borderlands; these territories cannot be considered as the aggregation of two different 'containers' with clear development goals and governmental competencies. (Berzi 2017) These territories are complex, with unique development problems and interests (Perkmann 2003) which necessitates the application of a special planning approach.

The planning methodology developed by CESCO is not purely theoretical, since it has been put in use in the SKHU INTERREG V-A Programme 2014-2020, in the INTERREG Danube Transnational programme's Territorial Background Analysis and in some strategies drafted for the operating EGTCs along the Hungarian borders such as Rába-Duna-Vág EGTC (HU-SK), Banat-Triplex Confinium EGTC (HU-RO-SRB), Gate to Europe EGTC (HU-RO), Tisza EGTC (HU-UA), Mura Region EGTC (HU-HR), etc. In this chapter we schematically introduce this planning methodology for cross-border cases.

First, we have to point out that our work must have a clear territorial determination. In terms of cross-border planning and development, a cross-border region is a territory that is shared by several local or regional authorities, which are co-located in different nation states. The cross-border region is both physical and soft space where environmental, social and economic processes are flowing through the border, where social and economic relationships of societies are frequently crossing the administrative barriers. A cross-border region is highly defined by its given border regime. It could be fully integrated on both sides, cooperative or co-existent (Martinez 1994). From the aspect of their evolution, cross-border regions can be physical, functional and normative. (Scott 1999)

Cohesion analysis is an approach developed by CESCO, which provides a basis for cross-border planning and strategy making. It does not interpret the given border region along

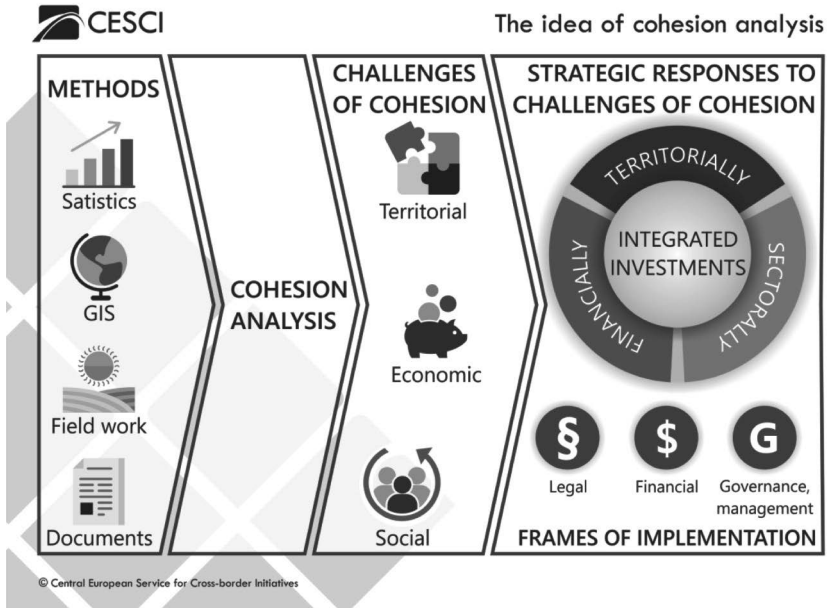


Figure 2: The logic of cohesion based cross-border planning

the traditional, ‘container-based’, administrative logic, but as a coherent unity and an independent planning entity. In the course of this type of situation analysis, the planner seeks to answer the main question of how the cohesion between the two neighbouring border areas could be intensified and what are the obstacles to this process of more dynamic internal spatial organisation. The main goal of our method is that the given cross-border region is able to strengthen and tighten its internal, cross-border relationships (based on its endogenous resources) so that its cohesion can be enhanced in a territorial, economic and social sense. Through this, our aim is to create a shared narrative on the borderland itself where the administrative barriers play a much weaker role. For this purpose, the strategy should lay the basis for developments creating situations equally beneficial for the people living on both sides of the border.

Hence the analysis of the situation is not based on the traditional sectorial but on the cohesion logic presented above: the endogenous characteristics of the territorial (set of border landscapes, density and capacity of border crossings, space organising tendencies and energies, cross-border settlement network conditions and potentials), economic (infrastructure, shared and complementary economic conditions) and social cohesion (social situation, demographic conditions, interethnic relations, civil and institutional networks) are analysed. It means that many factors are not considered which are commonly analysed in other methodologies. As a starting point of the integrated cross-border strategy, the state-of-play analysis summarises exclusively the hindering or strengthening factors of each of three cohesion aspects, and identifies the challenges of an enhanced cohesion of the cross-border region as a whole. In order to get access to the

necessary information, we use the statistics available at European and national level but (taking into account the shortages of cross-border data) we also develop cross-border regional statistics with the help of the local stakeholders. We conduct interviews and organise stakeholder workshops but, in addition, we undertake a deep fieldwork, registering every asset of the region by creating inventories. Besides, we analyse the available scientific and policy studies, as well as previously drafted strategies and plans.

Below, for a clearer picture, we give a more detailed description of the methods applied, describing the state-of-play of territorial, economic and social cohesion of a border area.

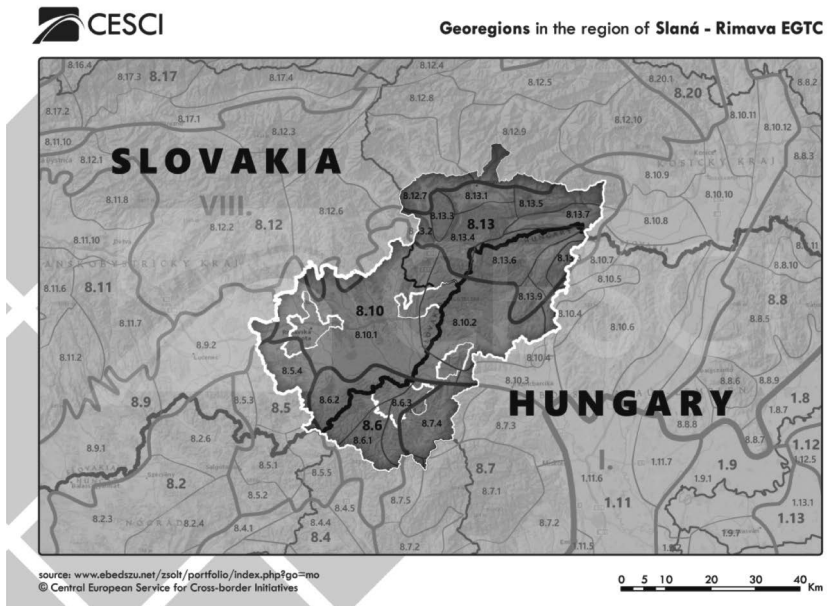


Figure 3: Example of analysis of georegions (territorial cohesion)

First, with the cohesion analysis, the planner tries to interpret, and *territorially* understand the region in a wider context. Not only are the internal spatial relations examined, but also references are made to the main trends and development orientations created by the changes of the last decades. In the course of the analysis, we examine the typical landscape and environmental factors (such as landscape structures, climate conditions, water regime, soil conditions, land cover, etc.); characteristics of the urban network (based on gravity models and function analysis: where are the major infrastructural assets and institutions [e.g. schools, post offices, ports, transport hubs, etc.] located in the region; the status and permeability of the border (the type of the border regime; the density and capacity of border crossings); existing cooperation structures and their governance frames.

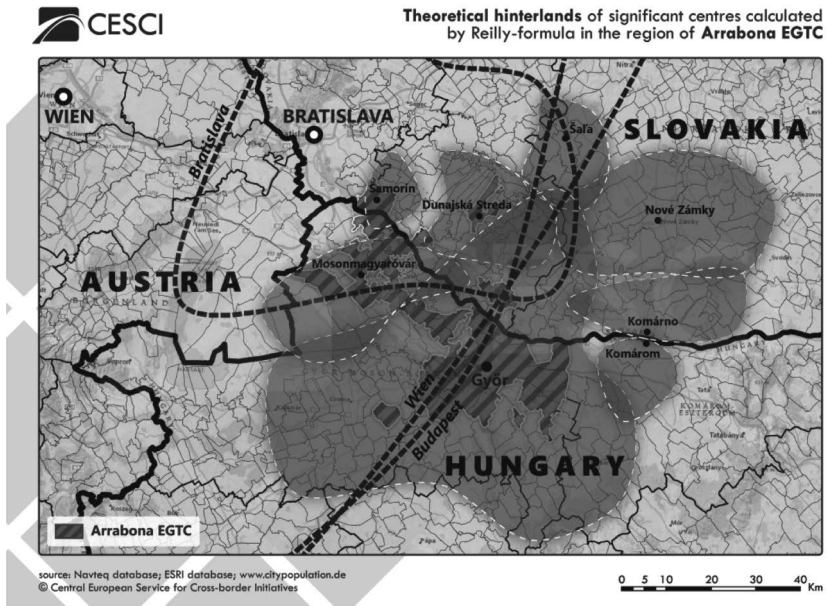


Figure 4: Example of analysis of the settlement structure and urban hinterlands (territorial cohesion)

In order to get a realistic picture on the status of the *economic* cohesion of a given region, it is worth conducting an economic analysis focusing on cohesion rather than on sectorial taxonomy. All economic sectors are analysed (primary, secondary, tertiary) by applying traditional methods – however the induction is shaped differently when emphasising the factors of economic cohesion of the cross-border region. The focus of the examination is given to the common and complementary economic characteristics (presence of parallel or complementary economic sectors; development potential of vertical integration; set of economic infrastructure, etc.) of the two sides of the border.

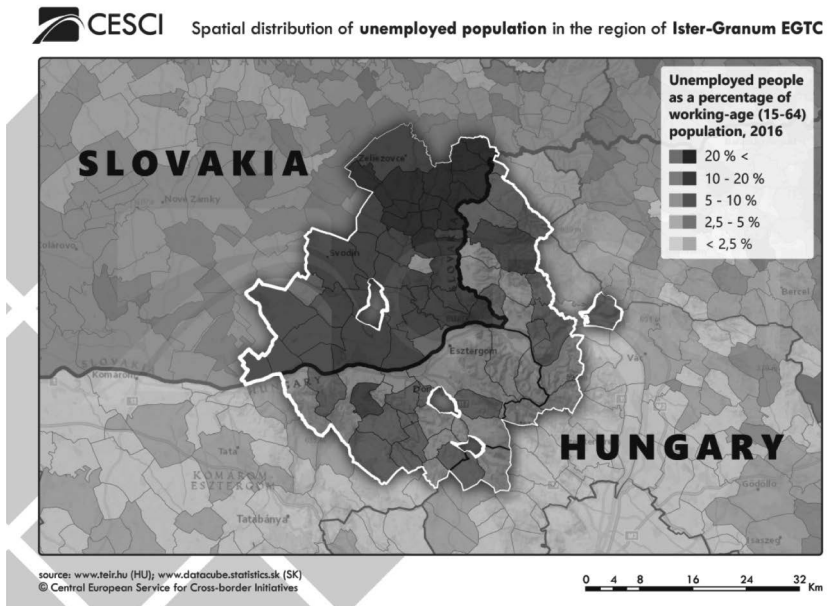


Figure 5: Example of analysis of employment situation (social cohesion)

The third cohesion pillar of the analysis is the *social* one. The success of cross-border cooperation is fundamentally determined by how local actors are involved in its implementation, how they can rephrase the narrative which might once have been hostile. With a view to describing the level of social cohesion of a border area, we analyse its demographic characteristics, the features of migration, social differences, labour force supply and its mobility, level of education and employment, interethnic and cultural relations.

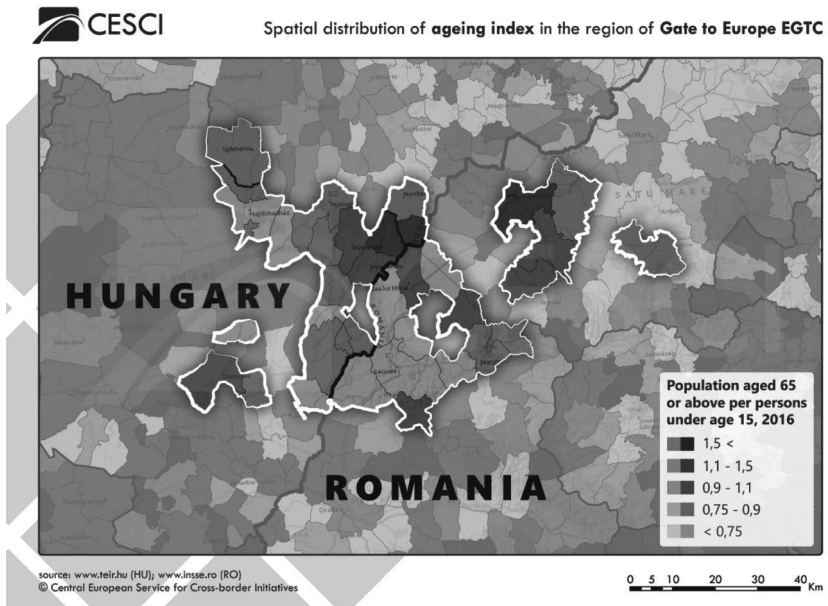


Figure 6: Example of demographic analysis (social cohesion)

All the above analyses are framed by the existing *planning documents* (local, regional, national, macro-regional strategies, plans) of the target area, since eventually these are the documents to designate possible (fundable) development directions. Therefore the related materials and regulations of EU, national, regional and local levels are evaluated accordingly.

Each chapter of the cohesion analysis contains abundance of maps and figures and ends with a summary, listing the factors strengthening and those weakening territorial, economic and social cohesion within the examined cross-border region. These summaries constitute the basis for the identification of (territorial, economic and social) *cohesion challenges*.

Once the challenges are identified, the strategy can be drafted. The objective of an **integrated cross-border strategy** is to provide long-term development perspective for the whole cross-border region with the aim of strengthening its territorial integration. So, we are not speaking about separate or local development needs: we concentrate on only one objective: that of cohesion. Consequently, the intervention logic of the strategy is built up in a way that the interventions are considered as responses to the challenges of stronger cohesion identified by cohesion analysis. The proposed actions are based on the endogenous resources of the border area and grouped along by the three aspects of cohesion. In a thematic sense, emphasis is put on the synergies between themes; for instance, if tourism development is a priority in the particular region, the strategy focuses not only on accommodation development but also on the related training, transport infrastructure development etc.

In each case, the strategy also contains proposals on implementation: a separate chapter is dedicated to institutional solutions and another to different funding opportunities (source map) available in and outside the European Union. The first aspect is important in terms of ensuring the appropriate management structure of implementation; the second one is significant in terms of orientation: how to start implementation. So, these two chapters can facilitate long-term sustainability of the strategic results. If necessary, the strategy also reflects on the potential legal and administrative obstacles which can hinder the implementation of the different actions.

Utilisation of the new methodology in the case of cross-border projects and programmes

As mentioned above, the cohesion-based cross-border planning methodology has already been applied in several cases, including the Slovakia-Hungary INTERREG V-A Programme. The impacts cannot be detected yet. The programme itself needed modification (one of the interventions was not attractive enough to the potential applicants) but the approach has been deepened further within the so-called Territorial Action Plans for Employment (TAPEs). This new tool integrates several regional projects aiming to improve the level of employment and the intensity of cross-border labour migration in a given border area, in a synergic way. In these terms, TAPE is similar to Integrated Territorial Investment (ITI) launched by the Cohesion Policy Regulations dating back to 2013 and the Integrated Territorial Plan, or PIT (since 2007) and its new abbreviation (since 2014), PITER models developed by the ALCOTRA programme (between France and Italy).¹⁴ However, the PIT and the TAPE models are much easier to apply. It is not a coincidence that ITI and Community

Led Local Development (CLLD) tools are applied so rarely by CBC programmes: their implementation is made very complicated by the administrative burdens created by the same regulations. On the contrary, the example of TAPes developed in collaboration with the Joint Secretariat of the programme can show how the theoretically based approach can be put in practice with a view to enhancing cross-border territorial, economic and social cohesion. The utilisation of the integrated approach beyond 2020 should be encouraged in each cross-border programme in order to make the positive effects of the European integration more visible and more tangible.

To summarise, cross-border development should be realised in a more integrated and sustainable way. Otherwise, the impacts of the money spent from European citizens' taxes for territorial cooperation are hardly detectable. For this purpose, both the local stakeholders and the European Institutions need a new, more place-based approach to planning, development, governance and legal harmonisation. During recent years, the EU has made remarkable steps towards this new approach. By our methodology we would like to contribute to this process, even in a very modest way.

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Notes

- ¹ See the tool developed in 2017 at the ESPON portal: www.espon.eu/tool-type/tia
- ² See more on the webpage of the Institute for Transnational and Euregional cross-border cooperation and mobility: www.maastrichtuniversity.nl/research/institutes/item/research/item-cross-border-impact-assessment
- ³ For more details, please refer to the webpage of the project titled 'TIA CBC - Territorial Impact Assessment for Cross-Border Cooperation': www.espon.eu/TIA-CBC
- ⁴ The Cerdanya Hospital at the Spanish-French border: www.hcerdanya.eu/en
- ⁵ The European Campus EGTC including five universities from Germany, France and Switzerland: www.eucor-uni.org
- ⁶ The European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.
- ⁷ See the ECBS: European Cross-Border Skills project financed by the Erasmus+ Programme (www.ehu.eu/eu/web/europeanprojects/erasmus/-/asset_publisher/MP0g/content/project_ecbs_erasmus-?inheritRedirect=false), the Cross-Border School organised by the Radboud University and the Association of European Border Regions in 2017 (www.ru.nl/nsm/imr/our-research/research-centres/nijmegen-centre-border-research/conferences-seminars/call-papers-cross-border-school/) or the education and training activities of the institutions forming PAT-TEIN Network: pat-tein.eu
- ⁸ ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/cross-border/review/
- ⁹ ec.europa.eu/regional_policy/en/information/publications/communications/2017/boosting-growth-and-cohesion-in-eu-border-regions
- ¹⁰ eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A373%3AFIN
- ¹¹ www.benelux.int/nl/juridische-databank
- ¹² www.norden.org/en/taxonomy/term/747
- ¹³ legalaccess.cesci-net.eu/en/about-the-v4-project/
- ¹⁴ On the integrated territorial plans, more information is available on the programme's website: www.interreg-alcotra.eu/fr/deposer-mon-projet/presentation-generale-de-la-vie-dun-projet/plans-integres



Reviews >

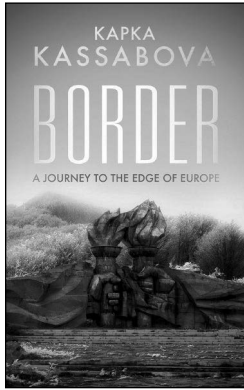
Border: A Journey to the Edge of Europe

Kapka Kassabova

Granta (2017)

£14.99 - 400 pp

ISBN: 9781783782147



Often described as a ‘travelogue’, a ‘travel memoir’, a ‘work of narrative reportage’, *Border* is more than any of these labels suggest. It is a haunting journey through an enchanting – yet full of tragic history of displacement and resettlement – part of the Balkans ‘where something like Europe begins and something else ends which isn’t quite Asia’. This is not a mere, nor a singular geographic journey. It is also a journey in time – personal and historical – and one into the phenomenon of borders: social, political, and psychological. But above all, it is a human story; the story of the people of the border.

Born in Bulgaria in the years of ‘mature socialism’, having emigrated to England, New Zealand, back to Europe, and now living in the Scottish highlands, Kassabova

sets out to explore ‘the last border in Europe... where Bulgaria, Greece and Turkey converge and divide’. This is the once-upon-a-time deadly ‘southernmost Iron Curtain’ of Europe; ‘a forested Berlin Wall darkened by the armies of three countries’ that remains ‘prickly to this day’.

Kassabova is a poet and a writer, not a scholar. Yet, in *Border* she seamlessly intertwines historical research with a sharp sense for the ironies of history, a keen eye for the cultural geography of place, and a penetrating emotional perceptiveness and empathy for the people she meets. The result is the envy of many an ardent academic – an ethnography, a social analysis and a psychological exploration of borders – powerful, beautiful, honest, evocative. Her motivation to write *Border*, however, was not scholarly. Instead, and tellingly of the most lasting impact of borders, it was emotional:

‘I wanted to see the forbidden places of my childhood, the once militarized border villages and towns, rivers and forests that had been out of bounds for two generations. I went with my revolt, that we had been chained like unloved dogs for so long behind the Iron Curtain. And with my curiosity, to meet the people of terra incognita’.

Kassabova’s journey begins and ends on the Black Sea, ‘at the edge of the enigmatic Strandja’ mountain – a place steeped in mysticism and the remains of ancient civilisations, ‘full of rivers, rhododendrons and reptiles’; of villages where people walk on embers, and where mystical turning balls of light appear to you at night. In between, the road takes her ‘west into the border plains of Thrace’

– both a large geographical area straddling present-day Balkan borders and ‘a dead civilization, a contemporary of ancient Greece, Macedonia and Persia’. And before returning ‘to the mirror side of the beginning’, her journey meanders through ‘the passes of the Rhodope Mountains’, the oldest land formation in the Balkans with its ‘18,000 square kilometers of limestone gorges and caves, ancient coniferous forests, Roman roads once trodden by crusaders and caravans, and Orphean melodies not quite of this world’.

Along the way she comes across a motley crew of people: former and present Bulgarian border guards, former spies and state security staff; the ghosts of those who went missing and were killed while attempting to cross into Turkey or Greece between the 1960s and 80s (many of them Bulgarian, East German or Czech); the survivors from such attempts of ‘riding the Iron Curtain’; Orthodox priests, Russian emigres; the descendants of the ill-famed 1989 exodus of Bulgarian Turks (‘the last cretinous crime of twilight totalitarianism’); indigenous Muslims (known as Pomaks) from all across the Balkan Peninsula, some of whose ancestors were forcefully resettled along this border; Gypsies (frequently reviled by all); and smugglers and hotel owners, alongside new refugees. The story of the journey is not always told chronologically but moves back and forth in time, producing multiple and intersecting narratives: of this border and its people; of borders as such; and of the author’s personal act of border exorcism.

As a narrative of this particular border, this is a story of the tragedy and violence of nationalism; of its post-empire Balkan varieties, and of its communist regime-inspired Bulgarian permutation. As such, the border is revealed, above all (though

not always and not for everyone and everywhere equally) as a repetitive act of violence, seen in the disastrous twists and turns of a string of population expulsions in the aftermath of the Ottoman Empire. The emerging in its stead new states, heavy with ambition and irredentism, ever suspicious of the ‘fifth column’ in their midst, kept expunging in violent contractions those of other religions or languages. In this ‘mirthless merry-go-round’, ‘millions lost a homeland and gained an empty house in a foreign country [whose language they often did not speak] with the kitchen pots still warm’ – a veritable ‘civilian catastrophe’ among many ‘in the long threnody of the Ottoman Empire’.

Most of the border people the author meets on all sides are the descendants of those millions. They are Bulgarians, Greeks, Turks and just as often Pomaks (frequently seen as doubly suspicious by all governments), with one thing in common: ‘They had all travelled a long way down the corridors of history and lost everything they had before they started here anew’. On the one hand, theirs is a story of ruination, literal and metaphorical. Many can still see the ruins of their old houses across the border being slowly swallowed by the forest, or they are struggling to survive the present-day hollowing out of their resettled homes as younger generations emigrate towards the bigger places of opportunity. The sorrow that often seeps through their lives ‘resonate[s] with the ruinous beauty of the landscape’. They are the victims of strategic state-led nation-building projects of ‘large-scale ruin making’.¹ But this is also a story of hope and humanity as they keep looking after their emptying villages of ‘dingy, inscrutable beauty’ and keep living in the spirit of *komshulak* (neighbourliness), not always well

appreciated by the respective regime. When in the 1970s a shepherd from a Turkish border village is overheard by a border patrol shouting 'Hello' at a Bulgarian shepherd on the other side, he is charged with espionage and given fourteen years in jail.

But of the many faces and reincarnations of this border, the most absurd and deadly was its life as an Iron Curtain. Kassabova's description of the brutality with which the border's impenetrability was observed from inside communist Bulgaria – from its militarised infrastructure ('The Installation', complete with a strip of land known as 'the Furrow of Death'), the treatment of those who attempted to resist or escape the regime via this border, and the 'well-oiled feudal barbarity' with which 'life behind The Installation' was conducted, reveals the border itself as 'a perfect microcosm of totalitarian society'. This is aptly captured in the 'ghostly slogan' that Kassabova sees decorating 'the broken-tiled entrance' of a disused border army barracks: 'On the national border, national order'. From this order 'emerged a society where rural and urban people were equally dispossessed' and where now wilderness closes over decaying infrastructure 'as if after an apocalypse', while the shadow of 'The Installation' rots in the consciousness of those who had helped to police it and those who were policed by it alike. In the Bulgarian border village that Kassabova visits at the start of her journey, 'the locals [have] an insight into something usually experienced in war: collective heartbreak'. Here she meets 'no champagne socialists', 'no anti-globalists, no anti-communists, no anti-capitalists. Just survivors'. One thing becomes clear – while 'ostensibly there to stop enemies from infiltrating', the Iron Curtain was ultimately an act of self-hurt and 'if you look at the top of the wire,

parts of which still stand, you see that it points to the real enemy: inwards'.

As a narrative of the phenomenon of borders, the book tells a story of 'the complex human relationship with freedom'.² Borders are central to this relationship as physical places, shaping most directly one's life opportunities but equally so as 'psychic sites', 'a state of mind, a projection of the collective unconscious even, a metaphor for oppression and opportunity'.³ And as Kassabova looks into the 'faces of Thrace', she sees that 'In the human story, borders are ubiquitous – visible and invisible, soft and hard'. 'Perhaps', she exclaims, 'the people of the border can tell us something about liminal spaces'. And so they do. When she encounters Bulgarian Turks who were children at the time of the 1989 exodus, she sees interrupted childhoods and lives still lived in-between past and present, silence and voice. But nowhere is this liminality more visible than in the lives of the least fortunate she meets: the new refugees – those ghost-like figures who in this second decade of the 21st century fill the border forests once again. Theirs is a life 'between three seas' and 'two worlds':

'the world of those with the right passports, and the world of those who came from places with ancient names: Babylonia, Mesopotamia, and Kurdistan ... [walking] along rural roads between the border towns of Europe, with plastic bags and eyes that locals didn't want to look into for fear of seeing all the world's trouble. ...[T]heir past lives lay behind them in ruins. But they couldn't afford to mourn because of a more pressing problem: their new lives couldn't begin'.

Yet, for others – more fortunate – borders still present opportunities. During her visit in the Turkish border town of Edrine, Kassabova captures this with floridity and humour as at the local market she sees

'[v]isiting Greeks and Bulgarians, Bulgarian Turks who still spoke both languages after their 1989 exodus, milky-skinned Muslim women in baggy trousers from the Rhodope Mountains who spoke archaic Slav dialects, and beautiful fierce Gypsies who spoke everything. For these shoppers with the right passports, the border was something to do at the weekend... It was a magical line, a game for grown-up children... reverted to its natural state of bargain and barter, curiosity and commerce, tricks and tariffs. Three cheers for the border!'

But the border is also closely entwined in the author's personal story of growing up in Bulgaria and of emigrating in the wake of a crumbling regime. As such, the book is also a narrative of her own struggle with the border's psychic shadow. The border, or rather, the realization of why it was there – 'so that people like us couldn't leave' – was intimately implicated in the

very act of growing up in a police state and, as Kassabova returns to cross it the way she could never have done as a child, she recognises a familiar, lingering 'border chill' - 'the chill of being found out, hunted down, a searchlight shone on you'.

This book is about borders. Not just about the 'Berlin Wall' of the East, in the shadow of which I grew up too, but about how we live with them, no matter who or where we are. Reading it in Northern Ireland, on the cusp of a year of border change, these words resonate:

'One obvious ideology that concerns borders is nationalist: the border is there to divide one nation-state from another. But a more insidious ideology is centralist in practice: the belief that the centre of power can issue orders from a distance with impunity, and sacrifice the periphery; that what is out of mainstream sight is out of memory. And border zones are always the periphery, always out of mainstream sight'.

DR MILENA KOMAROVA

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NOTES

- ¹ Stoler, A. L. (2008) 'Imperial Debris: Reflections on Ruins and Ruination', *Cultural Anthropology* 23 (2), pp. 191-219.
- ² Kassabova, K. (2017), <https://www.youtube.com/watch?v=gMzAPZalvWo>
- ³ Kassabova, K. (2017), <https://www.youtube.com/watch?v=gMzAPZalvWo>

Castle-talks on Cross-Border Cooperation

Fear of integration?

The pertinence of the border

Edited by Birte Wassenberg

As part of her Jean Monnet Chair and Project Activities

Franz Steiner Verlag,
Stuttgart (2018)
£57.64 (pbk) - 452 pp
ISBN 978-3-515-12008-1 (Print)
ISBN 978-3-515-12018-0 (E-Book)



This substantial (452 pages) book in three languages (English, French and German) provides an encyclopaedic source of information on the history, theory, nature and operation of borders, mainly in Europe, although some other borders are referenced. The book contains 27 contributions, presenting both 'top down' and 'bottom up' perspectives on the significance of borders. It tracks the evolution of borders from World War II to the modern day, including the implications

of Brexit. The publication contains articles by the current and former Directors of the Centre for Cross Border Studies, Ruth Tailon and Andy Pollak, on 'Cross-Border Cooperation and Peace-Building in Ireland' and 'Irish-British Relations, 1998-2012: from Provincial Conflict to European Tensions' respectively.

The castle referred to in the title is the Château de Portalès in Strasbourg on the river Rhine, which marks the French-German border. This castle has hosted the so-called 'Castle-Talks on Cross-Border Cooperation', and this book is a collection of papers presented at the castle from 2012-2016 in four events. The work was initiated by Birte Wassenberg, a professor of contemporary history at the Political Sciences Institute (IEP) in the University of Strasbourg. From 2013 to 2016 she held the Jean Monnet Chair on the contribution of cross-border cooperation to European Neighbourhood Policy and initiated the 'Castle-Talks' as part of this programme. The aim of the 'Castle-Talks' was to deepen research and encourage the interest of young researchers in border studies. These talks were organised as seminars for researchers to present papers on a particular aspect of cross-border cooperation and for European and American students to exchange knowledge and ideas on these subjects.

The book is organised in five main sections. Following an explanatory introduction a 'Preliminary Part' contains essays by Jean-Christophe Romer explaining the theory of borders from an 'area studies' perspective within the history of international relations; Bernard Reitel explores the link between international relations and cross-border cooperation in the context of a move from the borders as defined by nation states to a cross-border regime defined by the EU, which he terms "Europeanization" as a

sign of integration and the rearrangement of space. The third essay in this section, by Emmanuel Brunet-Jailly, explains the link between border studies and European integration by focusing on how border disputes are both resolved and limited, concluding that it is information exchanges that leads to cooperation and alleviates border disputes in the EU.

Part 1 is on Borders and Governance with five contributors. The first two essays present expositions of how local and regional actors can influence cross-border cooperation: Karl-Heinz Lambertz with a discussion on 'a new foreign policy' and the role of non-governmental bodies in border governance, suggesting that there has been a paradigm shift in the border regions of Europe and that we are now more engaged with our neighbours; and Joachim Beck on how local and regional actors in European border regions have progressively constructed a distinctive institutional governance system, which is not always linked to the EU. These accounts are illustrated with three case studies: Christopher Huggins on the successes and failures of building cross-border governance in the Channel/La Manche region; Marcin Krymuski and Peter Ulrich on participation in cross-border governance structures at the German-Polish border; and Hynek Böhm on how networks can support cross-border cooperation with reference to the Czech-Slovak border. What these three case studies highlight is the important role of 'participatory governance' and multi-stakeholder engagement in the promotion of cross-border cooperation.

Part 2 presents papers on borders as gatekeepers of sovereignty and security with four contributors. The border as a gatekeeper has recently been highlighted as an issue with increases in immigration and threats from international terrorism.

Walter Spindler highlights the function of national borders as vital assets for a state to exercise sovereign powers within its territory. He believes that borders between nation states have lost some geopolitical relevance because of globalisation, but that such porous borders can also admit crime, and so still have an important security function. Antoine Ullstad provides a legal perspective arguing that globalisation has modified the definition of borders. He says that these new borders are unique despite losing precision and refers to them 'lines that redistribute the world map according to legal closeness, rather than by political separation'. Juame Caston Pinós contests the view that the nation state (Westphalian) authority of borders has been overcome in Europe arguing that some forms of sovereignty are fully compatible with mobility and globalisation – at sub-national, national and supranational levels. Manuel Frießecke makes a similar point from a Swiss perspective. Switzerland is maintaining its borders as gatekeepers of sovereignty, but Frießecke also suggests that the Swiss are 'drawing up borders in their minds', with limited understanding of the value of interdependency.

Part 3 focusses on borders as the 'scars' of history or places of reconciliation with five contributions. The first article is a context setting piece followed by four case studies. In the first essay Gerhard Besier, in his explicitly titled 'Mental Borders Create Limited Minds: How to Overcome Prejudices, Stereotypes and Concepts of an "Enemy" in the Second Decade of the 21st Century' takes a psychological perspective on how the process of reconciliation works placing it in the context of World Wars I and II and the Cold War, which he says demonstrates an antagonism between two ways of life that

threatens European integration, and even world peace. The four case studies then present examples to illustrate these points. Birte Wassenberg reviews the reconciliation process in the French-German-Swiss cross-border region stressing the positive impact of a bottom-up approach. Bernard Köppen compares shopping behaviour at the French-German border with the Polish-German border observing that while active cross-border relations are apparent in shopping activity, these may not necessarily result in sustainable borderland integration. Beata Helicka also looks at the reconciliation process on the Polish-German border arguing that the EU has enabled the formation of a peaceful neighbourhood, yet cultural and symbolic boundaries can remain as impediments in cross-border relations. Katarzyna Stokłosa uses the example of the Finnish-Russian border to also take this perspective, referring to it as a border between myth and reality, and presenting a downbeat analysis of reconciliation where she sees this border as creating a barrier between Eastern and Western Europe.

Part 4 presents seven contributions on border conflicts, barriers and resistance to integration. Three of the essays focus on naming the obstacles to cross-border cooperation and how to overcome them, with the other four articles presenting case studies on the conflicts and barriers to border collaboration. Using an analysis of the EU's cohesion policy, Jean Peyrony examines the obstacles and solutions to integration in border regions, suggesting that the EU should focus on supporting projects such as the development of interpersonal links through micro projects funds, language skills, cross-border media and intercultural training, among others. Anne Thevenet focusses on capacity building to overcome obstacles in border

regions, through the work of the Transfrontier Euro-Institute Network (TEIN) which comprises 14 universities and training organisations from eight regions in the EU. Thirdly, Jordi Cicres and Silvia Llach examine the role of languages in cross-border cooperation. It is often suggested that language differences are an obstacle to cross-border cooperation but Cicres and Llach contend that they can also be cultural assets.

The first two of the case studies concentrate on the Northern Ireland conflict and are written by the former and current directors of the Centre for Cross Border Studies. In his paper focusing on Irish-British relations Andy Pollak reviews the 1998 Belfast/Good Friday Agreement and contends that the Northern Ireland peace process was largely facilitated by the EU with Structural Fund support. He raises the threat of Britain's withdrawal from the EU with the potential of disintegration, which might spread to other regions in the EU. In her paper Ruth Taillon discusses the role of the border in the Northern Ireland conflict and stresses the important role of the EU Interreg and Peace programmes in the peace and reconciliation process. She identifies the need for political leadership and a supportive policy framework. In the third case study Alessandro Torello addresses barriers on the Bulgarian-Romanian border, from economic, transport and infrastructure difficulties to corruption and crime. In the final contribution Adriana Dorfman presents a case study from South America, on the Brazil-Uruguay border, with a focus on legal and illegal cross-border trade, where a certain amount of smuggling is tolerated for economic and social reasons.

In conclusion, this comprehensive research volume provides an excellent

source of information for anyone interested in borders in Europe and beyond. It is especially relevant in the context of increasing migration into Europe and the reintroduction of border controls in several EU member states, which is contrary to European integration, but reflects a growing Euroscepticism in some quarters. This book will help anyone interested in the role of borders to understand their historical, varied and changing dimensions.

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Border Politics in a Global Era: *Comparative perspectives*

Kathleen Staudt

Rowman & Littlefield (2018)

£65.00 - 304 pp

ISBN 978-1-4422-6618-6



The withdrawal negotiations between the UK and the European Union have brought borders into the spotlight, dominating television and newspaper headlines as well as generating huge political debate. The border on the Island of Ireland is proving to be a major sticking point in the negotiations. The severe difficulties which both the UK Government and the EU are having in trying to solve the border problem highlight the issues which borders can cause to various governing bodies. While the jurisdictions are working in harmony, borders can become invisible ‘Lines in the Sand’ (as has mostly been the case within the EU), but when these governing bodies disagree borders can again become barriers between countries and communities.

Border Politics in a Global Era by Kathleen Staudt focuses on the impact of policies and decision-making in the borderlands and on border communities, something which many governments are criticised for neglecting. Decisions made in centres of power, often far away from the border, have major impacts on the border regions and on the people living there. It is often border communities that are most affected by government decision-making and Staudt gives a unique Borderland perspective on this by focusing completely on borders and the border communities rather than on the broader statewide relations which tend to grab the headlines.

Kathleen Staudt divides her study into four parts. The first section sets the stage for the book by introducing the world through a borderland perspective as well as developing broad historic and representational themes about the shaping of borders, borderlands and conflicts. Also examined in part one is the history of the 'Othering' process which historically influenced the opinion of a county's population towards those who resided outside of their borders. This 'Othering' still has an impact on society today.

In the second section, various borderlands from different regions in the world are examined with chapter four focusing on North America; particularly the US-Mexico border, of which the author has firsthand experience. Chapter five examines the South Asian borderlands, a region which has little in the way of cross-border cooperation. With the notable exception of China, most of the states in the region have been formed recently. The chapter explores how the insecurity of these post-colonial countries inhibits the development of cross-border relations. "India offers a troubling model that

perpetuates border insecurity and poverty in the name of border security." (p.93) Chapter 6 concentrates on the European Union and its policy of integration. While acknowledging the successes which the EU has achieved in its debordering policies, Staudt holds the EU up as a successful model of how investment in cross-border regions can bring major economic and cultural benefits. However, Staudt questions whether these successes can be repeated elsewhere in the world under a different set of circumstances, "Did EU common market, currencies and open movement facilitate more equality or simply consolidate connections between countries with a base of relative equality?" (p.100) Comparing the borderlands in Chapter Five to those in Chapter Six is difficult, given that the European Union has been investing in cross-border regions for longer than some of the South Asian countries have been recognized as independent states. The second section finishes off with a chapter on Maritime and River borders; exploring the reasons why states jealously guard these and the conflict which this can cause.

The three chapters comprising the third section focus on the major subjects for borderland policy decisions. Security, Migration and Trade are all given their own chapters. The three are inextricably linked when it comes to the discussion of border politics. Again, the difficulties which the UK and EU are currently having in trying to reach an agreement on all three demonstrate how troublesome finding a balance can be. The UK has been accused by the EU of attempting to 'cherry pick' the best policies on trade while rejecting some of the EU's most fundamental values on migration and free movement of people.

In her chapter on Security, Staudt examines the border controls which some countries put in place to protect its citizens and how simply erecting barriers at borders do not solve the problems that exist on the other side. In fact, “an imperfect solution like border fence and wall construction” (p.128) can increase the atmosphere of fear and hate behind the barriers against those on the other side. This is an extension of the ‘Othering’ process which was discussed at the start of the book. In recent history a lot of the fears around border security have been fuelled by terrorist attacks and by the migration crisis.

Migration was one of the main sticks which the Leave campaign used to beat the Brexit drum in the lead-up to the EU referendum. Likewise, Donald Trump successfully used strong border security as one of the cornerstones of his 2016 Presidential election campaign. The Migration chapter explores why people move across borders and the associated dangers. Many countries attempt to preempt migration; an example given here is the EU Neighborhood Policy. However, at the height of the 2015/2016 humanitarian crisis – despite strong migration policies and refugee control – individual countries within the EU broke away from the normal procedures in response to the pressure on their borders. Internal political pressure from within countries played a major role in their decision to pursue separate border policies than the EU. Staudt argues that this demonstrates a flaw within the system. In this chapter Staudt also uses the figures of those who have lost their lives attempting to gain access to different countries to emphasis the dangers of migration “at least 12,000 and perhaps as many as 25,000 crossing the

Mediterranean since 2000 and 300-400 bodies found annually of those who died attempting to cross the US-Mexico border.” (p.172) Contrasting these figures to the 125 who died trying to cross the Berlin Wall, the author raises worrying questions. Are we now desensitised to these deaths? Or is the ‘Othering’ process more influential than we realise?

The final chapter of part three analyses the role which Trade can play in cross-border interaction with and without government involvement. “Trade, cross-border business and jobs are means by which interaction and cooperation across borders can be developed in private, nongovernmental sectors.” (p.192) Staudt examines how trade and security are closely linked and how border security policies can directly affect trade. The chapter states that security checks can delay and inhibit trade at the border; comparisons can be drawn between Staudt’s observations and some of the current arguments on the UK’s position on a future trade agreement with the EU. “Yet in a world of fear, migration, and occasional terrorist incidents, governments set up obstacles requiring documentation and inspections that delay crossing and trade.” (p.193)

In the fourth and final section of her book Kathleen Staudt focuses on action and change. The chapters cover popular culture as well as options which NGOs, governments and institutions might choose to improve border regions.

The border on the island of Ireland has enjoyed a relatively quiet couple of decades. This has changed since the UK’s decision to exit the European Union. *Border Politics in a Global Era* gives excellent examples and insightful analysis

on how government policy can benefit or damage border regions and on how border communities are affected. Although written before Brexit had developed into the complicated situation which it now is, Staudt's study is extremely relevant to current affairs especially given the continued uncertainty over the future of the Irish Border. The author finishes with a plea which may sound familiar to those on both sides of the Irish border, but many feel has gone unheard: "We need to address the world's many borderlands and their people with the same vigor and attention we devote to mainstream people."(p.242)

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Euroregions, Excellence and Innovation across EU borders *A catalogue of good practices*

***Durà A., Camonita F., Berzi M. and
Noferini A***

Kit-Book Servicios Editoriales,
Barcelona (2018)

254 pp

ISBN 978-84-947903-8-6 (Print)

ISBN 978-84-947903-9-3 (E-book)



Since the end of 1950s, cross-border cooperation has contributed towards mitigation of many long-lasting animosities and gained many flattering labels, such as the 'European laboratory at a microscale'. It is also one of the most successful elements of the European integration process. Its reconciliation and peace-keeping role has attracted the attention of many scholars from multiple scientific disciplines, who have contributed towards creating border studies as a respected field of scientific attention.

Therefore it is somewhat surprising that until recently there were no major attempts to contribute to the topic by creating a comprehensive collective work gathering both theoretical as well as practical aspects of cross-border cooperation in a form of a catalogue / dictionary of cross-border cooperation. Recently, two groups of scholars have begun work on filling this gap. A team involving members of the Transfrontier Euro Institute Network (TEIN) – led by Prof Birte Wassenberg at the University of Strasbourg, with strong support from MOT, CESC and other actors – is expected to publish a *Critical Dictionary of Cross-Border Cooperation* in 2019.

The *Catalogue of Euroregional Good Practices* under consideration here is the work of an interdisciplinary research team headed by geographer Antoni Durà Guimerà of the Autonomous University of Barcelona, with the participation of Vigo University and external collaborators from other institutions belonging to a wider research network, RECOT (European Network on Territorial Cooperation). The *Catalogue* is intended to be a supportive tool for better understanding cross-border cooperation (CBC) activities conducted by organisations known as Euroregions. For the sake of simplification, the authors use the term for all forms of cross-border cooperation structures.

The work is divided into two parts. The first explains the key terms such as ‘cross-border cooperation’ and ‘Euroregion’ and their several definitions. The team of authors goes on to explain the working methodology applied and the rationale for their approaches to the categorisation of the Euroregions and other cooperation entities included in the research. Part one of the study then identifies the main development phases of cross-border

cooperation in the EU and tries to identify the cooperation actors and the governance structures used to manage the cross-border territory. The complexity of actors, governance structures and variety of legal frameworks is also outlined in this section. The authors also provide us with several interesting classifications of the Euroregions; e.g. urban-rural context, size, topical orientations or institutional complexity. The last section of the first part is dedicated to the analysis of the general features of cross-border cooperation projects, which created an appropriate introduction to Part Two.

The second part of the catalogue provides its readers with an overview of selected Euroregions and their projects, cross-border ‘equipments’ (e.g. a tri-national airport or a cross-border hospital) and transboundary parks. The authors declare that they selected these examples using “criteria based on their excellence (in terms of solid governance structure and institutional continuity) and innovation (in terms of employment of technological progress, innovation policies or even social innovation measures).” Much effort was invested towards explaining the methodology of selecting good practices example: constituting the second, “Good Practices Part”. Having identified all currently existing cross-border initiatives in the EU, they came up with the 257 possessing at least some feature of a euroregional structure. These were then divided into 214 Euroregions, 13 cross-border equipments and 40 transboundary parks. (Most of these parks focused on joint environmental protection or cooperation in research and development.) The authors used multi-criterial analysis and identified 158 ‘active’ Euroregions, out of those 61 were finally marked as ‘Especially Active’ and thus selected for inclusion in the *Catalogue of*

Euroregional Good Practices. Another 19 described cooperation units are 10 cross-border equipments and nine transboundary parks.

Euroregional info sheets on these 80 selected cooperation entities – creating the core of the Part II of the Catalogue – have a very user-friendly layout and structure. Initially, general demographic and geographical background information is provided. This section is followed by the history of mutual cooperation; joint priorities; governance forms (EGTC, EEIG, LGTC, private-law association, public law agreement of other); and partnership structures. This information is complemented by an example of the project, which is representative of the main cooperation priorities of the described Euroregion and its short assessment. The scale of these projects varies from major investment projects – such as the €27.6 million ‘Putting Patients First’ health-focused project on the Ireland-Northern Ireland border – to €40,000 for minor soft non-investment actions of a joint cross-border spatial planning study. Some of the mentioned projects included plans for ongoing and future cross-border investments, such as those implemented and planned on Franco-Luxembourgish borders.

The team of authors dedicated appropriate attention to the rationale for selecting the final sample of 80 cross-border cooperation entities described in the catalogue. Of course, given the high number of assessed entities, valid objections can probably always be raised against this final sample.

The authors have very good knowledge of projects in the ‘old EU 15’, mainly in the commonly accepted model regions such as those from the Upper Rhine Valley and

the entire Franco-German border, where they see the “cradle of cross-border cooperation in Europe”. Therefore the cross-border cooperation entities between France, Germany and Benelux countries create the most substantial part of the catalogue.

The selected examples of Euroregions and their projects provide the reader with a good overview of the different ways cross-border cooperation is implemented in the different parts of Europe. For the sake of this analysis, the authors divide Europe into six main geographical parts (South-West, West, Central Mediterranean and Adriatic, Central, East and North). The examples show somewhat higher cross-border dynamics in terms of labour market, transport and economic cooperation in the Franco-German and Benelux cooperation core and Northern Europe than in the rest of the EU. In simplification – ‘old vs new’ EU divisions can still be observed.

The author of this review thinks he is familiar with the cross-border cooperation entities in the post-communist countries of Central and Eastern Europe, mainly those with the Visegrád countries. Some well-known projects demonstrating good practices were omitted from the catalogue; the most striking case is the ignorance of projects implemented in the twin cities of Český Těšín/Cieszyn in Těšín/Cieszyn Silesia Euroregion on the Czech-Polish border. The authors have also ignored many impressive projects initiated and implemented on Hungarian borders with the help of Budapest-based CESCI. Some of the names of the Euroregions from this part of Europe are wrong, such as the Euroregion Těšín/Cieszyn Silesia (wrongly mentioned as Ciestyn/Český Těšín Euroregion – the missing ‘Silesia’ is crucial in the name of

this Euroregion). There are also other minor inaccuracies, such as inclusion of Czech-Polish Euroregion Glacensis among Eastern Europe, whereas another Czech-Polish Euroregion Praděd/Pradziad – which is located more in the East than Glacensis – is involved in Central Europe in the global listing of the Euroregions.

However, these inaccuracies or reservations of the reviewer are not substantial. Overall, this catalogue is a result of complex and solid research work. Hence it presents a valuable and valid contribution not only for border scholars; it can also be used by cross-border practitioners and stakeholders responsible for cross-border cooperation in Europe and elsewhere. The mix of theory in the first part and mostly well-selected examples in the second part make the *Catalogue* a must-have reading in the library of every border scholar or practitioner.

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The Law & Politics of Brexit

Federico Fabbrini (ed)

Oxford University Press (2017)

336 pp

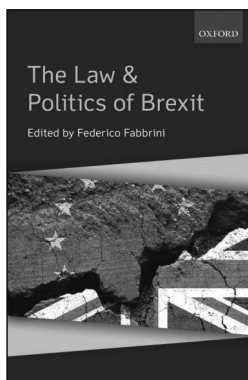
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Also available as eBook



This is a significant collection of essays that has been gathered together by Federico Fabbrini, the Director of the Brexit Institute at Dublin City University (DCU). The book flows from a conference held at DCU in April 2017, and features contributions from many leading scholars. The work is in four parts: politics, process and prospects; constitutional change and regional perspectives; European perspectives; and a section that considers a relaunch for the EU. The book quickly dispels the notion of Brexit as a simple exercise in 'taking back control'. The scale

of legal and political complexity unleashed is remarkable and there is no sense that this will lessen any time soon.

Fabrizi sets the scene in his introduction (ch 1) by describing the context for the referendum and what followed. He also includes a comprehensive summary of the collection. The challenges he anticipates (at the time of writing) are: sticking to the deadline for the withdrawal agreement; how Brexit will be taken forward in the UK; and the impact of Brexit on the EU. Kalypso Nicolaïdis (ch 2) examines the political mantra of 'taking back control' and highlights the tensions buried within the Brexit process. She notes how the EU sustains itself through an 'equilibrium' between cooperation and control. The 'Brexit paradox' for Nicolaïdis is that 'the possibility and manner of leaving (unilateral and unconditional) contradicts its rationale (eg the assumption that shackled countries need to "take back control")'. The paradox emerges over the meaning of 'control' and as a result, she argues, the debate will continue long after the UK leaves the EU. Paul Craig (ch 3) explores Article 50 and the three stages of the Brexit process: triggering, negotiation, and outcome. Craig's analysis highlights just how unnecessary the *Miller* litigation was; there is a sense that the decisions taken around this case were distinctly odd: 'the prime minister could have secured her aims without litigation'. He captures the complications and the tensions between the EU's approach and the UK's ambitions with reference to the likely content of the withdrawal agreement and the future relationship. On the possible outcomes he supports the view that

Article 50 can be revoked before the end of March 2019 (and his preference is that this can be unilateral). This matters because it leaves open the option of Parliament changing its mind. Giorgio Sacerdoti (ch 4) looks at the prospects for the UK trade regime with the EU and the rest of the world. This chapter notes the serious challenges that the UK will face whatever options are taken.

The next section of the book explores Brexit and constitutional change in regional perspective. Stephen Tierney confronts Brexit and the English Question (ch 5). He points out the strains that are now in play: England has 'awoken' just when there is an urgent need to accept the multinational nature of the 'union state'. If things are not to fall apart he argues that there must be a combination of 'realism and mutual respect'. Siobhain Douglas-Scott (ch 6) addresses the Scottish question and it is plain just how contested the current British constitution is. Given the level of deep disagreement around the UK (even on constitutional fundamentals) it is understandable that 'existential' questions have emerged. Can the UK continue in its present constitutional form? How will the often expressed commitment to 'mutual respect' be realised in practice? Following on from this theme, Brexit and the Northern Ireland question is covered by John Doyle and Eileen Connolly (ch 7). As with Scotland, Northern Ireland voted to remain and (unlike Scotland) it is centre stage in the negotiations. They are clear about the 'serious threat to the peace process' and the disastrous consequences of a hard land border. Given the damaging

economic impact they see merit in a 'special status agreement for Northern Ireland'.

Part 3 of the book looks at events from a European perspective. Michele Chang (ch 8) analyses Brexit and the EU Economic and Monetary Union (EMU), with two conclusions seemingly clear: Brexit will strengthen the position of Germany; and the likely impact on further integration. Although the UK is already a 'euro-out' country, its departure from the EU could have many unintended integrationist consequences. Deirdre Curtin (ch 9) examines the EU area of freedom, security and justice and charts the UK's uneasy relationship with this aspect of EU law, policy and practice. She notes that although things have been difficult, the UK is a leader in several areas and it is now moving from being an 'engaged insider' to a 'disempowered outsider'. She observes a theme that is plain in other chapters too: UK withdrawal could become the trigger for much more intensive EU cooperation and integration. If that is the outcome then the UK's 'outsider' status may become further embedded with consequences that are hard to predict over the long term. Catherine Barnard (ch 10) places an emphasis (in her chapter on Brexit and the internal market) on several 'what ifs' as well as probing taken for granted positions on the nature of the internal market and the 'four freedoms'. She traces current problems to the early 1990s and suggests that Maastricht was clearly a step too far for many and a referendum then might have addressed the legitimacy problems that subsequently arose.

Part 4 of this book anticipates a possible 'relaunch of the EU' after Brexit. Marlene Wind (ch 11) deals with Brexit and Euroscepticism, and while she does not doubt the problems the EU faces, she is clear that it is unlikely it will lead to other Member States leaving. Uwe Puetter (ch 12) looks at the impact on the EU's institutional balance, again the theme of the UK as an often awkward counterbalance to Germany and France emerges (with the recognition that there are some states that will miss the UK's presence for precisely that reason). In the final chapter Federico Fabbrini (ch 13) addresses Brexit and EU Treaty reform. Here, again, the focus is on the impact that Brexit will have on the EU; in particular, the drive to develop its 'constitutional architecture'. He is convinced that despite the many problems that may emerge, reform is required and he maps the areas that merit renewed attention. For Fabbrini, Brexit is 'a window of opportunity for constitutional change in the EU'.

This is an impressive book and required reading. Although Brexit remains a 'moving target' the contributions contain insights that retain their value and significance. The variety and depth of this collection cannot be captured in a short review, but three themes emerge. The first is the enormity of the step taken and what has emerged since the referendum confirms just how impoverished the pre-Brexit debate was. The second is the impact on the EU of the UK's departure. Although the European political scene is turbulent, Brexit appears to have brought Members States (for now) closer together

in some respects. Several chapters in this book view Brexit as an opportunity for the EU to renew itself. Finally, it is plain that Brexit has disturbed relationships across these islands. It will test the constitution of the UK's 'union state' and sharpen divergent perspectives on fundamental questions; governing the UK in a principled and coherent way after Brexit is going to prove challenging. There is little evidence of 'mutual respect' and many problems that are familiar to those in Northern Ireland (including on national identity) seem to have spread across these islands. The complicated nature of the legal and political forces flowing from Brexit are ever more apparent. This book does an excellent job of focusing attention on the complexities, risks and opportunities.

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Hard Border *Walking through a century of Irish partition*

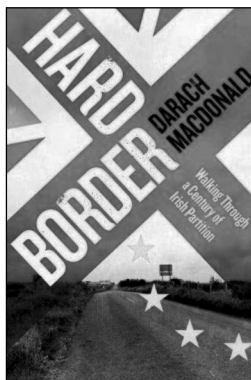
Darrach MacDonald

New Island Books (2018)

Pbk 320pp

ISBN10 1848406754

ISBN13 9781848406759



An experienced editor and published author many times over, Darrach MacDonald is well placed to undertake a detailed and insightful travelogue of the 50-mile route extending the length of the Ulster Canal.

Recently published by New Island Books, the travelogue follows a series of publications, most recently *Tóchar: Walking Ireland's Ancient Pilgrim Paths* (2013), each of which have sought to detail the border experience of Northern Ireland through close-up narrative histories which bring the reader face to face with the people of the region. The bright flags imposed over the black and white border road scene is a perfect

example of the proverb that one should not judge a book by its cover. Inside the sleeve reveals a narrative which sees the bright overlapping flags of the border region which dominate today's discussion of 'border politics' pushed to the background, instead foregrounding descriptions of border people which are sensitive, nuanced and evocative of lived experience.

Despite his career in journalism, the text is not positioned as a political commentary, or even explicitly as a history, rather 'stories of tightly knitted communities,' implicitly drawing on a long tradition of oral histories. He reflects upon the Ordinance Survey map, a narrative device for many who have written of the border region (Friel's *Dancing at Lughnasa*, to name but one). Nomenclature in the border region is a recurring theme, with Chapter Six passing through Armagh and Monaghan where 'Two rivers with the same name' is shown as 'a prime example of the duplication brought about from partition of the island.'

Chapter One is set walking from Castle Saunderson to Clones, which establishes the backdrop for discussion of the intangibility and porosity of the border despite efforts – to use contemporary parlance – to 'harden' the border in the late twentieth century. He writes of townlands which defy confinement to either side of the border. More interestingly, he contextualises these townlands in their longer, precolonial, history. MacDonald considers Cornapaste (Cor na Péiste in Irish, meaning Worm's Ditch) whose existence he describes as beginning 'long before the Roman fortifications in North Britain.' These kinds of details are scattered through the narrative of *Hard Border*, freeing the

region from its confining relationship where its very existence is synonymous not just with the imposed border, but with the island's relationship to Britain.

The second chapter spans Clones, the author's hometown. MacDonald uses the opportunity to write of the Boundary Commission, the emerging Irish economy (including descriptions of De Valera's formative economic policies founded on 'the evils of free trade') and efforts to control the movements of peoples on trainlines which ventured across the border. Indeed, the language of politics in this chapter has strikingly resemblances to contemporary debates. He describes a scene where policies proclaimed in the respective heartlands either side of the border – in Dublin, Belfast and Westminster – had crippling effects on a once booming border economy; increased rules and regulations which 'strangle' the people living in the region, often irreparably.

He returns to this theme in Chapter Five when describing the impact of the 'Belfast Boycott' on Monaghan, devastating the town in a matter of months. Economically, the cost of living was estimated to have risen by as much as five shillings for the average working person, as intimidation succeeded in forcing businesses to stop trading with Belfast. Insightfully, MacDonald notes 'the final cost was the psychological separation of Monaghan from its traditional and natural center, even before customs tariffs were imposed.' MacDonald is skillful in including such comments, reminding the reader that the border is more than its physical, geographical expression. Indeed, the psychology of the border and its cultural expressions in border people are given much more serious attention than the incongruous, often comical, descriptions

of 'huge steel girders' and cross-border routes which were 'spiked' only to be replaced by colloquial solutions such as his own uncle's self-made 'Kypher Pass' providing a 'circuitous escape route into town.' There's a suggestion of Tom and Jerry-like interactions between expressions of formal strength and mouse-like underdog ingenuity which has the reader rooting for the people of this region.

One of the most striking elements in the book is the sensitivity with which MacDonald has interwoven the cultural experiences of the border regions. In Chapter Seven he describes 'loyalist band parading as being the cultural equivalent of the GAA in Ulster Protestantism' emphasising the role both practices play in helping young people discover their sense of 'ethnic identity in a peer group that inculcates pride in cultural belonging, and a huge attachment to their own community and history.'

Naturally, as is indicated from the four stars on the cover of the book, MacDonald uses the narrative space to convey his views on impending Brexit. He does this often obliquely, in Chapter Eight for instance he details *The Handbook to the Ulster Question*, produced in 1923 by the Stationary Office in Dublin:

Whole sections are devoted to the historical and political implications of partition; the wishes of the inhabitants; economic and geographic conditions; and analogous problems in other countries. It is exhaustive, painstakingly put together in a relatively short time by the North-Eastern Boundary Bureau (NEBB), a high-powered body set up by the Free State

government with the most talented experts available.

His description clearly describes not just everything that *The Handbook to the Ulster Question* was but more poignantly, everything that the Brexit Whitepapers have *not been*.

More explicit discussions of Brexit are of course included, most powerfully in the closing pages. MacDonald, however, is careful not to let the often misinformed contemporary debate cloud the picture he draws on real life border living along the Ulster canal. He mentions the experience of a migrant worker, so fundamental to the agribusinesses in the region, whose life has 'already been thrown into turmoil by Brexit.' The sense of individualism created by recording his discussion with one migrant person, has a more powerful effect than usual depictions of migrants as little more than statistics wielded in political debates. Speaking more broadly of the 'huge concerns about the future prospects for food exports,' MacDonald writes of losses on each side of the border with sensitivity, directness and an overwhelming disappointment.

Lyrical remembrances and colloquial connections weave an intimate narrative, these however, are skillfully punctuated by violent realities. In this way MacDonald has rendered a political daily reality of border land existence. Chapters Eight and Nine move from disappointed discussions of Armagh's fate following the demise of border trade amid descriptions of 'commanding view[s]', 'finely groomed market square [...] modern theatre [...] glories of the past' to a brutal description of the 'Miami Showband Massacre' where 'little more than a human arm with the letters 'UVF' tattooed on it was recovered.' Painful descriptions of grieving families;

the H Block hunger strikes and the women of Armagh Prison who joined them; mistreatment in Gough Barracks; and multiple laments for the lost lives of innocents which were claimed in the violence provide a constant footnote of loss to the multitone narrative of MacDonald's lyricism. Despite this, he is able to manufacture moments of lightness, evoke the beauty of the borderland and the dry wit shared by most of its inhabitants both sides of the border.

MacDonald litters poetry and musical folksong through his narrative. His appreciation of the arts and culture of the area speaks to a longer tradition of storytelling and oral histories, which can be neglected in 'official' histories of the island. It's a lyrical close to the final chapter, whimsically denoted 'The End is Neagh', where MacDonald moves ephemerally through the works of regional poets. Beginning with Hewitt's strong geographical references and methodological examination of instances of frontier violence, to Muldoon where discussion centers on transcendency and dislocated audiences. To close on poetry, a famously reflective artform where meaning is very much in the eyes of the reader, is appropriate for a narrative which has in its lyrical form been more suggestive of poetry and song than prose in any strict sense. MacDonald offers a clue for his choice of travelogue style, where he is wary of how 'our own tailored versions' of misinformation often colour border narratives. Choosing not to 'tailor' his own version; instead allowing the Ulster Canal to form the structure may suggest a journalistic fear of bias (not to be confused with indifference). He speaks of telling silences, disguised by tautology. Ulster, the Province, the wee six, the North as existing in opposition to the South, the Republic, the Twenty-Six, the Free State.

But his primary focus is on the borderlands themselves, the land and the peoples which this binary opposition seeks to conceal/obfuscate: 'that amorphous borderland.'

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Beyond the Border: *The Good Friday Agreement and Irish unity after Brexit*

Richard Humphreys

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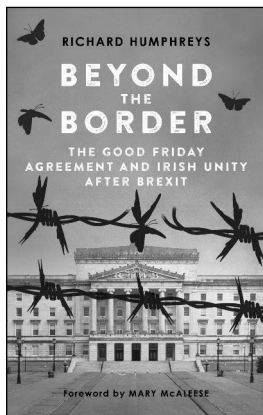
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In its determined avoidance of distinctly political commentary in favour of a legal and constitutional analysis, Mr Justice Richard Humphreys' book sets out a clear, accessible and timely account of how the structures envisaged by the 1998 Belfast/Good Friday Agreement offer a means of overcoming existing and future challenges for those living on the island of Ireland. These include the current lack of a functioning Northern Ireland Assembly

and Executive, the UK's impending departure from the European Union, and hence what the author sees as the "new context for discussion of the implications of the Good Friday Agreement for possible constitutional outcomes" (p.xvii). As its title suggests, however, the book's principle focus is on Irish unity as the constitutional outcome whose likelihood has increased significantly in the wake of the UK's June 2016 referendum on EU membership, and how such an outcome is accommodated by the 1998 Agreement, even though the author underlines how the book "does not argue for or indeed against Irish unity" (p.xvi).

Following a foreword by Dr Mary McAleese, where the former President of Ireland notes how the author "highlights how a renewed focus on what is required by the Agreement can provide new perspectives with which to make devolution work" (p.xiv), the book's opening two chapters set out the Good Friday Agreement's internal architecture as originally envisaged, and how it has evolved subsequently in the light of further implementing agreements. From the outset, as he explains its essential features by making ample reference to the text of the Agreement itself, Justice Humphreys performs a critical and timely function by (re)familiarising readers with the content of what was agreed by the various parties involved in the negotiations, and overwhelmingly endorsed by the citizens of both jurisdictions on the island of Ireland, and the relative extent to which this has imposed limits or not on how we relate to one another within and between these islands. The timeliness of what the book sets out to achieve is underlined not only by the fact that both the UK Government and the EU have agreed Brexit must not undermine the Good Friday Agreement in

any of its parts, but also by the increasing realisation of how unfamiliar many people are with what those parts consist of and how they relate to each other.

Thus, for example, the book's author reminds us of the fundamental distinction and interrelation between the two documents that make up the Good Friday Agreement: the multi-party agreement as the political document adopted by the participants in the negotiations; and the British-Irish Agreement signed by the two governments. Whereas, as the author explains, "the political agreement is not in itself enforceable as between the political parties, except to the extent that there is legislation to that effect", the UK and Irish governments "are legally obliged to support and 'where appropriate' implement the multi-party agreement in its entirety" (p.1), although that does not necessarily mean "every aspect of the multi-party agreement requires legislative implementation" (p.1). However, Mr Justice Humphreys also notes how after their implementation certain aspects have lost their original scope – such as the Civic Forum becoming a civic advisory panel "on a far more compact basis" (p.11) following the Stormont House Agreement – or have yet to be implemented, such as the North/South civic consultative forum. Importantly, the author also sets out from the outset to contribute to very current debates on aspects of the Agreement, such as the role of the British-Irish Intergovernmental Conference in the absence of a functioning Northern Ireland Assembly or Executive. In this regard, and directly countering arguments suggesting the Intergovernmental Conference can only operate in parallel with Stormont, he points out that whilst this is the case with the North South Ministerial Council, the conference "operates independently of whether devolution is functioning or not"

(p.15), and that it met 17 times when the Northern Ireland Assembly was suspended between 2002 and 2007. Moreover, and responding to claims the Intergovernmental Conference cannot discuss matters that would be devolved to the Northern Ireland Assembly, the author judges that in the case of the suspension of the devolved institutions "the exclusion for devolved matters from the functions of the Conference can hardly be said to be operative" (p.17).

Whilst also noting the major causes of the various periods of political impasse in the Assembly, the book's second chapter offers a comprehensive and chronological overview of the various agreements and accompanying pieces of legislation that have followed the Good Friday Agreement and attempted to implement outstanding elements of what was agreed in 1998 or rescue Northern Ireland's devolved institutions. However, the author also remarks that as the years have passed since the Good Friday Agreement and seen the collapse of the Northern Ireland Executive on several occasions, a "seismic change" has taken place in terms of the political landscape, with Unionism losing its absolute majority for the first time following the elections to the sixth Assembly (p.49). This less than ideal position appears to be compounded by Brexit, which is described in the conclusion to the third chapter as potentially "the biggest own goal scored by unionism since 1921" (p.78). Nevertheless, and although this chapter charts a range of significant challenges to the 1998 Agreement brought about by the UK's departure from the EU, including the protection of rights and the constitutional status of Northern Ireland, it begins by stating that even if the Good Friday Agreement may presuppose continued EU membership, "presupposing membership is not the same as requiring

membership” (p.57). Of course, whereas the Good Friday Agreement may not require its co-guarantors remain members of the EU, its continued smooth operation after Brexit will depend on the extent to which the UK distances itself from EU regulatory frameworks it has shared with the Republic of Ireland.

Brexit and its challenges is, however, the impulse for the intensification of the discussion in the book’s remaining chapters of how the Good Friday Agreement is accommodating of Irish unity. Thus, the fourth chapter points out how the Agreement incorporates, in fact, “two perspectives on the ultimate constitutional issue” (p.80) which, whilst recognising the desire of some to preserve Northern Ireland’s position as an integral part of the United Kingdom, also legitimates the aspiration of others that it should become part of a united Ireland. Importantly, and citing the Vienna Convention on the Law of Treaties, the author argues in this same chapter how the 1998 Agreement would continue to apply in the event of a united Ireland, with “vital protections for the unionist minority flow[ing] from the Good Friday Agreement as a legally binding agreement of indefinite duration” (p.117). In this context, Northern Ireland would continue to exist as a separate administrative unit with a devolved assembly and executive operating on a cross-community basis within a united Ireland, but it is an interpretation that the author sees as an “ongoing aspect of the Agreement [that] has yet to be fully appreciated” (p.117).

With chapters 5 and 6 looking at how the collapse of power-sharing in Northern Ireland can be avoided in future, and to how the relations embodied in the Good Friday Agreement could be further cemented and extended, including

through a possible constitution for Northern Ireland, the book’s final chapter focuses on how to remove what it sees as obstacles to uniting the peoples of the island of Ireland. Possible solutions include a united Ireland becoming a member of the British Commonwealth, revising the Irish constitution to include rights for those with a British identity, and the reflection of a new identity for a united Ireland through appropriate national symbols, including the flag. All of these, however, are predicated on the fundamental notion that the Good Friday Agreement endures beyond the realisation of a constitutional goal whose peaceful pursuit it gives legitimacy to, just as it protects Northern Ireland’s status as part of the United Kingdom for as long as that is the democratic will of the majority.

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