Feminist political science, including that which considers institutions and institutional change (Krook and Mackay, 2010) tends to focus on positive movements. Similarly, literature which considers the gendered effects of devolution in the United Kingdom (the UK) has also largely emphasised the benefits of devolved governance, especially as regards women's descriptive and substantive representation (Chaney, 2006, Chappell, 2002, Mackay, 2006, Mackay and McAllister, 2012). As such, there has been less consideration of negative case studies, or examples where devolution has resulted in inaction around a gendered issue.

This article considers a case in which positive gendered change in a devolved region of the UK has not occurred. Northern Ireland is the only region of the United Kingdom in which the Abortion Act of 1967 does not apply. Whilst government in the province has changed dramatically over the years, from the Northern Irish Parliament of 1922-1974, to the brief lived Assembly in the 1980s and the post-Good Friday Agreement institutions, Northern Ireland has also had continuous representation at Westminster. Little, however, has been done to address the disparity on abortion from the centre. Furthermore, as the constitutional makeup of the United Kingdom has evolved in the wake of devolution and the establishment of new institutions in Belfast, Cardiff and Edinburgh, Northern Irish exceptionalism with regard to abortion has not changed.

This article considers what Westminster has done (or not done) to address this imbalance. It asks: if the regional devolved institution offers little movement or hope for change, is central government willing to step in and act? Or, framed slightly differently, do women's rights trump regional rights? It does so by employing a feminist institutionalist framework to consider the inactions of central government with regards to this issue. In-depth elite interviews and the texts of key Westminster debates are used via theory-guided process tracing (TGPT) to create a historical narrative of events from the 1967 Abortion Act to the present day.

This article thus adds to the developing literature on gender and UK devolution, by considering how a particularly gendered issue, abortion, has been dealt with from central government. It argues that the reticence of the UK parliament to act means that in contemporary politics, abortion in Northern Ireland has become understood first and foremost as a regional, devolved issue, rather than an issue of women's rights, allowing Westminster to abscond judgement around what is deemed a controversial topic. It is argued that devolution has created a gap regarding where the legal responsibility for abortion lies. Instead of opening up new institutional avenues for action around abortion, in which activists can "venue-shop" (Vickers, Haussmann and Sawer, 2010, 237) to find the one most appropriate, devolved Northern Ireland now instead suffers from a 'ping-pong' effect, whereby no action is taken on this at Stormont but responsibility at Westminster is also deferred.

Gender, Devolution and Northern Ireland

This article builds on literature which considers the gendered effects of devolution and multi-level governance in the United Kingdom. Devolution in the United Kingdom has, in the limited work which considers its gendered effects, been shown to have varied outcomes for women-friendly policy making (Brown et al, 2002, Celis et al, 2012). A great sense emerges, however, that there is a distinct territorial advantage to women-friendly policy making in the post-devolution landscape (Chaney, 2006, Chappell, 2002, Mackay, 2006). Indeed, the level of women's descriptive representation in the new institutions alone appears indicative of more feminised bodies (see Table 1). Early work on the newly devolved institutions found that not only has devolution provided different spaces for political activism, it has done so in "new" environments which are "less likely to carry the embedded masculine institutional norms that have operated as such a barrier in Westminster and Whitehall" (Chappell, 2002, 96). As such, writing in 2006, Mackay found that the new parliament in Edinburgh with its "apparent

'regendering' of political norms has a culture of civility and mutual respect and has largely avoided the 'yah boo' adversarial practices of Westminster" (Mackay, 2006, 179). Moreover, new politicians elected via devolution were "overtly feminist in outlook" and "actively pursued 'women friendly' policies" (Chappell, 2002, 96). This positive outlook has largely continued. Writing in 2012, Mackay and McAllister found that female representatives in Edinburgh and Cardiff felt "a strong sense of entitlement and belonging; in turn, their presence is regarded as normal and unremarkable" (2012, 731).

<Table 1 about here>

Not all appraisals are positive, however. Kenny and Mackay argue that the contemporary Scottish Parliament now suffers from a 'halo effect', in that the success of female politicians within all of the main parties has "arguably engendered a sense of complacency among the political parties and made it increasingly difficult for feminist party activists to press the case for further reform" (2014, 880). This is set within a context in which the "new politics [is] a spent force" (Ibid, 879) in Scotland and a return to an older model of 'politics as usual' is gradually occurring. Furthermore, some scholarship suggests that devolution is encouraging limited, territorially specific feminist action rather than national work across the UK. Celis et al (2012) found that Scottish women's movement organisations "have been relatively absent from the UK-level arena, undertaking very little direct lobbying of central government departments, the Government Equalities Office or Westminster on reserved matters". They argue that there has been a loss of potential for policy learning or replication across territorial borders and that "the price of devolution is loss of influence at the centre" (55-62). With this developing compartmentalisation of women's activism, it is more difficult to facilitate UK-wide women's activism.

In this picture of the gendered effects of devolution, Northern Ireland is both largely absent and an aberration. As Birrell notes, "'intergovernmental relations' has a popular connotation of referring mainly to relations with the Irish government" (2012, 271) and the relationships between Westminster, Stormont and the Irish Daíl have dominated inter- or multi-level governance understandings of Northern Ireland. As such, the literature comparing the devolved institutions and their performance on gender is relatively underdeveloped with regards to Northern Ireland.

From a gendered perspective, none of the positive aspects found in the other devolved institutions appear to have helped in Northern Ireland. The absence of a fully 'new' institution has not resulted in a more woman-friendly approach to political representation as seen in Scotland and Wales. Women's descriptive representation in Northern Ireland has always been poor (Brown et al, 2002, 76). In the historic election of 1997, Northern Ireland returned not a single female MP (Ibid). Women's representation at the new iteration of Stormont remains the worst of all devolved institutions (see Table 1). Despite a clear commitment to women's representation in the Good Friday Agreement, "the promise of women's full and equal political participation is largely unfulfilled" (Galligan, 2013, 415). The particular nature of politics in Northern Ireland, both its "robust and often sectarian style" (Galligan, 2013, 430) and the fact that the legacy of divided politics has left less space for 'other' types of politics, such as feminism (Brown et al, 2002, 80), have been blamed for this.

In this sense, the Northern Irish Assembly is a victim of "nested newness" (Chappell, 2011, 2014, Mackay, 2014). This concept signifies that no institution, "however new or radically reformed - is a blank slate", but is rather "inevitably informed by "legacies of the past" (Mackay, 2014, 552). As Mackay describes it, institutions are:

> … the carriers of multiple – sometimes contradictory – interests and ideas; they are marked by past institutional legacies and are shaped by initial and ongoing interactions with already existing institutions … within which they are "nested" and interconnected (2014, 567).

Mackay argues that, as they evolve, institutions have the capacity to remember the 'old' and forget the 'new'. In this way, former practices can be remembered (or adapted, such as the introduction of a replica of Prime Minister's Questions into the new Scottish Parliament (Mackay, 2014, 562-3)), whilst positive gendered change can be forgotten (equal opportunities was one of the key principles around which the new Scottish institution was founded, but has gradually been forgotten; equally, the crèche in the Parliament building, heavily symbolic of a positive gendered outlook, has been continually put forward for closure in order to save money (Mackay, 2014, 564-565)). In the continued absence of the Bill of Rights, and the lack of attention paid to women's right to political participation, both of which are addressed in the Good Friday Agreement, the Northern Irish Assembly has also been good at forgetting the new. Similarly, remembering the old is a daily occurrence in the province's political institutions, given the dominance of ethno-national politics, the lack of any collective understanding of the past, and the continued relative absence of women from positions of power. 'Old' and 'new' therefore exist uncomfortably and 'stickily' (Mackay, 2014, Kenny, 2013) alongside each other in the new Northern Irish Assembly.

Northern Ireland and Abortion

This "nested newness" (Chappell, 2011, 2014, Mackay, 2014) also means that greater regional powers have not provided venues for women's rights or LGBT activism, such that abortion and same sex marriage legislation still lag far behind the rest of the country. Not only has Stormont not moved on abortion, there has been an almost regressive tendency in policy formation

(Bloomer and Fegan, 2014). Due to the fact that the 1967 Abortion Act was never extended, the foundation for legal termination of pregnancy in the province is provided by the 1861 Offences Against the Person Act. The addition of the 1945 Criminal Justice (Northern Ireland) Act means that an abortion of a "child capable of being born alive"[i] is only legal where the mother's life is at risk (FPANI, 2014). In addition, the Bourne Judgment of 1938 allows abortion where the woman would become "a physical and mental wreck" were the pregnancy to continue. The vague nature of these rulings means that doctors are often unsure how to act or are afraid of repercussions. For example, even though a court in Belfast deemed an abortion on a teenage rape victim legal in 1993, no doctor could be found willing to perform it and the girl had to be taken to England (Side, 2006). Most women seeking terminations thus attend private clinics in England and pay for the procedure independently.

Following devolution, legal action was taken by the Family Planning Association of Northern Ireland which began in the province in 2001. As a result of this, the Northern Irish Department of Health finally issued guidelines for medical professionals regarding termination of pregnancy in 2009 (a previous draft was rejected by the Assembly in 2007). A judicial review was brought by the pro-life organisation, the Society for the Protection of Unborn Children, and the guidelines were re-released with several conflicting sections removed. A second judicial review was brought by the same organisation, and to date, the guidelines have not been released again. Interviews with politicians and individuals from professional bodies conducted in the first half of 2014 gave no clear indication of when the guidelines are expected to emerge. As such, medical professionals continue to work in a legally confused context, with no clear, impartial guidance to follow.

Whilst this narrative is largely legal and procedural, it is also indicative of a wider political context which is highly unfriendly to progressive movement on abortion. In 2000, less than two years after the Assembly was established, it debated and passed the motion, "*That this*

Assembly is opposed to the extension of the Abortion Act 1967 to Northern Ireland."[ii] No attempts were being made at that point, either in Westminster or Stormont, to bring the 1967 Act to the province, but the strong anti-abortion sentiment from the vast majority of Members during this debate was clear. The first iteration of the guidelines on termination of pregnancy were soundly rejected by the Assembly in 2007, which resolved following a debate on their introduction that "*this Assembly opposes the introduction of the proposed guidelines on the termination of pregnancy in Northern Ireland; believes that the guidelines are flawed; and calls on the Minister of Health, Social Services and Public Safety to abandon any attempt to make abortion more widely available in Northern Ireland.*"[iii] The Marie Stopes Clinic in central Belfast, which opened in late 2012 and performs terminations under 9 weeks of pregnancy in the very limited conditions that the law in Northern Ireland allows, has been subject to much political attack. In 2013, a joint motion tabled by the DUP and the SDLP to restrict provision of terminations to NHS facilities was narrowly defeated only after a petition of concern was lodged by Sinn Féin and the Alliance party. In 2014, Jim Wells, DUP MLA and Stormont Health Secretary, submitted an amendment to the Justice Bill with a similar aim as the previous joint DUP-SDLP submission, to restrict terminations to NHS provision alone. Whilst the Department of Justice began a consultation regarding a possible limited extension of the law to cover terminations for fatal foetal abnormality (and potentially also rape and incest), DUP officials have intimated that the party (currently the largest in Northern Ireland) might be willing to block such a move in the Assembly.

The new Northern Irish political institutions following devolution have thus offered little space for progressive action around this issue. As such, UK wide government offers an alternative arena by which activists may "venue-shop" (Vickers, Haussmann and Sawer, 2010, 237) in order to aim lobbying and political action. This article thus explores what happens when a

regional institution is unwilling to act on women's rights. Does national government step in, or is territorial legitimacy given precedence?

Methodology and data

This article works from a feminist institutionalist framework. Feminist institutionalism draws on new institutionalism in that it is equally concerned with the ways in which "formal structures and informal 'rules of the game' [are] structured" (Krook and Mackay, 2011, 1). Whilst new institutionalism often works from a sense of the way in which formal and informal institutions interact, this is rarely done so with an appreciation of gender. Following the understanding of a gender 'regime' (Connell, 1987), feminist institutionalists argue that a "gendered logic of appropriateness" (Chappell, 2006) exists within institutions. This acts to prescribe (and proscribe) acceptable modes of behaviour such that "the masculine ideal usually dominates political and legal settings" (Chappell, 2013, 184). The debating style in the British Houses of Parliament is one such example of a masculine style of rhetoric forming what is implicitly understood as the norm for national politics.

As Kenny notes, "gender is not always easy to "see" in institutions" (2014, 679). Equally, the gender dynamics of political institutions have largely gone unacknowledged and unconsidered by the mainstream literature (Ibid., 579, Chappell, 2006, 223). As Waylen writes, there is a "hidden life of institutions" which is "not always perceived" (2014, 213, 216). A gendered appreciation can help to understand the subtle power relationships which create the more opaque rules of institutions (Ibid). Similarly, as Chappell notes in her consideration of the International Criminal Court, it is "as important to account for *actions not undertaken* as it is to analyse those that have" (Chappell, 2014, 193, emphasis in the original). The "importance of monitoring *inaction*, *silences*, and *lacunae*" (Ibid) is vital to understanding how unspoken, informal gender norms may be at work. The longstanding silence of Westminster on the issue

of abortion in Northern Ireland and its inaction in the face of supranational requests for change are therefore equally important to consider as the movements for change that have been made.

This article explores the issue of abortion in Northern Ireland through the use of theory guided process tracing (TGPT) (Falleti, 2006), to explain why institutional Westminster factors have not facilitated change. TGPT is often employed within work which uses a feminist institutionalist lens (Waylen, 2014). TGPT is typically used for within-case, qualitative analysis to incorporate historical narrative into social science explanation and theory building. George and Bennett (2005, 6) suggest that process tracing requires in-depth qualitative analysis: “the researcher examines histories, archival documents, interview transcripts, and other sources”. Similarly, Tansey (2007, 765) defines the goal of process tracing as being “to obtain information about well-defined and specific events and processes” and “the most appropriate sampling procedures are thus those that identify the key political actors that have had most involvement with the processes of interest.” TGPT thus requires the construction of an in-depth narrative analysis which draws upon multiple sources. As such, this article uses both primary and secondary sources, principally the texts of key Westminster debates. It also draws on over 40 elite, semi-structured interviews with MPs, MLAs, activists and NGO/civil society representatives. Following Tansey’s (2007) description above, key figures were identified prior to the fieldwork undertaken for this research, but a ‘snowballing’ technique was employed to approach further suitable interviewees. Interviews and debates were hand coded and an inductive logic applied to the data.

Firstly, the article considers Westminster’s actions in the context of the period between the 1967 Abortion Act and devolution. Discussion of abortion at the time of the advent of devolution in 1998 then follows. Finally, the post-devolution period is considered with regards to the attempt to extend the 1967 Act via the Human Fertilisation and Embryology Bill of 2008.

Pre-devolution: Between the 1967 Abortion Act and devolution

At the time of the 1967 Act, Northern Ireland still had its own Parliament. In the words of one leading medical practitioner who advised David Steel on the Abortion Act, the province was "completely passed to one side"[iv] in the course of the passing of the legislation at Westminster. In a volume of interviews with the key reformers undertaken in the late 1990s, Northern Ireland is mentioned briefly in passing ("It was scandalous that Northern Ireland wasn't included, as long as it continued to be part of the UK, but at that time we nearly lost Scotland too" [Simms in Furedi (ed.), 1997, 21]), suggesting it was not really of central concern at the time. Furthermore, there were no similar debates in Stormont whatsoever. The Northern Irish parliament of 1922-1974 does not record one debate at all with any substantial reference to abortion. With no pressure at Westminster or Stormont, Northern Ireland was neglected in the course of the 1967 legislation.

From this point onwards, until devolution and the reestablishment of governance at Stormont 26 years later, Westminster took little interest in the discrepancy between abortion laws in the United Kingdom. Britain, even once direct rule was re-established, showed little desire to align Northern Ireland with the centre (Bogdanor, 2001, 476), on this, or other issues (homosexuality was not decriminalised in Northern Ireland until 1982). Questions about abortion and Northern Ireland were occasionally raised from Westminster backbenchers, but with little consistency from the Members addressing the questions, suggesting it was not a key concern for them. An example asked by Parker MP in 1972 is telling of the way in which these questions were most generally answered:

> Mr Parker: asked the Secretary of State for Northern Ireland whether he will take steps to bring abortion law in Northern Ireland into line with that in other parts of the United Kingdom.

Mr Channon: No. (HC Deb 08 June 1972 vol 838 c123)

Questions from various backbenchers of both main political parties came sporadically in 1974, 1980, 1982, 1984, 1986 and 1987. On equally irregular occasions, backbenchers also inquired into the statistics regarding numbers of Northern Irish women coming to Britain to seek terminations.

Similarly, members of successive Westminster governments were keen to stress that they did not wish to change the law and that they were conscious of what they understood to be differing public sentiment around the issue in the province. Asked in 1986 of the potential for an extension, the then Under-secretary of State for Northern Ireland said that “The legalisation of abortion in Northern Ireland was last reviewed in 1985. At that time it was concluded that any change in the law would be opposed by an overwhelming majority of the population. I believe that remains the case” (HC Deb 12 November 1987 vol 122 c537). In 1994, then Secretary of State for Northern Ireland, Michael Ancram, said “The Government have consistently held to the view that legislation should not be introduced to reform Northern Ireland abortion laws unless this is likely to command broad support within the Province” (HC Deb 25 May 1994 vol 244 c200). Hence, for the duration of this period, successive governments, Conservative and Labour alike, appeared highly reticent to take the lead on any change of legislation, using perceived public opinion as a justification for a lack of action (O'Rourke, 2013, 205). Westminster showed little interest or proactivity in the issue of abortion in Northern Ireland in the period between the legalisation of termination of pregnancy in the rest of the UK and devolution.

Northern Irish “difference” and abortion at the time of devolution

During debates around the devolution of power to the Scottish Parliament and the Welsh and Northern Irish Assemblies at Westminster, the issue of abortion was addressed briefly in March

1998. An amendment was tabled by Dr. Liam Fox, Conservative MP, in an attempt to devolve power around abortion to Edinburgh, and not to have it as a ‘reserved’ power at Westminster as was intended by the government. He was criticised by other Members for his apparent bid to stoke up Catholic sentiment within Labour’s Scottish support base and complicate the referendum vote. Fox’s argument centred on the apparent contradiction between what was and was not being devolved to Scotland in terms of ethical issues. Whilst abortion was being left with Westminster, “the death penalty – a major ethical issue – can be decided in the Scottish Parliament. Euthanasia is another major ethical issue. It, too, can be decided in the Scottish Parliament. Bizarrely, human transplantation can also be decided in the Scottish Parliament” (HC Deb 31 March 1998 vol 309 c1095).

Yet the British Government was happy for abortion to remain at Westminster, making the argument, as then Secretary of State for Scotland Donald Dewar MP did, that, “Throughout the United Kingdom, common criteria and common conditions must be met before a termination can take place” (HC Deb 31 March 1998 vol 309 c1109). Abortion was portrayed by the Labour government as something which was important enough that it had to be uniformly regulated from central government. Presenting it as such also avoided the issue of legislative change and papered over a controversial policy issue.

MPs were quick to point out the inconsistency regarding Northern Ireland on this. In the words of Maria Fyfe, MP for Glasgow Maryhill: “I wonder whether any hon. Member is defending what happens in Northern Ireland. It is impossible to know how many hundreds of thousands of women are forced to make the journey to mainland Britain” (HC Deb 31 March 1998 vol 309 c1099). Dewar’s response to this challenge regarding the Northern Irish exception was that the province was “different”:

> It is perfectly proper for hon. Members to say "What about Northern Ireland?" I do not want to plunge into the *sad history of events* in Northern Ireland, but it is clear that we have made a distinction between Northern Ireland and the rest of the United Kingdom for a multiplicity of pressing political and other reasons. There is no case for saying that, because Northern Ireland is *different*, we should countenance the possibility of differences between the law on abortion in England and Scotland (HC Deb 31 March 1998 vol 309 c1108, emphasis added).

Dewar evokes the bloody recent history of Northern Ireland ("the sad history of events") but the logic of his argument does not elaborate on how this past relates to abortion rights. When pushed further on this point by the leader of the Scottish National Party, Alex Salmond MP, Dewar declared that "The law in Northern Ireland is very *different*, because it is *a special case* … The *special* social and political situation in Northern Ireland is not a reason for contemplating further differences in the United Kingdom in this sensitive area" (HC Deb 31 March 1998 vol 309 c1109, emphasis added). Again, Northern Ireland is evoked as 'different' and 'special', but with no clear logical explanation about why its history and circumstances should impinge upon abortion legislation.

Thus, in the wake of devolution, a somewhat bizarre constitutional picture emerged with regard to termination of pregnancy. Abortion was considered too important, portrayed as a health issue which required national uniform standards, to be devolved to Scotland. Simultaneously, Northern Ireland was deemed a unique case such that it could continue to remain an anomaly in terms of its legislation. The 'newness' of the devolved institution was very much 'nested' (Chappell, 2011, 2014, Mackay, 2014) within an older Westminster perspective of Northern Irish society and politics.

Furthermore, following devolution, the government appeared at times confused about where the responsibility for abortion really lay. In 1998, the Secretary of State for Northern Ireland responded to a question about when abortion powers would be devolved with the answer that "the law on abortion is currently classified as part of the criminal law and is therefore a 'reserved' matter. This means that it can be legislated upon either at Westminster, or, with the approval of the Secretary of State and Parliament, by the new Northern Ireland Assembly" (HC Deb 21 July 1998 vol 316 c441). However, two years later, when asked about "access to abortion and contraceptive services for women in Northern Ireland", the reply was that "Responsibility for this matter has been devolved to the Northern Ireland Assembly and is therefore no longer a matter for the Secretary of State for Northern Ireland" (HC Deb 19 July 2000 vol 354 c196). On both of these occasions, given that they were long prior to the 2010 devolution of policing and justice powers to the province, the correct answer was the first, that either Westminster or Stormont, with the Secretary of State's approval, could move on it. This inaccuracy betrays the lack of importance or thought given to this issue from a Westminster perspective.

Post-devolution: 2008 and the Human Fertilisation and Embryology Bill

As the scarcity of references to abortion in Northern Ireland at Westminster following the 1967 Act detailed above suggests, British political activity and activism around abortion has been fairly quiet. In 2008, a serious attempt was made at Westminster for the first time to extend the 1967 Act to Northern Ireland. The Human Fertilisation and Embryology Bill was then passing through parliament. In 1990, this Act had been used to lower the abortion limit from 28 to 24 weeks, meaning that abortion amendments could also be tabled. Several liberalising measures related to abortion were proposed. In addition to a proposal to extend the 1967 to Northern Ireland, amendments were tabled which would have allowed for the requirement of two doctors' signature for abortions before 24 weeks to be replaced by only one, permitted nurses

and other suitable medical practitioners to perform terminations, permitted abortions to take place at the primary care level (GP surgeries), and allowed women to have early medical abortions at home (via use of the 'abortion pill') (Sheldon, 2009, 3).

Activists in Northern Ireland had placed a lot of hope in the amendment related to Northern Ireland passing, and seemed fairly certain of a positive outcome. They were especially hopeful as this was the last time that Westminster could intervene on this issue, given the (ultimately correct) supposition that further police and justice powers were to be devolved to the province,[v] thus ostensibly transferring abortion to Stormont's jurisdiction alone. As the spokesperson for Northern Irish pro-choice group Alliance for Choice, Goretti Horgan, wrote in the *Irish Times*, this did not suggest a positive future for liberalisation of the laws in NI: "saying 'Leave abortion to the Northern Ireland Assembly' is like saying 'Leave it to the Taliban to sort out women's rights."[vi] A renewed sense of vigour therefore accompanied activism at this point, with pro-choice activists gathering petition signatures and a general optimism amongst the pro-choice community that the Act would finally be extended.[vii] The amendment was originally supported by Emily Thornberry MP, who subsequently removed her involvement. The amendment was then taken up by Diane Abbott MP. In spite of it retaining a visible presence via Abbott, a long established and well-known parliamentarian, the amendment was pushed down the running order, thus rendering it essentially impossible to be discussed in the House of Commons. As the *Guardian* editorial described it, "today a small, courageous band of pro-choice public figures in Northern Ireland claim that Downing Street is prepared to yield to the anti-abortion lobby, and use parliamentary chicanery to push any motion aimed at extending the '67 act so far down the agenda that it will disappear" (*Guardian*, 19th October, 2008). As a result, it was not debated, and did not pass.

Speaking during the broader debate on the HFE Bill, Diane Abbott MP said that she had been "roundly abused by male politicians from Northern Ireland" for tabling the motion, and framed her interest in the issue as based on equal rights:

> If I go to Belfast and break a leg, I can have an operation on the national health service, but because of the manoeuvrings of politicians down the years, poor women have to find the money [for an abortion] … The question is whether this United Kingdom Parliament is *content to keep a group of women as second class citizens on this important issue of liberty and rights.* (HC deb 22nd October 2008 vol482 c328, emphasis added)

Northern Irish MPs argued against the amendment and viewed this as a matter which was now under Stormont's remit. As Jeffrey Donaldson (Democratic Unionist Party [DUP][viii]) MP argued:

> The implementation of the 1967 Act, if it were to be extended to Northern Ireland, would fall largely to the Northern Ireland Assembly. It would therefore be *entirely wrong for this House to legislate against the wishes of the parties in the Assembly*, as those parties would be required to implement a law with which they did not agree (HC deb 22nd October 2008 vol481 c331, emphasis added).

Donaldson went on to berate Abbott for tabling the amendment, given that "the hon. Member for Hackney, North and Stoke Newington has not set foot in Northern Ireland to talk to people about this issue" (HC deb 22nd October 2008 vol481 c332). Leaders of the Democratic Unionist Party, the Ulster Unionist Party, Sinn Féin, and the Social Democratic and Labour Party, the four main Northern Irish parties, showing a rare instance of solidarity, wrote to every member

of the House of Commons, declaring that "this sensitive matter should be dealt with by the Assembly and not by this Parliament" (HC deb 22nd October 2008 vol481 col332).

In the brief moments in which the amendment was discussed in and around the House of Commons, the way in which the issue was discussed had two clear interpretations. For Abbott and the broader pro-choice movement, it was discussed as a question of equal rights, the equivalent of breaking a leg and requiring safe, legal, taxpayer funded treatment across all four nations of the UK. For the Northern Irish MPs it is the "wishes of the parties in the Assembly" that must be respected. This is, they claim, an issue of acknowledging the boundaries of the Northern Ireland assembly and allowing the regional democratic will of the Northern Irish people to be respected. The discourse around abortion has therefore become more limited in a contemporary setting. Abortion in Northern Ireland is now a polarised topic, either an issue of women's equality and rights, or of devolved power and regional discretion.

Furthermore, the way in which Westminster was persuaded to drop the amendment suggested to Northern Irish activists that they could no longer focus their efforts at Westminster. It was widely perceived both by activists interviewed for this research, and in news reports at the time[ix], that the DUP had received assurances the previous month that were they to vote for the Government's proposed 42 day detention limit for terror suspects, then no attempt would be made by the Labour government to extend the Abortion Act to Northern Ireland. Dr Margaret Ward, then Director of the Women's Resource and Development Agency in Belfast, one of the key organisations in the Northern Irish women's sector, explicitly made this accusation in a speech in 2009, in which she described this as an example of "women's needs traded on the pretext of maintaining a 'peace process' in which women have become increasingly marginalised"[x]. Indeed, Diane Abbott made this allegation directly in a Westminster Hall debate on abortion and Northern Ireland the following July: "I believe that the Government

colluded in that [pushing the amendment down the debating list], because they knew that, had it got to the Floor of the House, there was a very good chance that it would have got through, because there is a pro-choice majority on both sides of the House" (HC deb July 15th 2009 vol496 c89WH). This 'dirty deal' was lamented by activists at the time, with a sense of disappointment directed at the ruling Labour party in particular.[xi] Aware that this had been the last chance of change from the central Parliament, activists were bitterly disappointed by what they perceived to be a cynical political deal. The activity of 2008 signalled to activists in the province that they could no longer count on support or help from Westminster.

Furthermore, activists in Northern Ireland were deeply scornful of the idea, apparently used by both Northern Irish MPs to stop action from the Government, and by the Government to stop the amendment being tabled by rogue backbenchers, that any attempt to extend abortion legislation would derail the peace process. As one activist described it:

> British ministers being what they are, and MPs being what they are, this is known as a quirky little place and people don't really understand it so they kind of want to leave us well alone. So if you tell them something like abortion could put the peace process in jeopardy then they're inclined to probably believe them …[xii]

Activists were aware of a lack of understanding regarding Northern Ireland in Westminster, and the ways in which this was manipulated by the pro-life community and politicians:

> … the anti-choice proponents tried to sell as they did to the British government, as Northern Ireland as a unique wee place where Catholics and Protestants, we are so morally just, that we really don't want abortion and that's the line that Westminster was sold on the 2008 legislation.[xiii]

Following on from Donald Dewar MP's similar language at the advent of devolution, GB MPs were willing to sign up to a simplistic understanding of contemporary Northern Ireland. Furthermore, events of 2008 illustrate how the discourse around the 'peace process' take on an almost hallowed air in political proceedings. The 'peace process' is to be protected and saved at all costs, even if British MPs appear unsure of what this actually means contextually. At this point, following the 2007 St. Andrew's Agreement, the entering into a joint Executive of Sinn Féin and the DUP, and the resumption of the Northern Irish Assembly, the province's politics were arguably the most stable they had been since the Good Friday Agreement. The "inactions" (Chappell, 2013, 193) of the British government on abortion are thus significant. The failed amendment signalled a clear hierarchy of political importance: the peace process and regional self-determination is paramount, with women's rights being relegated to second place.

Discussion

This article has illustrated the marginal place that abortion legislation in Northern Ireland has had at Westminster since the original 1967 Act which legalised termination of pregnancy in the majority of the UK and, as such, adds an important case study to the broader literature on gender and devolution. The province was all but completely ignored during initial activism and the drafting of the Act, and received scant, irregular attention from parliamentarians in the period following the Act until devolution. Although the construction of the new institutions in Cardiff, Edinburgh and Belfast did potentially allow for change, the dominant narrative was of Northern Ireland's 'difference', and that the province must be allowed to continue with its separate legislative framework. To the frustration of Northern Irish activists, in a contemporary setting, British MPs appear willing to sign up to this simple narrative of the province's 'difference'. Westminster-Northern Ireland relations post-devolution suffer from a "nested

newness" (Chappell, 2011, 2014, Mackay, 2014), in which understandings of the province as 'different' and 'unique' in relation to its past continue to perpetuate a logic which allows for differential treatment around the issue of abortion.

Abortion in Northern Ireland has two distinct interpretations in a contemporary Westminster setting. With Diane Abbott MP's 2008 portrayal of the issue as one of equal medical rights across the four territories of the UK, and the opposing Northern Irish MPs' view that this was a reserved matter for the people and politicians of the province alone, there are now two starkly different ways of understanding the Northern Ireland abortion issue - is this an issue of regional determination and the boundaries of Stormont's powers? Or is this an issue of fundamental women's rights which cuts across devolved borders? As was seen most blatantly in 2008, abortion has been firmly segmented in the national government's mind as an issue first and foremost for the Northern Irish Assembly, before any broader appreciation of women's rights. From 1967 onwards, abortion in the province has been defined as a Northern Irish issue first and as a women's issue secondly. Whether categorised as devolution or the continually evolving 'peace process', the Northern Irish institutional forces have repeatedly been given greater priority than women's rights. As such, instead of offering additional places in which activists might "venue shop" (Vickers, Haussman and Sawer, 2010, 237) women's policy interests, devolution, in this instance, has cut down opportunities for change. With little hope at the regional level, and a lack of interest at the national, neither institution provides a location which progressive activism can make use of. Viewed in this light, the status quo looks set to remain for abortion in Northern Ireland.

These findings bring Northern Ireland into the broader conversation around the gendered effects of devolution. This case study suggests that there is a territorialisation of gendered rights, where localised political forces carry more importance than nationwide practice or long existent policy. As such, it argues against a dominant trend in the gender and multi-level

governance literature, which has largely understood local and devolved governance to be a positive vehicle for action around women's issues (Banasak, 2003, 167). Such findings might be used to consider other gendered examples, both in the UK case and beyond (for example, the relatively laissez-faire attitude taken to abortion policy by centralised EU bodies). Indeed, in relation to Northern Ireland, central government has avoided involvement in a number of gendered issues. Whilst the suspension of Stormont and direct rule from Westminster from 2002-2007 saw the introduction of civil partnerships in the province, national government has not acted to address any other policy imbalances. Successive British governments have avoided intervening in tricky policy areas to do with gender and sexuality: whilst the rest of the UK has liberalised laws around men who have sex with men donating blood, Northern Irish law has remained unchanged, and the Westminster Health Secretary has refused to influence regional policy.[xiv] Central government has also been notably silent on the province's continued refusal to introduce same sex marriage legislation. Devolution, on all of these issues, provides Westminster with a means by which it can shelter itself from controversial issues. As such, although this issue is not about 'offloading' to non-state bodies, the findings here speak to broader research about the depoliticisation of the British state, and suggest ways in which this may be gendered (Flinders, 2008).

This article has also added to the developing field of feminist institutionalism by illustrating how it can work in tandem with considerations of inter-governmental relations, and the complex division of powers in states which employ some types of multi-level governance. Feminist institutionalism can help to conceptualise, not only new institutions, but relations between different institutions in complex political arrangements. It has illustrated how a "gendered logic" (Chappell, 2006) is present not only within institutions, but also in relations between institutional bodies. As such, this widens the literature to allow for an understanding of how institutional practice and relations between national, sub-national and international

bodies might be gendered, and the effects this may have on policy formation and actions (not) taken.

Table 1: Percentage of female representatives in Scottish, Welsh and Northern Irish devolved institutions

	1998	1999	2003	2007	2011
Scottish Parliament	-	37.2	39.5	33.3	35
National Assembly for Wales	-	38.3	50	46.7	40
Northern Ireland Legislative Assembly	17	-	19	16.7	19

Adapted from Mackay, 2010, Northern Ireland Assembly (Michael Potter), 2013, Russell, 2000.

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