

**‘DOCUMENTS OF TRUTH’?: THE 2009 RYAN REPORT AND
2013 MCALEESE REPORT**

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by

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ABSTRACT

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Lucy Simpson-Kilbane

Published in 2009, the Report of the Commission to Inquire into Child Abuse (Ryan Report) offered an extensive and detailed examination of twentieth-century institutional abuse, shedding light on the treatment of vulnerable and impoverished children in industrial schools, reformatories, and other predominantly church-operated institutions. Four years later, the Report of the Interdepartmental Committee to establish the facts of State involvement with the Magdalen Laundries (McAleese Report) examined Ireland’s church-run Magdalen laundries for unmarried mothers and other women who it was deemed had broken moral boundaries. The Ryan and McAleese Reports were contributory to and, indeed, symptomatic of a late-twentieth-century inquiry culture and sought to facilitate a process of recognition, reconciliation, and redress. This thesis presents a collective and comparative analysis of the Commission to Inquire into Child Abuse (CICA) and the McAleese Committee, evaluating their mandate and aims, composition and powers, as well as their outcomes. Based on a close-reading of the Ryan and McAleese Reports and an examination of the response of survivors, the Catholic Church, academics, and journalists, this study identifies inaccuracies, omissions, and potential bias in the reports and questions whether the CICA and McAleese Committee consulted all available evidence and presented their findings effectively.

Through a comparison of the survivor-driven CICA and the more time and cost-efficient administrative inquiry into state involvement with the Magdalen laundries, it is possible to identify a hierarchy of victimhood, reflecting the difficulty the Magdalen laundry survivors faced in gaining legitimate victim status. Beyond the report’s limited and, indeed, questionable statistical analysis, the McAleese Committee’s greatest failing was its inability to prioritise the statements presented by women who lived and worked in the Magdalen laundries. Consequently, while the CICA’s findings have been widely accepted, the McAleese Report’s narrative minimises the extent to which women were exploited and abused in the Magdalen laundries. Questions therefore arise regarding the accuracy of the McAleese Report and how far its publication contributed to wider efforts to come to terms with and learn from Ireland’s institutional history.

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ABBREVIATIONS

AMRI	Association of Mixed Race Irish
CERD	UN Committee on the Elimination of Racial Discrimination
CICA	Commission to Inquire into Child Abuse
ECHR	European Convention on Human Rights
EEC	Economic European Community
IHRC	Irish Human Rights Commission
IMA	Irish Medical Association
ISPCC	Irish Society for the Prevention of Cruelty to Children
JFM	Justice for Magdalenes
MASI	Movement of Asylum Seekers in Ireland
MMC	Magdalene Memorial Committee
NSPCC	National Society for the Prevention of Cruelty to Children
RIRB	Residential Institutions Redress Board
RTÉ	Raidió Teilifís Éireann
SOCA	Survivors of Child Abuse
TRC	South African Truth and Reconciliation Commission
UDHR	Universal Declaration of Human Rights
UNCAT	United Nations Committee Against Torture
UNCRC	United Nations Convention on the Rights of the Child
McAleese Report	Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries
Ryan Report	Report of the Commission to Inquire into Child Abuse

2nd RSCSDCLPI

Second report of the select committee on state of disease and condition of labouring poor, in Ireland, H.C. 1819 (409) VIII, 457.

9th RIRISI

Ninth report of the inspector appointed to visit the reformatory and industrial schools of Ireland, certified under the 21st and 22nd Vic., cap. 103; 31st and 32nd Vic., cap. 59; and 31st Vic., cap. 25, [C.461], H.C. 1871, XXVIII, 927.

38th RIRISI

Thirty-eighth report of the inspector appointed to visit the reformatory and industrial schools of Ireland [Cd.345], H.C. 1900, XLIII, 729.

INTRODUCTION

Shortly after the foundation of the Irish Free State in 1922, the president of the Executive Council, William T. Cosgrave, poignantly remarked that ‘kindly care for the poor is the best sign of true civilisation [...] and the condition of a nation’s poor indicate[s] the character of the national mind’.¹ Almost one hundred years later, Cosgrave’s sentiments were echoed by the American civil rights lawyer, Bryan Stevenson, who opined that the true measure of national character was not how society treated ‘the rich, the powerful, the privileged, and the respected’ but rather how it responded to ‘the poor, the disfavored, the accused, the incarcerated, and the condemned’.² It is a lesson that must be considered when addressing Ireland’s institutional history and one that can also be applied within academia; a traditional ‘top-down’ understanding of the lives of the powerful remains important, but equally, if not more so, is an appreciation of the experiences of the poor and marginalised. Although historians must not discount the agency of individuals within such communities, it is through their shared experience that the impact of dominant social forces, political priorities, and prevailing social attitudes can be most clearly identified. An assessment of the treatment of individuals who were manifestly subordinate to the main power structures, and therefore most vulnerable to the vagaries of an evolving socio-political landscape, offers a means of understanding the broader character of state and society. Thus, beyond an ethical interest in uncovering their histories, it is critical that those who have been both socially and historically marginalised ‘reclaim a place in the narrative’.³

The 2009 Report of the Commission to Inquire into Child Abuse - popularly known as the Ryan Report after the commission’s second chair, Justice Seán Ryan - and the 2013 Report of the Inter-departmental Committee to Establish the Facts of State Involvement with the Magdalen⁴ Laundries, similarly known by the name of its chair, Martin McAleese, and henceforth referred to as the McAleese Report, both provide an opportunity to recover the lives

¹ Charles H. O’Conor, *Report of the Commission on the Relief of the Sick and Destitute Poor: including the Insane Poor* (Dublin, 1927), p. 18 § 98.

² Bryan Stevenson, *Just mercy: a story of justice and redemption* (New York, 6th ed., 2019), p. 18.

³ Lindsey Earner-Byrne, *Letters of the Catholic poor: poverty in independent Ireland, 1920-1940* (Cambridge, 2017), p. 9.

⁴ As this spelling, rather than ‘Magdalene’, was adopted by the McAleese Committee, it is used throughout the thesis with the exception of organisations or titles where the alternative ‘Magdalene’ is used.

of many of the poor, disfavoured, and condemned.⁵ Established in 2000, the Commission to Inquire into Child Abuse (CICA) was tasked with interviewing men and women admitted as vulnerable and disadvantaged children to predominantly Catholic-run residential institutions during the twentieth century. The aim was to determine the nature, circumstances, and extent of the abuse they suffered.⁶ The CICA's investigative team focused in particular on the system of state-regulated and church-operated industrial schools and this approach is replicated in the present study. In 2011, two years after the CICA published its findings, the McAleese Committee was appointed to examine the role of the state in the operation of ten twentieth-century Catholic Magdalen laundries established for the reception of prostitutes and women who engaged in pre- and extra-marital sexual activity, or were otherwise deemed promiscuous, and therefore subverted middle-class standards of Irish womanhood.⁷

The Canadian-American sociologist, Erving Goffman, defined total institutions as sites of 'residence and work' where a 'large number of like-situated individuals [...] together lead an enclosed, formally administered round of life'. He noted the importance of social ostracisation as they are 'cut off from the wider society for an appreciable period of time'.⁸ In recent years, the broad application of Goffman's definition has been challenged as academics point to the permeable nature of many institutions where the 'inhabitants frequently maintained close connections with [...] the outside world'.⁹ Goffman's definition is nevertheless largely applicable to Ireland's industrial schools and Magdalen laundries. Established primarily in the nineteenth century as philanthropic institutions for the care of vulnerable women and children on the basis of a welfarist rather than penal rationale, by the twentieth century the country's Magdalen laundries and industrial schools represented a means of containing and managing 'troublesome and troubling citizens', isolating individuals from wider society and operating as a form of social control.¹⁰ Alongside a range of asylums, hospitals, and other institutions 'utilised to reform, quarantine, or reject those who did not conform to societal norms',¹¹

⁵ Seán Ryan, *Report of the Commission to Inquire into Child Abuse* (Dublin, 2009); Martin McAleese, *Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* (Dublin, 2013).

⁶ Commission to Inquire into Child Abuse Act, 2000 (7/2000) (26 April 2000), § 4(1).

⁷ *McAleese Report*, p. 7, § 8.

⁸ Erving Goffman, *Asylums: essays on the social situation of mental patients and other inmates* (St Ives, 1961), p. 11.

⁹ Jane Hamlett, Lesley Hoskins and Rebecca Preston, *Residential institutions in Britain, 1752-1970: inmates and environments* (Abingdon, Oxfordshire, and New York, 2016), pp 4-5.

¹⁰ Eoin O'Sullivan and Ian O'Donnell (eds), *Coercive confinement in Ireland: patients, prisoners and penitents* (Manchester, 2012), p. x.

¹¹ *Ibid*, p. 2.

Ireland's twentieth-century industrial schools and Magdalen laundries existed as key institutions in a Foucauldian 'carceral archipelago'.¹²

While the McAleese Committee sought to record 'as comprehensive a picture as possible' of Ireland's laundry system, it acknowledged that there was 'no single or simple story of the Magdalen Laundries'.¹³ With the potential to examine thousands of allegations of abuse across hundreds of institutions, the CICA faced a similarly formidable task.¹⁴ Despite the restrictions placed on the investigative teams and the risk of inaccuracies or ambiguities in their findings, the Ryan and McAleese Reports represent the primary public record on Ireland's industrial schools and Magdalen laundries. Indeed, following its publication in 2013, the then-Taoiseach, Enda Kenny, promptly hailed the McAleese Report as a 'document of truth'.¹⁵ The Ryan Report has similarly been recognised as a 'major resource' for the writing of Ireland's institutional history.¹⁶ Before either report can be championed as the official narrative on these institutions and their populations, however, historians have a responsibility to those who experienced the institutions at first-hand to determine whether the CICA and McAleese Committee successfully recovered and presented the truth.

Central to the present study is the conviction that state-funded inquiries should be recognised as the 'commencement rather than the resolution' of efforts to confront and come to terms with Ireland's institutional past.¹⁷ As the CICA acknowledged, the Ryan Report was published to 'give rise to debate and reflection'.¹⁸ A critical assessment of the inquiry process and the findings outlined in the Ryan and McAleese Reports must form a central part of these discussions. Yet, since the publication of their reports, neither the CICA nor McAleese Committee have allowed access to their archives. As such, it is not possible to assess their

¹² Michel Foucault, *Discipline and punish: the birth of the prison*, trans. Alan Sheridan (London, 3rd ed., 1991), pp 296-8. How far women and children were physically incarcerated in the industrial schools and laundries remains uncertain, yet, in its simplest form, Michel Foucault's theory 'alerts us to the reality that the prison was but one of a range of institutions established to regulate human conduct' from the late-nineteenth century (O'Sullivan and O'Donnell, *Coercive confinement*, p. 3).

¹³ *McAleese Report*, p. i, § 1-4.

¹⁴ *Ryan Report*, I, p. 5, § 1.19.

¹⁵ *Dáil Éireann*, (19 February 2013), vol. 793, no. 1. Prior to 2012, Oireachtas debates were published with column numbers included throughout the text, reflecting the two-column layout used in the bound volume of the Official Report. From 2012, the use of column numbers ceased within the Official Report (Houses of the Oireachtas, *Column numbers in historic debates* (<https://www.oireachtas.ie/en/debates/column-numbers-info/>) (7 July 2020)).

¹⁶ Jacinta Prunty, *The monasteries, magdalen asylums and reformatory schools of Our Lady of Charity in Ireland* (Dublin, 2017), p. 28.

¹⁷ Anne-Marie McAlinden, 'An inconvenient truth: barriers to truth recovery in the aftermath of institutional child abuse in Ireland' in *Legal Studies*, 33, no. 2 (2013), p. 213.

¹⁸ Seán Ryan, *Report of the Commission to Inquire into Child Abuse: executive summary* (Dublin, 2009), p. 1.

minutes or consult the transcripts of the submissions they received. The following study nevertheless offers a critical analysis of the inquiries based on an assessment of the Ryan and McAleese Reports as primary artefacts in their own right, establishing their place within a broader inquiry culture that was evident in Ireland and across much of the western world by the end of the twentieth century.

This thesis therefore seeks to explore why Ireland's residential schools and Magdalen laundries were investigated from 2000 onwards when such institutions had previously been largely overlooked and understudied. It will consider what the establishment of the CICA and McAleese Committee revealed about Ireland's response to historical institutional abuse and, more specifically, whether there was a difference in the treatment of the industrial school and Magdalen laundry survivors. It will also consider whether the CICA and McAleese Committee successfully met the terms of their mandates and drew appropriate conclusions or if there were notable errors, omissions, or evidence of bias in their findings. Finally, it will consider whether the publication of the Ryan and McAleese Reports was beneficial to the process of recognition, reconciliation, and redress. These questions will be addressed against a thematic backdrop of poverty and welfare provision, the concept of the 'deserving' and 'undeserving poor', and the impact of institutionalisation; Catholic philanthropy and the evolving church-state relationship; gender and the family; and finally, the 'ideal' victim, and the concept of a hierarchy of victimhood.

Terminology

Thought has been given to the language adopted in this work in order to demonstrate respect for those involved and 'avoid any possible hurt or distress', while also striving for clarity.¹⁹ For example, the term 'resident' is used throughout the Ryan Report in reference to the men and women admitted to Ireland's industrial schools and it has also been used in relation to those who entered the country's Magdalen laundries. However, this term conveys a sense of voluntary residence that is potentially misleading and in consequence it has not been used in this thesis. Historic terms including 'penitent' and 'inmate', which criminalise the women and children, have similarly been avoided, as has the term 'fallen woman'. In Victorian and early twentieth-century rhetoric, it was expected that women would embrace the role 'for which

¹⁹ *McAleese Report*, p. 1, § 1.

nature has admirably suited' them becoming wives and mothers, and thus confining their sexuality to marriage.²⁰ Those who transgressed from this ideal were considered to have 'fallen', their supposed loss of sexual purity rendering them incapable of carrying out their assigned gender role. The term 'fallen woman' was used throughout the nineteenth and twentieth centuries as an all-encompassing term for prostitutes, unmarried mothers, and others deemed to have deviated from expected behavioural norms, which included victims of rape and sexual abuse as well as those in consensual relationships. The derogatory and archaic term has not been used in this thesis in an effort to avoid legitimising its continued use, as it perpetuates the myth that those who entered the laundries were at fault and therefore deserving of punishment.

The term 'victim' is also used sparingly in this thesis. Indeed, it suggests 'passivity or weakness', where individuals are defined not as actors in their own right, but are seen in terms of the wrong inflicted upon them.²¹ In the case of the Magdalen laundries, its use is particularly problematic as it is reminiscent of the language used by some laundry managers who held the women to be helpless 'victims' of male lust.²² Although similar, the term 'survivor' is viewed more positively, implying that the actors were 'not irretrievably damaged by their experiences', but to an extent 'resisted and over[came] the potential effects of an ordeal'. The term excludes, however, those who 'literally or metaphorically' did not survive, as well as men and women whose experiences were more positive, and it could therefore be deemed divisive. Yet, it appropriately indicates the passage of time; those discussed in the reports were 'victims' at the 'time of sustaining the wrong', who became 'survivors' as they were ultimately removed from the events and the institutions, even where they did not entirely 'triumph over adversity'.²³

References to 'survivors' as well as 'victims' are present in the Ryan Report. In contrast, the McAleese Committee was committed to avoiding any terminology which might 'suggest bias in any particular direction'.²⁴ Arguably, it is this, more so than its desire to 'avoid labelling [the] women against their wishes',²⁵ that encouraged the committee to use the 'non-emotive

²⁰ Edward Cahill, 'Notes on Christian sociology VI: the social status of women: b) the feminist movement (continued)' in *The Irish Monthly* 53, no. 619 (January 1925), p. 28.

²¹ Carol Brennan, 'Trials and contestation: the Ryan Commission' in Johanna Sköld and Shurlee Swain (eds), *Apologies and the legacy of abuse of children in 'care'* (Basingstoke, 2015), p. 59.

²² Leanne McCormick, *Regulating sexuality: women in twentieth-century Northern Ireland* (Manchester, 2009), p. 49.

²³ Brennan, 'Trials and contestation', p. 59.

²⁴ *McAleese Report*, p. 2, § 3.

²⁵ *Ibid*, p. 3, § 10.

and factually accurate' phrase 'women admitted to the Magdalen laundries'.²⁶ It is argued in this study, however, that, in consequence, the McAleese Report minimised the exploitative nature of the laundry system and underestimated the physical abuse of women in the Magdalen laundries. Drawing on alternative testimonies from those who experienced the laundries, it is evident that the term survivor is appropriate, particularly where a broader definition is applied beyond that of remaining alive to include those who experienced adversity.²⁷ The term is therefore used throughout this study in relation to the populations of the Magdalen laundries, as well as Ireland's residential schools.

Questions surrounding the extent to which children received an education in residential institutions may lead to an eventual rejection of the term industrial 'school', while there remains a level of confusion where such institutions for non-criminal children are discussed alongside 'reformatories' for those convicted of a crime. These terms were nevertheless employed by the CICA and their use is replicated in this study. The McAleese Report's use of the term 'Magdalen laundry', however, was met with some resistance. In operation from the late-eighteenth century, such institutions have been known variously as penitentiaries, asylums, refuges, and homes, as well as laundries.²⁸ In her 2017 study of the Sisters of Our Lady of Charity in Ireland, Jacinta Prunty eschewed the term 'Magdalen laundry' and referred instead to Magdalen 'asylums' and 'refuges', noting that these terms appeared most often in contemporary material. Prunty argued that the laundries were 'simply the means of generating an income adopted by practically all nineteenth-century charitable enterprises in Ireland trying to help women or girls' and were not, therefore, 'particular to Magdalen refuges'. The sisters subsequently 'took offence' to the common use of 'Magdalen laundry'.²⁹ The term 'asylum', however, creates misleading links with nineteenth-century 'lunatic asylums', and may encourage the belief that the women were institutionalised as they were unable to operate within mainstream society. This term similarly fails to indicate the industrial nature of the system. Furthermore, although many women who entered the laundries left behind difficult home lives, survivor testimony undermines the suggestion that all women found sanctuary, and

²⁶ Prunty, *Our Lady of Charity*, p. 53.

²⁷ Justice for Magdalenes, *State involvement in the Magdalene Laundries: JFM's principal submissions to the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries* (Crocknahattina, Bailieborough, February 2013), pp 13-33, § 8.

²⁸ McAleese Report, p. 2, § 4.

²⁹ Prunty, *Our Lady of Charity*, p. 51.

thus ‘refuge’ or ‘asylum’, in such institutions. In the absence of a suitable alternative, this study adopts the term ‘Magdalen laundry’ as used throughout the McAleese Report.

Methodology and sources

Published four years apart, the Ryan and McAleese Reports were symptomatic of Ireland’s early twenty-first-century inquiry culture and represented the first effort by the state to examine the country’s predominantly Catholic-run institutional care system. Without further assessment, it may be assumed that the inquiries and their reports were therefore similar in approach and scope. However, by comparing the reports and establishing the key commonalities and differences between them, it is possible to identify the unique priorities, strengths, and weaknesses of each inquiry. While the McAleese Committee’s findings run to just over 1,000 pages, plus appendices, the five-volume Ryan Report is over 2,600 pages long. By adopting a comparative approach, it is possible to focus on those areas where the reports noticeably diverged, thus allowing for a deeper analysis of the texts.

Although other reports into Irish twentieth-century clerical abuse in the dioceses of Ferns, Dublin, and Cloyne were published in 2005, 2009, and 2010 respectively, they examined abuse on a regional scale and did not focus on residential institutions.³⁰ These reports are, however, addressed in this study as part of the national inquiry culture. Transnational comparisons also proved illuminating. Throughout the nineteenth century, Magdalen laundries, industrial schools, and equivalent institutions were established across the western world with a variety of residential homes founded in Britain, the United States, Continental Europe, Australia, and Canada.³¹ Such institutions were not therefore unique to Ireland, nor were efforts from the late-twentieth century to determine the extent of abuse that occurred within residential institutions for children.³² While this study seeks to place the Irish reports within the wider context of a

³⁰ Francis D. Murphy, *The Ferns Report* (Dublin, 2005); Yvonne Murphy, *Report of the Commission of Investigation into the Catholic Archdiocese of Dublin* (Dublin, 2009); Yvonne Murphy, *Report of the Commission of Investigation into the Catholic Diocese of Cloyne* (Dublin, 2010). Significant sections of the 2009 Dublin Report, henceforth referred to as the Murphy Report, were also redacted. For example, three paragraphs under the heading ‘the canonical penal process: decision to start a penal process’ were removed from the published version of the Murphy Report (*Murphy Report*, pp 73-4, § 46-8).

³¹ John A. Stack, ‘Reformatory and industrial schools and the decline of child imprisonment in mid-Victorian England and Wales’ in *History of Education*, 23, no. 1 (1994), pp 59-73; Anne Meis Knupfer, ‘“To become good, self-supporting women”: the state industrial school for delinquent girls at Geneva, Illinois, 1900-1935’ in *Journal of the History of Sexuality*, 9, no. 4 (2000), pp 420-46; Edwina Kay, ‘Containment of “wayward” females: the buildings of Abbotsford Convent, Victoria’ in *Archaeology in Oceania*, 50 (2015), pp 153-161.

³² For an assessment of the recent international inquiries into historical institutional child abuse see Katie Wright, ‘Remaking collective knowledge: an analysis of the complex and multiple effects of inquiries into

western inquiry culture, it is argued that the Irish examples must be fully assessed and understood before useful international comparisons can be made. Indeed, without adequate critique, inaccuracies contained in the Ryan and McAleese Reports will be reproduced, and the damage compounded in future studies.

Furthermore, the Irish case is particularly remarkable as state and society evolved from demonstrating a near-universal acceptance of church dominance in the provision of care throughout much of the twentieth century, to adopting a position at the forefront of international efforts to examine the abusive nature of principally Catholic-run institutions by the beginning of the twenty-first century. Indeed, when the Ryan Report was published in 2009, the CICA was the largest inquiry of its kind.³³ Of twenty-three inquiries into child abuse and neglect in out-of-home care established globally by 2013, the 2011 Swedish inquiry into malpractice in social childcare, conducted over five years with approximately 900 witnesses, was the nearest in scale.³⁴ Alongside the 1991-1996 Canadian Royal Commission on Aboriginal Peoples, and the 1995-1997 Australian inquiry into the forced separation of Aboriginal children from their families, the Irish CICA 'set the agenda', and its methods were replicated in other abuse inquiries.³⁵ For example, the Northern Irish Historical Institutional Abuse Inquiry, established in 2012, provided a forum where the survivors presented their evidence confidentially 'in accordance with the CICA model', while the Swedish Commission made 'study trips [...] to the CICA in Ireland' to observe its approach.³⁶

The McAleese Committee, meanwhile, was the first appointed globally with a mandate to examine the Magdalen laundry system and the treatment of institutionalised women. To date, the US has failed to recover the Magdalen laundries from a 'historical amnesia',³⁷ while the

historical institutional child abuse' in *Child Abuse and Neglect*, 74 (2017), pp 10-22, and Johanna Sköld and Shurlee Swain (eds), *Apologies and the legacy of abuse of children in 'care'* (Basingstoke, 2015).

³³ Since the publication of the Ryan Report, the Truth and Reconciliation Commission of Canada published its findings on residential schools for Aboriginal children, based on the testimonies of 6,000 witnesses (The Truth and Reconciliation Commission of Canada, *Honouring the truth, reconciling for the future: summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Ottawa, 2015), p. v), while 6,875 survivors took part in private hearings as part of the five-year Australian Commission into child abuse (The Royal Commission into Institutional Responses to Child Sexual Abuse (Australia), *Final Report* (Sydney, 2017), I, p. 26, § 3.1.1).

³⁴ Johanna Sköld, 'Historical abuse – a contemporary issue: compiling inquiries into abuse and neglect of children in out-of-home care worldwide' in *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 14, no. 1 (2013), pp 22-3.

³⁵ Wright, 'Remaking collective knowledge', p. 14.

³⁶ Johanna Sköld, 'Apology politics: transnational features' in Johanna Sköld and Shurlee Swain (eds), *Apologies and the legacy of abuse of children in 'care'* (Basingstoke, 2015), pp 22-3.

³⁷ Michelle Jones and Lori Record, 'Magdalene laundries: the first prisons for women in the United states' in *Journal of the Indiana Academy of the Social Sciences*, 17 (2014), p. 167.

Australian laundries have not been extensively investigated.³⁸ Indeed, the lack of international precedent offers some explanation for the Irish state's slow response to requests for an inquiry into the laundries.³⁹ The process of examining historic, predominantly church-run institutions for women has thus far remained localised to the Republic and Northern Ireland. In 2014, for example, historian Catherine Corless discovered evidence of a mass grave at the Bon Secours Mother and Baby Home in Tuam, County Galway, prompting the establishment of a Commission of Investigation into the system of church-run residential homes founded from the 1920s to cater for women pregnant outside marriage.⁴⁰ Similarly, in 2018, historians Leanne McCormick and Sean O'Connell were commissioned to examine institutions in twentieth-century Northern Ireland which provided for unmarried mothers and other women who were deemed promiscuous. Drawing on the archives of the state and church, as well as survivor testimony, McCormick and O'Connell's research has informed the deliberations of an inter-departmental working group tasked in 2016 with examining Northern Ireland's Magdalen laundries and Mother and Baby Homes.⁴¹ In 2020, former Deputy Chief Constable of the Police Service of Northern Ireland, Judith Gillespie, was appointed as its chair.⁴²

While the Ryan and McAleese Reports are the focal point of this study, additional primary records provide useful insight into the operation of the institutions. For example, the annual reports of the school inspector offer key information regarding Ireland's industrial and reformatory schools during the nineteenth and early-twentieth centuries, and exist 'in sharp contrast to the relative paucity of information' on the schools for most of the twentieth century.⁴³ The reports record the number of schools certified, the distribution of Catholic to Protestant institutions, and the number of children admitted. They also offer a sense of the contemporary attitudes held towards pauper children, and the rules and regulations governing their lives. This material was supplemented by contemporary literature which reflected on the limitations of the nineteenth-century Poor Law and associated workhouse system, and

³⁸ Kay, 'Containment of "wayward" females', p. 153.

³⁹ This is discussed in chapter two.

⁴⁰ Commission of investigation (Mother and Baby Homes and certain related matters) order, 2015 (57/2015) (17 February 2015). Corless obtained death certificates for approximately 800 children who died at the Tuam Mother and Baby Home, in operation between 1925 and 1961. Official burial records were located for just two children, however, leading Corless to question whether many of the bodies were buried in a disused septic tank or mass grave in the former grounds of the home (*The Guardian*, 15 June 2015).

⁴¹ *Belfast Newsletter*, 7 November 2018.

⁴² Department of Health, Press release (6 July 2020) (<https://www.health-ni.gov.uk/news/independent-chair-take-forward-work-mother-and-baby-homes-magdalone-laundries-and-historical>) (8 July 2020).

⁴³ Mary Raftery and Eoin O'Sullivan, *Suffer the little children: the inside story of Ireland's industrial schools*, p. 67.

highlighted the perceived need for alternative institutional systems of care.⁴⁴ The writings of nineteenth-century social activists and reformers including Frances Power Cobbe, Beatrice and Sidney Webb, and Mary Carpenter were similarly instructive.⁴⁵

Primary material relating to Ireland's nineteenth-century Magdalen laundries is, however, particularly scarce. An 1897 account of the High Park Magdalen Laundry produced by a member of the Catholic Dominican Order was thus a key source.⁴⁶ Nineteenth-century pamphlets on prostitution, and efforts to eradicate the practice in British and Irish cities, also offered insight into contemporary attitudes towards female sexuality.⁴⁷ Literature from lay-philanthropic organisations, many of which established rescue homes for 'respectable' women as a precursor to the Catholic-run Magdalen laundries, was also insightful.⁴⁸ Applications were made to view documents related to the operation of the laundries and industrial schools held by the Sisters of the Good Shepherd, the Religious Sisters of Charity, and the Sisters of Mercy.⁴⁹ Despite advertising that their holdings include the archives of industrial schools, orphanages, 'and other institutions run by the Sisters of Mercy', neither this congregation nor the Religious Sisters of Charity responded to this request.⁵⁰ The Good Shepherd Sisters, meanwhile, declined the application, stating that their records are private and that the institutions' registers and administration records are not available to researchers.

It therefore remains intrinsically difficult to form a clear impression of Ireland's Magdalen laundries and industrial schools as they existed in the twentieth century. For example, the observations of travel writers who visited the institutions, such as those of the Scottish physician, Halliday Sutherland, provide a useful 'outsider' perspective, but are uncommon.⁵¹ Justice Eileen Kennedy's 1970 report into Ireland's reformatory and industrial school systems also offers rare insight into the operation of the industrial schools and, in a more restricted fashion, the country's Magdalen laundries in the late-1960s. However, the report is limited to an assessment of the industrial schools in the final years of their existence as they ceased

⁴⁴ For example, Charles Raleigh Chichester, *Amalgamation of Unions, and proposed modifications in the Poor-Law Ireland (the workhouse system as applied to the training of youth)* (Dublin, 1879), BL 8275.ee.3.

⁴⁵ For example, Mary Carpenter, *Reformatory schools for the children of the perishing and dangerous classes and for juvenile offenders* (London, 1851).

⁴⁶ Anon., 'The Magdalens of High Park', *The Irish Rosary*, vol. 1 (1897), pp 176-184.

⁴⁷ For example, William Logan, *The great social evil: its causes, extent, results and remedies* (London, 1871).

⁴⁸ Maria Luddy (ed.), *Women in Ireland, 1800-1918: a documentary history* (Cork, 1995).

⁴⁹ The other religious congregations, including the Congregation of Christian Brothers, provide little public information regarding their archives or how to access them.

⁵⁰ Congregation of the Sisters of Mercy, *Archives* (<http://sistersofmercy.ie/archives/>) (27 May 2020).

⁵¹ Halliday Sutherland, *Irish journey* (London, 1956), pp 76-90.

operations in the mid-1970s, while the final Magdalen laundry closed in 1996.⁵² A comprehensive history of the institutions cannot be produced until the religious congregations and orders allow full access to their archival records.

In the absence of contemporary records and documentary evidence, Ireland's laundries and industrial schools have existed in the public mind 'chiefly at the level of *story* [...] rather than history'.⁵³ Cultural representations of the church-run institutions, which first appeared on British and Irish television towards the end of the 1990s, were, therefore, illuminating. To varying degrees, documentaries into Ireland's industrial school system, including *Dear daughter* (1996) and *States of fear* (1999),⁵⁴ and those into the country's Magdalen laundries such as *Witness: sex in a cold climate* (1998), and Peter Mullan's 2002 film, *The Magdalene sisters*,⁵⁵ offset the historical silence that surrounded Ireland's twentieth-century industrial schools, reformatories, and Magdalen laundries.⁵⁶ Due to the potential for errors, exaggeration, and over-simplification, however, films and documentaries produced for mass consumption must be used with caution as the basis for a historical overview of the institutions. Rather, the existence and popularity of such documentaries marked growing public interest in the country's laundries and industrial schools from the 1990s.

Transcripts of relevant parliamentary debates, as well as legislation such as the 2000 Commission to Inquire into Child Abuse Act, have also been utilised. These provided a sense of the priorities of those in power as well as the opposition they faced. Reports and assessments produced by the Irish Human Rights Commission (IHRC), the United Nations Committee Against Torture (UNCAT), and Amnesty International were similarly examined. These offered insight into the pressures placed on the government prior to the foundation of the McAleese Committee, and revealed, more broadly, both the national and international response to the inquiries. Press coverage of the reports also helped to gauge the reaction of the public to the work of the CICA and McAleese Committee. As a historical source, newspapers present significant challenges. Keen to attract a large readership, journalists can be inclined towards sensationalism, while representations of events may be distorted by the newspapers' political

⁵² Eileen Kennedy, *Reformatory and Industrial Schools System Report* (Dublin, 1970).

⁵³ James M. Smith, *Ireland's Magdalen Laundries and the nation's architecture of containment* (Manchester, 2007), pp xvi-xvii, emphasis as it appears in the original.

⁵⁴ RTE Television Archives, 'Dear daughter', *RTÉ* (22 February 1996); 'States of fear', *RTÉ* (27 April-11 May 1999).

⁵⁵ 'Witness: sex in a cold climate', *Channel 4* (1 March 1998) (<http://www.youtube.com/watch?v=FtxOePGgXPp>) (23 May 2017); Peter Mullan, *The Magdalene sisters* (2002).

⁵⁶ Smith, *Architecture of containment*, p. 140.

alignment. It has thus been necessary to draw from coverage across the political spectrum, including, for example, the conservative *Irish Independent*, and the more liberal *Irish Times*. When used with care, newspapers are a valuable primary resource, providing a snapshot of contemporary issues and concerns. Ireland's newspapers chronicled the immediate reaction to major developments and also provided retrospective pieces which reflected on, and often re-evaluated, the inquiries and reports.

Newspaper articles frequently included quotes from survivors and advocacy groups as well as members of the Irish Catholic Church as they observed and scrutinised the work of the CICA and McAleese Committee. It was particularly important to draw these voices from the press coverage as many survivors previously felt unable to speak openly about their experiences, while members of the Catholic Church have traditionally proven reluctant to publicly discuss issues viewed as internal church matters. Other resources which presented survivor testimony, such as the 2017 report of the non-profit advocacy group, Reclaiming Self, also helped to recapture the voices of survivors.⁵⁷ Many reflected on their personal experiences and the difficulties they faced engaging with the inquiry process. Others presented evidence which contradicted or undermined claims made in the Ryan and McAleese Reports. Testimonies from ninety-seven interviewees, the majority with direct experience of the Magdalen laundries, which were collected as part of the 2013 research project *Magdalene institutions: recording an oral and archival history* were particularly rewarding in this respect. This was a government of Ireland collaborative project funded by the Irish Research Council and led by Associate Professor Katherine O'Donnell at University College Dublin, henceforth referred to as the Magdalen oral history project.⁵⁸

Survivor testimonies were similarly recorded as part of the Waterford memories project, a venture in digital humanities funded by the Heritage Council and led by Jennifer Yeager of the Waterford Institute of Technology. This offered survivors the opportunity to discuss their experiences of living and working in Magdalen laundries and industrial schools in the south-east of Ireland, with video recordings of six interviews published online to increase public

⁵⁷ Reclaiming Self was established by University College Cork psychology student AnneMarie Crean to campaign for the rights of historical abuse survivors in Ireland and to bring the issue to wider public attention (Reclaiming Self, *Ryan Report follow-up: submission to the United Nations Committee Against Torture* (n.p., 2017)).

⁵⁸ Katherine O'Donnell, Sinéad Pembroke, and Claire McGettrick, *Magdalene institutions: recording an oral and archival history*. Government of Ireland collaborative research project, Irish Research Council (Dublin, 2013).

engagement and guide future research.⁵⁹ Finally, material produced as part of the campaign for recognition and redress conducted by the survivor advocacy group Justice for Magdalenes (JFM) was widely consulted, including the group's submissions to the McAleese Committee and its response to the findings outlined in the 2013 report. JFM was a volunteer-run, non-profit group founded in 2003 by adoption rights activists Mari Steed, Angela Murphy, and Claire McGettrick to campaign for a state apology and compensation for the Magdalen laundry survivors. The group continues to operate as Justice for Magdalenes Research which provides information to the women who lived and worked in such institutions, and aims to educate the general public about their operation.⁶⁰

Literature Review

A common grievance among academics who have sought to engage with Ireland's institutional history has been the challenge of gaining access to records held in private archives by the Catholic Church and the religious orders, of which the present study is further testament. While concern for the privacy of individuals referenced in the archival material is understandable, Rebecca L. McCarthy noted that 'after a great deal of negative publicity' from the late-1990s, the religious orders have been particularly reluctant to grant access to their records.⁶¹ McCormick similarly acknowledged that it has become 'progressively more difficult' to produce an account of the Magdalen laundries based on primary sources.⁶² With the religious orders acting as 'gatekeepers' of information pertaining to the management of the country's Magdalen laundries, reformatories, and industrial schools, Ireland's institutional history remains an underdeveloped and contested area of academic research.⁶³

Prior to the clerical child abuse scandals of the 1990s, a number of studies were produced which focused in particular on the origins of the industrial school and Magdalen laundry systems and their operation in the nineteenth century. In 1973, for example, Margaret May examined the evolution of juvenile delinquency as a distinct social phenomenon in mid-nineteenth-century

⁵⁹ Jennifer Yeager, *The Waterford memories project* (2015) (<https://www.waterfordmemories.com/copy-of-the-recordings>) (1 June 2020).

⁶⁰ Justice for Magdalenes Research (<http://jfmresearch.com/>) (6 August 2020).

⁶¹ Rebecca L. McCarthy, *Origins of the Magdalene laundries: an analytical history* (Jefferson, North Carolina, 2010), p. 3.

⁶² Leanne McCormick, 'Sinister Sisters? The portrayal of Ireland's Magdalene Asylums in popular culture' in *Cultural and Social History*, 2, no. 3 (2005), p. 379.

⁶³ Jennifer Yeager and Jonathan Colleton, 'Gendered violence and cultural forgetting: the case of the Irish Magdalenes' in *Radical History Review*, 126 (2016), pp 134-5.

Britain, which led to the foundation of Britain's reformatory schools for young offenders in 1854 and its system of industrial schools for the children of the poor in 1857. May highlighted the class divisions embodied by the system as the residential schools attempted 'to impose middle-class standards of child-rearing on lower-class parents'.⁶⁴ This discussion was extended to Ireland in Jane Barnes' ground-breaking *Irish industrial schools, 1868-1908: origins and development*, which considered the context in which the industrial schools were introduced to Ireland and charted the system's development throughout the Victorian period, focusing in particular on the more numerous Catholic institutions. Drawing on nineteenth-century school inspection reports, Barnes presented a picture of daily life in the industrial schools.⁶⁵

Ireland's nineteenth-century industrial and reformatory schools were also briefly addressed in Maria Luddy's 1995 assessment of middle and upper-class female philanthropy. Greater attention was paid, however, to lay-operated orphanages, homes, and schools catering for deserted or homeless children.⁶⁶ While her contribution to the historiography of Ireland's church-run industrial schools and reformatories was limited, Luddy pioneered research into the response of lay philanthropists and female religious orders to the plight of prostitutes and other women whose behaviour was deemed at odds with the particularly stringent moral standards of the period. Luddy examined both lay and church-operated Magdalen laundries and the experiences of the women who entered them;⁶⁷ a theme she expanded upon in her 2007 study *Prostitution and Irish society, 1800-1940*.⁶⁸

The first attempt to detail Ireland's nineteenth-century laundries was Frances Finnegan's 2004 *Do penance or perish: Magdalen asylums in Ireland*, which drew from the nineteenth-century records of the Good Shepherd Sisters.⁶⁹ Despite its promising title, this work reads as a history of the religious order, rather than the Magdalen laundry system. More damningly, Finnegan demonstrated a lack of emotional detachment. In the book's preface, it was argued that it was neither a necessity nor a virtue for historians to 'suspend their moral judgement', and Finnegan subsequently referred to the sisters who operated the laundries as 'patented villains'.⁷⁰ She was

⁶⁴ Margaret May, 'Innocence and experience: the evolution of the concept of juvenile delinquency in the mid-nineteenth century' in *Victorian Studies*, 17, no. 1 (1973), pp 27-8.

⁶⁵ Jane Barnes, *Irish industrial schools 1868-1908: origins and development* (Dublin, 1989).

⁶⁶ Maria Luddy, *Women and philanthropy in nineteenth-century Ireland* (Cambridge, 1995), pp 68-96.

⁶⁷ *Ibid.*, pp 109-36.

⁶⁸ Maria Luddy, *Prostitution and Irish society, 1800-1940* (Cambridge, 2007).

⁶⁹ The Good Shepherd Sisters operated Magdalen laundries in Waterford, Wexford, Limerick, and Cork (*McAleese Report*, p. 18, § 7).

⁷⁰ Frances Finnegan, *Do penance or perish: magdalen asylums in Ireland* (Oxford, 2004), p. xi; *ibid.*, p. 19.

thus held to be ‘unapologetic in asserting the bias that underpins her work’,⁷¹ producing an account that Moira Maguire argued was ‘little more than a personal vendetta against the Good Shepherd Sisters’.⁷² Prunty suggested, furthermore, that *Do penance or perish* was ‘burdened with errors of interpretation’.⁷³ While the book deliberately avoided ‘intimidating theories and jargon’,⁷⁴ this was, indeed, at the expense of historical rigour.⁷⁵ For Catherine Cox, it was evident that Finnegan was ‘deeply influenced’ by the scandals associated with the laundries in the twentieth century,⁷⁶ as she broadly applied victim status to the women who entered the laundries in the Victorian period, thus failing to seek alternative interpretations of the source material.⁷⁷

Despite its tonal and interpretive shortcomings, James M. Smith drew heavily from Finnegan’s monograph for his landmark work, *Ireland’s Magdalen Laundries and the nation’s architecture of containment*. Smith offered a partial history of the Magdalen laundry system in the twentieth century, recognising the laundries as a tool for the new state to promote and consolidate ‘a national identity that privileged Catholic morality’. Those who ‘fell foul of society’s moral prescriptions’ and jeopardised this image were ‘rendered invisible’ through their admission to the country’s laundries, industrials schools, and similar institutions which together formed Ireland’s ‘architecture of containment’.⁷⁸ Drawing on survivor testimony and source material from the CICA and the McAleese inquiry, Clara Fischer similarly contended that shame was mobilised in the pursuit of a ‘postcolonial national identity’, leading to the ‘mass institutionalization of women’ who represented the ‘deviant other’ and thus presented a threat to the ‘new national identity of purity and moral virtue’.⁷⁹

While *Architecture of containment* remains an influential text in this field, it has been criticised for providing a history of the laundries that was ‘seriously under-sourced’.⁸⁰ Yet, Smith’s primary aim was not to present a history of the Magdalen laundry system but to produce an

⁷¹ Moira Maguire, *Precarious childhood in post-Independence Ireland* (Manchester, 2009), p. 11.

⁷² Moira Maguire, ‘“Do penance or perish”: a study of Magdalen asylums in Ireland by Frances Finnegan’ in *Journal of social history*, 39, no. 1 (2005), p. 270.

⁷³ Prunty, *Our Lady of Charity*, p. 39.

⁷⁴ Finnegan, *Do penance or perish*, p. xi.

⁷⁵ McCormick, ‘Sinister Sisters?’, p. 375.

⁷⁶ Catherine Cox, ‘Institutionalisation in Irish history and society’ in Leeann Lane, Mary McAuliffe, and Katherine O’Donnell (eds), *Palgrave advances in Irish history* (Basingstoke, 2009), p. 181.

⁷⁷ Maguire, *Precarious childhood*, p. 11.

⁷⁸ Smith, *Architecture of containment*, pp 46-7.

⁷⁹ Clara Fischer, ‘Gender, nation, and the politics of shame: Magdalen laundries and the institutionalization of feminine transgression in modern Ireland’ in *Signs: Journal of Women in Culture and Society*, 41, no. 4 (2016), pp 824-5; *ibid*, p. 832.

⁸⁰ Maguire, *Precarious childhood*, pp 10-11.

interdisciplinary project to increase ‘awareness and understanding’ that would ‘ultimately lead to action and change’.⁸¹ With the book’s aims couched in expressly activist terms, *Architecture of containment* offers greater insight into the campaign to establish an inquiry into the laundry system and is less useful as a guide to the operation of the laundries. One of Smith’s primary objectives, for example, was to consider how, in the absence of academic research, perceptions of the Magdalen laundries were shaped by plays, films, and documentaries. Subsequently, much of the work provided a critical evaluation of cultural representations of the laundries from the 1990s.⁸² Examining the impact of *The Magdalene sisters*, McCormick similarly acknowledged that ‘the fiction of a motion picture has become the accepted historical reality’, and queried the ‘damaging effect’ cultural representations have on historical research.⁸³ More recently, this theme was addressed by Lizzie Seal and Maggie O’Neill, who extended the discussion to Stephen Frears’ 2013 film, *Philomena*, and similarly recognised that a distinct ‘national and international cultural memory’ of the Magdalen laundries developed in Ireland from the 1990s.⁸⁴

The growing body of films and documentaries which examine Ireland’s institutional history risks creating a false impression that the industrial schools, reformatories, and Magdalen laundries were unique to Ireland. This was partly remedied by McCarthy’s ambitious analytical study of the Magdalen laundries which traced the history of ‘magdalenism’ from its origins in repentant homes for prostitutes established across Medieval Europe.⁸⁵ McCarthy also addressed the Magdalen laundries in England, attributing the earlier decline of the English system to a broader understanding of citizenship; English women were, by the early-twentieth century, recognised as wives, mothers, and, crucially, wage-earners. In Ireland, where national identity was closely intertwined with the social attitudes of the Catholic Church, woman’s economic potential was not acknowledged and was widely stymied, and the laundries continued to operate.⁸⁶ However, while contributing to a broader understanding of the Magdalen laundry system, McCarthy, like Finnegan, did not approach her work objectively,

⁸¹ Smith, *Architecture of containment*, p. xx.

⁸² Ibid, pp 85-182.

⁸³ McCormick, ‘Sinister Sisters?’, p. 373.

⁸⁴ Lizzie Seal and Maggie O’Neill, *Imaginative criminology of spaces past, present and future* (Bristol, 2019), p. 52; the film was inspired by the true story of Philomena Lee, who attempted to locate the son she placed for adoption after entering an Irish Mother and Baby Home in the 1950s (Stephen Frears, *Philomena* (2013)).

⁸⁵ McCarthy, *Origins of the Magdalene laundries*, pp 64-89.

⁸⁶ Ibid, pp 182-3.

referring to the women who entered the laundries, for example, as those who were ‘easily disposed of, like dust swept under the carpet in a fortified tower’.⁸⁷

Anti-church rhetoric, at times overt and in other cases more ambiguous, was countered by the publication of Prunty’s comprehensive history of the Sisters of Our Lady of Charity in Ireland. Produced for a broad readership, including historians, legal professionals, and journalists, it was also intended as a training aid for members of the order. Prunty’s monograph detailed the charitable work undertaken by the sisters during the nineteenth and twentieth centuries, highlighting their commitment to the care of vulnerable and marginalised women and children.⁸⁸ At just over 600 pages, Prunty’s study was ambitious and, by her own admission, limited by its ‘unwieldy scope and great length’. Furthermore, while she aimed to provide a ‘public service’ by conducting extensive ‘independent, academic research’ into the religious order and the institutions they operated,⁸⁹ as a Holy Faith Sister, Prunty is a ‘partisan narrator’.⁹⁰ Yet, from her unique position as historian and religious sister, Prunty gained access to the archival records held by the Sisters of Our Lady of Charity and the Good Shepherd Sisters which have not been made available to other researchers, allowing her to conduct a ‘full analysis’ of the institutions’ registers and other contemporary material.⁹¹ Researchers who wish to view these documents are instead directed to Prunty’s study and are thus denied the opportunity to challenge her interpretation of the source material.⁹²

Prunty’s monograph does not include oral testimony as she was both wary of replicating the work of the Magdalen oral history project and conscious of the ‘ethical demands’ of oral history as a research methodology.⁹³ In contrast, investigative journalist Mary Raftery, and historian and consultant to *States of fear*, Eoin O’Sullivan, drew extensively from survivor testimony for their history of Ireland’s industrial school system, *Suffer the little children*. Raftery and O’Sullivan offered the first full account of the country’s industrial schools in the twentieth century and challenged a number of common misconceptions, including the presumption that the schools largely catered for male juvenile criminals.⁹⁴ However, *Suffer the little children*,

⁸⁷ Ibid, p. 10.

⁸⁸ Prunty, *Our Lady of Charity*, p. 18.

⁸⁹ Ibid, p. 20.

⁹⁰ *Irish Times*, 2 September 2017.

⁹¹ The Sisters of Our Lady of Charity united with the Good Shepherd Sisters in 2014 (Prunty, *Our Lady of Charity*, p. 18); *ibid*, p. 23.

⁹² Indeed, this was the response this author received from the congregation’s archivist, Maryann O’Connor.

⁹³ Prunty, *Our Lady of Charity*, p. 35.

⁹⁴ Mary Raftery and Eoin O’Sullivan, *Suffer the little children: the inside story of Ireland’s industrial schools* (New York, 2001), pp 13-14.

like Finnegan's *Do penance or perish*, has been described as 'a polemic and sensationalist piece of journalism', produced to 'incite popular feeling' rather than to 'educate or elucidate'.⁹⁵ Again, this raises the question whether the value of such work is not as an account of Ireland's institutional care system but rather as primary evidence of Ireland's evolving inquiry culture?

Growing interest in the history of women and children and their experiences of poverty and welfare was marked by the publication of Lindsey Earner-Byrne's *Mother and child: maternity and child welfare in Dublin, 1922-60*. Earner-Byrne examined the social and medical welfare offered to women and their families during the first forty years of independence by local and central governments, and on a voluntary basis by religious organisations. Particular attention was paid to the experiences of unmarried mothers and their children who sought assistance during this period.⁹⁶ Similarly, Maguire's *Precarious childhood in post-independence Ireland* considered the significance of family and childhood in twentieth-century Ireland, focusing on the children of poor or unwed mothers who were historically marginalised.⁹⁷ Like Prunty, she produced an archivally-based history, drawing on material held in the archives of the Irish Society for the Prevention of Cruelty to Children (ISPCC), as well as a range of state records. While acknowledging the 'painful experiences' of the children who entered the industrial schools, Maguire was dismissive of studies, such as the work of Raftery and O'Sullivan, that she held were 'uncritical in their use of personal testimonies'.⁹⁸ However, the result of Prunty and Maguire's top-down approach is a limited understanding of the experience of survivors which is 'tilted towards the official version of events'.⁹⁹

Following the publication of the Ryan Report, many academics have sought to continue the process of 'recovering' the voices of those who are overwhelmingly absent from the official written record. This was the aim of O'Sullivan and O'Donnell, for example, who drew together neglected primary documents, including survivor testimony, in their edited collection, *Coercive confinement in Ireland: patients, prisoners and penitents*, in an effort to 'resuscitate the material and encourage debate'.¹⁰⁰ Similarly, the contributors to Jane Hamlett, Lesley Hoskin, and Rebecca Preston's broad examination of residential institutions in eighteenth, nineteenth, and twentieth-century Britain embraced 'a fundamental shared idea that to fully

⁹⁵ Maguire, *Precarious childhood*, p. 10.

⁹⁶ Lindsey Earner-Byrne, *Mother and child: maternity and child welfare in Dublin, 1922-60* (Manchester, 2007), pp 172-211.

⁹⁷ Maguire, *Precarious childhood*, p. 4.

⁹⁸ Ibid, p. 14.

⁹⁹ O'Sullivan and O'Donnell, *Coercive confinement*, p. xi.

¹⁰⁰ Ibid, p. xii.

understand institutions, we need to look at them from the inmates' point of view'.¹⁰¹ Earner-Byrne also recognised the importance of highlighting contemporary records that present the first-hand experiences of historically marginalised groups in *Letters of the Catholic poor: poverty in independent Ireland, 1920-1940*.¹⁰² After the publication of the Ryan Report, Sinéad Pembroke conducted interviews with twenty-five men and women who had spent their childhood in an Irish industrial school. She subsequently published a series of articles based on their responses which addressed their post-release experience; how far Foucauldian theory is applicable to the industrial school system; and how the survivors responded to the work of the CICA.¹⁰³

Addressing the broader themes of poverty and welfare, Mel Cousins offered the first detailed account of the 'politics and policies' of social welfare as they evolved during the first decades of Irish independence.¹⁰⁴ Cousins identified legislation which particularly impacted poorer women and their families, and thus those who were key candidates for admission to the country's institutions. Virginia Crossman has also produced a considerable amount of work on the Irish Poor Law, foregrounding the experiences of poor and working-class families in the late-nineteenth and early-twentieth centuries and moving the discussion beyond a common focus on the response to the 1845-52 Famine.¹⁰⁵ Crossman identified the gendered nature of welfare provision and acknowledged the insecure economic position of women in nineteenth-century Ireland.¹⁰⁶ In their assessment of the development of welfare in the twentieth century, Nicola Yeates and Pauline Stoltz similarly considered the difficulties women faced in their efforts to secure relief due to the persistence of the male bread-winner model. They focused in particular on lone mothers, comparing the treatment of such women in Ireland with the favourable experiences of their counterparts in Denmark.¹⁰⁷ Together, these studies provide a sense of the conditions that prevailed in nineteenth-century Ireland which led to the

¹⁰¹ Hamlett, Hoskins and Preston, *Residential institutions in Britain*, p. 9.

¹⁰² Earner-Byrne, *Letters of the Catholic poor*, p. 2.

¹⁰³ Sinéad Pembroke, 'Exploring the post-release experience of former Irish industrial school "inmates"' in *Irish Studies Review*, 25, no. 4 (2017), pp 454-71; Sinéad Pembroke, 'Foucault and industrial schools in Ireland: subtly disciplining or dominating through brutality' in *Sociology: the Journal of the British Sociological Association*, 53, no. 2 (2019), pp 385-400; Sinéad Pembroke, 'Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme' in *Contemporary Justice Review*, 22, no. 1 (2019), pp 43-59.

¹⁰⁴ Mel Cousins, *The birth of social welfare in Ireland, 1922-1952* (Dublin, 2003), p. 7.

¹⁰⁵ Virginia Crossman and Peter Gray (eds), *Poverty and welfare in Ireland, 1838-1948* (Dublin, 2011); Virginia Crossman, *Poverty and the Poor Law in Ireland: 1850-1914* (Liverpool, 2013).

¹⁰⁶ Virginia Crossman, 'Viewing women, family and sexuality through the prism of the Irish poor laws' in *Women's History Review*, 15, no. 4 (2006), pp 541-50.

¹⁰⁷ Nicola Yeates and Pauline Stoltz, 'Unequal status, unequal treatment: the gender restructuring of welfare: Ireland', *Women's Education Research and Resource Centre* (Dublin, 1995).

establishment of the industrial schools and Magdalen laundries, and those in the twentieth century that ensured these institutions continued to operate when, in other countries, equivalent institutions had altered their function or closed.

Finally, the academic response to the development of an Irish and international inquiry culture from the 1990s informs this work. In 2013, Johanna Sköld identified the study of inquiries into child abuse as a new and distinct interdisciplinary field. Advocating a comparative approach, she compiled a list of international inquiries into the abuse and neglect of children in out-of-home care and offered an overview of the key similarities and differences between investigations in Australia, Canada, the Nordic countries, the United Kingdom, and Ireland. More significantly, Sköld identified a number of questions for future research, querying, for example, how far the various inquiries reflected transitional justice processes and the extent to which they were prompted by pressure from the media or advocacy groups.¹⁰⁸ These themes, which are considered in this thesis, were addressed in a collection of essays edited by Sköld and Shurlee Swain, representing the first attempt to ‘comprehensively address’ the growing global trend of investigating historical child abuse.¹⁰⁹

Sköld’s comparative approach was also adopted by Anne-Marie McAlinden and Bronwyn Naylor in their examination of the Australian and Northern Irish inquiries into institutional child abuse. Their work offered a critical analysis of the public inquiry framework and questioned how far it provided justice to the survivors of historical child abuse, which has influenced the current study.¹¹⁰ Focusing primarily on the examples of Australia, Ireland, and the UK, Katie Wright similarly provided an evaluation of the multiple and complex functions and effects of modern inquiries into historical institutional child abuse. She argued such inquiries must be understood not only as a mechanism for managing a crisis and guiding future policy, but should be recognised as ‘emblematic of an open and transparent society’, serving an ‘important legitimizing function’ for survivors.¹¹¹

Alongside such broad assessments of the international inquiries into institutional child abuse, the publication of the Ryan Report in 2009 led to a number of studies that examined the work of the CICA in isolation. Published the same year as the Ryan Report, *The Irish Gulag: how*

¹⁰⁸ Sköld, ‘Historical abuse – a contemporary issue’, p. 10; *ibid*, pp 13-14.

¹⁰⁹ Sköld and Swain, *Apologies and the legacy of abuse*, p. 4.

¹¹⁰ Anne-Marie McAlinden and Bronwyn Naylor, ‘Reframing public inquiries as “procedural justice” for victims of institutional child abuse: towards a hybrid model of justice’ in *Sydney Law Review*, 38, no. 3 (2016), p. 279.

¹¹¹ Wright, ‘Remaking collective knowledge’, p. 12.

the state betrayed its innocent children offered a particularly scathing critique of the CICA. Written by the journalist, Bruce Arnold, *Irish Gulag* drew much of its material from articles published in the *Irish Independent* between 1998 and 2009. This was reflected in the highly-emotive and often antagonistic language used throughout, including in its title. Furthermore, Arnold acknowledged that it will take time to judge whether the CICA was a flawed process and the purpose of the book was, therefore, ‘to set the scene for that judgement but not, for the present, to make it’.¹¹² Subsequently, it offered a brief assessment of the CICA’s findings, noting, for example, the disproportionate emphasis on boys’ schools, before falling swiftly into the established pattern of broadly criticising Ryan and his approach.¹¹³

Recognising the reluctance of church members to speak publicly about the CICA’s findings, the Catholic Redemptorist priest, Tony Flannery, published a collection of essays penned by priests and lay Catholics shortly after the release of the Ryan Report. This collection, more cautiously titled *Responding to the Ryan Report*, attempted to ‘broaden the debate’ and ‘introduce the sort of voices’ that he believed were ‘strongly absent’ from the discussion. However, while acknowledging the ‘almost unbelievable’ brutality of the abuse endured by children in Ireland’s industrial schools, the book’s stance was often defensive. Indeed, Flannery highlighted that the essays were part of an effort to contest the ‘scapegoating’ of the Catholic Church and to challenge a number of assumptions that proliferated in the media after the report’s release.¹¹⁴ While their analysis of the CICA’s processes was limited by a lack of objectivity, both Arnold and Flannery’s work nevertheless indicated the strength of the feelings incited by the Ryan Report.

The issue of scapegoating and the difficulties surrounding apportionment of blame were subsequently addressed by a number of academics. For example, Earner-Byrne identified that criticism of the industrial school system was, at first, directed exclusively toward the Catholic Church, while anger at the role of the state intensified as the public, media, and researchers were afforded time to reflect on the CICA’s findings. Earner-Byrne rightly argued that what is lacking is an understanding of the role of society in facilitating the industrial school system and she questioned why institutionalisation was the accepted solution ‘to a myriad of social

¹¹² Bruce Arnold, *The Irish Gulag: how the state betrayed its innocent children* (Dublin, 2009), p. 290.

¹¹³ *Ibid*, pp 296-305.

¹¹⁴ Tony Flannery (ed.), *Responding to the Ryan Report* (Dublin, 2009), pp 8-11.

issues’.¹¹⁵ The subject of blame was also addressed by Fred Powell, Martin Geoghegan, Margaret Scanlon, and Katharina Swirak, who considered the role of state and society in maintaining the country’s industrial schools. Yet, beyond establishing the context of the inquiry, their work primarily offered a summary, rather than analysis, of the CICA’s findings.¹¹⁶

Similarly, in a 2013 ‘re-examination’ of the Ryan, Ferns, and Murphy Reports, Paul Garrett did not present a detailed assessment of the Ryan Report but rather used its findings to expand upon two key themes: the power of the Catholic Church and the figure of the ‘paedophile priest’, and the role of poverty in the lives of those who experienced institutional abuse.¹¹⁷ In 2015, O’Sullivan also presented an overview of responses to the work of the CICA and offered a brief assessment of the commission’s findings. Neither his criticism nor his praise of the report were overt; O’Sullivan queried, for example, the ability of such inquiries to serve both an investigative and therapeutic function, and noted the potential drawbacks of relying on survivor testimony.¹¹⁸ Finally, Emilie Pine, Susan Leavy, and Mark Keane created an online database of the Ryan Report to allow researchers to navigate the CICA’s findings by keyword.¹¹⁹ The transformation of the report into a searchable database permitted both a close and distant-reading of the text and allowed these researchers to reflect on particular aspects of the report. For example, their ‘re-reading’ of the Ryan Report assessed how far its findings supported the assertion that, prior to their closure, ‘everyone knew’ of the abuse and neglect endured by children in Ireland’s residential schools.¹²⁰

While contributing to ongoing and, indeed, essential discussions on Ireland’s industrial schools and the CICA, these studies do not present a critical analysis of the Ryan Report. Similarly, and in contrast to the efforts of Pine, Powell, and others who have engaged with and considered the impact of the CICA, there has been remarkably little academic commentary on the McAleese Report. A rare example can be found in the introduction to Prunty’s history of the

¹¹⁵ Lindsey Earner-Byrne, ‘Child sexual abuse, history and the pursuit of blame in modern Ireland’, in Katie Holmes and Stuart Ward (eds), *Exhuming passions: the pressure of the past in Ireland and Australia* (Dublin, 2011), p. 58.

¹¹⁶ Fred Powell, Martin Geoghegan, Margaret Scanlon and Katharina Swirak, ‘The Irish charity myth, child abuse and human rights: contextualising the Ryan Report into care institutions’ in *British Journal of Social Work*, 43, no. 1 (2013), pp 7-23.

¹¹⁷ Paul Garrett, ‘A “Catastrophic, Inept, Self-Serving” Church? Re-examining three reports on child abuse in the Republic of Ireland’ in *Journal of Progressive Human Services*, 24, no. 1 (2013), pp 54-61.

¹¹⁸ *Ibid.*, pp 212-13.

¹¹⁹ Emilie Pine, Mark Keane and Susan Leavy, *Industrial Memories* (2018) (<https://industrialmemories.ucd.ie/>) (26 November 2019).

¹²⁰ Emilie Pine, Susan Leavy and Mark Keane, ‘Re-reading the Ryan Report: witnessing via close and distant reading’ in *Eire-Ireland: A Journal of Irish Studies*, 52, no. 1-2 (2017), pp 198-215.

Sisters of Our Lady of Charity. In a brief overview of the committee's work, McAleese was praised for being 'compassionate, objective and fearless', and Prunty expressed her appreciation for the 'breadth, depth and quality of the research undertaken by the committee'. However, as she was invited to contribute to the work of the McAleese Committee as an expert witness, Prunty is not an independent commentator. She therefore appears defensive in her sweeping suggestion that those in the media who 'strongly dispute' the findings of the McAleese Report simply 'have not read it'.¹²¹

The present thesis is therefore an attempt to address this gap and provide a critical analysis of the Ryan and McAleese Reports. Chapter one offers a brief history of Ireland's industrial schools and Magdalen laundries in the nineteenth and twentieth centuries to provide the necessary context for the issues addressed in the reports. The events which led to the establishment of the CICA and McAleese Committee are considered in chapter two. This chapter evaluates the role that investigative journalism and numerous documentaries, films, and memoirs played in the emergence of Ireland's inquiry culture and considers how far they prompted the state's decision to establish the inquiries. It also questions whether the Magdalen laundry survivors were required to take additional steps to gain legitimate victim status and, thus, the right to an inquiry.

Contrasting the therapeutic aims of the CICA with the fact-finding administrative processes of the McAleese Committee, this study is, indeed, the first to apply the concept of a hierarchy of victimhood as a means of understanding the complex and multifaceted response to Ireland's institutional history. Nils Christie proposed that, alongside the stereotypes of the 'hero' or 'traitor', there is also the 'ideal victim', referring to those 'most readily given the complete and legitimate status of being a victim' when 'hit by crime'.¹²² Christie's ideal victim was vulnerable, defenceless, and innocent, and therefore deserving of compassion. However, while the very young or elderly are typical of the ideal victim, 'victims that merge with offenders make for bad victims'.¹²³ Thus, those 'existing on the margins of society', such as the homeless, those struggling with drug or alcohol addiction, and, crucially, sex workers or others perceived to have transgressed from expected behavioural norms 'may find it much more difficult to

¹²¹ Prunty, *Our Lady of Charity*, pp 25-6.

¹²² Nils Christie, 'The ideal victim' in Ezzat Fattah (ed.), *From crime policy to victim policy: reorienting the justice system* (Hampshire and London, 1986), p. 18.

¹²³ Ibid, p. 25.

achieve legitimate victim status'.¹²⁴ This thesis therefore posits that, while the industrial school survivors were readily acknowledged as ideal victims by the end of the twentieth century, the women who entered the laundries assumed a more precarious position in the collective consciousness, creating a hierarchy of victimhood which manifested in a delay in recognition and redress for the Magdalen laundry survivors.

Finally, chapters three and four offer a critical and collective analysis of the Ryan and McAleese inquiries and their reports. Chapter three examines the strengths and weaknesses of their mandates and composition. It also considers the various forms of evidence the CICA and McAleese Committee favoured and critiques their methods for obtaining this material. This chapter includes a detailed discussion on the difficulties faced by the CICA during this process. In contrast, chapter four, which interrogates how the CICA and McAleese Committee interpreted and presented their findings, refers more frequently to the McAleese Report. This respective foregrounding is an indication of the individual difficulties and shortcomings of each inquiry. This study concludes with an assessment of the legacy and impact of the Ryan and McAleese Reports.

¹²⁴ Pamela Davies, Peter Francis and Chris Greer, *Victims, crime and society: an introduction* (2nd ed., London, 2017), p. 49.

CHAPTER I

Institutionalising Ireland, 1800-1996: gender, youth, and Ireland's systems of relief

To understand the role of the Magdalen laundries and industrial schools in Irish society it is necessary to determine the conditions that prevailed in Ireland in the late-eighteenth and nineteenth centuries which allowed for their establishment, and those that existed in the twentieth century that ensured their continued operation. A long-standing commitment to a conservative and non-interventionist stance restricted progress in social welfare and permitted successive Westminster and later Irish governments to consistently neglect their duty towards many of the country's most vulnerable women and children. Alongside a variety of lay and church-operated orphanages and asylums, the Magdalen laundries and industrial schools existed as part of Ireland's 'architecture of containment' and remained operational well into the late-twentieth century.¹ Key to the institutions' longevity was Irish state and society's continued acceptance of church involvement in the organisation and distribution of relief, as well as their support for many of the surviving principles that were central to the 1838 Irish Poor Law, including the concept of the 'deserving' and 'undeserving' poor, women's dependent status, and a preference for providing institutional rather than outdoor relief to destitute children and women held to have broken moral boundaries.

Existing 'in a state of great misery': Ireland's nineteenth-century welfare provision²

Poverty was a perennial problem in much of Europe and the United Kingdom in the eighteenth and nineteenth centuries, yet the extent of Irish poverty meant that it was treated as a case apart. As an 1819 Select Committee report on the labouring poor noted, 'the general distress and deficiency of employment are so notorious' that there was simply no need to 'encumber their appendix with evidence to establish the extent and variety of the evil'.³ Writing of his travels

¹ James M. Smith, *Ireland's Magdalen laundries and the nation's architecture of containment* (Notre Dame, Indiana, 2007), p. 2.

² Lord John Russell in Anon., *Emigration, a more humane and profitable test of destitution than the workhouse. remarks on the policy of ministers with respect to the present condition of Ireland, etc* (London, 1847), BL General Reference Collection 8275.d.6.(14.), p. 6.

³ *Second report of the select committee on state of disease and condition of labouring poor, in Ireland*, H.C. 1819 (409) VIII, 457, p. 95; henceforth 2nd RSCSDCLPI.

through Ireland in 1822, the Irish-born naval surgeon, Thomas Reid, similarly reflected on a country only lately, and temporarily, lifted from that ‘worst state to which a nation can be reduced [...] wherein the necessities of life are withheld from the great mass of the population’.⁴ The country’s arable land, owned by landlords and frequently let out to ‘middlemen’, was subdivided among the poorer classes. This, alongside ‘the general practice of throwing the expense of buildings and repairs on the tenant’, prevented ‘the accumulation of profits in the hands of the farmer’, stunting the growth of Ireland’s agricultural economy.⁵ As demonstrated by the 1845-52 Famine, earlier efforts to diversify land practices had failed, as bad weather and poor harvests continued to be disastrous for the rural Irish poor.

Despite the fragility of the agricultural economy and subsequently high levels of emigration, with an estimated one and half million people emigrating between 1815 and 1847,⁶ the population of Ireland expanded rapidly in the decades before the Famine, increasing from approximately two and a half million in the mid-eighteenth century to almost eight million by the early 1830s.⁷ For the 1819 committee, the ‘boundless multiplication’ of what they termed a ‘redundant’ and ‘unemployed population’ did little to remedy the issue of Irish poverty.⁸ Following an inquiry into the state of the Irish poor in 1847, the Prime Minister, Lord John Russell, stated that there were ‘in Ireland about five agricultural labourers for every two that there are for the same quantity of land’ in Britain. Consistently low wages, varying from 6d to 1s per day, left the country’s rural labourers ‘in a state of great misery, and compelled to subsist by mendicancy’.⁹ Conditions in Ireland’s urban centres were little better. The numbers living in Dublin increased from 176,610 in 1813 to 204,155 by 1831, reaching approximately 250,000 by the later years of the Famine in 1851.¹⁰ Many of the city’s poorest people lived in overcrowded tenement buildings and in 1830, a long-term Dublin resident explained that no ‘length of time ever elapses without the appearance of [...] keen and cutting distress’ among the poorest in the city.¹¹

⁴ Thomas Reid, *Travels in Ireland in the year 1822: with reflections on the best means of improving its condition* (London, 1823), p. 1.

⁵ 2nd RSCSDCLI, p. 97.

⁶ Anthony McCashin, *Social security in Ireland* (Dublin, 2004), p. 7.

⁷ William E. Vaughan and André J. Fitzpatrick (eds), *Irish historical statistics: population, 1821-1971* (Dublin, 1978), pp 2-3, § 2-3.

⁸ 2nd RSCSDCLI, p. 97.

⁹ Russell quoted in *Emigration, a more humane and profitable test*, p. 6.

¹⁰ Vaughan and Fitzpatrick, *Irish historical statistics*, p. 28, § 10.

¹¹ *Report of the select committee on the state of the poor in Ireland; being a summary of the first, second and third reports of evidence taken before that committee: together with an appendix of accounts and papers*, H.C. 1830 (667) vii, 1, p. 15, § 5.

However, prior to the introduction of the Irish Poor Law in 1838, and despite widespread and sustained poverty, Ireland had no formal system of welfare.¹² A limited system of poor relief was established in Scotland in 1579, while the Elizabethan Poor Law offered assistance to the destitute in England and Wales from 1601.¹³ Although an extensive dispensary system catered for Irish paupers from 1805, the poor and vulnerable in Ireland, including those with mental or physical disabilities, orphaned children, widows, deserted wives and their dependents, relied overwhelmingly on assistance from the churches and on the generosity of lay charities.¹⁴ Yet, with a small middle class, and largely absentee landlord class, early nineteenth-century Ireland was home to few individuals with the necessary funds to establish and maintain charitable organisations.¹⁵ In the absence of largescale state or lay-funded systems of relief, Ireland's religious communities, both Protestant and Catholic, played an important role in assisting the sick and poor in the pre-Famine period. By the early-nineteenth century, Ireland's secular clergy had become 'an indispensable part of the relief machinery', soliciting aid during church services, organising and distributing alms, and maintaining contact with the poor.¹⁶

Under the 1834 Poor Law, workhouses were established across England providing indoor relief to the destitute poor. Concerned that Irish immigrants could become a burden on the new system, the British government established a Royal Commission to inquire into the state of the poor in Ireland in 1833, chaired by the political economist and Anglican Archbishop of Dublin, Richard Whately.¹⁷ Whately determined that an equivalent Irish workhouse system would not cope with demand. Indeed, he hyperbolically claimed that the commission was required to investigate 'almost the whole social and productive system', since 'the poorer classes in Ireland may be considered as comprehending nearly the whole population'.¹⁸ The Whately Commission subsequently recommended alternative measures to boost the Irish economy including the redevelopment of land, improvements in agricultural training and education, and

¹² Mel Cousins, *The birth of social welfare in Ireland, 1922-1952* (Dublin, 2003), p. 10.

¹³ Virginia Crossman and Peter Gray (eds), *Poverty and welfare in Ireland, 1838-1948* (Dublin, 2011), p. 1.

¹⁴ Maria Luddy, *Women and philanthropy in nineteenth-century Ireland* (Cambridge, 1995), p. 14.

¹⁵ Timothy P. O'Neill, 'The Catholic Church and the relief of the poor' in *Archivium Hibernicum*, 31 (1973), p. 141.

¹⁶ Ibid, pp 135-41; for the role of the Church of Ireland in relief of the poor see Rowena Dudley, 'The Dublin parishes and the poor: 1660-1740' in *Archivium Hibernicum*, 53 (1999), pp 80-94.

¹⁷ Crossman and Gray, *Poverty and welfare*, p. 2.

¹⁸ *First report from His Majesty's commissioners for inquiring into the condition of the poorer classes in Ireland, with appendix (A.) and supplement*, H. C. 1835 (369) XXXII Pt.I.1, XXXII Pt.II.1, p. vii.

a system of assisted emigration to alleviate the dual problems of overpopulation and underemployment.¹⁹

The recommendations of the Whately Report adhered rather uncomfortably to prevailing *laissez-faire* policy. Although personally opposed to the ‘dreadful theory’ of *laissez-faire*,²⁰ the social reformer and self-help propagandist, Samuel Smiles, captured the defining principles of the policy and rationalised that ‘where men are subjected to over-guidance and over-government the inevitable tendency is to render them comparatively helpless’.²¹ The state’s commitment to this belief ultimately militated against the adoption of Whately’s reforms. Many in the minority Whig government were equally concerned by the potential cost of the Archbishop’s plans, as well as the possible political repercussions should they support an alternative to the existing English workhouse system.²² In 1836, the English Poor Law Commissioner, George Nicholls, who had previously criticised the Elizabethan, or ‘old’, Poor Law for its generosity, conducted a six-week tour of Ireland at the behest of then-Home Secretary, and key *laissez-faire* proponent, Lord Russell.²³ On the basis of Nicholl’s assessment, the government opted for a relief system based on, although not identical to, the 1834 English Poor Law.

The 1838 Irish Poor Law and its associated workhouse system differed from the blended provision of outdoor and indoor relief in the rest of the UK. Under the 1834 English law, Poor Law Commissioners were permitted to provide relief in the form of money, food, or clothing to the destitute in urgent cases, or if they were elderly or infirm.²⁴ The 1838 Irish Poor Law, however, made no provision for outdoor relief.²⁵ This reflected the concern of the central Poor Law authorities and Irish Poor Law commissioners that the widespread provision of outdoor relief would have a demoralising effect on the Irish poor in particular, promoting dependency and offering them little encouragement to find work.²⁶ The architects of the Irish Poor Law

¹⁹ McCashin, *Social security in Ireland*, p. 8.

²⁰ Samuel Smiles, *Thrift; or, how to get on in the world* (Detroit, Michigan, 1878), p. 273.

²¹ Samuel Smiles, *Self-help: with Illustrations of Character and Conduct* (Oxford, 1859), p. 1.

²² McCashin, *Social security in Ireland*, pp 8-9.

²³ Nicholls previously recommended, for example, that labourer’s wages no longer be supplemented under the Poor Law (McCashin, *Social security in Ireland*, p. 5); *H.C. Debate* (13 February 1837), vol. 36, cc.453-518 § 461.

²⁴ *Bill for Amendment and better Administration of Laws relating to Poor in England and Wales: (with Amendments by Lords)*, H. C. 1834 (581) III, 357, pp 25-6, § 45; Pat Thane, ‘Women and the poor law in Victorian and Edwardian England’ in *History Workshop Journal*, no. 6 (1978), p. 30; McCashin, *Social Security in Ireland*, pp 6-9.

²⁵ Crossman and Gray, *Poverty and welfare*, p. 4.

²⁶ *Irish Examiner* (10 November 1893).

were also acutely concerned about the potential cost of outdoor relief in a country where many experienced frequent periods of unemployment.²⁷ As a result, destitute and vulnerable Irish men, women, and children could receive state support only upon entering the workhouse or similar institution. A workhouse physician subsequently remarked that ‘in no other country in the world does this indoor system hold the place it does’ in Ireland.²⁸ By 1843, ninety-eight Irish workhouses had opened, with a further twelve in the final stages of construction.²⁹ The Irish Poor Law remained in place in the south of Ireland until 1925, and in Northern Ireland until 1948.³⁰

‘The wife is throughout treated exactly as is the child’: women and the Irish Poor Law³¹

Much of the discourse regarding the poor and their relief was gendered, drawing on the belief that men and women were naturally assigned different roles. A woman’s entitlement to relief was determined by her marital and family status, on the understanding that no welfare scheme or social policy should replace a man in his role as head of household, nor undermine the position of women as carers. With the exception of the industrialised parts of the North East, Ireland, unlike much of the UK, did not experience rapid industrial growth during the nineteenth century.³² Consequently, while the ‘numerous mills absorbed’ female workers in Ulster, there were few employment opportunities for Irish women in other regions and little economic demand for their labour.³³ Nevertheless, in the first half of the nineteenth century, women from the poorer classes contributed to the family income by spinning, weaving, and knitting from home or taking in washing, while many worked on the family farm.³⁴ Indeed, the traditional image of the Victorian family, with the wife and mother dedicated to her domestic duties while supporting her wage-earning husband, was a middle-class construct and

²⁷ Virginia Crossman, ‘Viewing women, family and sexuality through the prism of the Irish poor laws’ in *Women’s History Review*, 15, no. 4 (2006), p. 542.

²⁸ *Nation*, 28 March 1886.

²⁹ *Ninth annual report of the Poor Law Commissioners, with appendices*, [468], H.C. 1843, xxi, 1, p. 35.

³⁰ Crossman and Gray, *Poverty and welfare*, p. 1.

³¹ Sidney Webb and Beatrice Webb, *English Poor Law Policy* (London, 1910), p. 6.

³² Luddy, *Women and philanthropy*, p. 11.

³³ *Ninth report of the inspector appointed to visit the reformatory and industrial schools of Ireland, certified under the 21st and 22nd Vic., cap. 103; 31st and 32nd Vic., cap. 59; and 31st Vic., cap. 25*, [C.461], H.C. 1871, XXVIII, 927, p. 19; henceforth 9th RIRISI.

³⁴ Luddy, *Women and philanthropy*, pp 10-11.

represented an ideal that it was not possible to achieve in many poorer households, even in Britain, where male bread-winner unemployment was common.³⁵

Women were nevertheless limited to low-skill, low-paid jobs in a pattern which prevailed over much of western Europe. With the general decline of Ireland's cotton, linen, and woollen industries from the 1830s, and with the notable reduction in labour-intensive farming in the post-Famine years, it became increasingly difficult for women to secure regular employment.³⁶ By 1881, fifteen per cent of Irish women were employed in the domestic sector, while ten per cent worked in the industrial sphere, four per cent in agriculture, and just two per cent in the professional sector, as teachers or members of religious communities. Almost seventy per cent of the female population were deemed 'non-productive', certainly an ill-fitting term for homeworkers, the daughters of farming classes, and others who engaged in unpaid yet often strenuous work.³⁷ Given the limitations of female employment, many women were vulnerable to financial difficulties during periods of economic decline, such as that experienced in the late-nineteenth century with the reduction in industrial activity, or as a result of personal misfortune, such as the death or desertion of a spouse.³⁸

Despite the hardships faced by women who lacked male support, little effort was made to encourage women to find paid employment. State rhetoric upheld the principles of Darwinian sexual science in which man was 'more courageous, pugnacious, and energetic than woman' and was thus deemed the ideal candidate for public life, while woman, depicted as physically and intellectually inferior, was more suited to domestic duties.³⁹ During parliamentary debates in 1871 on women's suffrage, for example, ministers argued that women did not require the vote since it was both 'nature's' and 'our Maker's intention' that 'man should be at the head of the family and should rule'.⁴⁰ Edward Bouverie, MP for the Kilmarnock Burghs, insisted that women's involvement in public life was 'in reality disturbing the whole foundations of society'.⁴¹ Church of Ireland clerics also commonly held that the 'labours of public life' fell 'almost exclusively to the lot of men', while the important 'duties of private life' belonged to

³⁵ Pat Starkey, 'The feckless other: women, poverty and social workers in wartime and post-war England' in *Women's History Review*, 9, no. 3 (2000), p. 545.

³⁶ Virginia Crossman, *Poverty and the Poor Law in Ireland: 1850-1914* (Liverpool, 2013), p. 34.

³⁷ Maria Luddy (ed.), *Women in Ireland, 1800-1918: a documentary history* (Cork, 1995), p. 159.

³⁸ Eoin O'Malley, 'The decline of Irish industry in the nineteenth century' in *Economic and Social Review*, 13, no. 1 (1981), pp 21-42.

³⁹ Charles Darwin, *The descent of man, and selection in relation to sex* (2nd ed., New York, 1889), p. 557; *ibid*, pp 563-4.

⁴⁰ *H.C. Debate* (3 May 1871), Disabilities Bill – Second Reading § 83.

⁴¹ *Ibid*, § 81.

women.⁴² Encyclicals of the Catholic Church similarly concluded that woman was ‘by nature fitted for home-work’.⁴³

Women across the UK, but in Ireland in particular, were subsequently treated as dependents and not as wage-earners under emerging social policy. In their critique of the 1834 Report of the Royal Commission on the Poor Law, English economists and pioneers in social and economic reform, Beatrice and Sidney Webb, acknowledged that no mention was made of ‘single independent women’, while ‘the wife is throughout treated exactly as is the child; it is assumed that she follows her husband’.⁴⁴ Under the Irish Poor Law, ‘every husband’ remained ‘liable to maintain his wife’, as well as his children. The parental responsibility of mothers was acknowledged only in the case of widows and unmarried mothers, and thus where a male breadwinner was absent. The 1838 legislation stated that the new welfare system was not intended ‘to remove or lessen the obligations to which any husband or parent is by law liable in regard to the maintenance of his wife or children’.⁴⁵ This differed from the 1834 English Poor Law which explicitly recognised the responsibilities of the ‘Mother and Grandmother’, as well as father, in maintaining their children.⁴⁶ Married Irish women could be refused entry to the workhouse, regardless of their physical condition, if it was believed that their husband was willing to support them.⁴⁷ In cases where male bread-winners ceased to provide for their dependents, it was the responsibility of wives to prove to the Poor Law authorities that they had been deserted, and that they were, therefore, entitled to relief in the workhouse.⁴⁸ Furthermore, a married woman was expected to enter the workhouse if her husband was admitted, even if she was deemed ‘able-bodied’.⁴⁹

With the introduction of the Poor Law, the idea that there were those more deserving of relief than others, although neither new nor unique to Ireland,⁵⁰ became ‘deeply rooted in Irish

⁴² Rev. John Gregg, ‘Women: a lecture delivered in Trinity Church’ (Dublin, 1856) in Luddy, *Women in Ireland*, p. 14.

⁴³ Leo XIII, *Rerum novarum* (1891) § 42.

⁴⁴ Webb and Webb, *English Poor Law Policy*, p. 6.

⁴⁵ *Poor relief (Ireland). (Ireland.) A bill [as amended in committee and on re-commitment] for the more effectual relief of the destitute poor in Ireland*, H. C. 1837-38 (238) V, 345, § 48.

⁴⁶ *Bill for Amendment and better Administration of Laws relating to Poor in England and Wales*, p. 33 § 52.

⁴⁷ Crossman, *Poverty and the Poor Law*, p. 113.

⁴⁸ Nicola Yeates and Pauline Stoltz, ‘Unequal status, unequal treatment: the gender restructuring of welfare: Ireland’, *Women’s Education Research and Resource Centre* (Dublin, 1995), p. 6.

⁴⁹ Crossman, *Poverty and the Poor Law*, p. 131.

⁵⁰ The concept of the ‘undeserving’ poor first emerged within the urban cultures of later medieval Europe (Niall Ó Ciosáin, ‘Boccoughs and God’s poor: deserving and undeserving poor in Irish popular culture’ in Tadhg Foley and Sean Ryder (eds), *Ideology and Ireland in the nineteenth century* (Dublin, 1998), p. 96).

popular culture'.⁵¹ While few criticised the extension of relief to the sick and elderly, the 'indiscriminate giving of alms' was held to promote 'idleness, imposture, and general crime' among the able-bodied poor.⁵² It was thus officially and popularly held that a distinction must be made between the 'deserving' poor and the 'undeserving' poor, including drunkards, prostitutes, vagrants, and others whose poverty was believed to stem from their own poor choices.⁵³ Conditions in the workhouse were deliberately poor to ensure that only those who were truly in need sought relief. This was the workhouse test, through which the principle of 'less eligibility' was strictly enforced.⁵⁴ It was hoped, as Nicholls explained, that while no person in 'actual want' will reject the relief offered in the workhouse, the able-bodied poor 'will not submit to the restraints by which the relief is accompanied'.⁵⁵ Significant stigma was attached to the workhouses and many believed that the virtuous poor would not seek admission, choosing destitution and often death 'because of the honest pride which refuses to accept cure at the expense of social degradation'.⁵⁶

The response of Ireland's poor to the 1845-52 Famine ultimately disproved this theory. During the year 1845-46, the numbers availing of Ireland's workhouses 'progressively increased during every week [...] both absolutely and as compared with the corresponding weeks of the previous year'.⁵⁷ As the workhouses struggled to provide for the huge numbers requiring assistance, outdoor relief was sanctioned in 1847 for particular groups in Ireland, including the elderly, infirm, and those with a mental disability, or the deserving poor. The able-bodied poor were only entitled to outdoor relief if the nearest workhouse was full or otherwise unable to accommodate them if, for example, it was struggling to control the spread of disease among residents.⁵⁸ However, in 1852-53, the number of 'out-door poor' remained 'inconsiderable'. While the weekly figures of those seeking relief in the workhouse fluctuated between 111,000 and 188,000 during that year, the numbers receiving outdoor relief from September 1851

⁵¹ Crossman, *Poverty and the Poor Law*, p. 3.

⁵² Russell in *Emigration, a more humane and profitable test*, p. 6.

⁵³ *Nation*, 28 March 1886.

⁵⁴ Crossman and Gray, *Poverty and welfare*, p. 4.

⁵⁵ George Nicholls, *A history of the English Poor Law in connection with the state of the country and the condition of the people* (London, 1904), p. 236.

⁵⁶ *Nation*, 28 March 1886.

⁵⁷ For example, the total number in Ireland's workhouses was 41,118 during the week ending 20 December 1845. This was 2,022 more than the corresponding week of 1844, increasing to 50,717 in March 1846 (*Twelfth annual report of the Poor Law Commissioners, with appendices*, H.C. 1846 (704) xix, 1, p. 26, § 97).

⁵⁸ *Poor relief (Ireland). A bill [as amended by the Lords] intituled, an act to make further provision for the relief of the destitute poor in Ireland*, H.C. 1847 (417) iii, 213, § 1-2.

averaged 3,000 to 4,000 per week.⁵⁹ Crucially, widows with two or more legitimate children were included in this group and, under the 1847 Poor Relief Bill, were entitled to relief outside the workhouse.⁶⁰ With this, provision for single mothers was divided along moral lines. It was held that the widowed mother had followed the natural and expected course; she had married, borne children and only now required assistance due to the loss of her male bread-winner. Such women were therefore perceived as falling on difficult times through no fault of their own and were deemed deserving of outdoor relief.

In contrast, unmarried mothers, generally held alongside prostitutes to be ‘women of bad character’ and an affront to Victorian ideas of female modesty, were considered undeserving poor.⁶¹ Held to be responsible for their plight, requiring correction rather than alleviation, the undeserving female poor received relief upon entering an institution. It must not be assumed, however, that this attitude toward unmarried mothers was shared by all contemporary observers, nor that the title of ‘undeserving’ was considered appropriate in all cases. Sympathy was expressed, for example, for those women, and particularly young girls, held to be victims of male lust.⁶² For example, in 1842 a young, unmarried girl who had been ‘seduced’ by a local farmer, appeared before the Dublin Commission Court after travelling from England to Belfast to procure an abortion. Reporting on the trial, the *Kerry Examiner* referred to her as a ‘poor’ and ‘unfortunate girl’, who wept ‘bitterly during the interview’.⁶³

There was, furthermore, some recognition that responsibility for children rested, in part, with their fathers. In a petition to parliament in 1858, for example, the Guardians of Tuam Poor Law Union complained that the workhouse had become ‘a receptacle for the progeny of men able but not willing to acknowledge their paternity or contribute to the support of their children’. The petitioners recommended that ‘the laws of affiliation in force in England may in part be extended’ to Ireland, to ensure that the fathers of children born outside marriage accepted responsibility for their offspring ‘while relieved in the workhouse’.⁶⁴ In 1862, the Irish

⁵⁹ *Sixth annual report of the commissioners for administering the laws for relief of the poor in Ireland: with appendices*, [1645], H.C. 1852-53, 1, 159, pp 2-4, § 2-4.

⁶⁰ *Poor Relief (Ireland) Bill (1847)* §1-2; widows with only one child were expected to work if they were able and were not, as such, entitled to outdoor relief (Crossman, *Poverty and the Poor Law*, p. 135).

⁶¹ *Kerry Evening Post*, 5 June 1861.

⁶² Crossman, *Poverty and the Poor Law*, p. 197.

⁶³ *Kerry Examiner*, 4 November 1842.

⁶⁴ *Petition to Parliament of the Guardians of Tuam Poor Law Union* (Tuam, 1858), BL Add MS 89177/6/17; the 1845 Bastardy Act permitted unmarried mothers in England to apply to the Justice of the Petty Session for an order upon the father in the hopes of securing child maintenance support (*Bastardy. A bill to make certain provisions for proceedings in bastardy*, H.C. 1845 (68) i, 147, § 2).

Bastardy Bill was passed, rendering fathers liable for the maintenance of such children.⁶⁵ Yet, the arduous process of tracing and ultimately proving the identity of putative fathers often frustrated efforts to retrieve maintenance payments, and the greatest share of the responsibility continued to fall on mothers.⁶⁶

More often, unmarried mothers were not afforded such sympathy or concern and were, as a group, viewed with a degree of fear. In the eighteenth and nineteenth centuries, such women were commonly represented as a moral contagion. Indeed, the Tuam petitioners argued that, due to the number of young unmarried mothers entering the workhouse, an ‘asylum intended for those truly destitute from unforeseen circumstances’ had become a ‘nursery of vice’.⁶⁷ The ‘lax tone’ supposedly created in the country’s workhouses by the presence of ‘abandoned women’ and ‘unmarried mothers’ was said to spread at an ‘amazing’ rate, its effects ‘extremely deleterious to the morals of the youth brought into contact with it’.⁶⁸ The Anglo-Irish writer and social reformer, Frances Power Cobbe, also criticised the workhouse system for its failure to offer guidance and support to the ‘miserable fallen women themselves’. Having been ‘cast up by the Dead Sea of vice’, she stressed that these ‘miserable beings’ were usually left in the workhouse ‘unaided in their sin and shame’.⁶⁹

Confident that the two-parent family, with a wage-earning father and home-making mother, represented the norm, policy makers believed that by assisting the male bread-winner, women and children would avoid poverty. As such, the government made no specific provision for single women facing financial or other difficulties. Within the country’s lay-philanthropic circles, it was widely believed that the situation and condition of women denied outdoor relief deteriorated as a result. Particular concern was expressed for working-age female orphans who, ‘depending for subsistence on their own industry’ and yet deprived of employment, saw ‘no door but that of infamy open to receive’ them.⁷⁰ Similarly, unmarried mothers, ‘not knowing which way to turn’, were believed ‘apt to sink into a life vicious in itself’.⁷¹ There was, it was

⁶⁵ *Bastardy (Ireland) Bill (1862)*, § 2.

⁶⁶ Crossman, *Poverty and the Poor Law*, p. 183.

⁶⁷ *Petition to Parliament of the Guardians of Tuam Poor Law Union*.

⁶⁸ *Nation*, 28 March 1886.

⁶⁹ Frances Power Cobbe, ‘Workhouse sketches (1861)’ in Frances Power Cobbe, *Essays on the pursuits of women, also a paper on female education* (Cambridge, 2010), p. 179.

⁷⁰ Leaflet, ‘House of Refuge, Ash Street’ (Dublin, c.1809), in Luddy, *Women in Ireland*, pp 55-6.

⁷¹ Anon., ‘Dublin Hospital Girls’ Aid Association’, *Englishwoman’s Review* (15 September 1881), in Luddy, *Women in Ireland*, pp 69-70.

argued, ‘a want felt in every large town’ to ‘help the young friendless women who have become mothers’, yet, ‘little [had] been done to heed it’.⁷²

Believing that the needs of pauper women were not being met by existing and often male-run charitable organisations, philanthropic middle and upper-class Irish women established a number of organisations, societies, and institutions for the female poor during the nineteenth century.⁷³ Their charitable efforts included the Asylum for Aged and Infirm Female Servants, and the Asylum of the Aged and Respectable Unmarried Female, established in 1809 and 1838 respectively.⁷⁴ Many lay-operated women’s asylums were reluctant to assist those held to be ‘hardened in the ways of vice’.⁷⁵ The House of Refuge established in Ash Street, Dublin, in 1809, for example, offered shelter only to those ‘industrious and unprotected females’ who produced ‘unquestionable vouchers for the propriety of their conduct’ prior to admittance.⁷⁶ Such lay-run organisations were usually small, underfunded, and localised, and they were, therefore, numerous. In accepting only those pauper women deemed ‘respectable’, these institutions had a greater chance of reporting successful rescue cases to their benefactors, thus securing continued support. Though their approach was partly determined by practical concerns, it nevertheless served to perpetuate the idea that those who failed to conform to middle-class standards of Irish womanhood were less deserving of relief.⁷⁷

Others, however, were prepared to address the needs of women who were unable to provide evidence of previous good conduct. Named after the Biblical figure of the repentant prostitute, Mary Magdalene, Ireland’s first Magdalen asylum was established in Leeson Street, Dublin, in 1766 by the rescue worker, Lady Arbella Denny. Based on a similar institution founded in London in 1758, the home received ‘first fall’ Protestant girls with the aim to reform them before their return to society.⁷⁸ By the end of the nineteenth century, Ireland was home to approximately forty-one institutions established by both Protestant and Catholic groups and known variously as asylums, laundries, and penitentiaries, operating as short-term refuges for the rehabilitation of prostitutes and other supposedly deviant women.⁷⁹ The foundation of lay-

⁷² Ibid, p. 69.

⁷³ Luddy, *Women and philanthropy*, p. 1; for a comprehensive list of nineteenth-century charitable societies see ibid, pp 228-231.

⁷⁴ Ibid, p. 177.

⁷⁵ Ibid, p. 111.

⁷⁶ ‘House of Refuge, Ash Street’, p. 56.

⁷⁷ Luddy, *Women and philanthropy*, p. 181.

⁷⁸ Ibid, pp 110-1; Frances Finnegan, *Do penance or perish: magdalen asylums in Ireland* (Oxford, 2004), p. 8.

⁷⁹ Martin McAleese, *Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* (Dublin, 2013), appendix 3.

run institutions reflected growing concerns about the number of ‘unfortunate females’ believed to have been ‘seduced’ into a life of sexual depravity on Ireland’s streets. With limited education and employment opportunities, prostitution appeared a viable alternative to destitution for many women. The majority of prostitutes were believed to have come from the poorer classes of ‘low dressmakers and servants’, and were commonly found to be young and uneducated.⁸⁰ Prostitution was not without its dangers, with women at risk of assault, unplanned pregnancy, and social ostracisation. Nevertheless, many women chose to pursue prostitution as an occupation, offering as it did relative freedom as well as regular pay.

Prostitution was largely considered an urban phenomenon and was a particular problem in towns which housed garrisons, such as Dublin and Cork.⁸¹ As the Scottish missionary, William Logan, noted on a visit to Dublin in 1842, ‘200 of these wretched girls’ could be found ‘in a back street in the neighbourhood of the Barracks’, contributing to the ‘1,700 prostitutes’ believed to be operating in the capital.⁸² Yet, the state response to prostitution was limited, with a clear focus on its physical impact, particularly among soldiers and sailors. Government-funded Lock Hospitals were established across the country from the late-eighteenth century catering for those suffering from venereal disease. Under the 1864 Contagious Diseases Act, police in certain districts, and particularly in garrison towns, were authorised to present to the magistrates any ‘prostitute’ they had ‘good cause to believe’ was suffering from a venereal disease. Having been subjected to an invasive medical examination, infected women were required to enter a Lock Hospital for treatment where they remained for a maximum of three months, later extended to seven.⁸³ This was, however, a short-term solution which allowed for the arbitrary and compulsory confinement of prostitutes and attempted to deal with the symptoms of the problem without addressing its causes.

With the failure of the state to adequately address the issue of prostitution, it fell to the country’s voluntary agencies to take up their cause. As prostitution was deemed an urban problem, the Magdalen laundries were not evenly distributed across the country and were more commonly established in more densely populated areas. While fourteen homes opened in Dublin by the end of the century, just three were founded in Belfast where industrial employment offered an

⁸⁰ William Logan, *The great social evil: its causes, extent, results and remedies* (London, 1871), pp 48-50.

⁸¹ Luddy, *Women and philanthropy*, p. 101.

⁸² Logan, *Great social evil*, p. 51.

⁸³ *Contagious diseases. A bill for the prevention of contagious diseases at certain naval and military stations*, H.C. 1864 (163) i, 473, p. 3, § 10-12; *Contagious diseases. A bill for the better prevention of contagious diseases at certain naval and military stations*, H.C. 1866 (78) ii, 219, p. 7, § 22.

alternative to prostitution.⁸⁴ Both Protestant and Catholic lay-philanthropic groups were undoubtedly motivated by a sense of Christian duty to help the ‘outcasts’ of society.⁸⁵ It was held that these women had not chosen a life on the streets, but had invariably been seduced, shamed, and abandoned, turning to prostitution as a last resort.⁸⁶ Little distinction was made, furthermore, between those who pursued prostitution as their trade and other women, including unmarried mothers, considered promiscuous or ‘at risk’.⁸⁷ During the nineteenth century, with the workhouse often the only alternative, many women sought refuge in the Magdalen asylums voluntarily and they were free to enter and leave as their circumstances necessitated. Indeed, an estimated forty per cent of those who entered a Magdalen laundry before 1900 did so voluntarily.⁸⁸ Yet, the existence of the Magdalen laundries also revealed a desire to contain and control those who subverted nineteenth-century ideals of female modesty.

Although widespread poverty, and the small, and declining, scope of women’s paid work were acknowledged as contributing factors in their descent,⁸⁹ intemperance, a ‘love of dress’, and an inability to resist the temptations on offer at ‘late dancing parties’ were also blamed for the ‘fall’ of many Irish women.⁹⁰ Thus, while the Magdalen laundries were held to provide a place of refuge for women and girls otherwise ‘friendless, and hopeless’, they also offered a means of containing a supposed moral contagion.⁹¹ Such institutions epitomised a sexual double standard that saw women institutionalised for perceived sexual immorality while men retained their freedom and good name. As society forgave the actions of men as the ‘venial errors of youth’, their female partners were held to demonstrate ‘innate depravity, hopeless degradation’ and ‘unworthiness’.⁹² Consequently, there were no equivalent institutions to cater for ‘fallen men’,⁹³ although ‘man is the great source from whence the misery consequent upon prostitution flows’ since ‘there cannot be prostitution except when he consents’.⁹⁴

⁸⁴ Luddy, *Women and philanthropy*, pp 109-10.

⁸⁵ Jacinta Prunty, *Dublin slums, 1800-1925: a study in urban geography* (Dublin, 1998), pp 263-4.

⁸⁶ Logan, *Great social evil*, pp 49-50.

⁸⁷ Ace V. Simpson, Stewart Clegg, Miguel Lopes, Miguel P. e Cunha, Arménio Rego and Tyrone Pitsis, ‘Doing compassion or doing discipline? Power relations and the Magdalene laundries’ in *Journal of Political Power*, 7, no. 2 (2014), p. 257.

⁸⁸ Smith, *Architecture of containment*, p. 30.

⁸⁹ *Irish Examiner*, 6 February 1863.

⁹⁰ Logan, *Great social evil*, p. 48.

⁹¹ *Irish Examiner*, 6 February 1863.

⁹² William Rathbone Greg, *The great sin of great cities being a reprint by request of an article entitled ‘Prostitution’, from the Westminster and foreign quarterly review* (London, 1892), p. 23.

⁹³ Diarmaid Ferriter, *Occasions of sin: sex and society in modern Ireland* (London, 2009), p. 17.

⁹⁴ Logan, *Great social evil*, pp 50-1.

Rescuing the ‘polluted outcast’: Ireland’s Catholic Magdalen laundries⁹⁵

Opportunities for lay men and women, and lay Catholics in particular, to engage in charitable work were increasingly limited towards the end of the nineteenth century with the expansion of Catholic networks, the embrace of social Catholicism, and the dominance of Catholic-run institutions. Following Catholic Emancipation in 1829, Catholic religious congregations such as the Christian Brothers, the Sisters of Mercy, and the Sisters of Charity became centrally involved in custodial care, as Catholicism emerged as ‘a powerful political and social presence’.⁹⁶ Embracing institutional methods of relief, Catholic religious groups financed and staffed a number of hospitals, schools, and homes caring for many of Ireland’s poorest people.⁹⁷ From the mid-nineteenth century, Catholic religious sisters in particular established or undertook management of a number of institutions for the care of the young, elderly, and sick, becoming ‘the public face of private philanthropic enterprise’ and concentrating their efforts on women and children.⁹⁸

Ireland’s communities of Catholic Religious expanded rapidly in the post-Famine years, as the number of nuns in the country increased from 120 in 1800 to over 8,000 by the end of the century.⁹⁹ Expanding religious congregations were well-placed to assume control of Ireland’s Magdalen laundries, which they achieved by the 1850s.¹⁰⁰ Yet, to the contemporary observer, it was not their numbers alone that recommended them, as it was held that exposure to the ‘innocent’ nuns and their simple way of life would do untold good for the ‘polluted outcasts’ who entered the laundries; the ‘unsullied’ nun, a ‘spotless lily’ dedicated to a life of chastity and self-denial epitomised an ideal of Irish womanhood for these women to emulate.¹⁰¹ The Sisters of Our Lady of Charity were drawn in particular to this form of rescue work, as its members were required to take an additional vow, the salvation of souls, alongside those of poverty, chastity, and obedience.¹⁰² The stated aim of the Catholic-run Magdalen laundries was to save the souls of wayward women, providing ‘kindly interest and moral support’ in order to

⁹⁵ Anon., ‘The Magdalens of High Park’, *The Irish Rosary*, vol. 1 (1897), p. 179.

⁹⁶ David Carroll Cochran, ‘Dethroning Irish Catholicism: Church, State and modernity in contemporary Ireland’ in Eamon Maher and Eugene O’Brien (eds), *Tracing the cultural legacy of Irish Catholicism* (2017), p. 56.

⁹⁷ Smith, *Architecture of containment*, p. 28.

⁹⁸ Luddy, *Women and philanthropy*, pp 35-6.

⁹⁹ Ibid, p. 23.

¹⁰⁰ Maria Luddy, *Prostitution and Irish society, 1800-1940* (Cambridge, 2007), p. 93.

¹⁰¹ ‘The Magdalens of High Park’, p. 179.

¹⁰² Jacinta Prunty, *The monasteries, Magdalen asylums and reformatory schools of Our Lady of Charity in Ireland* (Dublin, 2017), p. 20.

encourage them ‘to leave work on the streets’.¹⁰³ While recognising their ‘great Christian duty’ to share the ‘bounty of the rich’ and assist the poor, Catholic religious congregations were also motivated by a desire to counter the perceived proselytising efforts of Protestants, highlighting the ‘vast superiority’ of spiritual over corporal works of mercy.¹⁰⁴ By bringing groups of poor and vulnerable people together, the Catholic orders could monitor and, indeed, correct the behaviour of those in their care, thus ensuring their moral and spiritual, as well as temporal, wellbeing.

The women admitted to Ireland’s Catholic-run Magdalen laundries were stripped of the trappings of their former lives. They were provided with plain and shapeless uniforms in an effort to discourage vanity and ‘improper thoughts’.¹⁰⁵ It was also common for the women to be given new names, often that of a saint.¹⁰⁶ At best, this was to protect their privacy and ensure their anonymity. However, it was also part of a wider effort to encourage the women to reject their former lives, transforming them from sinners into obedient and malleable penitents. They were expected to adhere to a strict regime of work and prayer, spending long hours mending, cleaning, and drying clothes. In many institutions, the women also engaged in knitting, needlework, and lace-making, producing items to sell to the public.¹⁰⁷ Constant employment, carried out under the supervision of the religious sisters, and often in silence, was considered the best means of rehabilitating the women. The women worked for approximately fifty-four hours per week in winter, and for as many as sixty in summer.¹⁰⁸

The Magdalen laundries did not receive state funding, relying instead on charitable donations, and the money earned through laundry work and other industrial endeavours. The women who laboured in the Magdalen laundries were not paid. Rather, as the religious sisters were keen to highlight, they worked to ‘earn their keep’ and gain their redemption.¹⁰⁹ The late-nineteenth century represented a heyday for the laundry industry, which benefitted from the growth of the middle classes and a subsequent boom in trade.¹¹⁰ This occupation was nevertheless chosen for

¹⁰³ Ibid, p. 108; the operation of the Magdalen laundries was the ‘primary objective’ of the Sisters of Our Lady of Charity, and Our Lady of the Good Shepherd of Angers, commonly known as the Good Shepherds (Mona Hearn, *Thomas Edmondson and the Dublin Laundry: a Quaker businessman, 1837-1908* (Dublin, 2004), p. 8).

¹⁰⁴ *Nation*, 3 October 1857.

¹⁰⁵ Finnegan, *Do penance or perish*, p. 26.

¹⁰⁶ Margaret H. Preston, *Charitable words: women, philanthropy, and the language of charity in nineteenth-century Dublin* (London, 2004), p. 50.

¹⁰⁷ Luddy, *Women and philanthropy*, p. 53; John Kennedy, *Interview with John Kennedy – Abstracts* (June 2011), (<http://www.magdalenelaundrylimerick.com/johnk.html>) (15 December 2016).

¹⁰⁸ Hearn, *Thomas Edmondson and the Dublin Laundry*, p. 130.

¹⁰⁹ Halliday Sutherland, *Irish journey* (London, 1956), p. 82.

¹¹⁰ Hearn, *Thomas Edmondson and the Dublin Laundry*, p. 1.

symbolic as well as practical reasons. As the women washed the laundry, they were seen to be removing the metaphorical stains on their characters and reputations. The nature of the women's work also placed the sisters in a strong position to appeal to the Irish public for donations. The religious sisters, it was stressed, were carrying out important and 'merciful' work, which deserved public support.¹¹¹

On average, women in the nineteenth century remained in the laundries for a few days or weeks, and typically no longer than two or three years, with many women seeking assistance on multiple occasions.¹¹² Historians have argued that the practice of women leaving and re-entering the laundries suggested that such institutions were viewed favourably in the nineteenth century, at least relative to the workhouse.¹¹³ The women were, indeed, seemingly well-cared for physically. For example, they received food that, if plain and repetitive, was far more nutritious than that offered in the workhouse and in many cases better than they could have prepared at home.¹¹⁴ However, the fact that many women turned repeatedly to these institutions for help suggests that they were not sufficiently prepared for re-entering society and that adequate aftercare was not provided. Believed to be largely drawn from the lower and working-classes, it was assumed that, upon leaving the laundry, the women would secure low-paid, low-skilled positions, most likely in the domestic sphere.¹¹⁵ Given the repetitive nature of the work undertaken in the laundries, however, the women were ill-prepared for the responsibilities they faced as domestic servants, as well as those associated with married life and motherhood. It is, of course, likely that many potential employers would have been reluctant to take on formerly institutionalised women, even had they received adequate training. As Mary Costello astutely observed in 1897, there is not 'in all the world' a boycott 'so remorseless as the boycott of the Irish lower classes when one of their kind falls away from virtue'.¹¹⁶

The Magdalen laundries seemingly enjoyed the general support and approval of the Irish public. There was certainly no organised opposition to the establishment of the laundries or public debate regarding the suitability of such institutions for the reception of often destitute and vulnerable women, nor serious agitation for their closure.¹¹⁷ Any opposition was economically motivated; many commercial laundries were frustrated that, as they did not pay

¹¹¹ *Irish Times*, 25 January 1878.

¹¹² Smith, *Architecture of containment*, pp 31-2.

¹¹³ Prunty, *Dublin slums*, p. 270; Luddy, *Women and philanthropy*, pp 124-7.

¹¹⁴ Luddy, *Women and philanthropy*, p.133.

¹¹⁵ Finnegan, *Do penance or perish*, p. 14; *ibid*, p. 39.

¹¹⁶ Mary Costello in Smith, *Architecture of containment*, p. 33.

¹¹⁷ Finnegan, *Do penance or perish*, p. 103.

their workers, the Catholic-run laundries undercut prices.¹¹⁸ The laundries, however, continued to be depicted as places of refuge, ‘where much good is accomplished in sheltering, reforming, and sanctifying “the sinner”’.¹¹⁹ While the Irish middle and upper-classes raised funds to maintain the laundries and used the services they provided, the working and lower-classes continued to send their supposedly wayward female relatives to the laundries. In this way, Irish society ensured that the Magdalen laundry system continued to operate into the late-twentieth century.

No ‘mother to cherish’ or ‘father to control them’: provision for children under the Irish Poor Law¹²⁰

The country’s orphaned, impoverished, and neglected children were similarly offered institutional rather than outdoor relief throughout the nineteenth century. From the eighteenth century, state-funded foundling hospitals catered specifically for poor, deserted, and orphaned children.¹²¹ For example, established in 1704, the Dublin Foundling Hospital received infants ‘from all parts of Ireland’ before placing them under the care of nurses in the country. The children returned to the hospital aged seven or eight where they were ‘maintained and instructed’ until they began an apprenticeship.¹²² However, in the late-eighteenth and early nineteenth centuries, the Dublin hospital faced allegations of embezzlement, as well as claims that children were mismanaged and poorly treated.¹²³ An 1826 commission remarked that ‘great negligence and inhumanity were found to mark the conduct of the women employed in carrying children to the hospital’. Many children subsequently ‘died upon the road’ or ‘almost immediately after arriving within the walls of the institution’.¹²⁴ Of 52,150 children admitted to the hospital between 1796 and 1826, hospital returns suggest that at least 31,902,

¹¹⁸ Hearn, *Thomas Edmondson and the Dublin Laundry*, p. 131.

¹¹⁹ ‘The Magdalens of High Park’, p. 176.

¹²⁰ William Neilson Hancock, ‘The workhouse as a mode of relief for widows and orphans’ in *Dublin Statistical Society*, 1, part II (1855), pp 86-7.

¹²¹ Mary Raftery and Eoin O’Sullivan, *Suffer the little children: the inside story of Ireland’s industrial schools* (New York, 2001), p. 54.

¹²² *Third report of the commissioners of Irish education inquiry. Dated Dublin, 16th September 1826*, H.C. 1826-27 (13) xiii 1, p. 3.

¹²³ Raftery and O’Sullivan, *Suffer the little children*, p. 54.

¹²⁴ *Third report of the commissioners of Irish education inquiry*, 1826-27, p. 4.

representing sixty-one percent, died either in the institution or at nurse.¹²⁵ The Dublin Foundling Hospital closed in 1831.¹²⁶

Another site of welfare were Ireland's Protestant charter schools that provided training in agricultural and domestic skills to the children of the poor from 1733 until the 1830s.¹²⁷ By the mid-nineteenth century, a number of non-Catholic ragged schools were also established in Ireland. Modelled on institutions in Britain, these schools provided pauper children with basic literacy skills. Deeply suspicious of the Protestant schools, Cardinal Cullen petitioned for funds to establish equivalent institutions for Catholic children which were developed in the following years.¹²⁸ During the 1850s, a number of Catholic orphanages were also established across the country, while Catholic orders assumed control of many former lay or Protestant-run schools.¹²⁹ These orphanages were home to vagrant children, those whose parents were unable to care for them, as well as children who were orphans in the strictest sense.¹³⁰ While non-Catholic institutions often favoured boarding-out or a 'day school' arrangement, an institutional approach was generally adopted in institutions under Catholic management.¹³¹ By the mid-1850s, 'virtually all' orphanages in Ireland were church-run and operated by Catholic congregations and orders who embraced the institutional model.¹³²

Despite the establishment of church-run schools and orphanages, however, many children continued to seek relief in Ireland's workhouses. For example, in the year 1852-53, the weekly returns for the number of children under the age of fifteen residing in Irish workhouses fluctuated between approximately 55,000 and 84,000,¹³³ as there was 'no other resource of which they can avail themselves'.¹³⁴ From its inception, the New Poor Law faced severe criticism from philanthropic women, Protestant reformers, Catholic bishops, and other activists who argued that the workhouse system was expensive and ineffective.¹³⁵ Prominent among the

¹²⁵ This figure represents the total number of deaths given in the report (41,524) minus those who it is claimed died at nurse, yet no death certificate was supplied (9,622), as there is no way to determine whether any of these children in fact survived into adulthood (Ibid, pp 4-6).

¹²⁶ Raftery and O'Sullivan, *Suffer the little children*, p. 54.

¹²⁷ Jane Barnes, *Irish industrial schools 1868-1908: origins and development* (Dublin, 1989), p.27.

¹²⁸ Ibid, pp 19-20.

¹²⁹ The majority of orphanages were operated by one of three female religious congregations: the Sisters of Mercy; the Irish Sisters of Charity; and the Daughters of Charity (Raftery and O'Sullivan, *Suffer the little children*, p. 56).

¹³⁰ Barnes, *Irish industrial schools*, pp 17-18.

¹³¹ Ibid, p. 18; *ibid*, p. 57.

¹³² Raftery and O'Sullivan, *Suffer the little children*, p. 57

¹³³ *Sixth annual report of the commissioners for administering the laws for relief of the poor in Ireland*, p. 2, § 2.

¹³⁴ Ibid, p. 6 § 9.

¹³⁵ Crossman, *Poverty and the Poor Law*, p. 1.

system's critics were Louisa Twining, of the Twining tea family, as well as Power Cobbe.¹³⁶ In *Workhouse sketches*, first published in *Macmillan's Magazine* in 1861, the latter argued that the workhouse system failed in its three principal aims: to 'repress pauperism, by making the lives of the vicious and idle disgraceful and wearisome'; to offer shelter to 'the sick, the aged, [and] the disabled,'; and to 'provide for the education of orphan and friendless children in such a manner as should secure them against becoming either criminals or paupers'.¹³⁷

To many contemporary observers, the extent and degree of poverty in Ireland rendered the workhouse system untenable. In a country where those who secured employment continued to be 'exposed to periodical famine', doubts were raised regarding the suitability of the workhouse system as a test of destitution. As an 1837 memorandum remarked, it was difficult to identify a way in which the condition of the 'Irish pauper sincerest' who entered the workhouse could 'be made worse than that of the annually famishing cottier' who did not seek relief.¹³⁸ Others highlighted the failure of the Poor Law to provide Ireland's poor with the necessary experience and skills to become productive workers and argued that it did 'not diminish the number of poor' but 'merely prevent[ed] starvation'.¹³⁹ As Beatrice Webb observed, far from rescuing the poor from greater deprivation, the Poor Law led to the 'pauperisation of the indigent'.¹⁴⁰ The practice of applying the workhouse test to women, their position made precarious by their status as dependents, and to children, who could not be held responsible for their poverty, received particular condemnation.¹⁴¹

Upon admission to the workhouse, children over the age of two were separated from their parents.¹⁴² This rule existed in part to deter families from entering the workhouse, but was also enforced to teach the system's users the value of family life by means of its temporary withdrawal.¹⁴³ Some further highlighted that such separation prevented regular interaction

¹³⁶ Anna Clark, 'Orphans and the Poor Law: Rage against the Machine' in Crossman and Gray, *Poverty and welfare*, p. 108.

¹³⁷ Power Cobbe, 'Workhouse sketches', p. 176.

¹³⁸ Anon., *Memorandum on the state of Ireland and on the applicability of the workhouse system to its relief* (n.p., 1837), BL Add MS 88906/11/28, pp 58-9.

¹³⁹ *Emigration, a more humane and profitable test*, p. 11.

¹⁴⁰ Beatrice Potter to Sidney Webb, 17 August 1890, in Norman Mackenzie (ed.), *The Letters of Sidney and Beatrice Webb: Vol 1 Apprenticeships 1873-1892* (London, 1978), p. 175.

¹⁴¹ Hancock, 'The workhouse as a mode of relief for widows and orphans', p. 85.

¹⁴² Charles Raleigh Chichester, *Amalgamation of Unions, and proposed modifications in the Poor-Law Ireland (Workhouse System as applied to the Training of Youth)* (1879), pp x-xi; parents were permitted to visit their children in the workhouse, but it is possible many were unaware of this (Crossman, 'Viewing women, family and sexuality through the prism of the Irish poor laws', p. 548).

¹⁴³ Thane, 'Women and the poor law', pp 36-37.

between poor children and their parents, which tended to ‘degrade and demoralize youth’.¹⁴⁴ Exposure to the ‘vice and ignorance of the mothers’ was believed particularly injurious to children.¹⁴⁵ However, the political economist and Trinity College professor, William Neilson Hancock, criticised the process of substituting ‘wholesome family influences’ at home for ‘foul contaminations’ in the workhouse.¹⁴⁶ Indeed, fear of moral contamination remained a constant theme in the writing of nineteenth-century reformers. In the workhouse, it was suggested ‘children learn the qualifications of juvenile delinquency’, while the ‘laxity of supervision leaves them far more exposed to evil influences’.¹⁴⁷ Deprived of a ‘mother to cherish and a father to control’ them, Hancock stressed that children reared in the workhouse were destined for a life of poverty and crime.¹⁴⁸

In 1879, an independent investigation into Ireland’s workhouses concluded that the failure of the system as an educational agent was ‘almost universally felt’ among workhouse chaplains.¹⁴⁹ For Rev. F. Foster, Protestant chaplain to the Granard workhouse, County Longford, the workhouse was ‘a school of idleness’; the training offered merely instilled in the children a ‘lack of self-reliance and self-respect, with poor moral perception’.¹⁵⁰ Rev. David McMeekin, the Presbyterian chaplain to Ballymena workhouse, County Antrim, similarly concluded that children raised in the workhouses were ‘physically, morally and intellectually inferior to those trained elsewhere’, and, like Magdalen women, stigmatised.¹⁵¹ It was, indeed, considered ‘indisputable that even the humblest employers of labour recoil from employing youths reared in the Workhouse’.¹⁵² Particular concern was expressed for the young female poor entering the country’s workhouses. Many pointed to the supposed harmful effect arising from frequent contact with adult female paupers, including unmarried mothers and other ‘depraved’ women.¹⁵³ For one witness, the influence of adult female paupers on the younger girls ensured that the workhouse in Ireland operated as ‘a sort of maternity institution for fallen women’.¹⁵⁴ Indeed, the Catholic Rev. E. J. O’Dwyer of St. Michael’s, County Limerick, declared ‘it would

¹⁴⁴ Rev. James Cantwell in Chichester, *Workhouse System as applied to the Training of Youth*, p. viii.

¹⁴⁵ Rev. Joseph Mackenzie in *ibid.*, p. x.

¹⁴⁶ *Irish Examiner*, 30 May 1859.

¹⁴⁷ *Tralee Chronicle and Killarney Echo*, 8 June 1855.

¹⁴⁸ Hancock, ‘The workhouse as a mode of relief for widows and orphans’, pp 86-87.

¹⁴⁹ Chichester, *Workhouse System as applied to the Training of Youth*, p. i.

¹⁵⁰ *Ibid.*, p. v.

¹⁵¹ *Ibid.*, p. xi.

¹⁵² *Ibid.*, p. i.

¹⁵³ *Ibid.*, p. x.

¹⁵⁴ *Ibid.*, p. xiv.

be better a virtuous girl under eighteen starve than enter a Workhouse'.¹⁵⁵ Leaving the country's workhouses unskilled, inexperienced, and 'contaminated', it was held that 'the girls, as a rule, make shipwreck early'.¹⁵⁶

Children in the workhouse were reported to be poorly-fed, inadequately clothed, and 'effectually debarred' from the 'healthy sports of childhood'. There was, Power Cobbe argued, a 'terrible disregard for the natural laws of a child's being', the consequences of which were 'most piteous and fatal'.¹⁵⁷ Indeed, throughout the 1840s and 1850s, Irish reformers grew increasingly concerned about the high number of infant and child deaths in the workhouses. For example, of 11,534 children up to the age of fifteen who entered the Cork workhouse in the years 1852-59, the deaths of 2,373 were recorded, representing an annual mortality rate of over twenty per cent.¹⁵⁸ For John Arnott, Mayor of Cork, this amounted to 'wholesale infanticide'.¹⁵⁹ Humanitarian groups, the predominantly Protestant reformers of the Dublin Statistical Society,¹⁶⁰ and a number of Catholic bishops and Irish guardians subsequently placed increasing pressure on Poor Law commissioners to introduce a system of boarding-out which would place poor children with foster families.¹⁶¹

Fearing that boarding-out would merely encourage unmarried Irish women to have, and then desert, their children, the Poor Law commissioners argued that the advantages enjoyed by pauper children who entered the workhouse largely outweighed the institutions' shortcomings.¹⁶² In 1861, for example, the Chief Commissioner of the Poor Law Board in Ireland contended that children enjoyed 'greater regularity of training in the workhouse than if placed at nurse'.¹⁶³ Nevertheless, mindful of the popular belief that workhouses were 'training camps for juvenile delinquents' and keen to reduce the cost of caring for pauper children, the government established a boarding-out system in 1862 which provided homes in a domestic

¹⁵⁵ Ibid, p. xv.

¹⁵⁶ Ibid, p. xii.

¹⁵⁷ Power Cobbe, 'Workhouse sketches', pp 181-2.

¹⁵⁸ John Arnott, *The investigation into the condition of the children in the Cork Workhouse with an analysis of the evidence* (Cork, 1859), pp ii-iii.

¹⁵⁹ Ibid, p. viii.

¹⁶⁰ The Statistical and Social Inquiry Society was founded in Dublin in 1847 by Richard Whately. The group became an influential voice in the promotion of social and economic reform in Ireland (Barnes, *Irish industrial schools*, p. 36).

¹⁶¹ Chichester, *Workhouse System as applied to the Training of Youth*, pp iv-vii; that reformers later advocated for the system to be extended to include children with 'unfit' parents suggested that the boarding-out system was initially only intended to benefit orphaned children (Clark, 'Orphans and the Poor Law', p. 110).

¹⁶² Clark, 'Orphans and the Poor Law', pp 98-9.

¹⁶³ *Freeman's Journal*, 20 April 1861.

setting for children up to the age of five.¹⁶⁴ In the first year, just seventy-seven children were placed with families. However, by 1872, 1,540 children lived with foster families following the extension of the scheme to children up to the age of ten years in 1869.¹⁶⁵ Finally, in 1898, the boarding-out system was extended to include children up to the age of fifteen.¹⁶⁶ The relative success of the scheme is reflected by the number of children, an average of fifty per cent, who were informally adopted by their foster families in the early-twentieth century.¹⁶⁷

The boarding-out system was not, however, without flaws. The treatment of children sent to live with foster parents in different unions even within the same district varied significantly. This often depended on the care taken by the individual relieving officer to choose suitable families as well as the effort made by local guardians to regularly inspect foster homes, many of which were located in remote rural areas.¹⁶⁸ Many foster families exploited the scheme, taking on older children to work without pay as servants or farmhands, before returning them to the workhouse when they were no longer considered of use.¹⁶⁹ Despite the efforts of reformers and the expansion of the boarding-out system, foster care was not adopted as the primary means of supporting poor and vulnerable children, as it was easier to admit children to the workhouse than to carefully select and regularly inspect foster families.

Transforming pauper children into ‘good and useful members of society’: Ireland’s nineteenth-century industrial schools¹⁷⁰

Many nineteenth-century activists, including the English social reformer, Mary Carpenter, championed industrial schools, rather than boarding-out, as an alternative to the workhouse system. The origins of the Irish system can be traced to refuges, schools, and agricultural colonies for criminal children first established across continental Europe in the early-nineteenth century. By 1854, Switzerland, Prussia, the Scandinavian countries, and north Germany were collectively home to approximately ninety institutions offering training to destitute and

¹⁶⁴ Moira Maguire, *Precarious childhood in post-independence Ireland* (Manchester, 2009), p. 56.

¹⁶⁵ Caroline Skehill, ‘The Origins of Child Welfare under the Poor Law and the Emergence of the Institutional versus Family Care Debate’ in Crossman and Gray, *Poverty and welfare*, pp 116-7.

¹⁶⁶ *Bill to make further provision with respect to relief of pauper children in Ireland, H.C. 1898 (237)* vi, 203, § 1.

¹⁶⁷ Skehill, ‘Child welfare under the Poor Law’, p. 119; formal adoption was not legalised in Ireland until 1952 (Adoption Act, 1952 (Commencement) Order (380/1952) (30 December 1952), § 2).

¹⁶⁸ Skehill, ‘Child welfare under the Poor Law’, p. 120.

¹⁶⁹ Clark, ‘Orphans and the Poor Law’, pp 106-7 and 110.

¹⁷⁰ *Tralee Chronicle and Killarney Echo*, 8 June 1855.

criminal children.¹⁷¹ The Irish reformer and temperance activist, James Haughton, remarked that ‘unhoped for happy results had flowed’ from these industrial schools.¹⁷² The first British industrial school was founded in Aberdeen in 1841, catering for young vagrants and children found begging or stealing. The school was non-institutional in nature. Children were ‘detained the whole day’, receiving industrial training and ‘a sufficiency of wholesome food’, before returning to their families at night. Carpenter noted that there was a ‘most satisfactory improvement’ in the children who attended the school in Aberdeen, ‘both as regarded their physical condition and their moral training’.¹⁷³ Legislation for the system in Scotland was passed in 1854, and, in 1857, the Industrial Schools Act was extended to England and Wales.¹⁷⁴

The ideology of utilitarianism, stressing the importance of action, production, and the maximisation of utility, rapidly gained ground in nineteenth-century Ireland and highlighted the benefits of providing pauper children with an industrial education. Having received appropriate training, it was hoped that the children would be in a position to ‘enter upon the world anew, as good and useful members of society’, capable of adding ‘to the nation’s wealth and their own happiness [...] by their self-support’.¹⁷⁵ Victorian social reformers, such as the English lawyer and penologist, Matthew Davenport Hill, held that the pauper child, or ‘City Arab’, who did not submit to control and ‘ask[ed] for no protection’, subverted the common, or rather middle-class concept of the ‘innocent child’, thus threatening the social order.¹⁷⁶ Highlighting the class division central to the industrial and reformatory school system, Carpenter recorded the ‘valuable moral effect’ industrial schools had on the children of the labouring poor, elevating them, improving their appearance, and ‘promoting self-respect’.¹⁷⁷ However, it was not until 1868 that industrial schools were introduced to Ireland. Delays were caused in part by the government’s purported desire to observe how the system developed in England before applying the act to Ireland. There was also concern that the legislation would be opposed by the country’s minority Protestant population, who feared that the system in Ireland would be dominated by Catholic schools.¹⁷⁸

¹⁷¹ Barnes, *Irish industrial schools 1868-1908*, p. 21.

¹⁷² *Freeman’s Journal*, 18 July 1853.

¹⁷³ Mary Carpenter, *Reformatory schools for the children of the perishing and dangerous classes and for juvenile offenders* (London, 1851), pp 228-9.

¹⁷⁴ Raftery and O’Sullivan, *Suffer the little children*, p. 60.

¹⁷⁵ *Tralea Chronicle and Killarney Echo*, 8 June 1855.

¹⁷⁶ Matthew Davenport Hill, *Practical suggestions to the founders of reformatory schools in a letter to the recorder of Birmingham to Lord Brougham, with his Lordship’s answer* (London, 1855), pp 4-5.

¹⁷⁷ Carpenter, *Reformatory schools*, pp 79-80.

¹⁷⁸ Barnes, *Irish industrial schools*, p. 35.

Each church was undoubtedly wary of the other indulging in the practice of ‘souperism’, a term coined during the Famine to refer to the practice of offering relief in exchange for the individual’s religious conversion.¹⁷⁹ Their concerns were well-founded; with the passage of the Reformatory Schools Act in 1858, Ireland’s Protestants observed the particularly ‘organised and speedy’ manner in which Catholic groups established six reformatory schools for criminal children by the time the first Protestant institution opened in April 1859.¹⁸⁰ Reformatories were established in response to growing press and public concern about children ‘swarming’ the streets ‘where they revel in mischief [and] express their thoughts in low drollery, obscenity, and profanities’.¹⁸¹ While committals among the adult population fell between 1849 and 1853, the number of those under the age of sixteen sent to prison increased over the same period,¹⁸² many for vagrancy, punishable by imprisonment from 1847.¹⁸³ Links between poverty and a rise in juvenile crime were acknowledged.¹⁸⁴ The stated aim of Ireland’s reformatories was therefore to rescue and redeem young criminals, ensuring that their first offence was also their last, as ‘a penny spent in teaching’ criminal children would ‘save a pound in punishing’.¹⁸⁵

Though based on existing British legislation, the 1868 Irish Industrial Schools Act was subsequently introduced with one major alteration; children would only be sent to an industrial school ‘under the exclusive management of persons of the same religious persuasion as that professed by the parents’.¹⁸⁶ In a further effort to placate Protestants who feared that the state was encouraging the expansion of Catholic activity in Ireland, the government did not provide funds for the building of industrial schools in Ireland as they had in Britain.¹⁸⁷ Schools could only be built by those who had, or could acquire, the necessary funds and it is unsurprising that many of Ireland’s industrial schools were repurposed reformatories, orphanages, or

¹⁷⁹ O’Neill, ‘The Catholic Church and the relief of the poor’, pp 137-138.

¹⁸⁰ *Reformatory Schools (Ireland). A bill [as amended in committee] to promote and regulate reformatory schools for juvenile offenders in Ireland*, H.C. 1857-58 (140) iv, 245, section 1, § VII; Barnes, *Irish industrial schools*, p. 32; *First report of the inspector appointed to visit the reformatory schools of Ireland, certified under the 21st and 22nd Vict., cap. 103*, [2949], H.C. 1862, xxvi, 651, p. 3.

¹⁸¹ *Tralee Chronicle and Killarney Echo*, 8 June 1855.

¹⁸² Barnes, *Irish industrial schools*, p. 14.

¹⁸³ *Punishment of vagrants, &c. (Ireland.) A bill to make provision for the punishment of vagrants and persons offending against the laws in force for the relief of the destitute poor in Ireland*, H. C. 1847 (282) III, 403.

¹⁸⁴ *Seventh and eighth reports of the inspector appointed to visit the reformatory and industrial schools of Ireland, certified under the 21st and 22nd Vic., cap. 103; 31st Vic., cap. 25; and 31st and 32nd Vic., cap. 59*, [C.180], H.C. 1870, xxxvi, 789, p. 20.

¹⁸⁵ *Ibid*, pp 17-18.

¹⁸⁶ *Industrial schools (Ireland). A bill to extend the Industrial Schools Act to Ireland*, H. C. 1867-68 (2) ii, 523, p. 4 § 14.

¹⁸⁷ Raftery and O’Sullivan, *Suffer the little children*, p. 65.

convents.¹⁸⁸ The Irish industrial schools were largely financed through a capitation system, with the managers receiving a payment from the treasury for each child committed.¹⁸⁹ Ireland's industrial schools were thus funded by the state, which also had a responsibility to inspect their operations.

Despite efforts to prevent Catholic control of the industrial school system, the number of Catholic schools outnumbered those intended for Protestant children.¹⁹⁰ Ireland's first industrial school was established in 1869 in Sandymount, Dublin, for the reception of Catholic girls.¹⁹¹ A further twenty-two industrial schools were certified across the country that year, of which only one, Heytesbury Street School in Dublin, catered for Protestant children.¹⁹² By 1880, fifty-six industrial schools were certified in Ireland, collectively housing 5,669 children. Of these schools, only ten received Protestant children.¹⁹³ More Catholic than Protestant children were present among the poorer classes in Ireland, thus ensuring demand for Catholic-run institutions and justifying their prevalence.¹⁹⁴ By 1898, only five Protestant schools operated in the south, the last of which closed in 1917.¹⁹⁵ Mirroring the Magdalen laundries, control of the country's few lay-run industrial schools was transferred to Catholic congregations during the 1870s and 1880s, most prominently the Christian Brothers and the Sisters of Mercy. Thus, by the 1920s, institutional care for vulnerable children in Ireland, like that for supposedly deviant women, was distinctly Catholic.

Throughout the history of the industrial school system, there were also consistently more institutions for destitute and vulnerable girls than for boys. By 1900, fifty of the country's seventy-one industrial schools catered for girls, with up to 4,384 females in attendance in December 1899, compared with 3,511 males.¹⁹⁶ This reflected a perceived patriarchal duty, which was also central to the Magdalen laundry system, to assist lower and working-class girls who had fewer opportunities to support themselves than male labourers. Girls were often

¹⁸⁸ Barnes, *Irish industrial schools*, p. 58.

¹⁸⁹ Eileen Kennedy, *Reformatory and Industrial Schools System Report* (Dublin, 1970), p. 29 § 5.8; the 1868 act also stated that, where possible, parents were required to pay towards the maintenance of their children in industrial schools (*Industrial schools act (Ireland)*, p. 8, § 29).

¹⁹⁰ Barnes, *Irish industrial schools*, pp 153-160.

¹⁹¹ Raftery and O'Sullivan, *Suffer the little children*, p. 53.

¹⁹² *9th RIRISI*, pp 29-31.

¹⁹³ Barnes, *Irish industrial schools*, p. 48; *ibid*, p. 67.

¹⁹⁴ Anna Clark, 'Wild workhouse girls and the liberal imperial state in mid-nineteenth century Ireland' in *Journal of Social History*, 39, no. 2 (2005), p. 390; Barnes, *Irish industrial schools*, p. 35.

¹⁹⁵ *Kennedy Report*, pp 2-3 § 1.3-1.5.

¹⁹⁶ *Thirty-eighth report of the inspector appointed to visit the reformatory and industrial schools of Ireland* [Cd.345], H.C. 1900, XLIII, 729, pp 27-32; henceforth *38th RIRISI*.

employed as servants in private households, where many endured unkind or abusive mistresses, or faced sexual advances from their employer or from fellow male servants. Destitute girls, much like the country's vulnerable women, were deemed at risk of committing moral crimes and falling in a way their male counterparts were not, thus contributing to the illegitimacy and pauperism rate. In this respect, the aim of the industrial schools was preventative, both for society and the individual, rescuing girls before they had the chance to transgress.

Under the 1868 Industrial Schools Act, children found begging or receiving alms, and others suspected of keeping company with thieves were entitled to a place in an industrial school, where they generally remained until they were sixteen. The schools also catered for children 'found wandering', having 'no settled place of abode', 'no visible means of subsistence', and crucially, albeit vaguely, 'no proper guardianship'.¹⁹⁷ The latter was a 'catch-all' heading, and included not only orphans and abandoned children, but also children of prisoners or those incapacitated through illness and many whose parents simply could not afford to care for them.¹⁹⁸ By the end of the nineteenth century, families facing these and similar difficulties could receive a visit from the 'cruelty man'.¹⁹⁹ In 1889, the first Irish branch of the National Society for the Prevention of Cruelty to Children (NSPCC), later renamed the Irish Society for the Prevention of Cruelty to Children (ISPCC), was established in Dublin.²⁰⁰ From the late-nineteenth century, the society's inspectors 'entered the homes of thousands of working class and poor families, identifying intemperate mothers [and] fathers failing to provide for their families', and were directly involved in the committal of children with 'no proper guardianship' to the country's industrial schools.²⁰¹ Other children were referred to Ireland's industrial schools through the local authority system. These local authority or 'Poor Law' children were usually the offspring of unmarried mothers, and were often born in workhouses and, from the 1920s in independent Ireland, County or Mother and Baby Homes.²⁰²

Alongside the option of full residential care, the 1868 act permitted children to attend industrial schools during the day before leaving at night to 'lodge at the dwelling of [their] parents'.²⁰³ However, a day-care system was not adopted in Ireland's Catholic-run industrial schools. This

¹⁹⁷ *Industrial schools act (Ireland)*, p. 3 § 11.

¹⁹⁸ Raftery and O'Sullivan, *Suffer the little children*, p. 22.

¹⁹⁹ Paul Garrett, 'A "Catastrophic, Inept, Self-Serving" Church? Re-examining three reports on child abuse in the Republic of Ireland' in *Journal of Progressive Human Services*, 24, no. 1 (2013), p. 52.

²⁰⁰ Sarah-Anne Buckley, *The cruelty man: child welfare, the NSPCC and the state in Ireland, 1889-1956* (Manchester, 2013), pp 46-7.

²⁰¹ *Ibid*, p. 47; *ibid*, p. 65; *ibid*, p. 110.

²⁰² Raftery and O'Sullivan, *Suffer the little children*, p. 23.

²⁰³ *Industrial schools act (Ireland)*, pp 5-6 § 20.

reflected the church's desire to have total control over its charges with days structured around group activities, thus mirroring the experiences of religious brothers and sisters in monasteries and convents, as well as the women in Ireland's Magdalen laundries.²⁰⁴ After a period of eighteen months, children could also be placed under licence with 'any trustworthy and respectable person'. If a child was believed to have 'conducted himself well' under licence, they were eligible to begin an apprenticeship in a trade or service.²⁰⁵ It was hoped this would encourage the gradual assimilation of industrial school children into society. However, in 1884, the independent Aberdare Inquiry into the United Kingdom's industrial and reformatory schools concluded that of 3,965 Irish children eligible to leave industrial schools on licence, only 465 had done so.²⁰⁶ As such, despite the options for non-residential care, an institutional approach prevailed in Ireland's industrial schools.

Despite the similarities between the two systems, the industrial schools were recognised as a significant improvement on the workhouses and there was demand for places throughout the nineteenth century.²⁰⁷ The majority of schools established by the end of the 1870s catered for between fifty and 100 children, while twenty of the fifty-six schools achieved an average above 100.²⁰⁸ The purpose-built Artane Industrial School for Catholic boys, County Dublin, was a notable exception, catering for approximately 700 children by 1879.²⁰⁹ There was, furthermore, a tendency for the schools to cluster in more urban areas, where the number of lower-class families increased throughout the century as rural workers left the Irish countryside to seek employment. By the late-1870s, County Dublin was home to seven schools, County Cork to ten, and Belfast four.²¹⁰ Other more western and remote areas more commonly had one institution, while no provision was made in other regions.²¹¹

The industrial school system sought to instil in pauper children 'habits of order, regularity and neatness' to ensure that they would later be 'absorbed into the population, in a position to earn a livelihood', and would, crucially, 'cease to be a burden on the public funds'.²¹² The children

²⁰⁴ Barnes, *Irish industrial schools*, pp 78-86.

²⁰⁵ *Industrial schools act (Ireland)*, p. 6 § 21-2.

²⁰⁶ Barnes, *Irish industrial schools*, p. 80.

²⁰⁷ Raftery and O'Sullivan, *Suffer the little children*, p. 53; Barnes, *Irish industrial schools*, p. 64.

²⁰⁸ In 1879, five schools maintained an average of 0-50 children; twenty-six schools between 51-100; sixteen schools between 101-200; three schools between 201-300; and just one school (Artane) was home to more than 300 children. The remaining five schools were newly opened (*Eighteenth report of the inspector appointed to visit the reformatory and industrial schools of Ireland* [C.2692], H.C. 1880, XXXVII, pp 45-104).

²⁰⁹ *Ibid*, p. 63.

²¹⁰ *Ibid*, pp 29-32

²¹¹ Barnes, *Irish industrial schools*, p. 76.

²¹² *9th RIRISI*, p. 25.

were thus required to undertake a minimum of six hours industrial training daily.²¹³ Reflecting the different and, to some extent, clearly defined gender roles in Victorian society, boys were trained in practical trades including tailoring, shoe-making, and carpentry, while training in girls' schools was largely limited to developing their domestic skills as they were considered to be 'destined first for [domestic] service in a small household, and afterwards will most probably become the poor wife of a labouring man'.²¹⁴ Washing, ironing, cooking, and needlework were expected to form the 'principal occupation' of girls in the industrial schools.²¹⁵ Such a gendered focus was not unwarranted, although it reinforced, rather than challenged, existing gender stereotypes.

The items produced by the children were sold to local shops or families with profits put towards the costs of operating the school.²¹⁶ In 1879, the country's industrial schools recorded an annual industrial profit of £8,059, which constituted only a small part of the £117,926 required to house and train the children that year.²¹⁷ In an effort to reduce costs, the children often made their own clothes and, in many of the schools, did much of the cooking and cleaning. At Heytesbury Street School, for example, the girls made their own dresses and produced clothes for the boys attending Meath Industrial School at Blackrock.²¹⁸ However, school inspector, John Fagan, stressed that the 'utilitarian purpose' of their labour 'should only be of secondary consideration to its educative effect'. He was particularly concerned about girls who spent years in the schools' laundries, gaining little useful experience and remaining 'ignorant of some of the commonest operations of housework', reflecting the experiences of the women in Ireland's Magdalen laundries.²¹⁹

The industrial school rules and regulations stipulated that a minimum of three hours be set aside each day for instruction in reading, writing, and arithmetic, as well as history, geography, singing, drawing, and 'money matters'.²²⁰ This was to allow the more able children to gain the skills to pursue 'white collar' employment, with boys of 'superior intellect' seeking to become

²¹³ 'Appendix III. Rules and regulations for certified industrial schools in Ireland', *9th RIRISI*, p. 81.

²¹⁴ Louisa Twining in Power Cobbe, 'Workhouse sketches', p. 195.

²¹⁵ *9th RIRISI*, p. 28.

²¹⁶ *Ibid.*, p. 130.

²¹⁷ Ireland's industrial schools received a total of £100,759 in 1879, obtaining £63,017 from the treasury (*Eighteenth report of the inspector appointed to visit the reformatory and industrial schools of Ireland*, pp 20-21).

²¹⁸ *9th RIRISI*, p. 56.

²¹⁹ *Forty-second report of the inspector appointed to visit the reformatory and industrial schools of Ireland* [Cd.2257], H.C. 1904, xxxviii, 681, p. 21.

²²⁰ 'Rules and regulations for industrial schools', p. 81.

mercantile clerks and the more able girls training as shop-assistants and school teachers.²²¹ By 1883, thirty-two of the sixty-two industrial schools, including the majority of girls' schools, were attached to national schools.²²² The reformatory and industrial school inspector, John Lentaigne, argued that exposure to students from the 'better-conditioned classes' would better prepare the children for assimilation upon their discharge and lessen the stigma attached to them.²²³ However, it is evident that the moral improvement of the industrial school children was afforded more importance than such efforts to prepare them for re-entering society.

Religion, and the beliefs, rules, and morals at its core remained at the heart of efforts to develop the children's moral outlook.²²⁴ Children in Ireland's industrial schools were required to attend church on Sundays and holidays, while their days, like those of the women in the Magdalen laundries, were punctuated by periods of prayer and reflection.²²⁵ Supervised by the schools' religious managers and exposed each day to their 'humanising influences', the industrial school children were said to develop a 'quiet, orderly demeanour'.²²⁶ A strict and rigidly-implemented timetable proved an equally powerful tool in the managers' efforts to encourage conformity and obedience in the children. Indeed, the regime in many schools became militaristic in nature, particularly in boys' schools, with activity changes signalled by a bugle call.²²⁷ The managers were encouraged to be firm with the children, yet not unkind or abusive. Punishments could consist of a 'reduction in quantity or quality of food' and 'confinement in a room or lighted cell'. Crucially, 'no other forms of grave correction' were permitted unless they had been approved in advance by the inspector.²²⁸ However, corporal punishment was not outlawed in industrial schools and managers were largely free to determine when and how the children should be punished.

The managers sought to sever ties between the industrial school children and their families, again mirroring the experiences of the women in Ireland's Magdalen laundries. For Fagan, the 'main object' of institutionalising pauper children was 'to remove them from the contaminating influences of their home surroundings'.²²⁹ The managers were thus authorised to read all

²²¹ 9th RIRISI, p. 51; *ibid.*, p. 58.

²²² Barnes, *Irish industrial schools*, p. 142.

²²³ 9th RIRISI, pp 25-26.

²²⁴ Denominational schooling was not officially permitted in the national school system, though the religious influence – both Catholic and Protestant – was still pervasive (Barnes, *Irish industrial schools*, p. 46).

²²⁵ 'Rules and regulations for industrial schools', p. 81.

²²⁶ 9th RIRISI, p. 53.

²²⁷ Barnes, *Irish industrial schools*, p. 93.

²²⁸ 'Rules and regulations for industrial schools', p. 82.

²²⁹ 38th RIRISI, p. 21.

correspondence between the children and their families, censoring or withholding those letters deemed ‘objectionable’.²³⁰ Visits were regulated and the inspector suggested that children should be placed in a school at some distance from their home, so as to remove them ‘from the danger of contamination by the visits of undesirable acquaintances’.²³¹ If exposed to the influences of so-called undesirables among the impoverished masses, it was believed that these children would become, in time, prostitutes and criminals. As such, with the pauper child often perceived as a potential criminal, the industrial schools were not only a place of refuge for destitute children but, like the Magdalen laundries, ‘a means of social control’, with the needs of society largely prevailing over those of the individual child.²³²

By the end of the nineteenth century, Sidney Webb observed in Britain ‘a widespread turning away from the position [...] that Outdoor Relief is the Devil’.²³³ However, the ‘institutional inertia’ remained considerable and Ireland’s industrial schools maintained a positive reputation throughout the nineteenth century.²³⁴ Locals described being struck, for example, by the ‘orderly and respectable demeanour’ of the girls from St. Joseph’s Industrial School, Cavan, in 1871.²³⁵ In 1884, the Aberdare Commission determined that the industrial school system was not only necessary, but that the schools should remain under voluntary management, with very little, if any, government involvement.²³⁶ Towards the end of the nineteenth century, the number of children in Ireland’s workhouses decreased sharply, falling by approximately forty-three per cent from 11,618 children in 1881 to 6,618 by 1891. Over the corresponding period, the population of Ireland’s industrial schools increased by thirty-three per cent, from 6,713 to 8,923 children.²³⁷ By 1926, approximately forty-five per cent of children receiving out-of-home care in Ireland resided in one of the country’s industrial schools, compared to fourteen per cent in a workhouse or County Home.²³⁸ As the industrial school system grew, the number of alternative institutions for destitute children correspondingly declined. Many of the

²³⁰ ‘Rules and regulations for industrial schools’, p. 82.

²³¹ *Forty-second report of the inspector appointed to visit the reformatory and industrial schools of Ireland*, p. 13.

²³² Denis O’Sullivan, ‘Social definition in child care in the Irish Republic: models of the child and child-care intervention’ in *Economic and Social Review*, 10, no. 3 (1979), pp 210-211.

²³³ Sidney Webb to Beatrice Potter, 14 May, 1890, in Mackenzie, *Letters of Sidney and Beatrice Webb*, p. 135.

²³⁴ Clark, ‘Orphans and the Poor Law’, p. 111.

²³⁵ *9th RIRISI*, p. 46.

²³⁶ Barnes, *Irish industrial schools*, pp 71-72.

²³⁷ David Gwynn Morgan, ‘Society and the schools’ in Seán Ryan, *Report of the Commission to Inquire into Child Abuse* (Dublin, 2009), IV, p. 212, § 3.41.

²³⁸ *Ibid*, IV, p. 214, § 3.42.

reformatories and orphanages applied for industrial school certification and just seven reformatory schools continued to operate at the turn of the century.²³⁹

Institutional inertia: Ireland's Magdalen laundries and industrial schools in the twentieth century

That Ireland's Magdalen laundries and industrial schools continued to operate in the early-twentieth century is unsurprising, as an era of unrest and civil war promptly gave way to a period of deepening social, economic, and political conservatism. In 1922, the long-serving Sinn Féin politician, William T. Cosgrave, was elected president of the Executive Council of the nascent Irish Free State and the following year, the newly-founded Cumann na nGaedheal gained power with a comfortable majority.²⁴⁰ Committed to strengthening and legitimising the new state, Cumann na nGaedheal proved popular among Ireland's conservatives, quickly gaining support from businessmen, large farmers, and the Anglo-Irish.²⁴¹ Ireland in the 1920s and early-1930s was Right-leaning, yet, as a victorious nation lacking widespread anti-capitalist or anti-Semitic feeling, it was not radically so. While the Right's commitment to promoting 'self-sacrifice, obedience and communal duty', in opposition to 'liberalism's glorification of the selfish individual', may well have appealed to a predominantly Catholic population, neither fascism nor, indeed, liberalism flourished.²⁴² The Irish Free State was thus one of a mere handful of European countries, alongside Britain, Finland, Sweden, and Switzerland that maintained a democratic political institution without interruption throughout the interwar years.²⁴³

As the newly-independent nation struggled to establish a sense of self, an adherence to Catholicism offered a clear point of demarcation from the British people, and swiftly became a major facet of Irish national identity. In 1926, just under ninety-three per cent of the population of the Free State identified as Catholic. By 1946, this had risen to over ninety-four per cent.²⁴⁴ All members of the first Free State government, with the exception of the Presbyterian Minister for Finance, Ernest Blythe, were Catholics; many, including Cosgrave,

²³⁹ Barnes, *Irish industrial schools*, p. 74.

²⁴⁰ Joseph J. Lee, *Ireland 1912-1985: politics and society* (Cambridge, 1989), pp 94-5.

²⁴¹ Terence Brown, *Ireland: a social and cultural history, 1922-2002* (2nd ed., London, 2004), p. 35.

²⁴² Mark Mazower, *Dark continent: Europe's twentieth century* (London, 1998), p. 21.

²⁴³ Eric Hobsbawm, *The age of extremes: the short twentieth century, 1914-1991* (London, 1994), p. 111.

²⁴⁴ Vaughan and Fitzpatrick, *Irish historical statistics*, p. 49.

were fervently so.²⁴⁵ Indeed, ‘there is little doubt’ many twentieth-century Irish politicians ‘saw themselves as Catholics first and legislators second’.²⁴⁶ Cosgrave thus oversaw the introduction of legislation that promoted the Catholic moral code, including the Intoxicating Liquor Acts of 1924 and 1927,²⁴⁷ and the Censorship of Publications Act, 1929.²⁴⁸ A conservative outlook was not the preserve of Catholics, however, and was largely shared by the leaders of Ireland’s other churches.²⁴⁹ Furthermore, Ireland was not alone in seeking to protect the moral wellbeing of its population during these years, with representatives of thirty-five states attending an international conference at Geneva in 1923 on the ‘worrying’ spread of obscene literature.²⁵⁰

By the beginning of the twentieth century, Irish nationalists had also rejected the workhouse system as one of the ‘many evils resulting to Ireland from her connection with England’,²⁵¹ highlighting the indiscriminate nature of the system, which ‘herded together’ the ‘deserving poor’ with the ‘idle and the vicious’.²⁵² Economic factors were also at play; in 1920, a commission chaired by future Vice President, Kevin O’Higgins, calculated that £50,000 would be saved annually if the country’s workhouses closed.²⁵³ From 1923, workhouses were reclassified as County Homes, providing institutional care until the late-1960s to the elderly and those with chronic illnesses, and, in some cases, single mothers and children.²⁵⁴ Significantly, institutional relief was increasingly substituted for outdoor relief, known as Home Assistance.²⁵⁵ This was the provision of ‘money, food or articles of absolute necessity’ to the able-bodied poor at home.²⁵⁶ Institutional care was only to be considered if ‘it could be done at less cost than in any other lawful way’.²⁵⁷

²⁴⁵ John H. Whyte, *Church and state in modern Ireland: 1923-1979* (2nd ed., Dublin, 1984), p. 36.

²⁴⁶ Ferriter, *Occasions of sin*, p. 6.

²⁴⁷ The first Intoxicating Liquor Act limited the opening hours of public houses (Intoxicating Liquor Act, 1924 (1924 no. 28) (23 July 1924)), while the amended act of 1927 sought to reduce the number of licensed premises in the country (Intoxicating Liquor Act, 1927 (1927 no. 15) (20 May 1927)).

²⁴⁸ The 1929 Censorship of Publications Act made provision for the prohibition of the sale and distribution of ‘unwholesome literature’, including that related to contraceptives (Censorship of Publications Act, 1929 (1929 no. 21) (16 July 1929)).

²⁴⁹ Dermot Keogh, ‘The Catholic Church and the Irish Free State, 1923-1932’ in *History Ireland*, 2, no. 1 (1994), pp 47-8.

²⁵⁰ Whyte, *Church and state*, p. 33.

²⁵¹ *Drogheda Independent*, 17 November 1906.

²⁵² *Strabane Chronicle*, 16 January 1909.

²⁵³ Cousins, *Birth of social welfare in Ireland*, pp 25-6.

²⁵⁴ Eoin O’Sullivan and Ian O’Donnell (eds), *Coercive confinement in Ireland: patients, prisoners and penitents* (Manchester, 2012), p. 15.

²⁵⁵ Crossman, *Poverty and the Poor Law*, p. 226.

²⁵⁶ The Country Boards Of Health (Assistance) Order, 1924 (14 March 1924).

²⁵⁷ Cousins, *Birth of social welfare in Ireland*, p. 34.

Despite this shift and the nationalist desire to move away from the use of British state apparatus, Ireland's Magdalen laundries and industrial schools remained open. Indeed, the position of Irish women, and working women in particular, improved little after independence. At the heart of the new state's national identity was the image of the morally-virtuous Irish Catholic family, nurtured by the subservient wife and mother. This was embodied in the 1937 Irish Constitution which held that women, through their work in the home, offered the state 'support without which the common good cannot be achieved'. The Constitution subsequently stated that mothers must 'not be obliged by economic necessity to engage in labour to the neglect of their duties in the home'.²⁵⁸ Thus, while acknowledging the valuable unpaid work undertaken by women in Irish homes, the state maintained the nineteenth-century concept of separate spheres.

Writing in 1925, the influential Irish Jesuit priest and academic, Edward Cahill, emphasised that the future of Ireland depended on women embracing their 'natural' child-rearing function; 'the husband is, according to the natural and Divine law, the head of the family; and the wife, who is his equal in personal dignity, and sometimes his superior in moral worth, is his subordinate'. The 'natural and Divine' differences between men and women did not, Cahill argued, render 'her an inferior person'.²⁵⁹ Yet, they ensured that while male bread-winners enjoyed unconditional individual rights, women's entitlement continued to be determined by their marital and family status, their right to relief contingent on the failure of the male head of household to provide. In 1926, insured women represented just four per cent of the labour force, increasing to seven per cent over the next ten years.²⁶⁰ Largely excluded from social insurance schemes, women were over-represented among Home Assistance recipients, as, indeed, they had been in workhouse populations in the previous century.²⁶¹ Of 77,474 recipients of Home Assistance in 1931, 24,786 were women, 37,349 were children, and 15,339 were men.²⁶²

In the first decades of independence, efforts by Irish women to secure relief were further hampered by the persistence of the nineteenth-century concept of the deserving and undeserving poor. In 1927, the Commission on the Relief of the Poor identified 'two classes' of unmarried mothers, differentiating between those considered 'amenable to reform', likely as they were

²⁵⁸ *Constitution of Ireland, 1937* (<http://www.irishstatutebook.ie/eli/cons/en/html>) (27 August 2020), article 41, § 2(1-2).

²⁵⁹ Edward Cahill, 'Notes on Christian sociology VI: the social status of women: b) the feminist movement (continued)' in *The Irish Monthly* 53, no. 619 (January 1925), p. 28.

²⁶⁰ Yeates and Stoltz, 'Unequal status, unequal treatment', p. 9.

²⁶¹ Between 1931 and 1975, women consistently comprised two-thirds of Home Assistance recipients (*ibid.*, p. 13).

²⁶² Lindsey Earner-Byrne, *Letters of the Catholic poor: poverty in independent Ireland, 1920-1940* (Cambridge, 2017), p. 17.

pregnant for the first time, and other ‘less hopeful cases’. While it was recommended that the Board of Health ‘be allowed an almost complete discretion in dealing with and paying for the first class’, the report proposed that ‘special institutions’ should cater for those deemed to have transgressed more than once.²⁶³ Conscious of overcrowding in County Homes, and wary of the ‘large expenditure for reconstruction and equipment’ required in many of these institutions, the final report of the Committee of Inquiry into Health and Medical Services similarly recommended that unmarried mothers enter separate institutions, with Mother and Baby Homes established from the 1920s.²⁶⁴ Thus, even by the early decades of the twentieth century, women whose conduct challenged accepted behavioural norms could not expect to receive the same level of sympathy or assistance enjoyed by other female poor.

In 1932, Eamon de Valera’s newly-founded Fianna Fáil Party began a sixteen-year monopoly of Irish politics.²⁶⁵ Although the party was established by those excommunicated for their role in the church-condemned Civil War of 1922-23,²⁶⁶ the powerful relationship between the Irish state and Catholic Church, likened by Tom Inglis to that of a ‘happy marriage’, was maintained.²⁶⁷ Indeed, while Fianna Fáil was considered Left of the political spectrum, de Valera deviated little from the convictions of his predecessor and remained committed to promoting stability and developing an independent and self-sufficient country. This Ireland would be dominated by the Irish farmer and his family; a nation of prudent, God-fearing Irish men and women with a deep respect for Ireland’s past and an acute awareness of the dangers of modernisation.²⁶⁸ Despite its conservative outlook, Fianna Fáil successfully introduced a number of significant reforms in social policy shortly after the 1932 election, which unified national health insurance, reformed old age pensions, and allowed for the introduction of a workmen’s compensation act.²⁶⁹

Two of Fianna Fáil’s policies were, however, distinctly gendered. In 1933, women were largely excluded from the government’s scheme to assist unemployed workers. Married women were not entitled to unemployment assistance in their own right, with the exception of those who

²⁶³ Charles H. O’Conor, *Report of the Commission on the Relief of the Sick and Destitute Poor: including the Insane Poor* (Dublin, 1927), p. 68, § 228-30.

²⁶⁴ Ireland Committee on Health Insurance and Medical Services, *Final report of the Committee on Health Insurance and Medical Services* (1927), p. 17, § 36.

²⁶⁵ Lee, *Ireland 1912-1985*, pp 178-9.

²⁶⁶ Whyte, *Church and state*, p. 372.

²⁶⁷ Tom Inglis, *Moral monopoly: the rise and fall of the Catholic Church in modern Ireland* (2nd ed., Dublin, 1998), p. 78.

²⁶⁸ Brown, *Ireland: social and cultural history*, pp 131-6.

²⁶⁹ Cousins, *Birth of social welfare in Ireland*, pp 57-8.

could prove that their husbands were economically dependent on them or were able to demonstrate that they could not rely on their husband and had dependents.²⁷⁰ Single women with no previous record of insurable employment, including widows as well as unmarried women, could apply only if they had dependents.²⁷¹ The scope of the 1935 Widows' and Orphans' Act was similarly limited. Introduced in response to the shortcomings of the existing welfare system in providing for women and children, the act sought to bring an end to widows' reliance on Home Assistance.²⁷² However, women who lived with a male partner following their husband's death were not entitled to relief.²⁷³ Thus, as in the nineteenth century, women's right to assistance continued to be determined by their relationship to men and their access to outdoor relief was not guaranteed. Both the 1934 unemployment relief scheme and the 1935 Widows' and Orphans' Act revealed a commitment to the idea of the traditional Irish Catholic family and failed to provide for women who deviated from this perceived norm.

In the early decades of the twentieth century, Ireland's remaining lay-managed Magdalen laundries ceased operations or altered function, in many cases becoming Mother and Baby Homes.²⁷⁴ Equivalent institutions in Belfast similarly experienced a general decline in admissions during the First World War, which continued more rapidly in the 1920s.²⁷⁵ In contrast, in the 'reactionary climate' of the 1930s, the Republic of Ireland's Catholic laundries enjoyed 'something of a revival'.²⁷⁶ During this period, Irish state policy increasingly embraced and reinforced Catholic moral teaching, particularly in the area of sexual morality; a sign, indeed, that liberalism was emerging, and that state and church were resistant to its advance. The sale and importation of contraceptives was, for example, prohibited under the 1935 Criminal Law Amendment Act with the aim of curtailing pre- and extra-marital sex, as well as sex within marriage where the intention was not to procreate.²⁷⁷ As Catholic morality became a 'hallmark of Irish identity',²⁷⁸ it fell to Ireland's women in particular, whose 'crowning glory' was their alleged chastity and modesty, to lead virtuous lives, thus safeguarding Ireland's moral

²⁷⁰ Ibid, p. 64.

²⁷¹ Unemployment Assistance Act, 1933 (1933 no. 46) (16 November 1933), § 10 (3)d-f.

²⁷² Yeates and Stoltz, 'Unequal status, unequal treatment', p. 7.

²⁷³ Widows' and Orphans' Pensions Act, 1935 (1935 no. 29) (2 August 1935), § 30 (2).

²⁷⁴ Luddy, *Prostitution and Irish society*, p. 111.

²⁷⁵ Leanne McCormick, *Regulating sexuality: women in twentieth-century Northern Ireland* (Manchester, 2009), p. 44.

²⁷⁶ Finnegan, *Do penance or perish*, p. 112; the number of admissions increased from 1,846 in the 1920s to 2,695 in the 1930s (*McAleese Report*, pp 160-1, § 13).

²⁷⁷ Criminal Law Amendment Act, 1935 (1935 no. 6) (28 February 1935), § 17.

²⁷⁸ James M. Smith, 'The politics of sexual knowledge: the origins of Ireland's containment culture and the Carrigan Report (1931)' in *Journal of the History of Sexuality*, 13, no. 2 (2004), p. 210.

wellbeing and, in turn, its national identity.²⁷⁹ However, this image of Ireland and Irish womanhood was illusionary.

In 1930, the Minister for Justice, James Fitzgerald Kennedy, appointed a committee to examine juvenile prostitution in Ireland, culminating in the 1931 Carrigan Report named after the committee's chair, William Carrigan. Highlighting the rise in births outside marriage and pointing to evidence of sexual crime against often very young women and children, the report revealed a moral decline in 1930s Ireland.²⁸⁰ The country's women, especially its 'very large' population of supposedly 'uninformed, silly, foolish, or merely wild and uncontrolled girls', though more often the victims than the perpetrators of sexual crime, were criticised for making themselves 'easy prey for men'. It was argued that girls who enjoyed the pleasures of dance halls, cinemas, and books increasingly exposed themselves to 'the attractions of sexual looseness' without considering its 'evil effects'.²⁸¹ Carrigan's findings were not published, in an effort, in part, to 'maintain the veneer of Irish purity' and 'protect the national identity'.²⁸² Fear of the moral degeneration of Irish society in general, and of its women in particular, therefore maintained demand for the Magdalen laundries as a means to contain and control women who subverted twentieth-century ideals of Irish womanhood.

Continuing a trend already identifiable in Ireland by the late-nineteenth century, the laundries were increasingly home to fewer prostitutes and more unmarried mothers, as well as 'first fall' and 'preventative' cases.²⁸³ The latter consisted of those who had not yet transgressed, but who it was feared were at risk of doing so. In a 2011 interview, John Kennedy, manager of the Good Shepherd Laundry in Limerick from the 1970s, confirmed that many of the women 'were not sent [to the laundries] for so called "sins of the flesh" but were *'shimpli* [simple]'; they were 'easy prey for men' and, thus, 'needed protection', entering the laundries to pre-empt and prevent their 'fall'.²⁸⁴ In many cases, girls aged fifteen or sixteen were transferred directly from industrial schools to the Magdalen laundries. The laundries received capitation grants for these

²⁷⁹ Maryann Valiulis, 'Neither feminist or flapper: the ecclesiastical construction of the ideal Irish woman' in Mary O'Dowd and Sabine Wichert (eds), *Chattel, servant or citizen: women's status in church, state and society* (Belfast, 1995), p. 172.

²⁸⁰ Smith, *Architecture of containment*, pp 5-6.

²⁸¹ Dermot Gleeson's evidence to the Carrigan committee in Luddy, *Prostitution and Irish society*, p. 230.

²⁸² Clara Fischer, 'Gender, nation, and the politics of shame: Magdalen laundries and the institutionalization of feminine transgression in modern Ireland' in *Signs: Journal of Women in Culture and Society*, 41, no. 4 (2016), p. 828.

²⁸³ Sutherland, *Irish journey*, p. 82; although the Magdalen laundries did not accept pregnant women (*McAleese Report*, p. 41, § 90), they catered for those who had previously given birth outside marriage (ibid, pp 603-4, § 30-1).

²⁸⁴ Kennedy, *Interview*.

young women, but did not open themselves up to further inspection.²⁸⁵ When questioned about this practice by the British doctor and author, Halliday Sutherland, in 1956, the Sisters of Mercy confirmed that such transfers were believed necessary if a girl was deemed ‘backward’, often equating female sexuality with mental incapacity.²⁸⁶

In Ireland’s twentieth-century Catholic-run Magdalen laundries, so-called preventative and first fall cases lived and worked alongside prostitutes, as well as women on remand from court, and others who had committed infanticide. From 1949, under the Infanticide Act, a woman accused of killing her new-born child would be charged with manslaughter rather than murder if ‘the balance of her mind’ at the time of the act was deemed ‘disturbed by reason of her not having fully recovered from the effect of giving birth’.²⁸⁷ Creating a case for diminished responsibility that applied exclusively to women, the legislation recognised their actions as the result of temporary insanity rather than criminal intent. Consequently, such women were not imprisoned, but placed in Magdalen laundries for their protection.²⁸⁸ The laundries’ tendency to house girls considered at risk of transgressing alongside those already held to have done so suggests that concerns for a moral contagion, though paramount for society, were less important when it came to the populations of the Magdalen laundries.

The religious sisters made few allowances for the increasingly heterogeneous nature of the laundries’ populations and proved reluctant to alter the outdated and often harsh rules originally outlined by their founders. For example, as late as the 1960s, the Good Shepherd Sisters regularly consulted Mother St. Euphrasia Pelletier’s *Practical rules for the use of the Religious of the Good Shepherd for the direction of the classes*, first published in 1898, thirty years after the Foundress’ death.²⁸⁹ For much of the twentieth century, and despite the evolution of a ‘powerful’ trade union movement,²⁹⁰ the women continued to work long hours in the laundries without remuneration.²⁹¹ While Ireland’s Magdalen system was thus defined by continuity rather than change, both Finnegan and Smith argued that the laundries in fact adopted harsher methods in the twentieth century, becoming more punitive and carceral than rehabilitative in function.²⁹²

²⁸⁵ Smith, *Architecture of containment*, p. 81.

²⁸⁶ Sutherland, *Irish journey*, p. 82; Luddy, *Prostitution and Irish society*, p. 233.

²⁸⁷ Infanticide Act, 1949 (16/1949) (15 July 1949), § 1.

²⁸⁸ Smith, *Architecture of containment*, pp 54-5.

²⁸⁹ Finnegan, *Do penance or perish*, p. 22; *ibid*, p. 234.

²⁹⁰ *Ibid*, p. 202.

²⁹¹ Sutherland, *Irish journey*, p. 82.

²⁹² Finnegan, *Do penance or perish*, p. 85; Smith, *Architecture of containment*, p. 47.

While support for working-age women was limited, there was similarly no state system of child support in Ireland by the late-1930s.²⁹³ In 1940, Seán Lemass, then Ireland's war-time Minister of Supplies, outlined proposals for a scheme of family allowances. Anticipating resistance from those committed to the state's traditional *laissez-faire* policy, the Fine Gael TD, and long-time child support advocate, James Dillon, stressed that he was 'apprehensive of increasing bureaucratic control over the lives' of the Irish people and remained 'strongly in favour' of instituting a system of family allowances as he believed it would 'safeguard the family unit against such interference and control'. Dillon concluded that the government's duty was 'not to go in and improve on God's handiwork but to provide the parents with the means whereby to discharge their divinely-appointed mission'.²⁹⁴ That such defence of the proposed system was deemed necessary suggests that, although attitudes towards state involvement in the distribution of relief were changing, they did so only slowly. A non-means tested scheme was subsequently drawn up in 1943, detailing plans to provide payments to families with children under the age of sixteen, which became law the following year as the Children's Allowance Act.²⁹⁵

However, the scheme excluded children 'detained in a reformatory or industrial school' or permanently resident in an institution where the cost of their maintenance was defrayed by the institution or the state.²⁹⁶ Crucially, this indicated that a family allowance was not seen as an alternative to existing institutional responses. In terms of their administration and operation, little regarding Ireland's industrial schools changed by the mid-twentieth century. The 1908 Children Act presented the terms under which the country's residential schools existed to 'teach, lodge, clothe, and feed' disadvantaged children until the 1960s, and replicated the rules and regulations first outlined in 1870 with only minimal changes, including the introduction of holiday leave.²⁹⁷ While overall control of the industrial school system was assumed by the Department of Education in 1924, the institutions remained under Catholic management.²⁹⁸

²⁹³ Cousins, *Birth of social welfare in Ireland*, p. 106.

²⁹⁴ *Dáil Éireann* (24 March 1943), vol. 89, no. 11, col. 1468.

²⁹⁵ Cousins, *Birth of social welfare in Ireland*, pp 115-18.

²⁹⁶ Children's Allowance Act, 1944 (1944 no. 2) (23 February 1944), § 3 (3)c, iii-vi.

²⁹⁷ *Children. A bill to consolidate and amend the law relating to the protection of children and young persons, reformatory and industrial schools, and juvenile offenders, and otherwise to amend the law with respect to children and young persons*, H.C. 1908 (69) i, 403, p. 29, § 52; *Kennedy Report*, 'Appendix L', pp 130-133.

²⁹⁸ *An act for constituting and defining the ministers and departments of state in Saorstát Éireann pursuant to the constitution and declaring the functions and powers of the attorney-general and enabling the appointment of parliamentary secretaries and for purposes incidental thereto* (1924) § 1, v.

In 1934, Dublin District Court Judge, G. P. Cussen, conducted a review of Ireland's reformatory and industrial schools.²⁹⁹ The commission was the first of its kind since the foundation of the state and was prompted by developments in Britain, including the closure of its industrial schools from the 1930s.³⁰⁰ The Cussen Report expressed concern about the nature of the training offered, the number of children with disabilities catered for, and the lack of support provided by the local authorities.³⁰¹ Recommendations for the industrial school system included a focus on training in farming and the crafts in rural schools,³⁰² as well as the appointment of a medical inspector to review conditions.³⁰³ Crucially, Cussen recommended the continuance of the system and advised that the industrial and reformatory schools should remain under the management of Catholic religious congregations.³⁰⁴ Minor amendments to the system were subsequently introduced under the 1941 and 1957 Children's Acts, which included raising the age at discharge from fourteen to fifteen with regards to industrial schools, and from sixteen to seventeen in reformatories.³⁰⁵ Such acts largely served to reiterate and reinforce existing policy and did not present an alternative to the residential school system.

Although life in Ireland's industrial schools continued largely unchanged, there was a notable development in terms of perceptions of the system during the late-nineteenth and early-twentieth centuries; there was a greater, though erroneous, association of such institutions with the penal system. In 1934, the Minister for Education, Thomas Derrig, clarified that children in industrial schools were 'not criminals in any sense'. The Irish public, it was stressed, had gained 'the wrong impression' of the schools and the children who attended them, attaching to both a stigma which 'very often adversely affected the whole future careers of the pupils'.³⁰⁶ In the final years of the schools' operation, it was recognised that the success of former industrial school children in finding employment and a 'secure place for themselves in the life of the community' was hampered by a 'confusion [...] in the public mind' as Ireland's industrial schools were frequently held to be sites of detention for juvenile criminals rather than places of care.³⁰⁷ The industrial schools were, indeed, often grouped with and discussed

²⁹⁹ O'Sullivan and O'Donnell, *Coercive confinement*, p. 179.

³⁰⁰ Raftery and O'Sullivan, *Suffer the little children*, p. 77.

³⁰¹ Ibid, p. 78.

³⁰² G. P. Cussen, 'Report of the Commission of inquiry into the reformatory and industrial school system (1936)' in O'Sullivan and O'Donnell (eds), *Coercive confinement*, p. 193.

³⁰³ Raftery and O'Sullivan, *Suffer the little children*, p. 79.

³⁰⁴ O'Sullivan and O'Donnell, *Coercive confinement*, p. 179.

³⁰⁵ Children Act, 1941 (1941 no. 12) (3 June 1941), § 6; *ibid*, § 9; Children (Amendment) Act, 1957 (28/1957) (17 December 1957).

³⁰⁶ *Irish Independent*, 15 May 1934.

³⁰⁷ *Kennedy Report*, pp 56-7 § 8.3-8.5.

alongside reformatory schools,³⁰⁸ and for much of the nineteenth century these institutions shared inspectors.³⁰⁹

A number of additional factors contributed to this misconception, prime among which was a continued tendency to equate poverty with criminality. Drawn overwhelmingly from the poor and labouring classes, children committed to the industrial schools were required to appear before the courts and were thus ‘set apart’ as persons ‘to be watched’.³¹⁰ They were often escorted to such institutions by the police,³¹¹ and if they attempted to escape, could be ‘apprehended without warrant’ and returned or transferred to a reformatory.³¹² Guilty of no criminal offence, the children were nevertheless held in ‘custody’ before being ‘committed’ to an industrial school, where they were then ‘detained’.³¹³ Such terminology branded them as undeserving poor and highlighted deeply entrenched class divisions. Indeed, upper-class children who attended fee-paying residential boarding schools were not referred to as ‘inmates’, or seen to be ‘detained’.

‘Family care is preferable to care in an institution’: the final years of Ireland’s Magdalen laundries and industrial schools³¹⁴

The end of the Second World War is often cited as a key turning point for Irish welfare, signalling the decline of traditional minimalist policy and the development of the modern Irish Welfare State.³¹⁵ Indeed, this period witnessed greater efforts in Ireland to match British and European standards of welfare provision, with Britain’s 1942 Social Service and Allied Services Report, popularly known as the Beveridge Report, providing ‘the pivot around which much Irish debate [...] revolve[d]’.³¹⁶ The Beveridge Report detailed plans for reforming social insurance as part of a ‘comprehensive policy of social progress’, offering ‘benefits up to subsistence level, as of right and without means test’.³¹⁷ Irish debates culminated in 1952 with the Social Welfare Act, outlining plans for consolidating existing social insurance schemes,

³⁰⁸ *Irish Times*, 5 May 1966.

³⁰⁹ *Industrial schools act (Ireland)*, pp 1-2 § 4.

³¹⁰ *Irish Times*, 29 April 1966.

³¹¹ *Children’s Act, 1908*, § 60.

³¹² *Ibid.*, § 68.

³¹³ *Ibid.*, § 59-60.

³¹⁴ *Commission of inquiry on mental handicap* (Dublin, 1965), p. 127, §138.

³¹⁵ Yeates and Stoltz, ‘Unequal status, unequal treatment’, p. 12.

³¹⁶ Sophia Carey, *Social security in Ireland, 1939-1952: the limits to solidarity* (Dublin & Portland, Oregon, 2007), pp 2-8.

³¹⁷ *Social insurance and allied services* [Cmd.6404], H.C. 1942, vi, 119, pp 6-7, § 8-10.

allowing social insurance to become the predominant mode of provision.³¹⁸ However, despite efforts to allow previously-exempt groups to take advantage of the system, the low-level participation of women in the labour market ultimately ensured that few Irish women benefitted directly from these changes.

Although Ireland's insured population as a proportion of the labour force rose from thirty-three per cent to forty-nine per cent between 1946 and 1961, there was, for women, a corresponding increase of just six per cent during this period, from nine per cent to fifteen per cent.³¹⁹ The lack of childcare provision, which was lower in Ireland than any other European country, prevented many women, and particularly married women, from seeking insured employment.³²⁰ The low-level participation of women in the labour market must also be attributed in large part to the persistence of the male bread-winner model and the associated belief that woman's place was in the home. For example, while recognising the 'vital though unpaid' work carried out by many married women, the British Beveridge Report maintained that the working 'housewife's earnings in general are a means, not of subsistence but of a standard of living above subsistence'. As such, the report assumed 'a man's contributions as made on behalf of himself and his wife'.³²¹ With many women unable or unwilling to enter the workforce, the Social Welfare Act benefited men directly and their dependents, including women and children, only indirectly. This is revealed in the fall in the number of men seeking Home Assistance in Ireland, with the proportion of women recipients increasing from fifty-seven per cent to sixty-eight per cent between 1935 and 1970.³²²

As the 1950-51 mother and child scandal revealed, the Irish state was not in all cases eager to abandon its earlier non-interventionist stance. In 1950, the Minister for Health, Noël Browne, published details of a health scheme that would provide non-means-tested care for expectant and postnatal mothers and their children.³²³ This would replace the decentralised system of maternity services that relied hugely on the efforts of voluntary groups.³²⁴ Speaking in 1948,

³¹⁸ Social Welfare Act, 1952 (11/1952) (14 June 1952), § 4.

³¹⁹ Yeates and Stoltz, 'Unequal status, unequal treatment', p. 13.

³²⁰ Jane Lewis, 'Gender and the development of welfare regimes' in *Journal of European Social Policy*, 2, no. 3 (1992), p. 163.

³²¹ *Social insurance and allied services*, pp 49-50, §107-8.

³²² Yeates and Stoltz, 'Unequal status, unequal treatment', pp 12-13.

³²³ *Anglo-Celt*, 17 March 1951; an attempt by Fianna Fáil to introduce a similar health act in 1947 faced criticism from the Catholic Church and was abandoned when the government fell the following year (Louise Fuller, *Irish Catholicism since 1950: the undoing of a culture* (Dublin, 2004), p. 74).

³²⁴ Lindsey Earner-Byrne, *Mother and child: maternity and child welfare in Dublin, 1922-60* (Manchester, 2007), pp 26-7.

Browne highlighted that Ireland's infant death-rate during the previous five-year period was fifty-five per cent higher than in England and Wales.³²⁵ In 1949 alone, Ireland 'lost by death about 4,700 children under the age of sixteen years'.³²⁶ The *Irish Times* was optimistic that, should Browne succeed, 'thousands of young Irish lives' would be saved every year.³²⁷ However, the Minister faced significant resistance from Irish doctors, traditionally 'not over-enamoured' of 'too much state intervention',³²⁸ and from the Irish Medical Association (IMA), whose members were concerned that doctors would suffer loss of earnings from private practice.³²⁹ Indeed, the medical profession remained 'rather conservative in its outlook' during this period, as many doctors fought against the introduction of 'state medicine'.³³⁰ The mother and child scheme was similarly criticised by members of government who feared the cost to the taxpayer of a free service,³³¹ and struggled to work with Browne, a young radical who was felt by many to be uncompromising, volatile, and politically naïve.³³²

Browne's plans also met with disapproval from the Irish Catholic Church. Keen to confirm that it was the duty of Irish parents, and not the state, to care for the nation's children, the hierarchy issued a statement in which they argued that the proposed scheme undermined the rights of the family.³³³ Concerns were also raised that, as part of efforts to educate women about the realities of motherhood and sexual health, instruction would be given on subjects of an 'objectionable nature' including birth control and abortion.³³⁴ Browne rejected as 'gross' and 'malicious' any suggestion that his proposal 'went against' Catholic teaching.³³⁵ The hierarchy nevertheless declared the scheme to be 'a ready-made instrument for future totalitarian aggression', as they feared that the state would encroach on areas of church influence and assume control of services that were, at the time, supplied by Catholic charitable agencies.³³⁶ For those in government who were particularly wary of the potential cost of Browne's ambitious scheme, the hierarchy's objections provided a 'convenient camouflage'.³³⁷ Calling for the Health Minister's resignation, the Minister for External Affairs, Seán MacBride, stressed that 'the creation of a

³²⁵ Henry Patterson, *Ireland since 1939: the persistence of conflict* (Dublin, 2006), p. 92.

³²⁶ *Irish Examiner*, 9 March 1951.

³²⁷ *Irish Times Pictorial*, 14 April 1951.

³²⁸ *Connacht Sentinel*, 21 November 1950.

³²⁹ *Ulster Herald*, 17 March 1951.

³³⁰ *Irish Times Pictorial*, 14 April 1951; Earner-Byrne, *Mother and child*, p. 137.

³³¹ *Ulster Herald*, 17 March 1951.

³³² *Irish Times*, 13 April 1951; Earner-Byrne, *Mother and child*, pp 134-5.

³³³ *Irish Independent*, 12 April 1951.

³³⁴ Earner-Byrne, *Mother and child*, p. 136.

³³⁵ *Irish Press*, 19 May 1951.

³³⁶ *Irish Independent*, 12 April 1951.

³³⁷ Earner-Byrne, *Mother and child*, p. 140.

situation where it is made to appear that a conflict exists between the spiritual and temporal authorities' was 'highly damaging to the cause of national unity'.³³⁸ Thus, efforts to establish a free maternity scheme were undermined by Browne's own political naiveté and his failure to recognise or deal adequately with the opposition from the IMA and the church, as well as his inability to gain support from the cabinet or, indeed, his own party.³³⁹

A modified scheme was subsequently introduced under the 1953 Health Act, offering free 'medical, surgical, midwifery, hospital and specialist services' to women of low income, which was extended to those from higher income groups at a contribution of £1 a year.³⁴⁰ Despite the obstacles and controversies that surrounded Browne's initial proposal, the revised mother and child scheme was introduced 'free of moral prerequisites', allowing women access to free maternity care regardless of their marital status.³⁴¹ Indeed, despite an initial triumph of the *status quo* with the rejection of Browne's scheme in 1951, Ireland was changing. By the end of the 1950s, a new generation of leaders born in the 1920s and 1930s, including Brian Lenihan and Charles Haughey, were poised to take power from Ireland's ageing elites.³⁴² Having played no part in the fight for independence, these politicians were not fixated on past injustice or on abstract issues, such as Irish identity, that had plagued their predecessors. In 1959, de Valera was replaced as leader of Fianna Fáil and as Taoiseach by Lemass.³⁴³ Lemass did not at first appear typical of this new breed of politician. A veteran of the 1916 Easter Rising, he had been a major figure in the party since its foundation in 1926. However, by the early 1960s, he had grown impatient with the slow pace of change.³⁴⁴ While de Valera had advocated a life of frugality and devotion to the Catholic Church, the more pragmatic Lemass was keen to improve the material wellbeing of the Irish people. He was seen by many as the man with 'the force and the drive' to 'lift the country out of the rut in which it has been running for far too long'.³⁴⁵ The *Irish Press* optimistically declared that the future of Ireland was 'safe in the hands of Seán Lemass'.³⁴⁶

Arguably, the greatest catalyst for change came in the shape of the new economic policy outlined in *Economic development* in 1958, penned by the 'dynamic and intellectually

³³⁸ *Irish Times*, 12 April 1951.

³³⁹ Earner-Byrne, *Mother and child*, pp 134-7.

³⁴⁰ Health Act, 1953 (26/1953) (29 October 1953), § 16(1-3).

³⁴¹ Earner-Byrne, *Mother and child*, p. 165.

³⁴² Tom Garvin, *Preventing the future: why was Ireland so poor for so long?* (Dublin, 2004), p. 250.

³⁴³ Fuller, *Irish Catholicism*, p. 79.

³⁴⁴ *Irish Press*, 22 August 1957; *Irish Examiner*, 21 November 1957.

³⁴⁵ *Kerryman*, 11 July 1959.

³⁴⁶ *Irish Press*, 23 June 1959.

formidable' Secretary to the Department of Finance, Thomas K. Whitaker.³⁴⁷ The resulting *Programme for economic expansion* ensured that a dependence on tariffs and an overwhelming emphasis on protecting and promoting native industry was replaced by free trade, while tax incentives were introduced to encourage foreign firms to set up industry in Ireland. For a nation that had for many years existed in relative isolation, the Irish state's new-found desire to engage with Europe and its markets had far-reaching consequences. In 1955, Ireland was admitted to the United Nations and, in 1961, made a first application for membership of the Economic European Community (EEC).³⁴⁸ In the same year, the Republic became a member of the United Nation's Educational, Scientific and Cultural Organisation.³⁴⁹ As the state began to actively participate in the international economy, Irish society was exposed to new ideas and to a modern world of materialism and increased secularisation, far from the rural, puritanical ideal de Valera had long promoted.

There was correspondingly a fundamental attitudinal change towards the country's poor, neglected, or abandoned children as they began to be seen not as a threat to society but rather as a reflection of its failings. Arguably, this shift was apparent from 1936 with the Cussen Report, in which 'exhortations to protect society from the children of the "perishing and dangerous classes"' were 'conspicuously absent'.³⁵⁰ In 1965, a report from the Commission of Inquiry on Mental Handicap highlighted the particularly vulnerable position of institutionalised 'orphans and unwanted and illegitimate children' who failed to realise their potential 'through loss of firm ties of affection, lack of stimulation and absence of suitable adults to provide a feeling of security'. It was recognised that vulnerable children were not adequately cared for if their physical demands were met, while their emotional and psychological needs were neglected. The report thus stated emphatically that 'family care is preferable to care in an institution'.³⁵¹

This was a theory similarly espoused from the late-1960s by the British psychologist, Dr John Bowlby, who argued that infants denied a close, continuous, and affectionate relationship with a mother figure were more inclined to develop long-term mental health issues in adulthood.³⁵² Adoption, finally legalised in Ireland in 1952, was held to be 'undoubtedly the most satisfactory

³⁴⁷ Patterson, *Ireland since 1939*, pp 110-12.

³⁴⁸ Brown, *Ireland: social and cultural history*, p. 202; Ireland was not accepted into the EEC until 1973, (Diarmaid Ferriter, *The transformation of Ireland 1900-2000* (London, 2005), p. 681).

³⁴⁹ Fuller, *Irish Catholicism*, p. 80.

³⁵⁰ O'Sullivan, 'Social definition in child care', p. 214.

³⁵¹ *Commission on mental handicap*, p. 124, § 138.

³⁵² Evelyn Robinson, 'Sinking the mothership' in *Australian Journal of Adoption*, 6, no. 1 (2012), p. 6.

method of dealing with the problem', with boarding-out recommended where this was not feasible.³⁵³ From the 1950s, a number of key developments, including the introduction of the Children's Allowance in 1944; the legalisation and regulation of adoption and boarding-out; broader advances in social services, and the general decline in population and a corresponding improvement in living standards, led to a gradual decline in admissions to Ireland's industrial schools, which dropped further and more rapidly in the 1960s and 1970s.³⁵⁴ While seventy-one schools catered for approximately 8,000 children in 1898, by 1970, twenty-nine industrial schools remained, invariably managed by Catholic religious congregations and providing for just 2,000 children.³⁵⁵

In 1967, the government established a committee to examine conditions and practices in Ireland's remaining reformatories and industrial schools. The committee remained deferential to the Catholic Church and its representatives, both commending their commitment to the cause and encouraging their continued participation in the field of child welfare.³⁵⁶ The resultant Kennedy Report stressed that 'if it were not for the dedicated work of many of our religious bodies' the industrial school system 'would be a great deal worse than it is now'.³⁵⁷ The system's failings were, nevertheless, numerous. The industrial schools were found to be underfunded, while the teaching staff were largely underqualified, the buildings were held to be inadequate and often inappropriate for the care of children, and the systems of inspection were deemed 'totally ineffective'.³⁵⁸ When tested on their reading, verbal reasoning, and arithmetic skills, 'almost half' the industrial school children tested fell 'markedly below' the average.³⁵⁹ While the committee found that the children's physical needs were 'adequately if unimaginatively catered for', they noted that attention to their emotional needs was wanting, and that the children enjoyed neither love nor security.³⁶⁰ Finally, and most significantly, the Kennedy Committee concluded that the institutional character of the industrial schools was 'harmful' to the development of the children, serving only to aggravate existing emotional and psychological problems and failing to adequately prepare the pupils for adult life.³⁶¹

³⁵³ *Commission on mental handicap*, p. 124, §138.

³⁵⁴ Morgan, 'Schools and society, *Ryan Report*, IV, p. 218, § 3.58.

³⁵⁵ *Kennedy Report*, p. 2, § 1.3.

³⁵⁶ *Ibid.*, p. 27 § 5.3.

³⁵⁷ *Ibid.*, p. 13 § 4.1.

³⁵⁸ *Ibid.*, p. 30 § 5.11; *ibid.*, pp 13-14 § 4.2-4.3; *ibid.*, p. 15 § 4.7; *ibid.*, p. 28 § 5.5.

³⁵⁹ *Ibid.*, p. 11 § 3.11.

³⁶⁰ *Ibid.*, p. 13 § 4.2.

³⁶¹ *Ibid.*, p. 15 § 4.7.

The Kennedy Report called for the existing institutional system to be abolished and replaced by group homes, approximating ‘as closely as possible to the normal family unit’. It was argued that the admission of children to such residential homes should be considered ‘only when there is no satisfactory alternative’.³⁶² In subsequent years, the country’s remaining industrial schools were closed or modified, and by the mid-1970s, the Irish industrial school system had come to an end.³⁶³ Throughout the report, the Kennedy Committee repeated its belief that the country’s vulnerable children were a community problem and that their care was, as such, a civic duty. Crucially, it concluded that Ireland’s ‘approach to every aspect of child care must be based on the fact that we, the community, can no longer hide our social problems behind institutional walls’.³⁶⁴ The Kennedy Report also criticised the practice of committing ‘certain types of girl offenders’ to the Magdalen laundries. The report brought attention to the ‘haphazard’ nature of the laundry system and criticised the state for failing to control or inspect the church-run institutions. The Kennedy Committee noted that the women and girls in the Magdalen laundries were largely unaware of their rights and as a consequence remained in these institutions ‘for long periods’ becoming ‘in the process, unfit for re-emergence into society’.³⁶⁵ Ireland’s Magdalen laundries nevertheless outlived these comments by almost thirty years.

Many Irish women experienced significant improvements in their personal lives during the 1960s and 1970s as the nature of family life was transformed. During the 1960s, the new economic programme prioritised heavy industry over agriculture and many workers and their families left their country homes to find work in Ireland’s cities, drawn to the idea of ‘nine-to-five regularity’ and to ‘the bulging pay packet each weekend’. The flight from the land was neither new nor a phenomenon unique to Ireland, but reflected wider European trends. In 1963, the *Irish Press* predicted that by the end of the decade, around one quarter of the European agricultural population of 1958 would move away from rural areas.³⁶⁶ The extent of the rural to urban demographic shift in Ireland was, nevertheless, remarkable. At the time of independence, between fifty and sixty per cent of the population were employed in some form of agricultural work. In 1961, the proportion of the workforce in agricultural production was still around one-third.³⁶⁷ However, their numbers fell from twenty-six per cent in 1971 to just

³⁶² Ibid, p. 6 § 2.1-2.2.

³⁶³ Barnes, *Irish industrial schools*, p. 146.

³⁶⁴ *Kennedy Report*, p. 59 § 8.14.

³⁶⁵ Ibid, p. 39 § 6.17-6.18.

³⁶⁶ *Irish Press*, 28 September 1963.

³⁶⁷ Garvin, *Preventing the future*, p. 252.

eleven per cent by 1995,³⁶⁸ and by the end of the twentieth century, just eight per cent of the population worked in agriculture.³⁶⁹

As in other industrialised and urbanised countries, where contraception was traditionally more readily available, Irish life was increasingly characterised by smaller planned families. Although the number of first and second births to couples increased significantly in the 1960s, there was a decline in the number of fourth or subsequent children.³⁷⁰ In 1968, the Catholic Church sought to reaffirm its stance on artificial contraception with the controversial papal encyclical, *Humanae vitae*. Pope Paul VI declared that the use of artificial contraception was a practice ‘repugnant to the nature of man and of woman’ and was, as such, ‘in opposition to the plan of God’.³⁷¹ However, as the prevalence of smaller families by this period suggested, many women in Ireland concluded that it was possible to use the contraceptive pill while maintaining their religious observance. An estimated 12,000 Irish women were taking the pill at this time, a period which saw little decline in church attendance.³⁷²

During the 1960s and 1970s, feminists in Ireland also campaigned for greater welfare support for women, and to eradicate discriminatory practices in the labour market. Their efforts led to the establishment of the first national Commission on the Status of Women in 1970 which examined the position of women in Ireland and ‘provided the institutional apparatus and impetus for reform’.³⁷³ The 1970s subsequently witnessed the introduction of a range of benefits specifically designed to assist married women, including the 1970 Deserted Wife’s Allowance, and the Prisoner’s Wife’s Benefit in 1974.³⁷⁴ Section eight of the 1973 Social Welfare Act, meanwhile, introduced benefits for unmarried mothers,³⁷⁵ while regulations were drawn up the following year for a single woman’s allowance.³⁷⁶ Women’s access to relief was, as such, determined by their relationship to their family, rather than men as prevailed previously, as motherhood increasingly replaced marital status as a means of differentiating between and, indeed, discriminating against women. In this way, ‘Ireland retained the Poor Law model, in both spirit and structure, for women’.³⁷⁷

³⁶⁸ Patterson, *Ireland since 1939*, p. 261.

³⁶⁹ Ferriter, *Transformation of Ireland*, p. 674.

³⁷⁰ Brown, *Ireland: social and cultural history*, pp 247-8.

³⁷¹ Paul VI, *Humanae vitae* (1968) § 13.

³⁷² Ferriter, *Transformation of Ireland*, p. 573.

³⁷³ Yeates and Stoltz, ‘Unequal status, unequal treatment’, p. 18.

³⁷⁴ *Ibid*, pp 18-19.

³⁷⁵ Social Welfare Act, 1973 (10/1973) (27 June 1973), § 8.

³⁷⁶ Social Welfare (Single Woman’s Allowance) Regulations, 1974 (209/1974) (1 July 1974).

³⁷⁷ Yeates and Stoltz, ‘Unequal status, unequal treatment’, pp 20-3.

Nevertheless, the social welfare reforms of the 1970s had significant implications for Ireland's Magdalen laundries. The introduction of the unmarried mother's allowance was largely prompted by the legalisation of abortion in Britain in 1967, which offered Irish women the option of travelling to British clinics to terminate unplanned and unwanted pregnancies. This development finally pressed the Irish state to acknowledge the rights of single mothers and their children, and encouraged the introduction of what amounted to 'a wage for housework and child care'.³⁷⁸ Both the allowance for unmarried mothers and that for single women provided assistance to women who would have previously had little option but to seek relief in an institution. Although the unmarried mother's allowance was introduced with the primary aim of discouraging women from seeking an abortion, it also revealed a relaxation in attitudes towards women who would previously have been deemed guilty of deviant social behaviour. Indeed, rather than punishing unmarried mothers for their supposed transgression and institutionalising them to prevent the spread of a moral contagion, the Irish state demonstrated a willingness to assist these women in raising their children at home. By the end of the twentieth century, demand for institutions that confined and controlled women that were considered promiscuous or wayward had receded.

By the later decades of the twentieth century, a number of important improvements had been made to the country's Magdalen laundries. The institutions benefited greatly from advances in technology after the Second World War as the religious sisters sought to modernise their laundry equipment, introducing 'revolutionary' mechanised washing, ironing, and folding machines which increased output and maximised profit as much as they improved working conditions for the women.³⁷⁹ Former laundry manager, John Kennedy, was nevertheless keen to highlight other changes made for the benefit of the women. For example, during the 1960s, the Good Shepherd Laundry in Limerick changed 'dramatically' and was 'opened up' allowing the women to 'bring visitors in and walk them around'.³⁸⁰ He also noted that the women were permitted to leave the laundries to visit family.³⁸¹ In the 1970s and 1980s, many Magdalen laundries remained open as refuges having closed their laundries, while others sold the laundry element to a private company.³⁸² Yet, such improvements came too late for many of the women. As Kennedy observed, 'the pity was that when the good days came' and the women

³⁷⁸ Ibid, p. 19.

³⁷⁹ Kennedy, *Interview*.

³⁸⁰ Ibid, pp 21-2.

³⁸¹ Ibid, p. 13.

³⁸² Finnegan, *Do penance or perish*, p. 242.

‘were allowed to go in the world very few took the opportunity because they were institutionalised and they didn’t have the qualifications or the social skills or the courage to go out there’.³⁸³ Ireland’s last laundry, at Sean McDermott Street, Dublin, finally closed in 1996.³⁸⁴

In its inability to properly address the social and economic causes of poverty among women, and in its failure to present a government-funded alternative to the laundries, the state allowed for the establishment of the church-run Magdalen system. More significantly, however, in its willingness to send women on remand from court or guilty of infanticide to the laundries; in its failure to adequately regulate such institutions or to implement the recommendations of the Kennedy Report, and, finally, by demonstrating not only a reluctance to challenge, but in fact continued embrace of the outdated Victorian ideals that led to the foundation of the system, the state allowed for the continued existence of the Magdalen laundries long after they had ceased to exist in neighbouring Britain and Northern Ireland. The Irish public, in turn, appeared largely indifferent to the existence of the laundry system and its inhabitants, seemingly happy to trust that the church would help, and certainly not exploit, those in their care. There were, as such, no groups established to campaign for their closure, and no public debates initiated to discuss the viability of the system, with the issue failing to be addressed during either the first or second-wave of Irish feminism. Like the country’s industrial schools, the Magdalen laundries were too useful; offering a means of confining and concealing, at no great cost to state or society, those women and children who seemingly contradicted the image of Ireland as a country for the productive and the morally pure and virtuous.

Following the publication of the McAleese Report, two Irish nuns spoke anonymously yet frankly about their experiences of Ireland’s Magdalen laundries. The religious sisters were eager to emphasise that they were providing a free public service, caring for women rejected by their friends and families, and the wider community. The sisters ‘saw a need in society’, they stressed, ‘and they tried to respond to it in the best way that they could’.³⁸⁵ While evidence of the abuse and exploitation of the women and children who entered the country’s church-run institutions makes it difficult to accept this line of argument, it raises an important, if uncomfortable, point. From the nineteenth century until the final decades of the twentieth

³⁸³ Kennedy, *Interview*.

³⁸⁴ *McAleese Report*, p. 23, § 29.

³⁸⁵ ‘The God slot: The Magdalen laundries – the nun’s story’, *RTÉ Radio One* (8 March 2013) (<http://www.rte.ie/radio1/the-god-slot/programmes/2013/0308/375700-the-god-slot-friday-8-march-2013/?clipid=1025939>) (14 March 2013).

century, and thus under both Westminster and Irish jurisdiction, Ireland's church-run Magdalen laundries and industrial schools offered support to many of Ireland's most vulnerable people as successive governments 'leaned for so long upon the efforts of voluntary agencies' and failed to offer a viable alternative.³⁸⁶ The country's commitment to conservative and *laissez-faire* policy, its failure to internalise the concept of the welfare state, and the persistence of nineteenth-century attitudes in the name of nation-building maintained the conditions in Ireland which allowed for the continued existence of such archaic systems of relief.³⁸⁷ As such, while the role of the Catholic Church in operating the institutions cannot be ignored, both state and society played a part in maintaining, and failing to challenge or change, the conditions that allowed them to remain open.

³⁸⁶ *Irish Times*, 6 May 1966.

³⁸⁷ Lindsey Earner-Byrne, 'Child sexual abuse, history and the pursuit of blame in modern Ireland' in Katie Holmes and Stuart Ward (eds), *Exhuming passions: the pressure of the past in Ireland and Australia* (Dublin, 2011), p. 67.

CHAPTER II

‘Tearing down the walls of silence’: the Republic of Ireland’s inquiry culture, 1990-2011¹

The publication of the Ryan Report in 2009 and the McAleese Report four years later can be seen collectively, and with little hyperbole, as a watershed in Irish history. For many years, Irish government and society proved reluctant to examine the nation’s residential schools for impoverished children, accepting only limited responsibility for their existence. For decades, both also refused to acknowledge the role they played in the operation of Ireland’s Magdalen laundries for women who it was held transgressed twentieth-century sexual norms.² As late as 2009, the Minister for Education and Science, Batt O’Keeffe, insisted that the church-run laundries were ‘privately owned and operated establishments’ and were not the responsibility of the state.³ However, the rise of investigative journalism, which gained particular momentum in the final decades of the twentieth century, offered a vehicle for victims of historical abuse to speak openly about their experiences. From the late-1990s, in the face of sustained pressure from survivors, activists, and the media, greater effort was made to shed light on the nature and extent of institutional abuse in twentieth-century Ireland and to establish how far the state was culpable. Alongside the Ferns, Murphy, and Cloyne investigations into historical clerical abuse, reporting in 2005, 2009, and 2010 respectively, the Ryan and McAleese reports were symptomatic of Ireland’s inquiry culture as, for the first time, Irish state, and the once indisputable authority of the Catholic Church, were challenged publicly and on a largescale.⁴

‘A series of falsehoods and slanders’: Ireland’s church-run institutions and the culture of secrecy⁵

Well-advertised in the nineteenth century as places of refuge for the country’s vulnerable women and children, by the mid-twentieth century Ireland’s industrial schools and Magdalen

¹ Steven O’Riordan and Sue Leonard (eds), *Whispering hope: the true story of the Magdalene women* (London, 2015), p. 135.

² Justice for Magdalens, *State involvement in the Magdalene laundries: a summary of JFM’s submissions to the interdepartmental committee to establish the facts of state involvement with the Magdalene laundries* (Crocknahattina, Bailieborough, 2012), p. 2 § 2.

³ *Dáil Éireann* (6 October 2009), vol. 690, no. 3, col. 853.

⁴ Francis D. Murphy, *The Ferns Report* (Dublin, 2005); Yvonne Murphy, *Report of the Commission of Investigation into the Catholic Archdiocese of Dublin* (2009); Yvonne Murphy, *Report of the Commission of Investigation into the Catholic Diocese of Cloyne* (Dublin, 2010).

⁵ *Dáil Éireann* (27 March 1947), vol. 105, no. 3, col. 343.

laundries were ‘shrouded in a nationwide conspiracy of silence’.⁶ Despite their continued operation and often foreboding physical presence, these institutions were rarely the topic of public discussion and were referred to infrequently in the Dáil and Seanad.⁷ As many of the schools and laundries closed or reformed from the 1970s, this silence was maintained and the institutions and their former populations subsequently became victims of state and societal ‘amnesia’.⁸ Lacking a receptive audience, and wary of the stigma still attached to the schools and laundries, many chose not to speak of their experiences. ‘For years and years’, Marina Gambold was too ‘ashamed’ to tell anyone that she was admitted to the Good Shepherd Magdalen Laundry in County Wexford in the 1950s after the death of her parents and grandmother, as she feared it would be assumed she ‘had had a baby, and was a “fallen” woman’.⁹ Similarly, a former industrial school pupil explained how concealment was a strategy against stigma: ‘you never told them about your experience, where you were from or what happened. You kept that in the background’.¹⁰ Many were silenced due to the persistence of the belief that they were deviant and, as such, deserving of punishment. As Kathleen Legg explained, ‘the nuns had done a good job of destroying my confidence and making me feel that I deserved the treatment they meted out’.¹¹

Others did not discuss their experiences as they did not expect Irish society to believe that they had been neglected and abused in Catholic-operated institutions. Their pessimism was well-founded as previous attempts to highlight this issue proved largely unsuccessful. For example, following a visit to Ireland in 1946, Fr. Edward Flanagan, founder of Boys Town, Omaha, Nebraska, publicly criticised the ‘disgrace[ful]’ prison and reformatory school system and advised that physical punishments using ‘cat-o’-nine tails, the rod and the fist’ should cease within Ireland’s ‘juvenile reform system’.¹² However, Flanagan’s concerns were rejected by the Independent TD, John Matthew Dillon, who accused him of ‘galumphing around’ Ireland

⁶ Auxiliadora Pérez-Vides, ‘Gender, deviance and institutional violence in Ireland’s Magdalene laundries: an analysis of two filmic representations of abuse’ in Angelika Groterath, Maria Silvia Guglielmin, Inez Testoni (eds), *Teaching against violence: the reassessing toolbox* (Budapest, 2013), p. 78.

⁷ Kate Kenny, ‘Organisations and violence: the child as abstract-boundary in Ireland’s industrial schools’ in *Organization Studies*, 37, no. 7 (2016), p. 946.

⁸ James M. Smith, *Ireland’s Magdalen laundries and the nation’s architecture of containment* (Notre Dame, Indiana, 2007), p. xiii.

⁹ O’Riordan and Leonard, *Whispering hope*, p. 123; *ibid*, pp 85-6; *ibid*, p. 96.

¹⁰ Sinead Pembroke, ‘Exploring the post-release experience of former Irish industrial school “inmates”’ in *Irish Studies Review*, 25, no. 4 (2017), p. 466.

¹¹ O’Riordan and Leonard, *Whispering hope*, p. 15.

¹² *New York Times*, 17 July 1946; the first Boys Town home was established by Fr. Flanagan in Omaha in 1917 to house ‘five troubled boys’. In 2004, approximately 44,000 children ‘received help, healing and hope from Girls and Boys direct care programmes’ throughout the US (The Father Flanagan Committee, *Signposts for life: a model for the youth of today* (Sligo, 2006), p. 7).

and publishing ‘a series of falsehoods and slanders’.¹³ The Minister for Justice, Gerald Boland, similarly concluded that there was little reason ‘to take any notice’ of Flanagan’s ‘exaggerated’ claims.¹⁴ With his concerns unequivocally dismissed by the state, Flanagan’s criticisms were neither publicised nor examined by the Irish press, or, indeed, the Catholic Church.¹⁵ Almost twenty years after Flanagan’s visit to Ireland, Peter Tyrrell, a former pupil of Letterfrack Industrial School, embarked on a campaign to raise awareness of the abuse he endured at the institution in the 1920s and 1930s. In 1964, Tyrrell’s testimony was published in *Hibernia*, but he was ‘almost without exception, ignored, disbelieved or simply regarded as a potential blackmailer’.¹⁶ The failure of the media, state, and society to acknowledge the legitimacy of Tyrrell’s account thus offered little encouragement for other survivors to tell their stories of neglect and abuse.

Demanding accountability: Ireland’s liberal media and the rise of investigative journalism

When addressing the history of Irish institutional abuse it is pertinent to highlight that conservative Victorian attitudes persisted into the twentieth century, impeding social progress. However, although many continued to cling to outdated beliefs and practices, as the longevity of the industrial school and Magdalen laundry systems demonstrated, Ireland entered an era of significant modernisation in the mid-twentieth century, enjoying a thirty-year period of rapid social and economic change. By the 1990s, as part of this process of moving forward, Ireland began to look backward. In an era of diminishing church-state cooperation, as well as growing, if far from universal, secularisation, Ireland was seized by an unmasking mood as past scandals and cases of corruption were uncovered or, at least, revealed to a more popular audience at the highest levels of church and state. This became a ‘decade of revelations’.¹⁷

¹³ *Dáil Éireann* (27 March 1947), vol. 105, no. 3, col. 343.

¹⁴ *Dáil Éireann* (23 July 1946), vol. 102, no. 9, col. 1135.

¹⁵ Vincent Twomey, ‘Contemporary Irish Catholicism: a time of hope!’ in Eamon Maher and Eugene O’Brien (eds), *Tracing the cultural legacy of Irish Catholicism: from Galway to Cloyne and beyond* (Manchester, 2017), p. 90.

¹⁶ Lindsey Earner-Byrne, ‘Child sexual abuse, history and the pursuit of blame in modern Ireland’ in Katie Holmes and Stuart Ward (eds), *Exhuming passions: the pressure of the past in Ireland and Australia* (Dublin, 2011), p. 66; in 1967, Tyrrell committed suicide by self-immolation. His full account was published posthumously in 2006 (Peter Tyrrell, *Founded on fear: Letterfrack Industrial School, war and exile* (London, 2006), p. 10).

¹⁷ *Irish Independent*, 12 May 1999.

From the 1960s, key figures in the Irish press sought to expand the scope of reporting on social affairs, charting new ground in investigative journalism and ‘shedding light on dark, often shameful, corners’ of the country.¹⁸ This trend was also apparent outside Ireland, with dedicated investigative teams established by many leading British newspapers including the Insight Team reporting for the *Sunday Times*, as well as Daylight for the *Observer*, and Closeup for the *Daily Telegraph*.¹⁹ From 1964, investigative journalist, Michael Viney, produced a series of articles for the *Irish Times* addressing previously neglected topics including the plight of unmarried mothers and their children, homelessness among the young, as well as the secrecy surrounding court hearings on sexual offences.²⁰ Across eight articles published in 1966, Viney examined the experiences of Ireland’s ‘young offenders’, focusing in particular on the ‘dismal world of Daingean’ Reformatory in County Offaly, but also reflecting on Upton and Letterfrack industrial schools.²¹

Viney’s first article presented an interview with ‘Larry’, a seventeen-year-old who had recently been released from Daingean. While acknowledging that his account ‘may be distorted, or reflect the partial understanding of his years’, Viney stressed the importance of discovering ‘how things look to a boy with a “delinquent label” round his neck’. Larry described working in the fields ‘in all sorts of weather with so little clothes’ that the boys could beat their hands against the wall ‘and not feel it’. He also stated that he was given ‘a “baldy” haircut’ and ‘flogged’ after attempting to run away.²² More generally, Viney identified the ‘common factors’ in the cases of those admitted to residential institutions, including ‘poverty, illiteracy, lack of opportunity and a disturbed home background’.²³ While stating that the schools’ managers were ‘men of integrity’, the journalist noted that those responsible for the care of the children underwent minimal formal training and made ‘little attempt’ to follow modern teaching and care practices.²⁴ Consequently, many of the boys emerged from industrial schools and reformatories as ‘unprepared, undeveloped, and uncertain products of an institution’.²⁵ There were, however, ‘practically no response letters to the editor’ regarding Viney’s

¹⁸ Diarmaid Ferriter, *The transformation of Ireland 1900-2000* (London, 2005), p. 536.

¹⁹ Hugo de Burgh, *Investigative journalism* (2nd ed., Oxford, 2008), pp 66-7.

²⁰ *Irish Times*, 18 September 1964; 18 November 1964; 9 February 1968.

²¹ *Irish Times*, 5 May 1966.

²² *Irish Times*, 27 April 1966.

²³ *Irish Times*, 28 April 1966.

²⁴ *Irish Times*, 4 May 1966.

²⁵ *Irish Times*, 5 May 1966.

revelations and the topic was not picked up by other Irish newspapers, mirroring the response to Tyrrell's account.²⁶

From the mid-twentieth century, efforts to expose so-called hidden aspects of Irish life were bolstered by the advent of television, which provided a powerful platform from which Ireland's dissenting voices could publicly challenge the *status quo*. The launch of Ireland's first national television station, *Radio Telefís Éireann* (RTÉ), in 1961, was welcomed by senior figures in the Irish and universal Catholic Church, optimistic that it would prove a useful tool for promoting Catholic values in the face of growing materialism and feared secularisation. In the early-twentieth century, the Catholic Church exercised 'symbolic domination' over the Irish press,²⁷ and from the 1920s, all books and films were put before a Censorship Board before their release.²⁸ Tasked with protecting the Irish public from material deemed 'indecent or obscene', such boards were commonly supervised by male members of Catholic lay organisations, many of whom were more conservative than the church hierarchy.²⁹

Confident that RTÉ would offer 'enlightening' programmes reflecting 'high ideals', Cardinal D'Alton appeared on Irish television on the first night of broadcasting in full regalia to welcome the 'new important venture', which he hoped would become 'an asset and an ornament' to Ireland.³⁰ In the 1963 papal encyclical, *Inter mirifica*, the Second Vatican Council similarly encouraged church representatives to employ such media of social communication 'insofar as they are necessary or useful for the instruction of Christians' and called on 'all the children of the Church [to] join without delay and with the greatest of effort in a common work' to make effective use of the radio, film, and television.³¹ Generally reluctant to embrace the Vatican II reforms of the mid-1960s, thus continuing the tradition of Irish Roman Catholic hierarchic independence, the ever-conservative Archbishop of Dublin, John Charles McQuaid, nevertheless encouraged church representatives to undertake training in broadcasting

²⁶ Kenny, 'The child as abstract-boundary', p. 952.

²⁷ Susie Donnelly and Tom Inglis, 'The media and the Catholic Church in Ireland: reporting clerical child sex abuse' in *Journal of Contemporary Religion*, 25, no. 1 (2010), p. 5.

²⁸ Both the Censorship of Films Act, 1923 (1923 no. 23) (16 July 1923) and the Censorship of Publications Act, 1929 (1929 no. 21) (16 July 1929) remain in place in Ireland today. Titles are, however, rarely banned. Indeed, when the publication of Jean Martin's novel, *The raped little runaway*, was prohibited by the censorship board in 2016, it was the first book to be banned in Ireland on the grounds of obscenity for eighteen years (*Irish Independent*, 12 March 2016).

²⁹ Censorship of Publications Act, 1929, § 6.1.

³⁰ *Irish Independent*, 1 January 1962.

³¹ Vatican II, *Inter mirifica* (1963) § 3; *ibid* § 13; from October 1962 to December 1965, members of the international Catholic hierarchy met as the Second Vatican Council to discuss the issues then facing the church, opportunities for religious renewal, and efforts to redefine its role in the modern and increasingly secular world.

techniques.³² As such, Irish Catholic bishops and priests appeared regularly on both radio and television talk shows from the 1960s. For example, one of Ireland's best-known priests, Fr. Michael Cleary, popularly known as the 'singing priest', acted as compere for a phone-in radio show on 98FM and produced a regular column for the *Sunday Independent* which promised to be 'diverse and topical, always with a conscience and a heart'.³³ Eamon Casey, the 'telegenic, baby-faced' Bishop of Galway, also appeared regularly on Irish chat shows.³⁴

In its first years, Irish television's position as provocateur was not, therefore, guaranteed. The new service was controlled by a public authority, rather than a commercial company, and was thus denied the autonomy many had hoped for.³⁵ As Taoiseach Seán Lemass explained in 1966, RTÉ was established as 'an instrument of public policy' and the government had 'overall responsibility for its conduct' and an obligation to ensure that its programmes did not 'offend against the public interest or conflict with national policy'.³⁶ However, despite the regular presence of church figures on news and chat shows, and the government's evident desire to prevent the production of what it deemed offensive or subversive programmes, from the 1960s Irish television promoted a 'new openness', leading and encouraging discussions on divorce, contraception, and other traditionally taboo subjects.³⁷ Indeed, with programmes often unscripted and broadcast live, the strict policing of Irish media became increasingly difficult.

Two series, in particular, were impactful. RTÉ's *Radharc*, co-founded and directed by the Catholic priest, Fr. Joe Dunn, ran from 1962 until 1996. In a series of frank and powerful documentaries, *Radharc* uncovered and engaged with a number of under-reported social and religious topics. In 1963, for example, Dunn reported from the state-run St. Patrick's Institute for Young Offenders and five years later tackled the issue of adoption in Ireland.³⁸ Similarly, despite early criticism that the chat show offered mere 'pally patter', RTÉ's flagship television programme, *The Late Late Show*, proved influential and often controversial.³⁹ In the late-1980s, for example, Gay Byrne's chat show played host to a sex therapist and offered a platform for

³² As the Second Vatican Council came to an end, McQuaid famously reassured Ireland's Catholic's that 'no change will worry the tranquillity of [their] Christian lives' (*Irish Times*, 10 December 1965).

³³ *Sunday Independent*, 11 February 1979.

³⁴ Maher and O'Brien, *Cultural legacy of Irish Catholicism*, p. 1.

³⁵ Roy F. Foster, *Luck and the Irish: a brief history of change, 1970-2000* (London, 2007), p. 39.

³⁶ *Dáil Éireann* (12 October 1966), vol. 224, no. 8, col. 1045-6.

³⁷ Henry Patterson, *Ireland since 1939: the persistence of conflict* (Dublin, 2006), p. 166.

³⁸ 'Radharc: the young offenders', *RTÉ* (12 September 1963) (<http://www.rte.ie/archives/2013/0912/473741-inside-st-patricks-institution-for-young-offenders-1963/>) (25 May 2017); 'Radharc: adoption day and Obelisk Park', *RTÉ* (26 November 1968) (<http://www.radharc.ie/archives/adoption-day-obelisk-park/>) (25 May 2017).

³⁹ Bruce Merry, 'A sense of humour' in *The Crane Bag*, 1, no. 1 (Spring, 1977), p. 43.

young Irish women to discuss pre-marital sex and unmarried motherhood.⁴⁰ As a result, topics previously discussed in hushed tones, behind closed doors, or not at all were now subjects for wider public debate. Initially billed as a light talk show, the series subsequently became the ‘surprise facilitator’ of discussion and debate, encouraging questions to be asked of ‘accepted political and social orthodoxies’.⁴¹

In the 1970s and 1980s, during a period of rapid economic and social change facilitated by innovations in the areas of communication and transport, as well as increased engagement with the wider European community, a number of key developments in Ireland created an environment of profound questioning and laid the foundations for the inquiry culture of the 1990s. Ireland witnessed, for example, the ‘democratisation’ of its education system with the introduction of free second level education in 1967,⁴² leading to the enrolment of an additional 21,000 post-primary students in the following academic year.⁴³ Girls more than boys embraced the opportunities created by the establishment of state-funded secondary schools; by 1980, two-thirds of girls sat their final secondary school exams compared to a half of boys.⁴⁴ Although many continued to emigrate during this period,⁴⁵ the young and educated selected to remain in the country in greater numbers.⁴⁶ Many subsequently engaged with the growing women’s movement as a second-wave of feminism emerged in Ireland in the 1970s, marked by the foundation of the Irish Women’s Liberation Movement in 1970, and, two years later, by the Council for the Status of Women, an umbrella group representing more than twenty women’s organisations.⁴⁷

The radical feminist movement of the 1970s, although ‘in reality short-lived’, ensured that by the following decade, women’s issues were openly discussed and publicly debated across Ireland.⁴⁸ As such, when fifteen-year-old Ann Lovett and her infant son died shortly after she gave birth unattended beneath the statue of the Virgin Mary in Granard, County Longford, in

⁴⁰ ‘The Late Late Show’, *RTE* (12 May 1989) (<https://www.youtube.com/watch?v=6JkwQoHiYug&list>) and (19 May 1989) (<https://www.youtube.com/watch?v=G2SkoJTG4eY&index>) (25 May 2017).

⁴¹ Ferriter, *Transformation of Ireland*, p. 602

⁴² Brian Fleming and Judith Harford, ‘Irish educational policy in the 1960s: a decade of transformation’ in *History of Education*, 43, no. 5 (2014), p. 635.

⁴³ *Ibid*, p. 653.

⁴⁴ Lindsey Earner-Byrne and Diane Urquhart, *The Irish abortion journey, 1920-2018* (Cham, Switzerland, 2019), p. 52.

⁴⁵ For example, over 30,000 people left Ireland in the year 1985-86 (Ferriter, *Transformation of Ireland*, p. 672).

⁴⁶ Earner-Byrne and Urquhart, *Irish abortion journey*, p. 52.

⁴⁷ Linda Connolly, *The Irish women’s movement: from revolution to devolution* (Hampshire and New York, 2001), pp 89-91.

⁴⁸ *Ibid*, p. 97.

1984,⁴⁹ the case was widely covered by the Irish press, despite the parish priest's hope that this 'local tragedy [...] would stay local'.⁵⁰ Lovett's 'needless death' exposed to a wider audience the moral hypocrisy of a society which 'venerates motherhood within marriage yet denigrates it outside of marriage'.⁵¹ Indeed, Lovett's reluctance to seek help revealed that 'to be young, single and pregnant in Ireland' in the 1980s was 'to be vulnerable and very often alone'.⁵² Her death has since been recognised as 'one of the most soul-searching events of 1980s Ireland', as society reflected on and began to challenge prevailing attitudes towards unmarried mothers.⁵³ Another was the case of Joanne Hayes, who was arrested in 1984 for the murder of two new-born babies in County Kerry.⁵⁴ Although the charges against her were eventually dropped, Hayes was subjected to a trial-like process as part of an inquiry into the police handling of her case, during which her character and sexual history were scrutinised.⁵⁵ There was an outpouring of support for Hayes, particularly among Irish women, while the Fianna Fail leader, Charles Haughey, condemned the 'insensitive and harsh treatment' she received during the tribunal hearings.⁵⁶ Crucially, both Lovett's death and the Hayes case forced Irish society to examine its attitude towards women's sexuality and to question the hypocritical narrative surrounding motherhood.

It is in this context that a number of the state's historical failings were brought very publicly to light during the 1990s. Indeed, by the end of the twentieth century, Irish media demanded accountability from institutions regardless of their traditional standing. In 1994, for example, the Blood Transfusion Service Board faced allegations that it had unwittingly provided patients with contaminated blood products in the 1970s with potentially fatal consequences. 'Engaged in the politics of truth', a 1997 tribunal of inquiry determined that, through professional error, 1,600 people, mostly women, had been infected with the hepatitis C virus when being treated for rhesus negative blood.⁵⁷ The same year, Irish society was rocked by revelations of a scandal directly implicating former Taoiseach, Charles Haughey. It emerged

⁴⁹ Earner-Byrne and Urquhart, *Irish abortion journey*, p. 80.

⁵⁰ *Sunday Independent*, 12 February 1984.

⁵¹ *Evening Express*, 11 February 1984.

⁵² *Irish Times*, 31 December 1984.

⁵³ *Irish Times*, 5 May 2018.

⁵⁴ One of the infants was Hayes' child and was buried on the family farm. However, the other body was discovered on a beach eighty kilometres from her home (Earner-Byrne and Urquhart, *Irish abortion journey*, p. 80).

⁵⁵ Myrtle Hill, *Women in Ireland: a century of change* (Belfast, 2003), p. 198; Hayes was reported to be so distressed by this experience that she was sedated in order to give evidence (Earner-Byrne and Urquhart, *Irish abortion journey*, p. 80).

⁵⁶ *Irish Times*, 28 January 1985.

⁵⁷ *Sunday Independent*, 9 February 1997; *Meath Chronicle*, 6 June 1998.

that during the 1980s and early-1990s, Haughey approached leading businessmen to assist him with mounting debt and, from 1987, supermarket premier, Ben Dunne, provided the Taoiseach with payments in excess of £1 million.⁵⁸ The Moriarty tribunal was subsequently established in 1997 to investigate the financial affairs of Haughey and former Minister for Transport, Michael Lowry, at a cost of over €15 million.⁵⁹

In the final years of the twentieth century, television audiences watched as the country's priests and bishops, as well as its politicians, struggled to articulate and defend their actions in an increasingly liberal and, arguably, secular arena. Despite the Catholic hierarchy's early optimism, 'the thinkers in the church had run away from the challenging possibilities of electronic media' and the church was subsequently represented by 'media virgins'.⁶⁰ The need to speak out in defence was novel for the Irish Catholic Church which had stood for many years as an accepted beacon of morality and virtue in Ireland, and whose clerics were previously exempt from public scrutiny. Indeed, in a letter to the *Irish Times*, published in 1999, Brian Quinn, editor of the *Evening Herald* from 1969 to 1976, expressed profound shame at the role of the Irish press in helping to maintain the silence surrounding institutional and clerical abuse. Quinn revealed that journalists of the 1940s and 1950s 'had their suspicions' and stressed that 'even in a climate of acceptance that brothers and nuns were beyond repute', Ireland's journalists 'should have tried harder to find out the real truth'. However, Quinn highlighted that newspaper editors 'would never have held out against a massed attack by the all-powerful Irish Catholic Church', and argued, like many abuse survivors, that allegations against church representatives would not, at the time, have been believed.⁶¹

State and society's changing relationship with the Irish Catholic Church, what Maher and O'Brien tentatively termed an 'unbinding', thus proved a key factor in the state's ability to investigate Ireland's industrial schools and Magdalen laundries by the end of the twentieth century.⁶² Yet, secularisation did not follow either swiftly or, indeed, naturally in the wake of modernisation. Across Europe, modernising societies were more inclined to question the legitimacy of an intimate church-state relationship by the mid-twentieth century, as 'almost everywhere' secularisation 'seemed to attend urbanisation'.⁶³ For some years, however, Ireland

⁵⁸ *Irish Examiner*, 10 July 1997; *Irish Independent*, 17 February 1999.

⁵⁹ *Irish Times*, 30 March 2004.

⁶⁰ Terry Prone, 'Bricks on the road to hell' in Tony Flannery (ed.), *Responding to the Ryan Report* (Dublin, 2009), pp 89-92.

⁶¹ *Irish Times*, 11 May 1999.

⁶² Maher and O'Brien, *Cultural legacy of Irish Catholicism*, p. 5.

⁶³ Terence Brown, *Ireland: a social and cultural history, 1922-2002* (2nd ed., London, 2004), p. 286.

remained an exception to this rule. The percentage of the Irish population identifying as Roman Catholic increased from almost ninety-three per cent in 1926 to approximately ninety-five per cent by 1961.⁶⁴ In the early-1960s, the American Jesuit, Bruce Francis Biever, conducted a survey into the religious and political beliefs of Dublin's Catholic population.⁶⁵ Eighty-eight per cent of those surveyed supported the assertion that the Catholic Church was the greatest force for good in Ireland.⁶⁶ As one respondent remarked, while they may not always agree with the priest, they were certain that he only told them 'what was for [their] own good'.⁶⁷ Under four per cent of respondents subsequently stated that they would support the government over the church in the event of a conflict.⁶⁸

Nevertheless, fissures in church dominance began to show as eighty-three per cent of the educated group surveyed by Biever failed to support the proposition that the Catholic Church was the greatest force for good.⁶⁹ This revealed a significant gulf between those who had completed secondary education and the rest of the population. Biever thus concluded that 'the power struggle' in Irish Catholicism by the 1960s was 'not found between clergy and laity, but between clergy and laity' against the intellectual 'new breed'.⁷⁰ Members of this group of lay Catholic intellectuals rose to positions of power and influence over the next thirty years, including the future Taoiseach, Garret FitzGerald.⁷¹ In the wake of the 1962-65 Second Vatican Council, the progress of secularisation did not reflect a society losing faith, as individuals rarely identified as atheists or unbelievers. Rather, Irish secularisation took the form of what Tom Garvin termed 'declericalisation'; a growing reluctance to follow the strict rules set out by the hierarchy or to tolerate the close relationship between church and state.⁷² Ireland, much like France and other traditionally Catholic nations, experienced the phenomenon of *à la carte* Catholicism, whereby Catholics would select those aspects of the religion they supported, while ignoring those they no longer deemed relevant. This was particularly evident in the arena of sexual morality. For example, in a 1973-74 survey, twenty-eight per cent of Irish Catholics acknowledged that contraception was 'generally wrong' yet failed to support the church's hard

⁶⁴ William E. Vaughan and André J. Fitzpatrick (eds), *Irish historical statistics: population, 1821-1971* (Dublin, 1978), p. 49.

⁶⁵ Bruce Biever, *Religion, culture, and values: a cross-cultural analysis of motivational factors in native Irish and American Irish Catholicism* (Ph.D. thesis, University of Pennsylvania, 1965), p. 213.

⁶⁶ *Ibid*, pp 226-7.

⁶⁷ *Ibid*, p. 265.

⁶⁸ *Ibid*, p. 306.

⁶⁹ *Ibid*, p. 228.

⁷⁰ *Ibid*, p. 520.

⁷¹ Foster, *Luck and the Irish*, p. 40.

⁷² Tom Garvin, *Preventing the future: why was Ireland so poor for so long?* (Dublin, 2004), pp 285-6.

stance against artificial contraceptives, concluding that their use was ‘permissible in certain circumstances’.⁷³

Finally, in 1972, Article 44 of the Irish Constitution, recognising the special position of the Roman Catholic Church in Ireland, was removed to little church resistance.⁷⁴ This followed the principles outlined at the Second Vatican Council, where it was determined that, although cooperation was welcome, church and state should be ‘autonomous and independent from each other’.⁷⁵ As Labour TD, Frank Cluskey explained, it was sufficient for the ‘special position’ of the Roman Catholic Church to be upheld in the ‘minds and hearts’ of Ireland’s Catholic population.⁷⁶ As the Catholic Church became disentangled from state and society’s dominant institutions, it became the duty of lay Catholics, and particularly those in political roles, to ensure the practical application of Catholic principles.⁷⁷ In short, the Catholic Church was encouraged to guide, enlighten, and inform, but could no longer demand or expect the laity to obey. This embraced the post-Vatican II ideal of informed conscience as Catholics in Ireland, as elsewhere, were now permitted to follow their own conscience even if, in the eyes of the church, they were in error.⁷⁸ Yet, as Ireland cultivated an inquiry culture, it was the mistakes committed by the church and state, rather than the general population, which drew increasing attention and condemnation by the end of the twentieth century.

Breaking the silence: the role of Irish media in uncovering clerical child abuse

In the 1990s, the country witnessed a ‘quantum leap’ in broadcasting as the transgressions of Ireland’s Catholic clerics were made public.⁷⁹ In 1992, for example, Bishop Casey resigned after it was revealed he had engaged in an affair with an American divorcee during the 1970s and fathered a child.⁸⁰ This was particularly remarkable given the church’s rigid stance on divorce and its previous advice that Catholics avoid associating with divorcees.⁸¹ The story grew more unsavoury when it was suggested, fairly or otherwise, that Casey persuaded the

⁷³ Brown, *Ireland: social and cultural history*, p. 290.

⁷⁴ Fifth Amendment of the Constitution Act, 1972 (5/1972) (5 January 1973).

⁷⁵ Vatican II, *Gaudium et spes* (1965), § 76.

⁷⁶ *Dáil Éireann* (2 November 1972), vol. 263, no. 3, col. 429.

⁷⁷ Vatican II, *Lumen gentium* (1964), § 31.

⁷⁸ Emile Perreau-Saussine, *Catholicism and democracy: an essay in the history of political thought*, trans. Richard Rex (Oxfordshire, 2012), p. 118.

⁷⁹ Garvin, *Preventing the future*, p. 274.

⁸⁰ *Irish Times*, 7 May 1992.

⁸¹ In 1971, for example, Archbishop McQuaid condemned divorce as an ‘evil’ practice (*Irish Press*, 22 February 1971).

mother to give the child up for adoption and paid for her silence using diocesan funds.⁸² This was not an isolated case. In 1995, it was revealed that Fr. Cleary, best-known for promoting his particularly conservative views on sexual morality and celibacy, had also fathered a child, and possibly two.⁸³ Nor was this a particularly new phenomenon. Tyrell suggested that the Christian Brothers who operated Letterfrack Industrial School in the 1920s and 1930s were often ‘busy with their girlfriends’. A particular Br. Fahy was said to see ‘his girl two or three times a week’.⁸⁴ Some church figures, it seemed, did not practice what they preached.

As the 1990s progressed, more unsettling accounts of clerical fallibility were unearthed. In 1994, for example, Chris Moore’s *Counterpoint* documentary, *Suffer Little Children*, aired in Northern Ireland on Ulster Television.⁸⁵ The programme, which was also widely available to watch in the Republic of Ireland, presented the case of Fr. Brendan Smyth of the Norbertine Order, who was charged in Belfast in 1991 with the sexual abuse of minors. *Suffer Little Children* claimed that the Catholic Church was long aware of Smyth’s activities, and engaged in ‘parish shuffling’, moving the priest from post to post in the hope that he would change his ways. Moore also revealed that the Royal Ulster Constabulary had issued extradition warrants for Smyth in 1993, which the authorities in the Republic had failed to process.⁸⁶ Remnants of the close connection between church and state, as well as the government’s deference to the hierarchy, evidently persisted well into the twentieth century. The impact of the documentary was remarkable, focussing public attention on the protection it appeared was afforded to the Catholic Church,⁸⁷ and providing the context for a considerable political crisis which was, in turn, ‘responsible for bringing down [...] the government’.⁸⁸

Moore’s work ‘struck a blow for ordinary people’ who were now ‘demanding public accountability of the Catholic Church and its hierarchy’.⁸⁹ In the years that followed, the

⁸² Patterson, *Ireland since 1939*, p. 294.

⁸³ Ferriter, *Transformation of Ireland*, p. 736.

⁸⁴ Tyrell, *Founded on fear*, p. 182.

⁸⁵ Chris Moore, *Betrayal of trust: the Father Brendan Smyth affair and the Catholic Church* (Dublin, 1995), pp 19-20.

⁸⁶ When released on bail, Smyth fled to the Republic and refused to return to Northern Ireland to be put before the court. However, in 1994 he turned himself in to Northern Irish authorities, pleading guilty to seventeen charges of sexual abuse dating back to the 1960s (Brown, *Ireland: social and cultural History*, pp 367-8).

⁸⁷ Helen Goode, Hannah McGee and Ciarán O’Boyle, *Time to listen: confronting child sexual abuse by Catholic clergy in Ireland* (Dublin, 2003), p. 7.

⁸⁸ *Irish Independent*, 30 December 1994; in autumn 1994, Harry Whelehan was appointed president of the High Court without the approval of the Labour leader, Dick Spring, who would not support Whelehan until he had offered adequate explanation of his handling of the Smyth affair. In the period of political turmoil that followed, Spring and other Labour ministers resigned from the Labour-Fine Gael coalition government (Brown, *Ireland: social and cultural history*, p. 369).

⁸⁹ *Irish Independent*, 30 December 1994.

Catholic Church in Ireland was forced to deal with ‘disclosure after disclosure’, including multiple cases of clerical child sexual abuse and accounts of the neglect and mistreatment of those in church-run institutions.⁹⁰ In 1996, RTÉ aired *Dear daughter*, presenting the testimony of Christine Buckley and others who spent their childhood in Goldenbridge Industrial School, operated by the Sisters of Mercy. The documentary revealed that the children received little education and were required instead ‘to make sixty lots of rosary beads per day’. Buckley recalled that the children were treated ‘like animals’, describing life at the school as ‘absolute and sheer hell’.⁹¹ It was later claimed that this documentary ‘opened a conversation on the residential institution abuse and broke the silence which its victims suffered and suffocated in for decades’.⁹² This was, however, a discussion already underway in Ireland by the mid-1990s.

Indeed, although the emphasis on the investigative and revelatory power of television is understandable, it was not this alone that created the necessary conditions for the inquiries of the late-1990s and early-2000s. Memoirs produced by those who experienced Ireland’s institutions first-hand also played an important role in the development of the country’s inquiry culture, drawing wider public attention to the issue of historical abuse. By the mid-to-late 1990s, memoirs had become the ‘genre *du jour*’ of the western literary world.⁹³ Autobiographies, once the reserve of the ‘famous, accomplished, or remarkable’, were increasingly joined on bookshelves by deeply personal biographical accounts from previously unknown, seemingly ‘ordinary’, people, often reflecting on a troubled childhood of physical and sexual abuse.⁹⁴ This literary subgenre, which became deprecatingly known as ‘misery memoir’, proved a lucrative business in Ireland, the UK, and the US by the end of the twentieth century, a ‘publishing bandwagon’ fuelled by pain and suffering’.⁹⁵ By the early 2000s, with publishers alleged to be ‘churning out a title a month’, questions were frequently asked of the aesthetic quality, literary merit, and veracity of many memoirs.⁹⁶ Critics also highlighted key ethical concerns surrounding a genre where the pain of ‘vulnerable, damaged people’ is sold as entertainment.⁹⁷

⁹⁰ *Irish Independent*, 24 October 1995.

⁹¹ RTÉ Television Archives, ‘Dear daughter’, RTÉ (22 February 1996).

⁹² *The Journal.ie*, 24 July 2014.

⁹³ Anne Rothe, *Popular trauma culture: selling the pain of others in the mass media* (New Jersey, 2011), p. 87.

⁹⁴ Erich Goode, *Justifiable conduct: self-vindication in memoir* (Philadelphia, Pennsylvania, 2013), pp 20-21.

⁹⁵ *Daily Mail*, 20 March 2008; in the US, the number of catalogue entries in the Library of Congress including ‘autobiography’ in their title rose from nearly 1,700 to almost 3,000 from the 1980s to the 1990s, their number rising again, to 4,500, in the first decade of the 2000s (Goode, *Justifiable conduct*, p. 23).

⁹⁶ *Daily Telegraph*, 19 November 2008; Rothe, *Popular trauma culture*, p. 91.

⁹⁷ *Daily Telegraph*, 19 November 2008.

Yet, irrespective of their literal facticity, such memoirs played their part in the ‘democratization of autobiography’,⁹⁸ giving a voice to the marginalised in an attempt to tell ‘history from below’.⁹⁹ Published in 1988, Paddy Doyle’s *The God squad*, for example, detailed the physical, psychological, and sexual abuse endured by pupils at St. Michael’s Industrial School, County Waterford, during the 1950s and 1960s.¹⁰⁰ Doyle’s book was a runaway bestseller. ‘It is almost impossible’, the *Irish Press* noted in 1989, ‘to walk into any bookshop without passing a display’ of Doyle’s ‘extraordinary’ book, which sold ‘at a cracking rate’ for a number of weeks.¹⁰¹ Doyle’s memoir was followed in 1991 by Patrick Touher’s account of Artane Industrial School, *Fear of the collar*.¹⁰² The same year, Patrick Galvin published *Song for a raggy boy*, describing his experiences as a teenager at Daingean Reformatory.¹⁰³ These memoirs drew attention to the issue of historical institutional abuse and their publication revealed that some survivors were, by the end of the twentieth century, willing to speak openly about their experiences.

‘A point had come [...] to engage with this problem in a much more proactive way’¹⁰⁴

It was hoped such memoirs would bring ‘blushes to the well-scrubbed faces of the complacent silent majority’, encouraging state and society to reflect on the reality of Ireland’s Catholic-run institutions.¹⁰⁵ Yet, in evidence to the CICA, Tom Boland, former Head of Legal Affairs at the Department of Education and Science, stated that it was in the late-1990s that institutional child abuse first became a ‘major public issue’ following the broadcast of television programmes such as *Dear daughter* and, more particularly, the three-part series, *States of fear*.¹⁰⁶ Written, produced, and directed by the influential investigative journalist, Mary Raftery, *States of fear* aired on RTÉ in 1999 and detailed the physical, emotional, and sexual abuse endured by children in Ireland’s Catholic-run residential institutions, including industrial schools and children’s hospitals. Such institutions were depicted by one survivor as ‘concentration camp[s] for children’, while others described feeling abandoned and isolated, sensing that ‘nobody

⁹⁸ Goode, *Justifiable conduct*, p. 27.

⁹⁹ Susannah Riordan, ‘Review: Founded on fear: Letterfrack Industrial School, war and exile by Peter Tyrrell and Diarmuid Whelan’ in *Irish Historical Studies*, 35, no. 140 (2007), p. 578.

¹⁰⁰ Paddy Doyle, *The God squad* (London, 1988).

¹⁰¹ *Irish Times*, 11 May 2011.

¹⁰² Patrick Touher, *Fear of the collar: Artane Industrial School* (Dublin, 1991).

¹⁰³ Patrick Galvin, *Song for a raggy boy: a Cork boyhood* (Dublin, 1991); *Irish Times*, 11 May 2011.

¹⁰⁴ Seán Ryan, *Report of the Commission to Inquire into Child Abuse* (Dublin, 2009), I, p. 10, § 1.53.

¹⁰⁵ *Irish Press*, 20 November 1989.

¹⁰⁶ *Ryan Report*, I, p. 9, § 1.48.

cared' about the abuse they suffered.¹⁰⁷ The programme's dramatic reconstructions and personal testimonies 'touch[ed] the public consciousness' in a way that other mediums had not,¹⁰⁸ and had the 'capacity to shock the conscience of a nation and to move public opinion to redress a serious wrong'.¹⁰⁹ The impact of Raftery's documentary was subsequently discussed in the Dáil, as it brought 'the appalling hidden history of abuse in State-financed institutions to public notice in an unprecedented fashion'.¹¹⁰

During the often heated debates and discussions that followed, some attempt was made to defend the institutions and the religious congregations that operated them. A former pupil of Artane Industrial School, Dublin, wrote to the *Irish Independent*, for example, criticising Raftery's documentary for being 'one-sided, unjust and unfair to the [Christian] Brothers'. He claimed that, 'like the vast majority of the other boys', he had been 'happy' in the school in the 1950s and that the religious brothers were simply 'strict and fair'.¹¹¹ Many of the survivors who participated in *States of fear* highlighted that there were indeed 'some good Brothers' and sisters. However, while they 'weren't themselves abusive, they allowed [the abuse] to happen', for which they must take 'some responsibility'.¹¹² Many subsequently acknowledged a pressing need to offer the religious congregations and orders the opportunity to address the allegations. Following the release of *Dear daughter*, RTÉ aired a *Prime Time* special which presented the testimony of Sr. Xavieria of the Sisters of Mercy, who managed Goldenbridge in the 1950s and was accused of physically and emotionally abusing the children in her care. Having raised concerns about the survivors' 'faltering memory', while reminding its audience that corporal punishment was an accepted means of disciplining children in most homes and schools in 1950s-Ireland, the programme offered the sister the chance to apologise publicly for her mistakes and deny the more serious allegations against her.¹¹³

The current affairs editor for RTÉ, Peter Feeney, subsequently faced severe criticism from the chief executive of the ISPC, Cian O Tighearnaigh, for presenting a 'one-sided defence' of Sr. Xavieria that offered "one accused person" a platform from which to challenge the recollection

¹⁰⁷ RTÉ Television Archives, 'States of fear', *RTÉ* (27 April, 4 May, and 11 May 1999).

¹⁰⁸ *Irish Independent*, 12 May 1999.

¹⁰⁹ *Sunday Independent*, 2 May 1999.

¹¹⁰ *Dáil Éireann* (27 May 1999), vol. 505, no. 5, col. 1016.

¹¹¹ *Irish Independent*, 10 May 1999.

¹¹² *Irish Independent*, 27 April 1999.

¹¹³ RTÉ Television Archives, 'Prime Time', *RTÉ One* (23 April 1996). For example, Sr. Xavieria apologised for hitting the children with a stick called a 'slapper', but denied the claim that she deliberately poured boiling water on Christine Buckley's groin.

of dozens of people'.¹¹⁴ Louis Lentin, producer and director of *Dear daughter*, similarly highlighted that, by questioning the survivors' truthfulness and claiming their accounts were distorted, such critique ultimately 'betrayed' the survivors again.¹¹⁵ However, Feeney contended that the *Prime Time* special merely offered Sr. Xavieria the opportunity to respond to the allegations and that it was ultimately the government's, rather than RTÉ's, responsibility to 'take the next step' and determine the truth.¹¹⁶ Despite such attempts to minimise the abusive nature of the residential schools, Raftery's documentary had a 'profound impact' on then-Minister for Education and Science, Micheál Martin, who stated, while hinting at previous incredulity, that the allegations made by the survivors 'can't all be false stories'.¹¹⁷ 'A point had come', Boland concluded, 'where there was a general acceptance in political and administrative circles' that 'society and Government needed to engage with this problem in a much more proactive way' to allow Irish state and society to 'come to terms with a very negative, very black period in our history'.¹¹⁸

'A comprehensive apology' with 'no "ifs" in there like other meaningless apologies'¹¹⁹

On 11 May 1999, the final episode of Raftery's *States of fear* aired on Irish television. It was, indeed, no coincidence, that on the same day, Taoiseach Bertie Ahern delivered a 'sincere and long overdue apology' on behalf of the state and its citizens to the victims of child abuse in the country's residential institutions.¹²⁰ In evidence to the CICA, Ahern noted that the apology arose from a belief that the victims of institutional child abuse had been 'let down' by the state. Challenging the stigma attached to those who were institutionalised as children, Ahern stressed that the survivors were 'decent honourable people, who had suffered' and who therefore 'deserved the State's best apology'.¹²¹ Significantly, the Taoiseach also announced the establishment of an initial non-statutory commission, chaired by High Court Judge, Justice Mary Laffoy. The commission was tasked with identifying and reporting on institutional child abuse 'with a view to making recommendations for the present and future', and was the

¹¹⁴ *Irish Independent*, 25 April 1996.

¹¹⁵ *Irish Times*, 5 April 1996.

¹¹⁶ RTÉ Television Archives, 'Farrell', *RTÉ One* (28 Apr 1996).

¹¹⁷ *Ryan Report*, I, p. 12, § 1.63.

¹¹⁸ *Ibid*, I, pp 10-12, § 1.53-1.64.

¹¹⁹ *Irish Examiner*, 12 May 1999.

¹²⁰ *Sunday Independent*, 16 May 1999.

¹²¹ *Ryan Report*, I, pp 10-11, § 1.56.

forerunner to the CICA, which began work in May 2000.¹²² The Taoiseach similarly highlighted plans to create a dedicated national counselling service for victims of childhood abuse.¹²³ Set up conjointly in all ten health boards in 2000, the National Counselling Service assisted almost 2,000 adults in its first year of operation, of whom thirty-three per cent were abused as children in institutional settings.¹²⁴

Following the Taoiseach's apology, the time limit imposed on victims of historical child sexual abuse who wished to initiate legal proceedings was also waived for one year. Under the 1957 Statute of Limitations, men and women who were abused in childhood were required to make a complaint within three years of reaching the age of eighteen.¹²⁵ It was recognised, however, that, due to psychological injury, many of those affected were under a disability which prevented them from making a complaint upon reaching adulthood. The 2000 Statute of Limitations (Amendment) Act introduced a one-year period during which child sexual abuse survivors who no longer qualified could take legal action.¹²⁶ This mirrored the approach of other nations similarly facing allegations of historical child sexual abuse. For example, Massachusetts, which was at the centre of America's clerical abuse scandal in 2002,¹²⁷ increased its Statute of Limitations in 1996 from ten to fifteen years in cases of child sexual abuse.¹²⁸ Similarly, in the Netherlands, all limitation periods for serious sexual offences carrying a minimum sentence of eight years were removed in 2013.¹²⁹

For the Labour Party TD, Jan O'Sullivan, the amendment to the Irish legislation was a necessary and 'central part of the collective response [...] to the horrifying facts' of Irish institutional child abuse.¹³⁰ However, it was confined to cases of sexual abuse, leaving the independent Law Reform Commission to examine the issue of physical child abuse.¹³¹ Acknowledging the 'danger' of courts applying modern standards to conduct which was

¹²² Ibid, I, p. 1, § 1.03.

¹²³ Ibid, I, p. 1, § 1.02.

¹²⁴ The National Counselling Service, *The National Counselling Service for adults who have experienced child abuse* (Dublin, 2001), p. 32, § 4.3.

¹²⁵ Statute of Limitations Act, 1957 (6/1957) (2 May 1957), § 49 (1-2)a.

¹²⁶ Statute of Limitations (Amendment) Act, 2000 (13/2000) (21 June 2000), § 2.

¹²⁷ *Boston Globe*, 31 January 2002.

¹²⁸ Jason K. Matthews, 'Statute of limitations for sexual assault crimes in New England, New York, and New Jersey', *Connecticut General Assembly: office of legislative research* (12 March 2002) (<https://www.cga.ct.gov/2002/rpt/2002-R-0258.htm>) (9 April 2020).

¹²⁹ David Martin, 'Child sex abuse: how long do the statutes of limitation run in the EU?', *Deutsche Welle* (4 May 2018) (<https://www.dw.com/en/child-sex-abuse-how-long-do-the-statutes-of-limitations-run-in-the-eu/a-43659400>) (9 April 2020).

¹³⁰ *Dáil Éireann* (27 May 1999), vol. 505, no. 5, col. 1015.

¹³¹ *Sunday Independent*, 16 May 1999; *Ryan Report*, I, p. 10, § 1.52.

viewed at the time ‘to be “reasonable chastisement”’, and arguing that sexual abuse, more so than physical abuse, was often under-reported due to the victim’s feelings of guilt, the commission determined that there was no reason to amend the Statute of Limitations with regard to non-sexual child abuse.¹³² This appeared to justify concerns that ‘the shocking incidence of child sexual abuse’ would ‘take the focus off’ the physical and emotional abuse often endured by those in institutional care, many of whom as a result ‘still find it difficult to cope in the outside world’.¹³³ The limitations of the amendment were not, however, challenged by the CICA.

The measures that accompanied the Taoiseach’s apology were largely welcomed by the survivors. For Bernadette Fahy, who left Goldenbridge in 1970, former governments had ‘behaved like feckless fathers, not taking responsibility for their children’. By comparison, the measures announced by Ahern saw ‘the father [...] come back to make up for lost time’.¹³⁴ As the *Irish Independent* noted, the decision to establish a commission of inquiry offered the opportunity to determine the nature and causes of abuse, and more importantly, encouraged society to ‘face up’ to its failings ‘in a country which has brushed so much for so long under carpets’.¹³⁵ Others stressed the value of the apology itself for ‘many victims whose heartache, self-hate and frustration was experienced far beyond the period of their internment’.¹³⁶ Fahy, alongside Carmel McDonnell-Byrne, who also attended Goldenbridge Industrial School, and Mary Drennan, who had been sent to institutions in Cobh and Rushbrooke, declared they were ‘delighted with such a comprehensive apology’ and were ‘glad there are no “ifs” in there like other meaningless apologies’; it was deemed an ‘honest, open apology with no conditions attached’.¹³⁷

Other responses to the Taoiseach’s apology were more reserved. For example, the *Irish Times* highlighted that the institutional care system was a ‘creature of the State’, which existed due to the failure of successive governments to support families living in or facing poverty. As a result, the children who were abused in Ireland’s institutions were ‘in those situations at the behest of the State’.¹³⁸ Ahern’s apology acknowledged a ‘collective failure to intervene, to

¹³² Law Reform Commission, *Consultation paper on the law of limitation of actions arising from non-sexual abuse of children* (Dublin, 2000), p. 51, § 3.05.

¹³³ *Irish Examiner*, 17 May 1999.

¹³⁴ *Ibid.*

¹³⁵ *Irish Independent*, 12 May 1999.

¹³⁶ *Irish Examiner*, 17 May 1999.

¹³⁷ *Irish Examiner*, 12 May 1999; *ibid.*, 17 May 1999.

¹³⁸ *Irish Times*, 12 May 1999.

detect their pain, to come to their rescue'.¹³⁹ However, this wording suggested a failure to stop what someone else was doing; it did not recognise 'the State's own culpability, which was enormous'.¹⁴⁰ Nevertheless, the apology and the measures announced by the government to assist the victims of institutional child abuse appeared to be 'inspired by a well-justified concern for victims' and represented for many the beginning of a long, and potentially arduous, healing process; the survivors were now at least being believed.¹⁴¹

An urge to address and amend for past failings was not unique to Ireland but rather reflected international, if predominantly western trends, during what Katie Wright, Shurlee Swain, and Johanna Sköld termed the 'age of inquiry'.¹⁴² Indeed, Australia, the US, Canada, and much of Europe faced their own historical clerical abuse scandals at the end of the twentieth century. In 1984, for example, the US priest, Fr. Gilbert Gauthé, was identified as a serial paedophile, marking the first case of clerical child sexual abuse to be addressed publicly. In 1995, Austrian Cardinal Hans Herman Groer faced allegations that he had sexually abused boys, while in the same year, two German bishops were investigated for covering up child abuse. Two years later, the Australian bishop, Ronald Mulkearns, resigned for failing to deal adequately with a priest later convicted of child abuse.¹⁴³ Similarly, between 1995 and 1999, twenty-one priests were convicted for sexual offences against children in England and Wales.¹⁴⁴

This period also witnessed a growing number of international inquiries into institutional abuse. While various social and cultural shifts fostered interest in historical abuse, the international focus on the phenomenon of child abuse was largely prompted by the passage of the United Nations Convention on the Rights of the Child (UNCRC) in 1989, of which Ireland was a signatory.¹⁴⁵ Setting out the civil, social, economic, and health rights of children, the UNCRC provided a 'lens' through which the historical treatment of children could be seen and interpreted and was a 'precondition for the international wave of inquiries that were established in the 1990s and 2000s'.¹⁴⁶ In 1997, for example, the independent Law Commission of Canada

¹³⁹ *Irish Examiner*, 12 May 1999.

¹⁴⁰ *Irish Times*, 12 May 1999.

¹⁴¹ Tom O'Malley, 'Responding to institutional abuse: the law and its limits' in Flannery, *Responding to the Ryan Report*, p. 109.

¹⁴² Katie Wright, Shurlee Swain, and Johanna Sköld, *The age of inquiry: a global mapping of institutional abuse inquiries* (Melbourne, 2017) (<http://doi.org/10.4225/22/591e1e3a36139>) (10 September 2018).

¹⁴³ *Irish Times*, 13 July 2011.

¹⁴⁴ Goode, McGee and O'Boyle, *Time to listen*, p. 10.

¹⁴⁵ United Nations Human Rights Office of the High Commissioner, *Convention on the Rights of the Child* (1989).

¹⁴⁶ Katie Wright, 'Remaking collective knowledge: an analysis of the complex and multiple effects of inquiries into historical institutional child abuse' in *Child Abuse and Neglect*, 74 (2017), pp 13-14.

was tasked with preparing a report on the issue of child abuse in twentieth-century institutions operated or funded by the state. These included residential schools for Aboriginal children, schools for the deaf and blind, training schools, and long-term health care facilities.¹⁴⁷

Like Ireland's industrial schools, it was observed that the Canadian institutions catered for children from the most underprivileged or marginalised groups in society, such as children with disabilities, those from poorer families, as well as children from ethnic minority groups.¹⁴⁸ The Canadian report, published in 2000, concluded that the commission could not recommend a single approach as 'the circumstances and needs of survivors and their communities are too diverse to be satisfied by any one option'.¹⁴⁹ One outcome was the Truth and Reconciliation Commission of Canada. Established in 2008, the commission examined the legacy of the nation's church-run residential schools for Aboriginal children.¹⁵⁰ More than 6,000 former students provided testimony to the commission. Having 'long prided itself on being a bastion of democracy, peace, and kindness', Canada was now presented with conclusive evidence that children were physically and sexually abused in residential schools, dying in numbers 'that would not have been tolerated in any school system anywhere in the country, or in the world'.¹⁵¹

Similarly, in 1999, the report of the Commission of Inquiry into Child Abuse in Queensland Institutions was published. The Forde Inquiry, named after the commission's chair, former Governor of Queensland, Leneen Forde, investigated reports of physical and sexual abuse in both government and non-government institutions between 1911 and 1999. Over 300 people provided information to the commission, sharing their experiences of neglect and abuse in Queensland's orphanages and detention centres. The similarities between this and the Irish case are particularly striking. For example, the Australian report highlighted that few of the children historically placed in Queensland's orphanages were, in fact, orphans: 'most were either removed from their families by the State, or placed in orphanages by their parents, who for various reasons [...] were unable to look after them'. Similarly, mirroring the transfer of girls from Ireland's industrial schools to the Magdalen laundries, girls in Queensland could be 'incarcerated' in detention centres or similar institutions 'for being in "moral danger", which

¹⁴⁷ The Law Commission of Canada, *Restoring dignity: responding to child abuse in Canadian institutions – executive summary* (Ottawa, 2000).

¹⁴⁸ Ibid, pp 1-2.

¹⁴⁹ Ibid, p. 9.

¹⁵⁰ The Truth and Reconciliation Commission of Canada, *Honouring the truth, reconciling for the future: summary of the Final Report of the Truth and Reconciliation Commission of Canada* (Ottawa, 2015), p. 23.

¹⁵¹ Ibid, pp v-vi.

generally referred to being active sexually'.¹⁵² The report concluded that 'incidents of unsafe, improper or unlawful treatment of children' occurred in many institutions, while breaches of regulations relating to corporal punishment and the provision of food, clothing, and education were commonplace.¹⁵³

Speaking in the Dáil shortly after the CICA was announced, O'Sullivan suggested that Ireland could 'probably learn much' from the 1997 Canadian inquiry. The Labour Party TD pointed in particular to the commission's efforts to consider 'the broader issues in relation to compensation and coming to terms with [how] child abuse should be dealt with by society as a whole'.¹⁵⁴ Institutional and clerical abuse could no longer be handled internally by the Catholic Church, prone to 'parish-shuffling' those accused of abuse, nor, given the numbers providing testimony to the Australian commission, could Irish abuse victims be expected to take their complaints through the courts on an individual basis. By March 1999, one month before RTÉ aired the first episode of *States of fear*, proceedings had been initiated against the Department of Education and Science in 145 cases 'involving allegations of sexual or other physical abuse of children' while in relevant institutions.¹⁵⁵ Yet, the exercise of processing cases through the courts on an individual basis was time-consuming and, given the numbers that had entered Ireland's institutional school system, potentially costly, both financially and for the state's reputation. It often proved difficult, furthermore, for child abuse victims to gain compensation through the court system and the experience was often 'prolonged and traumatic'.¹⁵⁶ Fr. Tom Doyle, a canon law expert and outspoken critic of the church's response to child abuse, highlighted the 'very aggressive' action taken by the Irish Catholic Church against victims: 'parents and families who've made disclosures have been threatened, they've been intimidated' and 'been put into a fearful stance to try to coerce them into [...] not going public'.¹⁵⁷ In 1997, a Belfast solicitor similarly stated that the Irish Catholic Church appeared 'intent on fighting every case tooth and nail'.¹⁵⁸ By 1998, there had been only a handful of successful cases, amounting to compensation payments of roughly £125,000.¹⁵⁹

¹⁵² Leneen Forde, *Report of the Commission into Child Abuse in Queensland Institutions* (Brisbane, 1999), pp i-ii.

¹⁵³ *Ibid.*, pp iv-v.

¹⁵⁴ *Dáil Éireann* (27 May 1999), vol. 505, no. 5, col. 1019-20.

¹⁵⁵ *Dáil Éireann* (3 March 1999), vol. 501, no. 4, col. 1020.

¹⁵⁶ O'Malley, 'Responding to institutional abuse', p. 101.

¹⁵⁷ Fr. Tom Doyle in 'Suing the Pope', *BBC* (19 March 2002)

(<http://news.bbc.co.uk/1/shared/spl/hi/programmes/correspondent/transcripts/1879407.txt>) (1 October 2018).

¹⁵⁸ *Evening Herald*, 20 November 1997.

¹⁵⁹ This figure may, however, have been higher as only some cases had 'come to light' (*Irish Independent*, 6 July 1998).

By the end of the twentieth century, Ireland faced the prospect of investigating a system of institutions operated by the church, and supported by the state, where potentially hundreds of children faced neglect and regular physical, emotional, and sexual abuse. As the Canadian and Australian examples demonstrated, official state inquiries are most effective where the aim is to hold organisations to account, rather than individuals. Public inquiries can, however, be expensive and time-consuming. Small and usually part-time committees are often required to consult evidence scattered across a number of physical and digital archives and to conduct interviews with potentially hundreds of witnesses, as well as experts in the field. Their primary function is to learn lessons from the past in order to inform the future.¹⁶⁰ Yet extended periods of research and investigation can delay the opportunity for survivors to seek ‘other more immediate and tangible forms of redress’.¹⁶¹ This is a particular concern where the survivors are elderly. Nevertheless, formal public inquiries can access a broader range of evidence than a court, therefore increasing the likelihood of uncovering the multiple causes and effects, as well as the extent, of institutional abuse. On 9 May 1999, two days before the Taoiseach issued his apology, the *Sunday Independent* published the results of an Irish telephone poll, revealing that eighty-five per cent of respondents believed that the individuals responsible for physical and sexual abuse in the country’s industrial schools should, indeed, be answerable to a tribunal of inquiry.¹⁶²

‘Guilt by compensation’?: the establishment of the Residential Institutions Redress Board¹⁶³

Although all parties in the Dáil ‘fully approved’ of the steps taken by the government in 1999 to address historical abuse, the question of the cost to taxpayers, who were left to ‘pay up for the State’s past negligence’, remained unresolved. The cost of redress for the victims of child abuse proved a contentious issue in a society deemed by many to be in the ‘grip of [a] compensation culture’.¹⁶⁴ Following a series of inquiries at a cost, by 2004, of €190 million, this attitude was more indicative of press fatigue than lack of genuine sympathy.¹⁶⁵ The *Sunday*

¹⁶⁰ Wright, ‘Remaking collective knowledge’, p. 11.

¹⁶¹ Law Commission of Canada, *Restoring dignity*, p. 7.

¹⁶² *Sunday Independent*, 9 May 1999.

¹⁶³ *Irish Times*, 4 July 2002.

¹⁶⁴ *Sunday Independent*, 16 May 1999.

¹⁶⁵ *Irish Times*, 30 March 2004; for example, the 1997 Hepatitis-C Compensation Tribunal, which later assumed responsibility for those infected with HIV, paid a total of €1 billion in awards and legal fees in relation to 4,500

Independent, for example, drew parallels between calls to compensate victims of institutional abuse and the ‘debacle’ surrounding efforts from the early-1990s to compensate those whose hearing was impaired while serving in the Irish armed forces. By February 1999, the government had paid £51 million in awards and a further £14 million in legal costs as a result of army deafness claims, with fears that the final cost could range from a low estimate of £100 million to a high of £5.5 billion.¹⁶⁶ The Irish government faced the difficult task, once again, of ‘balancing compassion with concern for taxpayers’ welfare’.¹⁶⁷ However, the CICA was informed that until the issue of compensation was satisfactorily addressed, it would prove difficult for solicitors representing survivors to advise their clients whether participation in the work of the inquiry would be ‘in their personal or legal interest’.¹⁶⁸

Under the terms of the Residential Institutions Redress Act, enacted in 2002, applicants were entitled to an *ex-gratia* financial award if they had, in childhood, lived in one of 128 listed institutions¹⁶⁹ and were ‘injured while so resident’, if their injury was ‘consistent with any abuse that is alleged to have occurred’ whilst institutionalised.¹⁷⁰ This included those subjected to ‘the wilful, reckless or negligent infliction of physical injury’ and others used ‘for sexual arousal or sexual gratification’. Adopting a commendably broad definition, under the terms of the act, ‘abuse’ also included the ‘failure to care for the child’, as well as any other act of omission which resulted in the ‘serious impairment’ of their physical or mental health, or had a ‘serious adverse effect’ on their behaviour or welfare.¹⁷¹ The survivors were not, however, entitled to apply to the Residential Institutions Redress Board (RIRB) if they had already received a settlement or award from a court relating to institutional abuse.¹⁷²

Anticipating fewer than 2,000 applications,¹⁷³ the RIRB was required to ‘make all reasonable efforts’ to ensure that those eligible to apply were made aware of the existence of the scheme, issuing an initial three-year deadline for the survivors to submit applications.¹⁷⁴ Accordingly, the foundation of the RIRB was widely advertised on the radio, television, and in newspapers

claims (*Irish Examiner*, 21 February 2014). Similarly, in 2000, the government announced a two-phase inquiry into organ retention practices in Irish hospitals (*RTE News*, 4 April 2000).

¹⁶⁶ *Sunday Independent*, 16 May 1999; by the time the ‘deafness claims saga’ was brought to an end in 2002, £250 million had been spent on compensation claims and legal costs (*Irish Independent*, 26 July 2002).

¹⁶⁷ *Sunday Independent*, 16 May 1999.

¹⁶⁸ Mary Laffoy, *Commission to Inquire into Child Abuse: interim report* (Dublin, 2001), p. 5.

¹⁶⁹ Residential Institutions Redress Act, 2002 (13/2002) (10 April 2002), Schedule.

¹⁷⁰ *Ibid.*, § 7 (1)b-c.

¹⁷¹ *Ibid.*, § 1 (1)a-d.

¹⁷² *Ibid.*, § 7 (2).

¹⁷³ *Irish Times*, 29 October 2003.

¹⁷⁴ *Ibid.*, § 5 (1)b; *ibid.*, § 8 (1).

(see, illustration 1). With submissions made ‘at a rate of approximately 50 per week’, less than one year into the scheme’s operation the number of applications stood at 2,165, surpassing the previous estimate.¹⁷⁵ The RIRB promised to offer ‘fair and reasonable’ awards ‘having regard to the unique circumstances of each applicant’.¹⁷⁶ Payments depended, for example, on ‘the severity and extent of abuse and its long-term effect on the victim, including the loss of opportunity suffered’.¹⁷⁷ The average applicant received €62,870, while awards of between €150,000 and €350,000 were offered in exceptional cases.¹⁷⁸

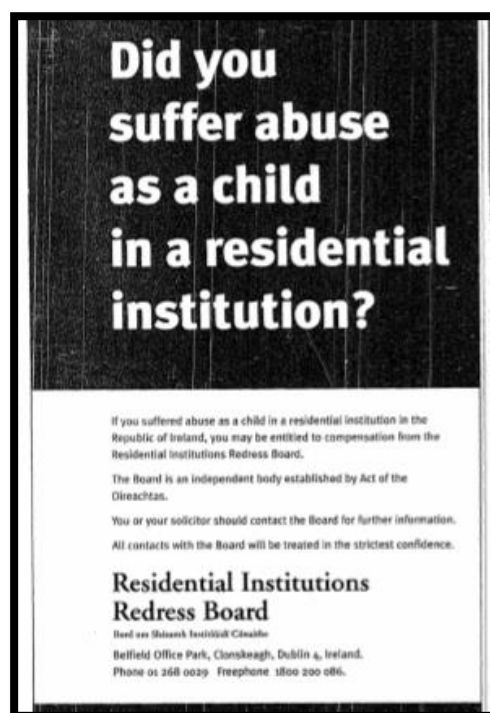


Illustration 1. *Irish Independent*, 9 December 2002.

The RIRB was established both independently of the CICA and, crucially, in advance of the publication of its findings. As Sister Helena O’Donoghue, of the Sisters of Mercy and an executive member of the Conference of the Religious of Ireland, highlighted, ‘compensation is normally linked to the judicial establishment of liability’ yet, in this instance, a redress scheme was put in place when ‘the degree of State culpability is no more established than that

¹⁷⁵ Residential Institutions Redress Board, *Fourth newsletter* (24 October 2003) (http://www.rirb.ie/updates_article.asp?NID=47) (12 July 2019).

¹⁷⁶ Residential Institutions Redress Act, § 5 (1)a.

¹⁷⁷ *Irish Times*, 1 February 2002.

¹⁷⁸ By September 2011, 233 applicants, or 1.69 per cent, had been awarded between €150,000 and €200,000, while just 31, 0.22 per cent, received over €200,000 (RIRB, *Twenty-second newsletter* (27 September 2011) (http://www.rirb.ie/updates_article.asp?NID=118) (12 July 2019)).

of the religious orders'.¹⁷⁹ Acknowledging this issue, the act stated that an award made 'shall not be construed as a finding of fact'.¹⁸⁰ While O'Donoghue recognised that the redress scheme offered a more 'humane approach' than the courts, she nevertheless feared that, should religious leaders make a financial contribution to the scheme, they 'could be accused of indicting members [of the Catholic Church] untried in any forum (except television)', passing a 'sentence of guilt by compensation'. 'We do not', she concluded, 'mend injustice by compounding it with more'.¹⁸¹

Despite O'Donoghue's concerns, Woods informed the Dáil in 2002 that the religious congregations, including, most prominently, the Christian Brothers and the Sisters of Mercy, intended 'to make a meaningful contribution to any scheme of redress for people who spent large parts of their childhood in institutional care'.¹⁸² At this time, the Department of Education and Skills estimated that the redress scheme would cost approximately €250 million, and it was determined that the state and the congregations would have equal liability.¹⁸³ The Catholic congregations subsequently agreed a package of €128 million, consisting of €38 million 'in cash', €80 million in property transfer, and an additional €10 million 'for counselling'.¹⁸⁴ O'Donoghue deemed it to be a 'moral, fair and just contribution'.¹⁸⁵ In return, the state offered indemnity to eighteen religious congregations and orders against any legal action later pursued by survivors.¹⁸⁶ Journalist Bruce Arnold referred to this reprovably, although somewhat hyperbolically, as the church and state's 'secret deal', which was passed after a general election, but before the appointment of a new administration, and thus at a time when Woods had 'no moral authority to take so momentous a decision'.¹⁸⁷

The state grossly underestimated the number of applicants and, therefore, the total cost of the scheme. By the time the RIRB's extended deadline passed in September 2011, 15,245

¹⁷⁹ *Irish Times*, 4 July 2002

¹⁸⁰ Residential Institutions Redress Act, § 13 (11).

¹⁸¹ *Irish Times*, 4 July 2002.

¹⁸² *Dáil Éireann* (20 February 2002), vol. 549, no. 1, col. 99.

¹⁸³ Comptroller and Auditor General, *Special report: cost of child abuse inquiry and redress* (Dublin, 2016), p. 37, § 6.3.

¹⁸⁴ *Dáil Éireann* (20 February 2002), vol. 549, no. 1, col. 99-100.

¹⁸⁵ *Irish Times*, 4 July 2002.

¹⁸⁶ Comptroller and Auditor General, *Cost of child abuse inquiry and redress*, p. 37, § 6.2; the religious congregations and orders were as follows: Christian Brothers; Sisters of Mercy; Oblates of Mary Immaculate; Daughters of Charity; Dominican Order; Sisters of Charity; Presentation Sisters; Presentation Brothers; Sisters of Our Lady of Charity; Sisters of Nazareth; Daughters of the Heart of Mary; Brothers of Charity; Sisters of St Clare; Sisters of St Louis; Order of St John of God; De La Salle Order; Good Shepherd Sisters; and Rosminians (ibid, p. 38, § 6.7)

¹⁸⁷ Bruce Arnold, *The Irish Gulag: how the state betrayed its innocent children* (Dublin, 2009), p. 122.

applications had been received, with compensation awarded in 13,800 cases.¹⁸⁸ The final cost of the redress scheme including awards, legal fees, and administration costs was approximately €1.25 billion.¹⁸⁹ The disparity between the estimated and actual cost of the scheme was initially identified by the survivors who criticised the religious congregations for their ‘paltry payout’. Buckley correctly calculated in 2002 that the contribution from the church represented less than one-fifth of the total funds required to compensate the victims of institutional child abuse.¹⁹⁰ Colm O’Gorman, founder and director of the child abuse survivor group, One in Four, similarly concluded that the Catholic Church ‘managed to negotiate a minimal apportionment of financial responsibility’.¹⁹¹ The burden on the state and, as such, the Irish taxpayer, was consequently greatly in excess of the fifty per cent recommended by the Department of Finance.¹⁹²

Investigating clerical child abuse: the Ferns, Murphy and Cloyne inquiries

While the country’s Magdalen laundries remained unexamined, the state took additional steps to address the issue of institutional child abuse. Increased pressure from the public and media to investigate allegations of clerical child sexual abuse led to the country’s first regional inquiry in 2003. Like the CICA, the inquiry into the Diocese of Ferns was prompted by a television programme, *Suing the Pope*.¹⁹³ The 2002 BBC documentary presented the testimony of men who were sexually abused as teenagers by the Irish Catholic priest, Fr. Seán Fortune, in Poulfur, Fethard-on-Sea, County Wexford, in the 1980s and 1990s.¹⁹⁴ Under the chairmanship of Justice Francis Murphy, the non-statutory, independent inquiry identified over one hundred cases of potential child sexual abuse against twenty-one priests between 1962 and 2002.¹⁹⁵ Published in 2005, the Ferns Report concluded that during this period, the church’s response to allegations of abuse was inappropriate and inadequate. For example, Donal Herlihy, who served as the

¹⁸⁸ RIRB, *Twenty-second newsletter*; by 2009, 2,600 individuals were awarded compensation in Norway under an equivalent scheme, giving a sense of the scale of the problem in Ireland (Johanna Sköld, ‘Historical abuse – a contemporary issue: compiling inquiries into abuse and neglect of children in out-of-home care worldwide’ in *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 14, no. 1 (2013), p. 7).

¹⁸⁹ Comptroller and Auditor General, *Cost of child abuse inquiry and redress*, p. 24, § 3.13.

¹⁹⁰ *Irish Independent*, 1 February 2002.

¹⁹¹ *Irish Times*, 8 February 2003; One in Four was founded in the UK in 1999 to provide support for those who suffered sexual abuse, particularly in childhood (*Ryan Report*, I, p. 30, 1.164-6).

¹⁹² *Dáil Éireann* (24 October 2006), vol. 626, no. 1, col. 164.

¹⁹³ *Ferns Report*, p. 6; *Suing the Pope* was televised in Ireland on RTÉ in April 2002 (Goode, McGee and O’Boyle, *Time to listen*, p. 8).

¹⁹⁴ ‘Suing the Pope’, *BBC*.

¹⁹⁵ *Ferns Report*, pp 1-6.

Bishop of Ferns from 1964 to 1983, engaged in ‘parish shuffling’, believing that priests who abused children were guilty of ‘moral misconduct’, rather than a criminal offence.¹⁹⁶ The Ferns Report also suggested that there was a ‘reluctance’ on the part of individual Gardaí to investigate some cases of child sexual abuse due to the respect accorded to the Catholic Church in Ireland.¹⁹⁷

In 2009, the findings of this first regional report were mirrored by those of the Murphy inquiry into clerical abuse in the Catholic Archdiocese of Dublin. As the subject of Mary Raftery’s documentary, *Cardinal secrets*, the Dublin Archdiocese, like Ferns, was embroiled in a major public scandal in 2002. Broadcast on RTÉ, the *Prime Time* special claimed that then-Archbishop of Dublin, Desmond Connell, frustrated efforts to investigate allegations of clerical child sexual abuse in order to protect the church’s reputation.¹⁹⁸ ‘Gripping but gruesome’, *Cardinal secrets* placed intense pressure on church and state authorities to review procedure for handling allegations of abuse.¹⁹⁹ Established in 2006, Judge Yvonne Murphy’s commission was tasked with examining complaints relating to 183 Dublin priests active between 1975 and 2004. Of these, 102 were deemed within remit, of which forty-six formed the representative sample.²⁰⁰ The Murphy Report determined that the Archdiocese of Dublin cultivated a ‘culture of secrecy’,²⁰¹ with efforts to cover up abuse facilitated by state authorities who held that the Catholic Church was ‘beyond the reach’ of ‘normal law enforcement processes’.²⁰²

While criticising the historic response to clerical abuse, both the Ferns and Murphy Reports concluded that effective procedures for handling complaints were largely in place in the church by the beginning of the twenty-first century.²⁰³ In 1995, the Irish Bishops’ Conference agreed an ‘easy to implement’ process for dealing with suspicions and complaints, published as *Child sexual abuse: framework for a church response*, commonly known as the *Framework Document*.²⁰⁴ Under these guidelines, the church was required to report all allegations of child sexual abuse to the Gardaí and was expected to place the issue of child protection above the

¹⁹⁶ Ibid, p. 250.

¹⁹⁷ Ibid, p. 253.

¹⁹⁸ *Irish Independent*, 19 October 2002; the programme detailed abuses committed by eight priests over four decades and claimed that six bishops had knowledge of child abuse in the Archdiocese during this period (*Irish Independent*, 18 October 2002).

¹⁹⁹ *Evening Herald*, 18 October 2002.

²⁰⁰ *Murphy Report*, p. 2 § 1.7-8.

²⁰¹ Ibid, p. 8 § 1.27-8.

²⁰² Ibid, p. 28 § 1.113.

²⁰³ *Ferns Report*, p. 256; *Murphy Report*, p. 4 § 1.16.

²⁰⁴ *Cloyne Report*, p. 4 § 1.16.

rights of individual priests.²⁰⁵ However, the findings of the 2010 Cloyne Report suggested that such confidence in church procedure was misplaced. In 2009, the Murphy Commission was requested to conduct an additional investigation into the response to abuse allegations in the Diocese of Cloyne, covering the period January 1996 to February 2009, as a piecemeal approach to church inquiries in Ireland was developed.²⁰⁶ The commission received information in respect of thirty-three clerics, and of these, nineteen were deemed within remit. Approximately forty people affected by clerical child sexual abuse in the diocese were identified.²⁰⁷ The Cloyne Report concluded that the complaints procedure outlined in the *Framework Document* was not fully or consistently implemented in the diocese as it did not properly report or record all allegations.²⁰⁸

Representing a particularly ‘unhappy chapter’ in Irish history, the Ferns and Murphy inquiries were deemed a necessary if ‘painful step in the education of the community to their responsibility for the protection of children’.²⁰⁹ Yet, as the findings of the 2010 Cloyne inquiry demonstrated, the response of the church authorities was still inconsistent and, in some instances, inappropriate and ineffective. The Vatican, furthermore, failed to disseminate universal guidelines for handling allegations of abuse. *Crimen sollicitationis*, promulgated by the Vatican in 1922, outlined procedures for dealing with priests believed to be guilty of the ‘crime of solicitation’, noting that the age of the victim should be taken into consideration when establishing the gravity of the crime.²¹⁰ This instruction was subsequently reissued, and therefore still deemed relevant, almost forty years later in 1962. However, it was published in Latin and kept in a secret archive for internal use only.²¹¹ In 2011, the Vatican requested that bishops’ conferences around the world prepare their own guidelines for handling clerical abuse, which should be guided, but not bound, by advice contained in a circular letter from the

²⁰⁵ Irish Catholics Bishops’ Advisory Committee, *Child sexual abuse: framework for a church response* (Dublin, 1996), pp 21-2 § 2.2.1-6. The updated guidelines (The Irish Bishops’ Conference, *Our children, our church: child protection policies and procedures for the Catholic Church in Ireland* (Dublin, 2005)) did not significantly change the procedures set out in the *Framework Document* (Cloyne Report, p. 4 § 1.15).

²⁰⁶ Cloyne Report, p. 1 § 1.1-2.

²⁰⁷ In 1996, 163 clerics were listed in the Diocese of Cloyne Diocesan Directory. Of these, allegations were made, or concerns expressed, regarding twelve (7.6 per cent) (Cloyne Report, p. 2 § 1.7-8).

²⁰⁸ Ibid, pp 6-7 § 1.22; ibid, p. 14 § 1.46.

²⁰⁹ Ferns Report, p. 262.

²¹⁰ John Paul XXIII, *Crimen sollicitationis* (1962), § 62.

²¹¹ Murphy Report, p. 61 § 4.19-21.

Congregation for the Doctrine of Faith.²¹² It is therefore unsurprising that church guidelines were not deeply embedded in all dioceses.²¹³

Identifying a hierarchy of victimhood: the delay in recognition and redress for the Magdalen laundry survivors

The establishment of the Ferns, Murphy, and Cloyne inquiries, as well as the appointment of the CICA, reflected changing perceptions of the role and position of the Catholic Church in Ireland. The church was increasingly depicted as an equal participant in civil society; one bound by the same laws and obligations as the rest of the population.²¹⁴ The child abuse inquiries were symptomatic of Ireland's inquiry culture, at the heart of which was an understanding that no institution or individual 'no matter how august, should be considered immune from criticism or from external oversight of their actions'.²¹⁵ By the time the Ryan Report was published in 2009, clerical child sexual abuse had thus long been the subject of public discussion, as well as the focus of two regional inquiries, with a third underway. However, the Magdalen laundries did not receive the same level of wider public interest or concern until the early twenty-first century, and had not, by the end of its first decade, been the subject of an official inquiry.

Ahern's apology in 1999 to the 'decent honourable people' who, as children, were victims of abuse in Ireland's church-run residential institutions revealed that these survivors were no longer perceived as juvenile criminals, delinquents, 'illegitimates and pure dirt', but were recognised as disadvantaged, neglected, and vulnerable.²¹⁶ To obtain ideal victim status, it was required that they were innocent, 'weak' and, crucially, located somewhere they 'could not possibly be blamed for being' at the time the crime took place.²¹⁷ It is widely acknowledged that children cannot be held responsible for the circumstances which lead to their admission into residential care, prime among which were, and largely continue to be, family poverty and parental neglect. The industrial school survivors therefore offered a clear example of Christie's ideal victim and were popularly deemed deserving of sympathy and redress, as the relatively

²¹² Congregation for the Doctrine of Faith, *Circular letter to assist episcopal conferences in developing guidelines for dealing with cases of sexual abuses of minors perpetrated by clerics* (Rome, 2011).

²¹³ *Cloyne Report*, p. 20 § 1.73.

²¹⁴ *Murphy Report*, p. 9 § 1.32.

²¹⁵ *Ibid*, pp 23-4 § 1.91.

²¹⁶ *Ryan Report*, I, p. 296, § 8.65.

²¹⁷ Nils Christie, 'The ideal victim' in Ezzat Fattah (ed.), *From crime policy to victim policy: reorienting the justice system* (Hampshire and London, 1986), p. 19.

prompt establishment of the CICA revealed. Where the patriarchal nature of twentieth-century Irish society and thus the dependent status of Irish women is not adequately understood, however, it is more difficult to explain why adult women were institutionalised in the country's laundries. The 'innocence' of the Magdalen laundry survivors was therefore more difficult to confirm as, from the foundation of the state, it was widely accepted that they had sinned, broken moral boundaries, and were required to pay penance.²¹⁸

By the end of the twentieth century, references to the women who entered the Magdalen laundries as 'polluted outcasts',²¹⁹ 'wild creatures',²²⁰ or 'penitents' were uncommon.²²¹ Bill Donohue's reference in 2013 to the 'delinquent women' who lived and laboured in the laundries offered a rare modern example, and undoubtedly reflected Donohue's position as president of the ultra-conservative US Catholic League for Religious and Civil Rights.²²² Nevertheless, many of the laundry survivors were reluctant to discuss their experiences or reveal to family and friends that they had been institutionalised, even as the industrial school survivors began to speak out from the late-1980s.²²³ Indeed, a number of the witnesses who provided testimony as part of the 2013 Magdalen oral history project discussed their ignominy in acknowledging their experiences of living and working in a laundry. As one survivor explained, she was 'ashamed' to tell anybody that she had entered a Magdalen laundry 'because of the stigma that it had'.²²⁴ Tellingly, of the twenty-three women whose transcripts are publicly available, just five provided their testimony under their own name.²²⁵ This suggests that, for many years, and in contrast to the industrial school survivors, these women were largely denied wider public sympathy and, in turn, legitimate victim status. In the state's initial reluctance to accept responsibility for the laundries or investigate their operation, it is possible to identify the persistence of the nineteenth-century concept of the undeserving poor, morphing into that of the less-deserving victim, and its continued application to the survivors of the Magdalen laundries, highlighting the existence of a hierarchy of victimhood.

²¹⁸ P. Davies, P. Francis and C. Greer, *Victims, crime and society: an introduction* (London, 2nd ed., 2017), p. 49.

²¹⁹ Anon., 'The Magdalens of High Park', *The Irish Rosary*, vol. 1 (1897), p. 179.

²²⁰ *Freeman's Journal*, 10 December 1877.

²²¹ *Irish Times*, 12 October 1942.

²²² Bill Donohue, 'Myths of the Magdalene laundries' (New York, 2013), *Catholic League for Religious and Civil Rights* (<https://www.catholicleague.org/myths-of-the-magdalene-laundries/>) (3 December 2019).

²²³ O'Riordan and Leonard, *Whispering hope*, p. 72.

²²⁴ Katherine O'Donnell, Sinéad Pembroke, and Claire McGettrick, 'Oral history of Kathleen', *Magdalene Institutions: Recording an Oral and Archival History. Government of Ireland Collaborative Research Project, Irish Research Council* (2013), p. 80.

²²⁵ O'Donnell, Pembroke, and McGettrick, *Magdalene Institutions: Recording an Oral and Archival History*.

Survivor groups and some government ministers, however, became particularly concerned that women admitted to the Magdalen laundries were not entitled to compensation under the 2002 Redress Act.²²⁶ While then-Labour TD, Róisín Shortall, acknowledged that the redress act dealt specifically with instances of childhood abuse, she argued that there was a ‘clear onus on the State to make reparation’ to the women ‘for the abuse inflicted on them in those laundries’.²²⁷ Future Fine Gael leader and Taoiseach, Enda Kenny, similarly pressed for a more flexible approach, stressing that the ‘redressing of these wrongs and an attempt to compensate should be as open and full as possible’. Kenny also referred to the ‘very strong plea’ issued by the secretary of the Federation of Irish Societies, Sally Mulready, that the act should provide for the ‘victims who worked in the Magdalen laundries’, including not only those who, as children, were transferred to the laundries from industrial schools, but also others who were transferred between the ages of sixteen and eighteen, as well as women who worked in the laundries as adults. Kenny concluded that ‘these three categories of women should also be included under the aegis of the [redress] Bill’.²²⁸

However, Michael Woods, now Minister for Education and Science, urged that the redress act should not be used ‘as a vehicle for dealing with every injustice and abuse committed on children and young people in the past’. This, he feared, would lead to a scheme ‘that will achieve none of its objectives and will take a great deal longer to advance’.²²⁹ The 2002 Residential Redress Act was amended to include those who were sent as children to Magdalen Laundries from an institution already covered by the scheme.²³⁰ Woods confirmed, however, that the act did not cover those who were abused in the laundries as adults.²³¹ Creed argued that this was a ‘rather invidious distinction to draw’, creating two categories of women; one group ‘entitled to compensation by virtue of the fact that [they] came from an industrial school to a Magdalene laundry’, while the other category of ‘unfortunate’ women were ineligible for redress, despite the two groups working ‘side by side’. He expressed particular concern for unmarried mothers who had been ‘incarcerated’ in the laundries, yet were unable to apply for compensation.²³² By drawing this distinction and adjusting its approach to the question of compensation accordingly, the state reinforced the idea of the ideal victim entitled to seek

²²⁶ *Irish Independent*, 1 February 2002.

²²⁷ *Dáil Éireann* (15 November 2001), vol. 544, no. 2, col. 294.

²²⁸ *Dáil Éireann* (21 November 2001), vol. 544, no. 4, col. 977-9.

²²⁹ *Dáil Éireann* (22 November 2001), vol. 544, no. 5, col. 1196.

²³⁰ Residential Institutions Redress Act, § 1 (3).

²³¹ *Dáil Éireann* (20 February 2002), vol. 549, no. 1, col. 29.

²³² *Dáil Éireann* (28 March 2002), vol. 551, no. 4, col. 952.

redress - in this instance those institutionalised as children and transferred to the Magdalen laundries as a preventative measure - in contrast to the less-deserving victim, represented by adult women who entered the laundries to pay penance for their supposed sins.

For Woods, however, the distinction related not to the type of victim, but rather to the degree of state responsibility for them. He stressed that the redress act was ‘in essence, a measure to right the wrongs done to children where the State was in *loco parentis* and failed in its duty to protect them’.²³³ As the state was directly responsible for the welfare of those transferred to the Magdalen laundries from government-regulated residential institutions, he argued that these survivors formed a distinct group and were entitled to compensation.²³⁴ The Magdalen laundries were not included in the redress scheme as they were held in official state rhetoric to have been ‘privately owned and operated establishments which did not come within the responsibility of the State’.²³⁵ This was a stance adopted and reiterated by successive government ministers. Indeed, as late as 2010, the Minister for Justice and Law Reform, Dermot Ahern, stressed that ‘the Magdalen Laundries were private, religious run institutions without any legislative or State mandate for their general operation’.²³⁶

Government representatives, however, acknowledged that many women suffered abuse and neglect in Ireland’s twentieth-century Magdalen laundries. Discussing the decision to exclude the laundries from the redress scheme, Woods emphasised that he:

in no way wish[ed] to dismiss the fact that abuse of adults could and did occur in Magdalen Laundries or that the abuse was an appalling breach of trust or, indeed, that the victims of that abuse suffered and continue to suffer greatly.²³⁷

Yet, regardless of their experiences, the majority of women admitted to the Magdalen laundries were not entitled to compensation under the 2002 Redress Act. Furthermore, Claire McGettrick, co-founder of JFM, suggested that ‘without exception’, those she spoke to who sought compensation from the RIRB for abuse they suffered as children in a Magdalen laundry were ‘told “not to speak” about being compensated for time spent in the laundries’. McGettrick was informed by one woman, for example, that her solicitor ‘drew a red line’ through the section of her application which addressed her experiences in a Magdalen laundry.²³⁸

²³³ *Dáil Éireann* (20 February 2002), vol. 549, no. 1, col. 29.

²³⁴ *Dáil Éireann* (28 March 2002), vol. 551, no. 4, col. 954.

²³⁵ *Dáil Éireann* (12 December 2006), vol. 629, no. 3, col. 1046.

²³⁶ *Dáil Éireann* (7 October 2010), vol. 717, no. 4, col. 903.

²³⁷ *Dáil Éireann* (20 February 2002), vol. 549, no. 1, col. 29-30.

²³⁸ *Irish Times*, 21 February 2013.

There remained a notable and ‘strange resistance to any official acceptance of the injustice suffered by the Magdalene women’, or acknowledgement of the government’s responsibility for the existence and operation of the laundries.²³⁹ In 2000, Kenny opined that the Taoiseach, Bertie Ahern, had ‘no option but to apologise’ to those who suffered physical and emotional abuse as children in Ireland’s church-run residential schools and orphanages ‘after the revelations of abuse that poured into every household’ via their televisions.²⁴⁰ Delivered in advance of the abuse inquiry and the publication of its findings, the Taoiseach’s apology suggested a general acceptance that the industrial school survivors were telling the truth and had thus achieved legitimate victim status. However, the campaign for recognition and redress for the women who lived and laboured in the Magdalen laundries faced a number of additional hurdles, necessitating an appeal to both national and international human rights bodies, as survivor and media-driven efforts to expose the potential abuse and general exploitation of the women in the laundries failed to lead promptly to an apology or inquiry.

Ireland’s first Magdalen laundry survivor campaign group, and forerunner to JFM, was founded in 1993, three years prior to the closure of the last laundry and eighteen years before the establishment of the McAleese Committee. The Magdalene Memorial Committee (MMC), founded by the relatives of women who entered Ireland’s laundries, was ‘galvanised into action’ by reports of the exhumation of a mass grave at Ireland’s largest Magdalen laundry at High Park, Drumcondra, Dublin.²⁴¹ As operations ceased at the laundry in 1991, the Sisters of Our Lady of Charity of Refuge sold a portion of the land at the site to cover debts incurred from the development of a residential care home,²⁴² a move also necessitated, it was suggested, by the nuns’ recent loss on the stock markets.²⁴³ The land included a grave which was believed to contain the remains of 133 women who had lived and worked in the High Park Laundry, some of whom were buried at the site as recently as the late-1960s.²⁴⁴ The nuns subsequently applied for and were granted permission to exhume the bodies in what was reported to be the largest mass exhumation in Irish history.²⁴⁵

Jim Cantwell of the Catholic Press Office stressed that the exhumation would be carried out with the ‘greatest sensitivity’ and suggested that ‘anyone who knew the women’ would be

²³⁹ *The Guardian*, 8 June 2011.

²⁴⁰ *Dáil Éireann* (21 November 2001), vol. 544, no. 4, col. 976.

²⁴¹ *Irish Times*, 4 September 1993.

²⁴² *Evening Herald*, 15 September 1993.

²⁴³ *Irish Times*, 8 September 1993.

²⁴⁴ *Irish Press*, 21 August 2003.

²⁴⁵ *Irish Times*, 25 August 1993.

informed'.²⁴⁶ However, requests for a public funeral were rejected.²⁴⁷ The remains were subsequently reinterred in a mass grave at Glasnevin Cemetery, Dublin, during a 'private ceremony attended by about 25 nuns, their Chaplain, Father Coote, and a small number of lay people'.²⁴⁸ Relatives of those exhumed from High Park subsequently described the process as 'obscene' and in 'total conflict' with what the women would have wanted. As Margo Kelly of the MMC explained, the women who entered Ireland's laundries 'lacked choice during their lives and it spilled over into their deaths'.²⁴⁹ Reflecting on the 'wave of anger' sparked by the exhumation, the religious congregation's Provincial, Sister Angela Fahy, expressed her concern that 'people [would get] stuck on saying this should never have happened or that we want a redress'. It was, she argued, more important to identify 'the injustices that women continue to suffer in Irish life' than to examine those they endured in the past.²⁵⁰ Yet, as the *Sunday Independent* remarked, the 'harsh age' in which the laundries operated was 'hardly history', as many of those who entered the laundries were still alive, while the families of those who died were 'still around to care'.²⁵¹ The MMC subsequently petitioned for a 'publicly and centrally located' memorial to these 'forgotten women',²⁵² as the group sought 'dignity in death for the Magdalen women', and thus the 'opportunity to grieve and let go of the past'.²⁵³

The MMC successfully petitioned for a memorial bench with a bronze plaque to commemorate the women who lived and worked in Ireland's Magdalen laundries. The bench was unveiled by President Mary Robinson in St. Stephen's Green in the Irish capital following the closure of Ireland's last laundry at Sean McDermott Street, Dublin, in 1996.²⁵⁴ Patricia McDonnell of the MMC subsequently expressed her hope that history 'will record that we, the Irish people of today, had the moral courage to face the responsibility of our past' and the group disbanded.²⁵⁵ However, without an official apology to the Magdalen women or redress scheme in place, this had not yet been achieved in either Irish state or society, and efforts to raise public awareness continued. In 1992, for example, Ireland's Magdalen laundries were the subject of the play *Eclipsed*, written by Patricia Burke Brogan, a former Sisters of Mercy novice who worked in

²⁴⁶ *Irish Press*, 24 August 1993.

²⁴⁷ *Irish Times*, 8 September 1993.

²⁴⁸ *Irish Times*, 13 September 1993.

²⁴⁹ *Irish Press*, 13 September 1993.

²⁵⁰ *Evening Herald*, 15 September 1993.

²⁵¹ *Sunday Independent*, 26 September 1993.

²⁵² *Irish Times*, 4 September 1993.

²⁵³ *Sunday Independent*, 26 September 1993.

²⁵⁴ *Irish Times*, 22 April 1996.

²⁵⁵ *Evening Herald*, 20 April 1996.

the Galway Laundry for a short period in the 1950s.²⁵⁶ Returning to the stage in 1998,²⁵⁷ *Eclipsed* offered a fictionalised account of four ‘penitents’ in a laundry in 1963 and was described in reviews as a ‘harrowing play’ which ‘grappl[ed] with some dark truths about life in Ireland that were concealed for too long’.²⁵⁸

Similarly, in 1998, Steve Humphries’ Channel 4 documentary on the laundries, *Witness: sex in a cold climate*, was released.²⁵⁹ Humphries was recognised for giving a ‘voice to historical witnesses who had either been ignored, neglected or written out of history altogether’.²⁶⁰ Based on witness testimony and the research of historian Frances Finnegan, *Sex in a cold climate* was reported to have ‘first brought the lives of the Magdalene women into the open’.²⁶¹ That for many this was the first time they had engaged with the history of the Magdalen system is suggested by the degree of confusion over the definition of the institutions, referred to variously in the press as Magdalen laundries, homes or asylums, Mother and Baby Homes, and even, on occasion, orphanages.²⁶² Humphries’ ‘disturbing yet enlightening’ documentary held a ‘mirror up to [Ireland’s] unpalatable past’ and provided the inspiration for Peter Mullan’s critically-acclaimed 2002 film, *The Magdalene sisters*.²⁶³

Mullan’s semi-fictionalised account of Ireland’s Magdalen laundries offered a particularly brutal and ‘gut-wrenching’ vision of the laundry system, in which the women were shown to endure severe emotional, physical, and sexual abuse. The film was a significant commercial success, reportedly ‘seen by a third of the adult population’ in Ireland by February 2003.²⁶⁴ *The Magdalene sisters* was also well-received by international audiences and, in 2002, received the Golden Lion Award for Best Film at the Venice Film Festival. However, Mullan’s film was denounced by the Vatican as ‘an angry and rancorous provocation’, and it faced criticism for being sensationalist and one-sided.²⁶⁵ Indeed, through its reliance on the witness testimony provided in *Sex in a cold climate*, Mullan’s film replicated the ‘critical shortcomings’ of

²⁵⁶ Patricia Burke Brogan, *Eclipsed* (Salthill, 1994); *Irish Times*, 31 March 1992.

²⁵⁷ *Evening Echo*, 4 July 1998; *Sligo Champion*, 8 July 1998.

²⁵⁸ *Irish Times*, 17 February 1992.

²⁵⁹ ‘Witness: sex in a cold climate’, *Channel 4* (1 March 1998)

(<http://www.youtube.com/watch?v=FtxOePGgXPs>) (23 May 2017).

²⁶⁰ *Irish Times*, 14 March 1998; Humphries earlier work included documentaries on homelessness, unemployment, and juvenile crime (British Film Institute, ‘Steve Humphries: filmography’ (<https://www.bfi.org.uk/films-tv-people/4ce2ba0e7f0cf>) (19 July 2019)).

²⁶¹ *The Guardian*, 7 February 2003.

²⁶² *Irish Independent*, 28 March 1998; *Irish Examiner*, 17 March 1998.

²⁶³ *Irish Times*, 14 March 1998; P. Mullan, *The Magdalene sisters* (2002).

²⁶⁴ *The Guardian*, 21 February 2003.

²⁶⁵ *Irish Examiner*, 9 September 2002.

Humphries' documentary, 'namely, the decision neither to solicit nor incorporate the religious orders' version of the Magdalen story'.²⁶⁶ *The Magdalene sisters* ultimately brought the exploitative nature of Ireland's Magdalen laundry system to wider public and international attention in a way not previously achieved, yet it did not, like *States of fear*, encourage a state apology, nor was it followed promptly by the establishment of an inquiry.

The Magdalen laundries were thus firmly in the public consciousness when, in 2003, Raftery revisited the case of the High Park exhumation in an article for the *Irish Times*. Raftery revealed that twenty-three of the 133 women believed to be at the site were not known by name but were listed under the heading 'quasi-religious name', while one woman was known only by her first name. The sisters informed the Department of Environment that, without full names, they had been unable to produce death certificates for these women. As the women could not be identified, their families could not be advised of the planned exhumation, therefore undermining Cantwell's previous assertion that anyone who knew the women was informed in advance of the plan to exhume, cremate, and reinter their remains. Raftery also revealed that the congregation failed to locate death certificates for an additional thirty-four women known to be buried in the plot.²⁶⁷

More damningly, a further twenty-two unlisted bodies were discovered by undertakers as work began at the site. The Department of Environment subsequently issued an additional exhumation licence for the remains but did not seek to identify the women. To Raftery, this 'beggars belief',²⁶⁸ and was particularly disappointing as all but one of the bodies was cremated shortly after the exhumation, making identification at a later date impossible.²⁶⁹ Lacking records for eighty of the 155 bodies exhumed from the site, the cremations were carried out despite the fact the state was 'fully aware that more than half the deaths of those exhumed had never been certified'. Furthermore, while cremation was no longer forbidden by the Catholic Church, it was nevertheless 'frowned on as undesirable'.²⁷⁰ Indeed, under canon law, the church 'earnestly recommends that the pious custom of burial be retained'.²⁷¹ Raftery suggested that, for the Sisters of Charity, it had been necessary to choose the 'cheaper option'

²⁶⁶ James M. Smith, 'The Magdalene sisters: evidence, testimony ... action?' in *Signs*, 32, no. 2 (2007), p. 444.

²⁶⁷ *Irish Times*, 21 August 2003.

²⁶⁸ *Ibid.*

²⁶⁹ One family collected their relative's remains to be buried at a family plot (*Irish Times*, 23 August 2003).

²⁷⁰ *Irish Times*, 21 August 2003.

²⁷¹ Code of Canon Law (1983) (http://www.vatican.va/archive/ENG1104/_INDEX.HTM) (16 September 2015), 1176, § 3.

of cremation over reburial of the remains intact.²⁷² The Sisters of Charity did not address Raftery's criticisms directly, but instead reiterated that their actions were 'approved by all relevant authorities', and that they had 'no queries' from the families of the women who were 'respectfully cremated and laid to rest in Glasnevin Cemetery'.²⁷³

Concerned by the uncertainties and possible irregularities surrounding the High Park exhumation, the MMC reformed in 2003.²⁷⁴ The group remodelled as Justice for Magdalenes; a non-profit survivor advocacy group which campaigned for an official apology from the Irish state and Catholic Church and for the establishment of a distinct redress scheme for the Magdalen laundry survivors.²⁷⁵ JFM argued that it 'pursued it[s] campaign for justice in good faith' for over half a decade, making 'every effort to utilize the political system to present its case'. The group stated, for example, that it submitted archival evidence to the state, met with representatives from the Departments of Justice, Education, and Health, and presented its findings to an 'ad hoc committee' in the Dáil.²⁷⁶ From 2009, Magdalene Survivors Together similarly petitioned the government to acknowledge its role in the operation of Ireland's Magdalen laundries and issue an apology and compensation to the women affected. The group was established by Steven O'Riordan following the release of his documentary, *The forgotten Maggies*, and, like JFM, held talks with government ministers to discuss the needs of the survivors.²⁷⁷ Although the government responded to their campaign with 'gestures of assistance' to individual women, JFM claimed that the state failed to produce records which clarified its role in the operation of the Magdalen laundry system.²⁷⁸ As a result, JFM noted that, over ten years after the release of *Sex in a cold climate*, and almost two decades after the High Park exhumation, 'no one in Irish society – not church, not state, not families – ha[d] apologized for this historic abuse', thus denying the survivors justice and legitimate victim status.²⁷⁹

²⁷² *Irish Times*, 21 August 2003; Justice for Magdalenes, *Death, institution and duration of stay: a critique of chapter 16 of the Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues* (n.p., 2015), pp 44-5, § 3.

²⁷³ *Irish Times*, 23 August 2003.

²⁷⁴ Irish Human Rights Commission, *Assessment of the human rights issues arising in relation to the "Magdalen laundries"* (Dublin, November 2010), pp 6, § 13.

²⁷⁵ Justice for Magdalenes, *Submission to the Irish Human Rights Commission* (Crocknahattina, Bailieborough, 2010), pp 2-4.

²⁷⁶ *Ibid.*, p. 21.

²⁷⁷ SOR Media (<https://www.stevenoriordan.com/magdalen-survivors-together.html#>) (4 December 2020).

²⁷⁸ JFM, *Submission to IHRC*, p. 22.

²⁷⁹ *Ibid.*, p. 1.

JFM subsequently turned to a non-governmental organisation to address their concerns, and in 2010 appealed to the IHRC to conduct an inquiry into potential constitutional and human rights violations perpetrated against women in the Magdalen laundries. In their submission, JFM contended that consecutive governments were complicit in referring women and girls to the laundries and failed to uphold their constitutional right to personal liberty.²⁸⁰ The survivor group also argued that the state violated the European Convention of Human Rights, ratified in Ireland in 1953, which protected Irish citizens from forced or compulsory labour, as well as torture and inhuman or degrading treatment or punishment.²⁸¹ However, in light of its limited powers and resources, the IHRC selected not to conduct an inquiry as its work would ‘fall considerably short of the relief sought by JFM’.²⁸² In a brief assessment of the Magdalen laundry system, the IHRC nevertheless concluded that the Irish state, through the work of ‘Gardaí, welfare officers and social workers’, was directly involved in the referral of a number of women and girls to the laundries, where many women who entered on a ‘voluntary basis’ were subsequently subjected to arbitrary detention.²⁸³ Its report called on the state to ‘immediately institute a statutory mechanism’ to address the ‘serious human rights issues’ raised by JFM, followed by a ‘larger-scale review of what occurred [in the laundries], the reasons for the occurrence, the human rights implications and the redress which should be considered’.²⁸⁴

Speaking in the Dáil, Fianna Fáil TD, Tom Kitt, significantly referred to the women who lived and worked in the Magdalen laundries as survivors and argued that, ‘in light of the [IHRC] report’, the women should receive an apology and compensation. Kitt concluded that the exclusion of the Magdalen laundries from the 2002 Redress Act had been a ‘major error’.²⁸⁵ Deputy Martin Mansergh, speaking on behalf of the Minister for Justice and Law Reform, Dermot Ahern, acknowledged that the Magdalen laundries were a ‘very sad and shameful chapter in our social history’ and expressed his ‘great sympathy’ for the women affected. However, Mansergh criticised the IHRC for failing to seek observations from the relevant government departments, or from the religious congregations responsible for operating the laundries. It was ‘surprising’, he noted, that the IHRC ‘apparently did not think it appropriate

²⁸⁰ Ibid, p. 7; *Constitution of Ireland* (1937), article 40, § 4.1.

²⁸¹ JFM, *Submission to IHRC*, p. 7; Council of Europe, *Convention for the protection of human rights and fundamental freedoms as amended by protocols no. 11 and no. 14* (Strasbourg, 1950), article 3-4.

²⁸² IHRC, *Human rights issues in relation to the “Magdalen laundries”*, p. 28, § 107.

²⁸³ Ibid, p. 10, § 31; *ibid*, pp 16-17, § 55.

²⁸⁴ Ibid, p. 3, § 2; *ibid*, p. 29, § 108.

²⁸⁵ *Dáil Éireann* (9 November 2010), vol. 721, no. 2, col. 316.

to provide an opportunity for other perspectives to be taken into account', which would have allowed the commission 'to provide a much more comprehensive overview' and, more pertinently, 'could have informed its conclusions'. Mansergh also raised concerns about the potential cost of an official state inquiry into the Magdalen laundries. Indeed, operating in the post-Celtic Tiger economy, the government was required to consider the 'practical difficulties', as well as the 'resource implications', associated with an inquiry.²⁸⁶

The CICA was established in 2000 at the height of the Celtic Tiger, a period of remarkable economic growth which saw the Irish economy evolve from 'one of the poorest in Europe in the 1980s to double-figure growth rates in the 1990s'.²⁸⁷ Such growth was prompted by a number of factors, including the move away from the prioritisation of indigenous activity and Ireland's culture of protectionism, which opened the country up to foreign investment and global theories of market development.²⁸⁸ In contrast, the McAleese Committee was established during a financial downturn and period of considerable economic uncertainty. By 2005, prior to the onset of a worldwide recession, the Irish economy had become 'dangerously susceptible to market dysfunction' due to 'increasingly erratic' banking practices.²⁸⁹ In September 2008, Ireland was plunged into a recession as its economy shrank for two consecutive quarters, causing the collapse of key business sectors and an alarming increase in the levels of unemployment and emigration. By mid-2010, as JFM and Magdalene Survivors Together intensified their campaigns for recognition and redress, Ireland was among the most heavily-indebted regions of the European Union.²⁹⁰ The state's apparent reluctance to launch another inquiry into institutional abuse must therefore be understood, but not excused, in terms of Ireland's fluctuating economic climate. Indeed, in the prioritisation of economic stability over survivors' rights, the state failed to afford the women admitted to Ireland's Magdalen laundries due recognition and redress, as it had previously for those who suffered in the country's industrial and reformatory schools, ultimately reinforcing the concept of the hierarchy of victimhood.

Frustrated by the government's inaction, JFM subsequently turned to external agencies for assistance. The survivor group submitted a report to the UNCAT in May 2011 in which they

²⁸⁶ Ibid, col. 318-19.

²⁸⁷ Róisín Ní Mháille Battel, 'Ireland's "Celtic Tiger" economy' in *Science, Technology, & Human Values*, 28, no. 1 (2003), p. 93.

²⁸⁸ Gerard McCann, 'The "Celtic Tiger" in hindsight' in *Nordic Irish Studies*, 12 (2013), pp 109-10; as discussed in chapter one.

²⁸⁹ Ibid, p. 115.

²⁹⁰ Ibid, p. 117.

contended that the Irish state was in contravention of its obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified in Ireland in 2002.²⁹¹ They noted, for example, the requirement under Article 12 to conduct a ‘prompt and impartial investigation’ in the event that there is ‘reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction’, while Article 14 outlined the victims’ right to ‘fair and adequate compensation’.²⁹² JFM also argued that the government’s reluctance to investigate the Magdalen laundries amounted to ‘continuing degrading treatment’.²⁹³ As many of the Magdalen laundry survivors were elderly, JFM stressed that the state’s ‘ongoing failure to acknowledge the injustice’ the women suffered led many to conclude that ‘Irish State, society and church are simply waiting for them and their stories to disappear’.²⁹⁴

The UN Committee subsequently expressed ‘grave concern’ at the Irish state’s failure to address the ‘allegations of ill-treatment perpetrated on girls and women’ in the Magdalen laundries. The UNCAT made a formal recommendation that the state institute ‘prompt, independent, and thorough investigations’ into the issues raised by JFM and the IHRC surrounding ‘allegations of torture, and other cruel, inhuman or degrading treatment or punishment’, and called on the government to ‘ensure that all victims obtain redress and have an enforceable right to compensation’.²⁹⁵ While the previous Fianna Fáil government had established and overseen the work of the CICA, offering assistance to the popularly acknowledged ideal victim of the non-criminal child, it had been accused of ‘hardening its heart’ against the Magdalen women. Campaigners were optimistic, however, that the newly-established and more liberal Fine Gael-Labour coalition ‘would confront the past and make

²⁹¹ Justice for Magdalenes, *Submission to the United Nations Committee Against Torture, 46th session* (Crocknahattina, Bailieborough, 2011), p. 2, § 1.5; the UNCAT was established to detect and prevent global human rights violations, addressing issues including conditions in women’s prisons in the UK and Northern Ireland, as well as concerns that the US government held detainees at Guantánamo Bay detention centre without sufficient justification or legal safeguards (United Nations Committee Against Torture, *Consideration of reports submitted by states parties under article 19 of the convention: conclusions and recommendations of the Committee against Torture, United Kingdom of Great Britain and Northern Ireland, Crown Dependencies and Overseas Territories, 33rd session*, CAT/C/CR/33/3 (15-26 November 2004), p. 5, § 4(g); United Nations Committee Against Torture, *Consideration of reports submitted by states parties under article 19 of the convention: conclusions and recommendations of the Committee against Torture, United States of America, 36th session*, CAT/C/USA/CO/2 (1-19 May 2006), p. 6, § 22).

²⁹² United Nations, *Convention against torture and other cruel, inhuman or degrading treatment or punishment* (1984), part I, article 12-14.

²⁹³ Justice for Magdalenes, *Submission to the United Nations Committee Against Torture, 46th session* (Crocknahattina, Bailieborough, 2011), p. 2, § 1.6.

²⁹⁴ *Ibid.*, p. 5, § 3.6.

²⁹⁵ United Nations Committee Against Torture, *Consideration of reports submitted by States parties under article 19 of the Convention: Concluding observations of the Committee against Torture, Ireland, 46th session* (9 May-3 June 2011), p. 6, § 21.

amends for what has become a shameful and very public injustice'. In power from February 2011, Kenny's government promised 'to turn Ireland into a better, more honest and caring society'. Their response to the UNCAT's statement would thus determine whether this promise represented 'anything more than hollow sentiment'.²⁹⁶

The optimism of the Magdalen laundry survivors and campaigners was well-founded; many of those who formed the new government had previously made public calls for an apology and redress. For example, Fine Gael TD, Creed, was particularly vocal during government discussions on the limited scope of the 2002 redress act, drawing attention to the plight of women kept in the Magdalen laundries 'under lock and key',²⁹⁷ while the new Taoiseach had similarly advocated for the laundries to be included in the redress scheme.²⁹⁸ However, although it is likely that the government's determination to create and maintain an 'honest and caring society' influenced the decision to establish the McAleese Committee, the impact of external pressure must not be overlooked. Indeed, the UNCAT 'focused international attention' on what had become a 'festering injustice'.²⁹⁹ Human rights lawyer, Maeve O'Rourke, similarly remarked that, following the UNCAT's criticism, 'the international spotlight' was on Ireland.³⁰⁰ It was this pressure from an international body, recorded and repeated by the Irish press, that finally 'shamed' the government into action.³⁰¹ On 14 June 2011, just days after the statement from the UNCAT, Kenny's government announced plans for the establishment of an independently-chaired inter-departmental committee to investigate the Magdalen laundry system and 'clarify any state interaction with the Magdalen laundries'.³⁰²

Calls for the government to apologise to the women who lived and laboured in Ireland's twentieth-century Magdalen laundries - as it had to those institutionalised as children with the establishment of the CICA - intensified following Kenny's announcement. Michael Kennedy stressed, for example, that the state needed 'to say the simple word "sorry" to these women', many of whom 'are very old, and nearing death'.³⁰³ Yet, while JFM welcomed plans for an inquiry, the group 'noted with regret' that the government proved unwilling to apologise to the

²⁹⁶ *The Guardian*, 8 June 2011.

²⁹⁷ Select Committee on Education and Science, *Residential Institutions Redress Bill, 2001: Committee Stage* (13 December 2001).

²⁹⁸ *Dáil Éireann* (21 November 2001), vol. 544, no. 4, col. 979.

²⁹⁹ *The Guardian*, 8 June 2011.

³⁰⁰ *Irish Examiner*, 7 June 2011.

³⁰¹ *Irish Independent*, 6 February 2013.

³⁰² Government of Ireland, *Statement on the Magdalene laundries* (14 June 2011), (<http://www.justice.ie/en/JELR/Pages/PR11000082>) (2 July 2019).

³⁰³ *Dáil Éireann* (9 November 2010), vol. 721, no. 2, col. 317.

women ‘as a first step’.³⁰⁴ As the response to Ahern’s apology to the industrial and reformatory school survivors demonstrated, an official apology is widely recognised as an acknowledgement of guilt, therefore necessitating the payment of compensation. Many held that there was a pressing need to cap legal expenses and avoid any prolongation of the ‘days of open-ended gravy-train inquiries’, thus allowing the government to withhold an apology until state culpability was confirmed.³⁰⁵ While this response was undeniably pragmatic, it reflected a collective lack of sympathy for the survivors of the Magdalen laundry system, particularly when compared to the universal sadness and regret shown towards those abused as children in church-run institutions. The government’s failure to issue a prompt apology for the Magdalen laundry system and implement a scheme for the payment of compensation therefore reinforces the concept of the hierarchy of victimhood, highlighting the additional difficulties the Magdalen laundry survivors faced in their efforts to gain recognition, redress, and legitimate victim status.

Established over ten years apart, the CICA and McAleese Committee were prompted by the public, survivor and, in the case of the Magdalen laundries inquiry, international response to exposés, memoirs, films, and documentaries which detailed conditions in Ireland’s twentieth-century residential institutions for the first time. The progress of secularisation from the 1970s, though limited, played a significant role in encouraging Irish society to challenge the once incontrovertible authority of the Catholic Church, while the rise of British and Irish liberal and investigative journalism offered a public platform from which past scandals were uncovered and survivors of abuse heard, as culture now helped to ‘deconstruct’, where previously it sought to ‘reinforce’ the ‘Catholic hegemony in Ireland’.³⁰⁶ As the publication of the Ferns, Murphy, and Cloyne Reports into the church and state’s handling of clerical child abuse evidenced, no body or individual, no matter how powerful or revered, was now above scrutiny. The Ryan and McAleese investigations, though conducted on a greater scale than the regional inquiries, were thus characteristic of the country’s inquiry culture and part of a larger effort to create a more open and transparent society in modern Ireland.

³⁰⁴ *Irish Examiner*, 15 June 2011.

³⁰⁵ *Irish Examiner*, 7 June 2011.

³⁰⁶ Maher and O’Brien, *Cultural legacy of Irish Catholicism*, p. 6.

CHAPTER III

A cathartic exercise or a fact-finding mission?: the aims and approaches of the CICA and McAleese Committee

The Commission to Inquire into Child Abuse and McAleese Committee were symptomatic of, and contributory to, an Irish and, indeed, global inquiry culture, focusing political and public attention on the history of abuse, neglect, and exploitation in Ireland's twentieth-century institutions for the poor and others deemed on the margins of society. However, while both investigations were state-funded and examined the realities of the institutional care system on a national scale, there were notably few similarities between them. The CICA and the McAleese Committee diverged significantly in terms of their composition, legal standing, resources, and remits. Through an assessment of their mandates, considerable differences between their priorities can be identified, highlighting a preoccupation with efficiency and a desire to limit investment in Ireland's inquiry culture by the time of the establishment of the McAleese Committee in 2011. A collective examination of their aims and approach to obtaining evidence facilitates an analysis of the response of the state, the Catholic Church, and Irish society to the wider issue of historical institutional abuse and, more significantly, how this response evolved from the establishment of the CICA in 2000 to the publication of the McAleese Report in 2013.

The recommendations laid out by Justice Mary Laffoy following a preliminary inquiry into institutional child abuse were embodied in the Commission to Inquire into Child Abuse Act in 2000. This led to the establishment of the CICA, chaired by Laffoy and consisting of two distinct committees.¹ The first, an Investigation Committee, was tasked with determining the 'causes, nature, circumstances and extent' of abuse of children in predominantly Catholic-run institutions in twentieth-century Ireland, including industrial schools and reformatories.² A second Confidential Committee provided a sympathetic, non-investigative forum for those who were institutionalised as children to recall their experiences.³ The CICA was also permitted to make recommendations regarding ways in which the state could alleviate the effects of abuse on those who suffered and prevent its occurrence in modern institutions.⁴ The principal aim of the CICA was thus cathartic, providing an opportunity for those institutionalised in childhood to contribute to the official narrative on the operation of Ireland's residential institutions.

¹ Seán Ryan, *Report of the Commission to Inquire into Child Abuse* (Dublin, 2009), I, pp 1-3, § 1.04-7.

² Commission to Inquire into Child Abuse Act, 2000 (7/2000) (26 April 2000), § 12.

³ *Ibid.*, § 15.

⁴ *Ibid.*, § 5 (2).

Justice Seán Ryan, chair of the commission from 2004, subsequently highlighted that ‘no other inquiry into child abuse in other jurisdictions [...] has had the additional express function of providing a forum for [the] therapeutic telling of victims’ stories of abuse’.⁵ The CICA’s ‘expressly therapeutic objectives’ therefore ensured it was ‘unique among comparable inquiries’.⁶

Parallels can nevertheless be drawn between the CICA and transitional justice mechanisms which originated from efforts to confront humanitarian crimes committed during the Second World War.⁷ More specifically, the CICA was reminiscent of truth commissions conducted in the 1980s and early-1990s in societies transitioning from authoritarian regimes.⁸ These included the Commission of Inquiry into Violations of Human Rights in Uganda (1986-94), which investigated allegations of arbitrary arrests, detentions, and killings under the military dictatorship of Idi Amin from 1971-79, and the following government of Milton Obote from 1980-85.⁹ The state-led post-apartheid South African Truth and Reconciliation Commission (TRC, 1995-2002) was also a key inspiration for the CICA.¹⁰ That a transitional justice framework was applied in the case of Irish historical institutional abuse suggests that a transition had taken place in Ireland by the end of the twentieth century. This can best be understood in light of the evolving church-state relationship, as well as the move away from the institutionalisation of marginalised communities from the 1960s. Other ‘settled democracies’ have similarly employed transitional justice processes to address difficult histories of institutional abuse through a combination of apology, reparation, and truth commission, such as the Commission of Inquiry into Abuse of Children in Queensland Institutions (Forde Commission, 1998-99).¹¹

In contrast, established with the principal fact-finding mission to determine the nature and extent of state involvement with Ireland’s twentieth-century Magdalen laundries, the work of the McAleese Committee diverged from the accepted objectives and processes of a truth

⁵ Seán Ryan, *Review into the working of the Commission to Inquire into Child Abuse* (Dublin, 2004), p. 7, § 1.9.

⁶ Carol Brennan, ‘Facing what cannot be changed: the Irish experience of confronting institutional child abuse’ in *Journal of Social Welfare and Family Law*, 29, nos. 3-4 (2007), p. 250.

⁷ Johanna Sköld and Shurlee Swain (eds), *Apologies and the legacy of abuse of children in ‘care’* (Basingstoke, 2015), p. 3.

⁸ Anne-Marie McAlinden, ‘An inconvenient truth: barriers to truth recovery in the aftermath of institutional child abuse in Ireland’ in *Legal Studies*, 33, no. 2 (2013), pp 198-9.

⁹ *Truth Commission: Uganda 86* (<https://www.usip.org/publications/1986/05/truth-commission-uganda-86>) (8 October 2019).

¹⁰ Brennan, ‘Facing what cannot be changed’, p. 249.

¹¹ McAlinden, ‘An inconvenient truth’, p. 190.

commission.¹² The decision to isolate the issue of state complicity stemmed from the exclusion of the laundries from the 2002 redress scheme on the basis that such institutions were not state-regulated. This subsequently focused the attention of the media, academics, and activists on the role of the state in the operation of the Magdalen laundry system.¹³ Despite an evident preoccupation with state culpability, the IHRC recommended that Ireland also conduct a ‘larger-scale review’ into conditions in the laundries, while the UNCAT similarly requested that Ireland institute a prompt, thorough, and independent investigation into allegations of abuse and neglect in the laundries.¹⁴ However, McAleese and his team were not explicitly mandated to address the experiences of women who lived and laboured in the country’s Magdalen laundries.

With the McAleese Committee appointed two years after the publication of the Ryan Report, it is evident that the memory of the protracted, expensive, and, at times, fraught work of the CICA influenced the state in determining the functions and boundaries of the Magdalen laundry inquiry. Reflecting on the significant financial outlay of the CICA, which, by 2009, was approximately €82 million,¹⁵ Fianna Fáil TD, Martin Mansergh, urged the state to ‘learn from the lessons of other investigations’ before proceeding with an inquiry into the Magdalen laundry system.¹⁶ Consequently, the investigation into Ireland’s laundries was not survivor-led. Although McAleese considered that it was ‘critical’ that the process ‘included space’ for the women who were admitted to and worked in the laundries to ‘make an input, if they wished to do so’,¹⁷ the committee determined that, in light of the factual nature of its mandate, the ‘primary method of work’ would be by file and record searches.¹⁸ Beyond such practical considerations, and where Christie’s theory of the ideal victim is applied, a comparison of the broad, survivor-driven work of the CICA and the limitations of the administrative, fact-finding

¹² Martin McAleese, *Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* (Dublin, 2013), p. 7, § 8.

¹³ James M. Smith, ‘State complicity and constitutional rights’ in Justice for Magdalenes, *Submission to the Irish Human Rights Commission* (Crocknahattina, Bailieborough, 2010), pp 10-22; Justice for Magdalenes, *Submission to the United Nations Committee Against torture, 46th session* (Crocknahattina, Bailieborough, 2011), pp 10-13, § 5.3; Maeve O’Rourke, ‘Ireland’s Magdalene laundries and the state’s duty to protect’ in *Hibernian Law Journal*, 10 (2011), pp 200-37.

¹⁴ Irish Human Rights Commission, *Assessment of the human rights issues arising in relation to the “Magdalen laundries”* (Dublin, 2010), pp 28-9, § 108; United Nations Committee Against Torture, *Consideration of reports submitted by states parties under article 19 of the Convention: concluding observations of the Committee against Torture, Ireland, 46th session*, CAT/C/IRL/CO/1 (9 May-3 June 2011), § 21.

¹⁵ Comptroller and Auditor General, *Special report: cost of child abuse inquiry and redress* (Dublin, 2016), p. 10.

¹⁶ *Dáil Éireann* (9 November 2010), vol. 721, no. 2, col. 319.

¹⁷ *McAleese Report*, p. 11, § 28.

¹⁸ Martin McAleese, *Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries: interim progress report* (Dublin, 2011), p. 5, § 23.

investigation into the Magdalen laundries also suggests the persistence of societal prejudice towards the laundry survivors, who struggled to obtain legitimate victim status.

‘Equally, if not more effective’: the composition, status, and powers of the CICA and McAleese Committee¹⁹

The CICA and McAleese Committee varied considerably in terms of their composition. The CICA consisted of members independent of the state and the Catholic Church, who demonstrated ‘a broad range of relevant expertise’ and subscribed to a protocol on conflict of interest.²⁰ The CICA’s Confidential Committee was formed by childcare director, Norah Gibbons; retired consultant paediatrician, Dr Patrick Deasy; and Bob Lewis CBE, a retired director of British social services, while the Investigation Committee was comprised of principal clinical psychologist, Fred Lowe, and consultant child and adolescent psychiatrist, Dr Imelda Ryan.²¹ Laffoy’s appointment was welcomed by Christine Buckley, who felt her language suggested that she ‘accepted that something dreadful happened’, and was therefore capable of leading an ‘unconditional inquiry’.²² Judges were also widely seen to offer a ‘seal of credibility’ to commissions tasked with examining ‘areas of high controversy’.²³ Others, however, expressed their disappointment that a representative of the survivors was not invited to participate to ensure they were ‘treated with sensitivity’.²⁴ Bernadette Fahy, working at the time as a counselling psychologist, was perhaps an obvious candidate.²⁵ This nevertheless ensured that the CICA was composed of those who were neither victims nor implicated in the alleged abuse.

The UNCAT thus called on the Irish state to follow established procedure in 2011 when it formally recommended that Ireland conduct an independent investigation into the Magdalen laundries.²⁶ Senator Martin McAleese, a non-partisan member of Seanad Éireann, and husband

¹⁹ *Dáil Éireann* (25 September 2012), vol.775, no.3.

²⁰ *Irish Independent*, 9 June 2000; Mary Laffoy, *Commission to Inquire into Child Abuse: interim report* (Dublin, 2001), pp 16-18.

²¹ Mary Laffoy, *Commission to Inquire into Child Abuse: third interim report* (Dublin, 2003), p. 6.

²² *Irish Examiner*, 30 June 2000.

²³ Stephen Sedley, ‘Public inquiries: a cure or a disease?’ in *The Modern Law Review*, 52, no. 4 (1989), p. 472.

²⁴ *Irish Examiner*, 12 May 1999.

²⁵ *Irish Independent*, 12 May 1999.

²⁶ Under UN principles, members of investigative committees are required to ‘be independent of the suspected perpetrators and the institutions or agencies they may serve’ (United Nations, *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (2004)(<https://www.ohchr.org/EN/ProfessionalInterest/Pages/EffectiveInvestigationAndDocumentationOfToEffec.aspx>) (14 August 2019), § 5(a)).

of the former President of Ireland, Mary McAleese, was recognised as ‘an independent person of high standing in Irish society’, and his appointment as chair was generally considered appropriate.²⁷ However, the remaining six members of the McAleese Committee were senior members of the government. Of these, just two were women, despite the overtly gendered nature of the Magdalen laundry system which was managed by, and catered specifically for, women. More damningly, the committee included representatives from the Department of Justice and Equality and the Department of Health, whose records were examined to establish the role of the state in referring women to the laundries.²⁸ Justice for Magdalenes expressed their frustration that the McAleese Committee failed to include ‘one single member from outside the governmental or political realm’ and was, in fact, composed of senior officials from departments ‘alleged to have been complicit in the Magdalene Laundries abuse’.²⁹ The human rights campaign group, Amnesty International, similarly highlighted that ‘such an internal, interdepartmental process by definition lacks independence’.³⁰

The composition of the McAleese Committee ensured that the inquiry progressed swiftly, as government officials had ready access to the relevant state documents. However, it is apparent that the decision was also motivated by concerns regarding the cost of an independent inquiry. The members of the independent CICA were entitled to remuneration, while allowances were also made for travel and other expenses incurred during their investigations.³¹ In 2009, the CICA’s administrative costs amounted to just below €30 million, approximately fifty-nine per cent of which was attributed to the cost of staff resources.³² While Laffoy and Ryan were paid from the Central Fund as members of the judiciary, other members of the CICA were entitled to a salary equivalent to the first point of the assistant secretary grade, calculated at €68,276.³³ In contrast, no member of the McAleese Committee received a salary or stipend in relation to its work. As a result, the committee’s only direct costs arose from travel expenses and room hire, which, at €11,146, represented a fraction of the cost of the multi-million euro child abuse

²⁷ Justice for Magdalenes, *Follow-up report to the UN committee against torture* (Crocknahattina, Bailieborough, 2012), pp 19-20, § 5.5.1.

²⁸ Committee members were also drawn from the Department of Environment, Community and Local Government; Department of Education and Skills; Department of Enterprise, Jobs and Innovation; and the Department of Children and Youth Affairs (*McAleese Report*, pp 5-6, § 2); *ibid*, p. 208, § 10; *ibid*, p. 443, § 27.

²⁹ JFM, *Follow-up report to UNCAT*, pp 19-20, § 5.5.1-2.

³⁰ Amnesty International, *Ireland: follow-up procedure to the forty-sixth session of the UN Committee against Torture*, EUR 29/003/2012 (London, 2012), p. 2.

³¹ CICA Act, § 6 (3).

³² Department of Education and Science, *Comptroller and auditor special report: the supervision and substitution scheme; fulfilment of employment contracts; the commission to inquire into child abuse* (Dublin, 2009), p. 52, § 3.73.

³³ *Ibid*, p. 53, § 3.76.

inquiry.³⁴ However, this rationale offered little comfort to those who had long-campaigned for an independent and unbiased account of state complicity in the operation of Ireland's Magdalen laundries.

Unlike the McAleese Committee, the CICA was established in 2000 unencumbered by recent memories of a lengthy and expensive institutional abuse inquiry, and began its work with a loose timeframe and, indeed, ill-defined deadline. Plans were in place to publish a report to the public within two years of the establishment of the CICA 'or such longer period as the Government, after consultation with the Commission, may specify', ultimately facilitating an extended and unprecedented nine-year period of research and investigation.³⁵ Indeed, in comparison, the smaller scale inquiry into clerical abuse in the Diocese of Ferns began in 2003 and was completed by 2005, while the Murphy Report on clerical child sexual abuse in the Dublin Archdiocese was published in 2009, three years after the inquiry was announced.³⁶ Similarly, a Canadian Commission established in 1989 to investigate clerical abuse in the St. John's Archdiocese, Newfoundland, completed its work within one year, while the Australian Forde Commission, although closer in scale to the Irish child abuse inquiry, published its final report in 1999, just one year after the investigation was announced.³⁷

Established in June 2011, the McAleese Committee was similarly permitted to 'adjust the intended time-line' of its investigations should the volume of records uncovered vary 'substantially' from those anticipated. McAleese was 'determined to ensure', however, that the inquiry was 'not unnecessarily prolonged', and it was his 'hope and intention' that the committee's work would be completed by mid-2012.³⁸ The McAleese Report was subsequently published in February 2013, just eighteen months after the committee was formed. The narrow focus of the McAleese Committee was undoubtedly an effective time-saving device. By comparison, the CICA's workload was increased by its broad scope and inclusive approach. For example, 'relevant institutions' were loosely defined as industrial schools, reformatories, and orphanages, as well as hospitals, children's homes and, more vaguely, 'any other place

³⁴ *McAleese Report*, p. x, § 26.

³⁵ CICA Act, § 5 (5)a-b.

³⁶ Francis D. Murphy, *The Ferns Report* (Dublin, 2005); Y. Murphy, *Report of the Commission of Investigation into the Catholic Archdiocese of Dublin* (2009).

³⁷ The Forde Commission investigated the period from 1911 to 1999, examining 150 orphanages and detention centres (Leneen Forde, *Report of the Commission into Child Abuse in Queensland Institutions* (Brisbane, 1999), p. i); Katie Wright, Shurlee Swain, and Johanna Sköld, *The age of inquiry: a global mapping of institutional abuse inquiries* (Melbourne, 2017) (<http://doi.org/10.4225/22/591e1e3a36139>) (10 September 2018).

³⁸ McAleese, *Interim Report*, p. 10, § 53-4.

where children [we]re cared for other than as members of their families'.³⁹ As a result, abuse was reported to the Confidential Committee in relation to 216 institutions including hospitals, day and special needs schools, national and secondary schools, as well as industrial schools and reformatories.⁴⁰ In contrast, the McAleese Committee was established to investigate ten named Catholic-run Magdalen laundries which were operated by one of four religious congregations: the Sisters of Our Lady of Charity of Refuge; the Congregation of the Sisters of Mercy; the Religious Sisters of Charity; or the Sisters of the Good Shepherds.⁴¹

This difference partly reflected the number of relevant institutions available for examination. Maria Luddy estimated that, by the end of the nineteenth century, there were forty-one Irish 'Magdalen asylums'.⁴² In contrast, in 1900, there were seventy-one Irish industrial schools alone.⁴³ The state nevertheless applied a narrow definition to the Magdalen laundries. The McAleese Committee's remit did not, for example, include St. Mary's training school, Stanhope Street, Dublin, or Summerhill residential home, Wexford.⁴⁴ The campaign group Magdalene Survivors Together subsequently appealed to the committee to include these church-run residential institutions in its inquiries on the basis that the girls who entered the single-sex institutions were required to work in laundries and were not provided with an education or training. A 'private person' similarly petitioned the McAleese Committee to include Newtownforbes Industrial School, Longford, in its inquiries, as she had worked in a laundry attached to the school as a child. The committee also received submissions from the Bethany Survivors Group requesting an extension of its mandate to include the Bethany Home, Dublin, a Protestant Mother and Baby Home which catered for pregnant women, unmarried mothers, and their children.

The Religious Sisters of Charity informed the committee, however, that, as a training centre which operated on a fee-paying basis, Stanhope Street provided domestic training which included, but was not limited to, laundry work, and stressed that the site was not 'refuge' like the Magdalen laundries. The Sisters of Mercy similarly stated that Summerhill was one of approximately sixteen vocational training schools for girls known as 'mercy homes'. While the McAleese Committee 'fully understood the desire' to draw its attention to similar institutions,

³⁹ CICA Act, § 1 (1)d.

⁴⁰ Seán Ryan, *Report of the Commission to Inquire into Child Abuse: executive summary* (Dublin, 2009), p. 12.

⁴¹ *McAleese Report*, p. 18, § 7.

⁴² Maria Luddy, *Prostitution and Irish society, 1800-1940* (Cambridge, 2007), pp 78-82.

⁴³ *38th RIRISI*, pp 27-32.

⁴⁴ *McAleese Report*, p. 18, § 7.

it was not authorised to examine institutions such as schools, homes, asylums, and orphanages on the ‘grounds that they had laundry facilities attached to them’.⁴⁵ This was in stark contrast to the CICA’s broad definition of relevant institutions and its capacity to include ‘any other place’ where children were cared for outside the family home.⁴⁶ The McAleese Committee was not afforded the discretion to extend its mandate beyond the institutions identified by the state, passing the submissions to the Minister for Justice and Equality for consideration who rejected each appeal.⁴⁷ The reasons behind this decision, and, more specifically, the particular features an institution required in order to be designated a Magdalen laundry were not outlined in the McAleese Report.

Beyond the ‘headline mandate’ to establish the facts of state involvement with the Magdalen laundries, the McAleese Committee’s directive was ‘defined only in a general way by the Government’. The state did not prescribe the manner in which the committee was to conduct its inquiries, allowing McAleese to determine which sources to consult, the best procedure to obtain evidence, as well as the time period covered.⁴⁸ As the committee was appointed with the aim of clarifying state interaction with the Magdalen laundries, the foundation of the state, and more specifically the adoption and enactment of the Constitution of the Irish Free State on 6 December 1922, was selected as the start date for the inquiry. The investigation’s end date was set at 1996, the year Ireland’s last Magdalen laundry closed. Demonstrating a degree of flexibility, the McAleese Committee noted that events both before 1922 and after 1996 would be ‘considered, examined’ and ‘reported upon where they add further clarity either to the question of state involvement’ or, in an extension of its original mandate, where they assisted understanding in relation ‘to the overall operation of the Magdalen Laundries’.⁴⁹

Due to its reliance on witness testimony and the focus on the experience of survivors rather than all who suffered abuse as children in Ireland’s church-run institutions, the CICA was required to investigate allegations of abuse over a shorter period, from 1940 to 1999.⁵⁰ However, like the McAleese Committee, the CICA was permitted to extend the period under investigation in either direction. The Investigation Committee subsequently extended the start date of its inquiries to 1936, while the relevant period for the Confidential Committee was

⁴⁵ Ibid, pp 19-20, § 9-16.

⁴⁶ CICA Act, § 1 (1)d.

⁴⁷ *McAleese Report*, p. 20, § 16-18.

⁴⁸ Ibid, pp 6-7, § 6-8.

⁴⁹ Ibid, pp 8-9, § 12-17.

⁵⁰ CICA Act, § 1 (1)d.

between 1914 and 2000, representing the earliest and latest dates referred to by witnesses.⁵¹ It was recorded that most complaints ‘came from the period during which largescale institutionalisation was the norm’, covering the period from the publication of the Cussen Report in 1936 to the Kennedy Report in 1970, leading to an unintended focus on this era.⁵²

To aid the truth-recovery process, the CICA was established as a statutory commission and was granted ‘all such powers as are necessary or expedient for the performance of its functions’.⁵³ These were further defined as ‘all such powers, rights and privileges as are vested in the High Court’.⁵⁴ While a non-statutory commission could ‘do good work’ in providing a forum for survivors to recall their experiences, the CICA required powers to compel witnesses from religious congregations and orders, government departments, and health boards to attend hearings and produce evidence, lest ‘its edge [...] be greatly blunted’.⁵⁵ With ‘non-coercive participation’ an agreed principle of restorative justice mechanisms, however, in affording the CICA statutory powers the state undermined the therapeutic objective of the inquiry.⁵⁶ Although free to determine the terms of its mandate, the McAleese Committee was, in contrast, restricted by its status as a non-statutory inquiry. Conscious that many of the Magdalen laundry survivors were elderly, and undoubtedly reflecting on the protracted work of the CICA, Labour Party TD, Kathleen Lynch, stressed that the government was confident that a non-statutory examination of the laundries would not only be ‘much quicker’ and ‘less costly’, but would also prove ‘equally, if not more effective’ than a statutory inquiry.⁵⁷ While government departments and state agencies were required to assist the McAleese Committee in their investigations, cooperation from other organisations, including the religious congregations, was neither mandatory nor, indeed, guaranteed.⁵⁸

The McAleese Committee highlighted that, although participation in its investigations was voluntary, it received the ‘highest levels of cooperation’ from a large number of organisations

⁵¹ *Ryan Report*, I, p. 5, § 1.19.

⁵² *CICA: Executive Summary*, p. 2.

⁵³ *Ryan Report*, I, p. 1, § 1.04; CICA Act, § 4 (3).

⁵⁴ CICA Act, § 14 (6); under the Irish Constitution, the confidentiality of discussions at meetings of the government ‘shall be respected in all circumstances save only when the High Court determines that disclosure should be made in respect of a particular matter’, either in the interests of the administration of justice, or by ‘virtue of an overriding public interest’ (*Constitution of Ireland, 1937* (<http://www.irishstatutebook.ie/eli/cons/en/html>) (27 August 2020), article 28, § 4 (3)).

⁵⁵ *Irish Times*, 12 May 1999.

⁵⁶ Anne-Marie McAlinden and Bronwyn Naylor, ‘Reframing public inquiries as “procedural justice” for victims of institutional child abuse: towards a hybrid model of justice’ in *Sydney Law Review*, 38, no. 3 (2016), p. 281; Ryan, *Review of the CICA*, p. 7, § 1.9.

⁵⁷ *Dáil Éireann* (25 September 2012), vol. 775, no.3.

⁵⁸ McAleese, *Interim Report*, p. 3, § 12.

and individuals. The McAleese Report recorded that the sisters responsible for operating the laundries offered ‘full and generous assistance to the Committee, despite being under no legal obligation to do so’.⁵⁹ It was reported that the archives of the religious congregations were opened ‘fully and without restriction’ to the McAleese Committee, a significant development, indeed, given the religious sisters’ previous (and continued) reluctance to allow researchers and individuals access to their records.⁶⁰ An examination of the documents held by the sisters was, by the committee’s own admission, a ‘critical factor in the success’ of its work, as ‘no other information source could have provided an equivalent overview’ of the size of the populations in question, routes of entry, or the ‘relative patterns of stay’.⁶¹ Given their non-statutory footing, the McAleese Committee had no further recourse to obtain the required information if the congregations chose not to cooperate, nor any means of determining with certainty that all relevant material was surrendered.

Fair hearings and open invitations: the attitude of the CICA and McAleese Committee towards potential witnesses

Amongst the ‘plethora of child protection’ inquiries of the 1990s and early-2000s, and, again, in contrast to the McAleese Committee, the Irish Child Abuse Commission was unique for its distinctive two-committee approach.⁶² The CICA was comprised of a non-adversarial Confidential Committee, established to listen to, but not to investigate, allegations of institutional child abuse before drawing general conclusions. A second Investigation Committee was tasked with examining individual cases of abuse through an analysis of documentary material and witness testimony, with both complainants and respondents subjected to cross-examination as part of a hearing process.⁶³ The two-committee approach reflected the CICA’s dual function and the challenges it faced meeting both its investigative and therapeutic objectives. However, both arms of the CICA were required to prioritise their ‘telling and listening function’; while the Confidential Committee was considered ‘overwhelmingly therapeutic’, the Investigation Committee was established on the basis that its ‘therapeutic role will have grafted onto it an investigative role in the interests of establishing

⁵⁹ *McAleese Report*, p. 64, § 58-60.

⁶⁰ *Ibid*, p. 51, § 3.

⁶¹ *Ibid*, p. 65, § 62.

⁶² Fred Powell, Martin Geoghegan, Margaret Scanlon and Katharina Swirak, ‘The Irish charity myth, child abuse and human rights: contextualising the Ryan Report into care institutions’ in *British Journal of Social Work*, 43, no. 1 (2013), p. 13.

⁶³ *Ryan Report*, I, pp 3-4, § 1.07-13.

the truth’.⁶⁴ The rationale for establishing two committees was not, therefore, immediately apparent.

The composition of the CICA ultimately ensured that the inquiry was an accessible, if not an inviting, prospect for potential witnesses. As the Minister for Education and Science, Michael Woods, explained, the Confidential Committee was established to ‘meet the needs of those victims who want to speak of their experiences but who do not wish to become involved in an investigative procedure’.⁶⁵ Historically, ‘fear, shame, guilt, and loyalty to family and carers’, as well as an expectation that they would not be believed, militated against children in Ireland’s institutions disclosing abuse at the time it occurred.⁶⁶ For many, these concerns persisted into adulthood, as they described lives ‘blighted by childhood memories of fear and abuse’.⁶⁷ This may have prevented many survivors from engaging in an investigative process through fear that their experiences would be exposed and their allegations interrogated and potentially denied. Recent studies have observed the negative effects of childhood abuse on mental health in adult survivors, with cases of depression, post-traumatic stress disorder, and anxiety particularly common.⁶⁸ Inquiries such as the CICA must therefore weigh the benefits of clarifying the nature of abuse and acknowledging the survivor experience against the risk of re-traumatising witnesses and impeding their recovery. The formation of a non-confrontational Confidential Committee thus opened up the inquiry process to a number of survivors who, wishing to avoid the rigours of an adversarial investigation, may not have otherwise engaged with the commission.

The CICA initially assured the survivors that ‘every person’ who wished to give evidence would ‘get a hearing before the Committee of his or her choice’.⁶⁹ Unlike the respondents from the church and state, these witnesses were entitled to withdraw from the process or transfer to the other committee at any stage.⁷⁰ Prior to attendance, applicants to the Confidential Committee were sent a detailed information pack to assist in their preparations, while a witness support programme was also in place.⁷¹ Potential witnesses were informed that the hearings

⁶⁴ *Dáil Éireann* (9 March 2000), vol. 516, no. 2, col. 293.

⁶⁵ *Ibid.*

⁶⁶ *Ryan Report*, III, p. 395, § 19.18.

⁶⁷ *Ibid.*, III, p. 395, 19.16.

⁶⁸ Brigitte Lueger-Schuster, Asisa Butollo, Yvonne Moy, Reinhold Jagsch, Tobias Glück, Viktoria Kantor, Matthias Knefel and Dina Weindi, ‘Aspects of social support and disclosure in the context of institutional abuse - long-term impact on mental health’ in *BMC Psychology*, 3:19 (2015), p. 2.

⁶⁹ *CICA: first interim report*, p. 23, § 18.

⁷⁰ *CICA Act*, § 19.

⁷¹ *CICA: first interim report*, p. 16, § 9.

would be conducted in a private and informal setting, while evidence was submitted on the basis that neither the witness nor the accused would be named or identifiable. Only documentary material supplied by the witnesses to support their testimony was consulted and all evidence was uncontested.⁷² Witnesses could choose, furthermore, to be accompanied to their hearing by a relative, friend, or carer, and were encouraged to give evidence in their own way, speaking as briefly or in as much detail as they wished.⁷³

When scheduling hearings, priority was given to elderly witnesses and those in poor health. Where witnesses were unable to travel to the CICA offices in Dublin, hearings were arranged outside the capital and, in some cases, overseas. For example, hearings were held in the place of residence of witnesses who were house-bound through illness or disability, and the evidence of three witnesses was heard in Irish prisons. In addition, seventy-five hearings were conducted in the United Kingdom, two in the United States, and two in mainland Europe.⁷⁴ The Confidential Committee thus demonstrated significant commitment to accommodating all witnesses who wished to engage with the process and must be commended for ensuring that the survivors were able to provide their testimony in a comfortable and, as far as possible, stress-free environment. Indeed, for those who previously lacked ‘a trusted support network of adults and peers’ to whom they could disclose their experiences, the Confidential Committee offered a sympathetic forum in which they could, as adults, reflect on and discuss the emotional, physical, and sexual abuse they endured.⁷⁵

Witnesses invited to appear before the Investigation Committee faced a more strenuous process as the hearings bore greater resemblance to criminal trials than the principally therapeutic sessions organised by the Confidential Committee. Although conducted *in camera*, the witness hearings of the Investigation Committee were typically attended by ‘a large number of persons at very considerable cost’ to the state.⁷⁶ During the course of their inquiries, the CICA appealed to the High Court to limit the number of lawyers present at the private hearings as they believed this would assist complainants giving evidence regarding sensitive or private matters. The proposal was rejected, however, as it was considered to be ‘an interference with the

⁷² *Ryan Report*, III, pp 7-8, § 2.03-05; *ibid*, III, p. 13, § 2.27.

⁷³ *Ibid*, III, pp 12-13, § 2.22-5.

⁷⁴ *Ibid*, III, p. 11, § 2.18-20.

⁷⁵ Sarah Caprioli and David Crenshaw, ‘The culture of silencing child victims of sexual abuse: implications for child witnesses in court’ in *Journal of Humanistic Psychology*, 57, no. 2 (2017), p. 192.

⁷⁶ Hearings were attended by the complainant and respondent; senior and junior counsel and a solicitor for the complainant; similar representation for the respondent; three members of the Investigation Committee’s legal team; two senior members of the religious congregation; the Investigation Committee chairperson and two commissioners; as well as registrar, stenographer, and sound engineer (*Ryan Report*, I, pp 61-2, § 5.05).

constitutional rights of the respondents and [church] Congregations’, thus, in this instance, demonstrating greater concern for the rights of the accused than for the welfare of the complainants.⁷⁷

The Ryan Report nevertheless acknowledged that the hearings were a daunting prospect for the witnesses, many of whom it is likely sought to speak openly about their experiences for the first time. As such, the Investigation Committee ‘tried to make the occasion as informal as possible’. The CICA subsequently expressed its appreciation for ‘the manner in which the lawyers for all the different interests conducted themselves in the hearings’, yet failed to specify what steps were taken to improve the process for complainants.⁷⁸ Testimony from participants suggests, furthermore, that efforts to ensure the witnesses were comfortable were unsuccessful. As a former witness remarked, he engaged with the inquiry ‘hoping it would take a load off my mind’, but instead equated the experience with attending ‘the Supreme Court in Dublin’.⁷⁹ Reflecting on the CICA ten years after the publication of its report, Laffoy similarly concluded that the Investigation Committee hearings were ‘fought like a legal battle’.⁸⁰

Potential witnesses were offered advance warning of the adversarial nature of the Investigation Committee’s work. The information booklet sent out to witnesses explained, for example, that in selecting to appear before the Investigation Committee, complainants were required to accept that this involved ‘giving any person(s) or institution(s) you accuse the right to advance notice of what you have to say’, to ‘question you if they wish to do so’, and to offer ‘alternative evidence to contradict your evidence’. Complainants were subsequently advised that the Confidential Committee ‘may be the right one’ for them if their ‘main wish is to have [their] experiences heard in a sympathetic atmosphere by experienced people who will understand’ them.⁸¹ The work of the Investigation Committee thus fell outside the parameters of ‘restorative justice’; a term, while contested, that is ‘generally applied to non-adversarial processes’ which aim to restore victims and offenders through ‘mediated encounters’.⁸² For survivors who struggled to come to terms with or discuss their experiences of institutional child abuse, it is likely that the prospect of the Confidential Committee was therefore more attractive than the Investigation Committee, potentially limiting the total number who sought to have

⁷⁷ Ibid, I, p. 61, § 5.05.

⁷⁸ Ibid, I, p. 62, § 5.06.

⁷⁹ M. O’Brien in ‘Redress: breaking the silence, episode 1’, *RTÉ One* (2 March 2020) (<https://www.rte.ie/player>) (17 March 2020).

⁸⁰ Mary Laffoy, *ibid*.

⁸¹ *Ryan Report*, III, p. 421, appendix 7.

⁸² McAlinden and Naylor, ‘Reframing public inquiries’, p. 281.

their cases investigated in full. The existence of the Confidential Committee thus allowed the Ryan Report to conclude that all available witnesses had been heard, and each type of institution addressed, without the need to conduct potentially lengthy and expensive investigations into every allegation of abuse.

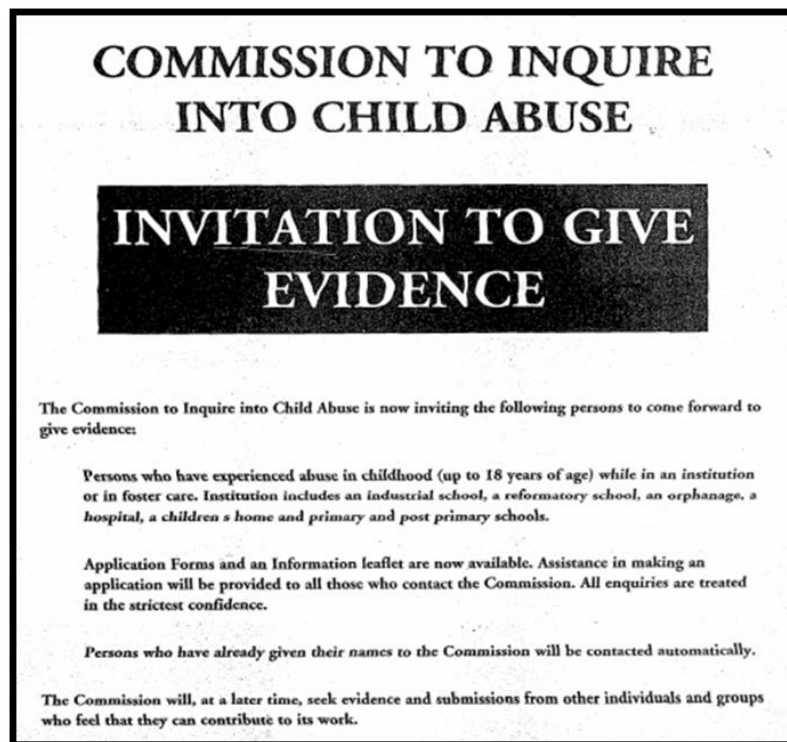


Illustration 2. *Munster Express*, 7 July 2000.

The CICA issued an open invitation to participate in the inquiry, highlighting its aims through an intensive advertising campaign in Ireland and the UK (see, illustration 2). Information about the inquiry was also disseminated through the work of survivor groups and professionals involved with victims of institutional child abuse, such as social workers and counsellors.⁸³ In light of the widespread nature of the Irish diaspora this was, however, a narrow approach, and similar advertisements should have been carried in other international newspapers, particularly those circulated in the US and Australia. In contrast, reflecting the inquiry's focus on obtaining documentary evidence and its administrative rather than therapeutic aim, the McAleese Committee did not issue a public invitation for survivors to come forward and discuss their experiences of the Magdalen laundry system. The McAleese Report recorded that the committee nevertheless approached the CICA secretariat and requested that they reach out to

⁸³ CICA: *first interim report*, p. 14, § 8.

any women who had previously provided testimony about the Magdalen laundries.⁸⁴ However, in the minutes of a meeting of the McAleese Committee obtained by the *Irish Examiner*, this claim was ‘completely contradict[ed]’. It was revealed that the CICA and McAleese Committee instead agreed that neither the CICA nor the Residential Institutions Redress Board would attempt to contact these witnesses due to the ‘number of difficulties, in particular in relation to privacy issues’ this might present.⁸⁵ It was therefore misleading for the McAleese Report to record that this request was made of the CICA without noting that this approach was eventually abandoned.

For JFM, the lack of publicity regarding the processes of the McAleese Committee failed ‘to take into consideration the silence and particular sexual stigma’ surrounding the Magdalen laundries which prevented many survivors from approaching the committee without ‘a public signal from the Committee that it is calling for, and thereby validating, survivor testimony’.⁸⁶ The survivor group also concluded that it was ‘unacceptable’ to rely on a committee consisting of state representatives, and tasked with investigating potential state failings, to ‘seek out experts and others with knowledge’. They feared the ‘lack of transparency with regard to soliciting expert opinion’ would lead to a limited or, indeed, revisionist history of the Magdalen laundries. They were, for example, ‘aware [...] of scholarship’ that suggested that throughout the twentieth century, as in the previous century, women came and went freely from the laundries. Without naming particular texts, JFM also argued that some accounts of the Magdalen laundry system dated positive changes to the 1950s and 1960s, rather than the 1970s onwards, thereby ‘minimising the era when these institutions were most exploitative’.⁸⁷ Historians in the fields of institutional and women’s history provided the McAleese Committee with insight into the operation and context of the Magdalen laundries, including Maria Luddy and Frances Finnegan, as well as the Holy Faith Sister, Jacinta Prunty. However, James M. Smith, associate professor of English and Irish studies at Boston College, and author of the preeminent text, *Ireland’s Magdalen Laundries and the nation’s architecture of containment*, was not listed as an expert witness, but instead engaged with the committee through his work with JFM.⁸⁸

⁸⁴ *McAleese Report*, pp 990-1, § 154.

⁸⁵ *Irish Examiner*, 24 August 2013.

⁸⁶ *JFM, Follow-up report to UNCAT*, p. 23, § 5.12.2.

⁸⁷ *Ibid*, pp 23-4, § 5.12.13-4.

⁸⁸ *McAleese Report*, pp 68-9, § 79.

McAleese nevertheless stressed that ‘there are no pre-determined conclusions’ and that the committee would give ‘fair hearing to any bodies or groups which wish to input to its work’.⁸⁹ Although the McAleese Committee was not mandated to investigate or provide an apology or redress in individual cases, the McAleese Report claimed that ‘the voice and experience’ of those who lived and worked in the Magdalen laundries ‘was of crucial importance’ to its work.⁹⁰ As such, submissions from relevant bodies, including advocacy and representative groups, as well as individuals or members from the religious congregations were ‘facilitated’ where they assisted the committee ‘in coming to a fuller view on the facts of State involvement in the Magdalen Laundries’.⁹¹ The McAleese Report subsequently recorded that the committee ‘from the outset [...] fully engaged with a number of groups organised for the women who had spent time’ in the laundries. More specifically, the committee met with a small number of survivors and accepted submissions from the advocacy group JFM, as well as from the representative groups Irish Women Survivors Network (UK), which supports and campaigns for UK-based survivors of institutional abuse, and Magdalene Survivors Together.⁹²

The early difficulties of the CICA and Laffoy’s Resignation

Unlike the McAleese Committee, the CICA’s success was contingent on the high-level participation of those who experienced the country’s residential institutions first-hand. At the expiration of the CICA’s final application deadline in June 2002, complainant statements had been provided to the Investigation Committee in respect of approximately 1,800 complaints,⁹³ while a total of 1,541 people applied to give evidence to the Confidential Committee.⁹⁴ Due to its non-adversarial approach, the Confidential Committee was in a position to begin its inquiries promptly. The committee received its first witness in September 2000, and, by 2006, 1,090 witnesses had been heard, with over 2,000 hours of evidence recorded.⁹⁵ The report of the Confidential Committee was subsequently based on the direct evidence of 1,014 survivors who were within the commission’s remit.⁹⁶ The process initially adopted by the Investigation

⁸⁹ McAleese, *Interim report*, p. 3, § 13.

⁹⁰ *McAleese Report*, p. 67, § 73.

⁹¹ McAleese, *Interim report*, p. 5, § 23; *Ibid*, p. 9, § 49.

⁹² *McAleese Report*, p. 66, § 70.

⁹³ *CICA: third interim report*, p. 14.

⁹⁴ This figure includes 319 individuals who transferred from the Investigation Committee (Comptroller and Auditor General, *Cost of child abuse inquiry*, p. 21, § 2.9, figure 2.2).

⁹⁵ *Ryan Report*, III, p. 11, § 2.21.

⁹⁶ *Ryan Report*, III, p. 10, § 2.17; witnesses who fell outside the remit included those aged more than eighteen at the time the abuse occurred, or who described abuse which did not take place in a relevant institution, others

Committee was more complex, however, and its progress was considerably slower. This involved a first phase preliminary inquiry into each allegation of abuse followed by a private hearing. In the second phase, it conducted an investigation through public hearings into each institution to establish the context in which the abuse occurred and to attribute responsibility. The Investigation Committee also sought to determine the broader legislative, historical, and social context of the abuse through additional ‘research projects’.⁹⁷

The CICA remains unique among Irish abuse inquiries for selecting to conduct public hearings.⁹⁸ The Ferns inquiry, for example, was carried out by a non-statutory commission ‘sitting in private’, which was then deemed to be ‘the most effective form of Inquiry’.⁹⁹ Although the Ferns, Murphy, and Cloyne inquiries represented a ‘missed opportunity [...] to empower survivors and enable public catharsis’, the decision to hold private hearings reflected concerns surrounding witness confidentiality in light of the ‘vulnerable persons’ involved and the ‘potential defamatory nature’ of the allegations made.¹⁰⁰ Indeed, the CICA’s approach, and the significant workload associated with each phase of its inquiries, led the Investigation Committee to record with ‘considerable regret’ in December 2003 that fewer than three per cent of complainants had been afforded any form of hearing.¹⁰¹ These delays were the result of a number of obstacles and setbacks which plagued the CICA and ultimately led to the resignation of Laffoy in September of that year.¹⁰²

During the second public sitting of the CICA in July 2000, for example, concerns were raised by survivor groups, their solicitors, and the legal advisers acting on behalf of the managers of institutions about the availability and potential cost of legal representation at the proceedings of the Investigation Committee. The CICA subsequently proposed that individual legal representation should be granted to all complainants and respondents, with expenses defrayed in accordance with a scheme established by the Minister for Education.¹⁰³ However, by the following public sitting of the commission in September 2000, the Department of Education and Science had not presented a viable system for the payment of legal expenses, leading the

whose experiences of abuse did not fall within the definition outlined in the 2000 and 2005 CICA acts, and those who were unable to give a ‘sufficiently coherent account’ of their evidence (ibid, III, p. 10, 2.16).

⁹⁷ Mary Laffoy, ‘Opening statement delivered at first public sitting of the Commission to Inquire into Child Abuse 29 June 2000’, *CICA: third interim report*, appendix A, p. 242, §10.

⁹⁸ *Irish Examiner*, 19 May 2019.

⁹⁹ *Ferns Report*, p. 8.

¹⁰⁰ *Irish Examiner*, 19 May 2019.

¹⁰¹ *CICA: third interim report*, p. 74.

¹⁰² Mary Laffoy ‘Letter of Resignation’, reproduced in *Irish Times*, 8 September 2003.

¹⁰³ *CICA: first interim report*, pp 3-4, § 5.

CICA to express its disappointment that the state did not demonstrate ‘more obvious willingness [...] to speedily address issues which were then impeding the effective conduct of its statutory powers’. In May 2001, the department partially removed this obstacle and announced plans to provide for the costs of legal representation at the first phase hearings of the Investigation Committee. While this development was welcomed, the department’s delay in establishing a scheme was considered ‘unnecessary and potentially damaging to the credibility and independence of the Commission’.¹⁰⁴

Concerns surrounding the CICA’s independence, and, more specifically, the role of the Department of Education in its inquiries, ultimately undermined the work of the Investigation Committee. Although the CICA consisted of child welfare experts who were independent of the church and state, its work was funded by the Exchequer through a sub-head in the vote of the Department of Education.¹⁰⁵ This department was, in effect, the CICA’s sponsor and it was acknowledged that ‘while, by statute, the Commission is independent in the performance of its functions, it is reliant on the Minister [for Education] for the resources to enable it to perform those functions’.¹⁰⁶ Ninety-one per cent of complaints received by the CICA related to institutions over which the Department of Education claimed regulatory responsibility. It was, therefore, considered the ‘major player’ as regards the CICA’s mandate to ‘determine the extent to which systems of supervision, inspection and regulation of institutions’ contributed to the occurrence of abuse.¹⁰⁷

For many survivors, the role of the Department of Education in the work of the commission ‘constituted an unacceptable conflict of interest’.¹⁰⁸ For example, the support group Survivors of Child Abuse (SOCA) recognised the department as an ‘indictable party’ and objected to the CICA being ‘under its control’, as ‘it was a bit like having an inquiry into smoking deaths controlled and paid for by the tobacco industry’.¹⁰⁹ Labour Party TD, Jan O’Sullivan, similarly remarked that there was ‘too close a tie’ between the department responsible for the inquiry’s resourcing needs and those under investigation; ‘there is a sense that this is not right, that there needs to be [...] more of an objective separation’. The Minister for Education and Science,

¹⁰⁴ Ibid, p. 8, § 7.

¹⁰⁵ *CICA: third interim report*, p. 29.

¹⁰⁶ Ibid, p. 26.

¹⁰⁷ Ibid, p. 151.

¹⁰⁸ *CICA: first interim report*, p. 5, § 5.

¹⁰⁹ *Irish Examiner*, 20 September 2003; SOCA, comprised of Irish SOCA and SOCA UK, was established in the wake of the Taoiseach’s apology during a meeting of industrial school survivors in London in 1999. The support group assisted survivors in accessing information and legal advice (*Ryan Report*, I, p. 29, § 1.152).

Noel Dempsey, reassured the Dáil that the officials in the department who engaged with the commission were ‘only compiling documents’ and were not ‘involved in the investigation per se’. Dempsey stated, furthermore, that he was ‘not aware’ of any allegations of abuse being directed against individuals involved in this work.¹¹⁰ Nevertheless, the history of the CICA from its establishment in 2000 until Laffoy’s resignation in September 2003 suggests that its work was significantly hindered by the department’s slow and uncooperative response to various requests, both as statutory sponsor and respondent.

The Department of Education failed, for example, to provide the Investigation Committee with the additional resources requested by Laffoy to meet the inquiry’s expanding needs. With a plan for the payment of legal expenses in place, the CICA issued a second public invitation for survivors to engage with the commission in May 2001. The response was considerable, with requests to participate increasing from 1,238 in April to 3,149 by July that year.¹¹¹ Of those, 1,957 applied to testify before the Investigation Committee, representing a growth of approximately 175 per cent. The CICA subsequently sought more resources ‘in order to cope’ with this increase. Approval was granted for the addition of a full-time commissioner and witness support officer to assist the Confidential Committee, and two inquiry officers working full-time on preliminary inquiries for the Investigation Committee.¹¹² In response to early witness testimony, the CICA also increased its workload by embarking on an additional inquiry into the ‘circumstances, legality, conduct, ethical propriety and effects’ of specified vaccine trials conducted in institutions in 1960-61, 1970, and 1973.¹¹³ At this stage, the CICA was also permitted to employ extra personnel as required to carry out the vaccine trial investigations.¹¹⁴

At the expiration of the deadline for written submissions in June 2002, the Investigation Committee requested further resources to enable it to carry out its investigation within the timeframe permitted.¹¹⁵ Laffoy predicted that if they continued their work with existing staff levels, they would require a further seven to ten years to complete phase one of the investigation.¹¹⁶ The CICA resolved instead to adopt a modular approach. This involved the

¹¹⁰ Joint Committee on Education and Science, *Commission to Inquire into Child Abuse: Ministerial Presentation* (29 September 2003).

¹¹¹ Mary Laffoy, *Commission to Inquire into Child Abuse: second interim report* (Dublin, 2001), p. 2, § 2.

¹¹² *Ibid.*, pp 5-9, § 4-5.

¹¹³ *CICA: third interim report*, p. 1; the additional functions were conferred on the Commission by the Commission to Inquire Into Child Abuse Act, 2000 (Additional Functions) Order, 2001 (280/2001) (19 June 2001), § 3-4.

¹¹⁴ *CICA: second interim report*, p. 13, § 8.

¹¹⁵ *CICA: third interim report*, pp 13-14.

¹¹⁶ Mary Laffoy, ‘Request for additional resources’, *CICA: third interim report*, appendix D, p. 333.

Investigation Committee sitting in a number of divisions, simultaneously hearing from complainants who were grouped together by institution or institution type. The committee's earlier method of scheduling individual private hearings for complainants was, therefore, discontinued.¹¹⁷ Despite the Investigation Committee's new approach, Laffoy stressed that, should the CICA be denied the resources requested, 'the Commission simply cannot do the job it has been mandated by the Oireachtas to do'.¹¹⁸ Given the antiquity of the events under investigation and the advanced age of many witnesses, Laffoy highlighted that the commission's difficulties would only increase with the passage of time as potential witnesses died, became incapacitated, or could no longer be traced.¹¹⁹ This would undermine the CICA's pledge to offer a platform for all those who wished to share their experiences of institutional abuse.

In December 2002, six months after the CICA's initial request, the state 'agreed in principle' to the provision of additional resources.¹²⁰ However, the government also launched a review of the CICA's terms of reference in order to determine new legislation which would allow the Investigation Committee to carry out its work without 'being required to conduct an investigation in relation to every allegation of abuse'.¹²¹ Any procedural and substantive changes would be introduced 'with a view to facilitating a speedier and less costly discharge' of its mandate, as the government estimated that the legal costs of the CICA would otherwise be 'of the magnitude of €150-200 million'.¹²² The review would not, they insisted, 'encompass any changes that would limit or reduce' its remit 'in relation to investigating the responsibility of the State' and, more particularly, the Department of Education.¹²³ The CICA concluded that it had been left with 'no option but to wind down operations' pending the results of the review, which entered a second phase in July 2003.¹²⁴ This was undoubtedly a frustrating development for many witnesses who, having undergone the potentially traumatic experience of presenting evidence to the Confidential Committee, could not expect their testimony to be addressed until the Investigation Committee completed its work.

¹¹⁷ *CICA: third interim report*, pp 26-7.

¹¹⁸ Mary Laffoy, 'Letter of 3rd October from the Commission to the Department', *CICA: third interim report*, appendix D, p. 327.

¹¹⁹ *CICA: third interim report*, pp 27-8.

¹²⁰ *Ibid*, p. 17.

¹²¹ John Dennehy, 'Letter of 13th December, 2002 from the Department to the Commission', *CICA: third interim report*, appendix D, p. 342.

¹²² Noel Dempsey, 'Press statement from the Minister for Education and Science' (December 2002), *CICA: third interim report*, appendix D, p. 344.

¹²³ *CICA: third interim report*, p. 24.

¹²⁴ *Ibid*, p. 27.

For many survivors it was evident that ‘every half yard’ had been ‘fought over in the Commission’s dealings with the Department of Education’.¹²⁵ The department’s delayed and at times ambiguous response to the request for additional resources, as well as its handling of the issue of legal representation, ultimately led Laffoy to conclude that the commission ‘had never been properly enabled by the Government to fulfil satisfactorily the functions conferred on it by the Oireachtas’.¹²⁶ In September 2003, Laffoy advised the Secretary General, Dermot McCarthy, of her intention to resign from the CICA.¹²⁷ The High Court Judge expressed a ‘real and pervasive sense of powerlessness’, highlighting that her work had been undermined by ‘a range of factors over which the Commission has had no control’. The prolongation of the government review was merely the latest in a series of events which had impeded the commission in completing its mandate in a timely fashion, and had ‘negatived [sic] the guarantee of independence [of the CICA] in the performance of its functions’. The CICA was ‘in effect, stymied in relation to its statutory functions’ and, in a practical sense, ‘rendered powerless’.¹²⁸

Dempsey subsequently expressed his and the government’s ‘considerable surprise’ at Laffoy’s decision.¹²⁹ Commenting almost two decades later, Bertie Ahern similarly stated that he ‘never quite understood’ what his government had done to ‘make life difficult’ for Laffoy.¹³⁰ For others, her resignation was not so unexpected. O’Sullivan expressed her frustration that, four years on, Ahern’s apology to the victims of institutional child abuse ‘must ring hollow’ as there had been ‘very little, if any, meaningful addressing of their problems’. However, while ‘no one in Government’ denied that there had been delays, the Minister for Education and Science objected to the suggestion that there was a ‘deliberate plot to undermine the independence of the commission’. Dempsey also rejected suggestions that mounting costs were ‘at the heart’ of the decision to conduct a review of the CICA, and emphasised that the government’s primary concern was to ensure that the victims of abuse received ‘a resolution to their difficulties and pain as quickly as possible’.¹³¹

Writing for the *Sunday Independent*, Gene Kerrigan similarly concluded that there was ‘no evidence that the Government, for some sinister reason, deliberately set out to demolish’ the

¹²⁵ *Irish Independent*, 4 September 2003.

¹²⁶ Laffoy, ‘Letter of Resignation’.

¹²⁷ *Irish Independent*, 10 September 2003.

¹²⁸ Laffoy, ‘Letter of Resignation’.

¹²⁹ Joint Committee on Education and Science, *CICA: Ministerial Presentation*.

¹³⁰ Bertie Ahern in ‘Redress: breaking the silence, episode 1’, *RTÉ One*.

¹³¹ Joint Committee on Education and Science, *CICA: Ministerial Presentation*.

inquiry. Unlike Dempsey, however, Kerrigan argued that the government nevertheless ‘crippled’ the Laffoy Commission in an effort to cut costs in line with the Cabinet’s ‘obsession with “value for money”’.¹³² Fine Gael TD, Olwyn Enright, also suggested that the government, preoccupied with issues of finance, ‘mishandled the commission from the start’.¹³³ Indeed, prior to his appointment as Laffoy’s successor, Ryan was requested by the government to undertake an additional review of the CICA and to make recommendations for the future of the commission having regard to the interests of the survivors but also to ‘the requirement to complete the Commission’s work within a reasonable timeframe [...] so as to avoid exorbitant costs’.¹³⁴ Issues of finance, rather than deliberate obstruction, thus caused much of the delay.

On 26 September 2003, the Minister for Education and Science named Ryan, then a newly-appointed High Court Judge, as the CICA’s new chair. In January 2004, Laffoy officially stood down. Despite the considerable time and energy she invested in the CICA, the Ryan Report addressed Laffoy’s time as head of the commission only briefly and did not detail the difficulties the Investigation Committee faced during her tenure or the issues that ultimately led to her resignation.¹³⁵ Deriving its popular name from the CICA’s second chair, thus failing to acknowledge Laffoy’s significant contribution, the Ryan Report focused on the approach of the CICA from March 2004 onwards. It therefore discussed the changes to the commission’s work after Laffoy’s resignation without addressing the events that prompted them, ultimately presenting an incomplete history of the commission and limited explanation for its approach.

A ‘cull’ of witnesses: refocussing the efforts of the CICA¹³⁶

Ryan acknowledged that the task of the Investigation Committee was ‘formidable by any standards’.¹³⁷ Its problems, he argued, were ‘created by excessive ambition’ and the legal demands of fair procedure, which had stretched the inquiry’s resources to ‘breaking point’.¹³⁸ Ryan highlighted that the committee was required to investigate evidence presented by ‘some 1,712 complainants over a period of sixty years’, many of whom named multiple abusers across several institutions. Consequently, by the time the Investigation Committee suspended its work

¹³² *Sunday Independent*, 14 September 2003.

¹³³ *Dáil Éireann* (1 October 2003), vol. 571, no. 2, col. 913.

¹³⁴ *Ryan Report*, I, p. 5, § 1.21.

¹³⁵ *Ibid*, I, p. 5, § 1.20-1; Laffoy is named in the Ryan Report on just five occasions.

¹³⁶ *Irish Times*, 16 January 2004.

¹³⁷ Ryan, *Review of the CICA*, p. 20, § 3.1.

¹³⁸ *Ibid*, pp 72-3, § 9.1-4.

in 2003, hearings had been completed in the case of just twenty-one complainants.¹³⁹ Ryan calculated that, if each remaining complainant was granted half a hearing day, it would take ‘more than four years’ to complete the Investigation Committee hearings. ‘The situation’ he concluded, was ‘unsatisfactory and the prospect unacceptable’.¹⁴⁰

Ryan’s appointment represented a pivotal moment in the history of the CICA. The stability of a commission is widely acknowledged as a marker of the effectiveness of an inquiry. For example, the resignation, after just two years in the late-2010s, of three chairs and the lead counsel from the UK’s Westminster Inquiry into child sexual abuse was heavily and publicly criticised, and the commission’s credibility has been questioned.¹⁴¹ Indeed, resignations can lead to a loss of confidence in the ability of a commission to meet the terms of its mandate and a number of changes under Ryan subsequently gave many commentators cause for concern. The state apology to the survivors in 1999, and the introduction of the 2002 redress scheme indicated that it was widely accepted that child physical, emotional, and sexual abuse occurred in Ireland’s twentieth-century residential institutions. However, in a 2004 address, Ryan stated that ‘the function of the [CICA] at its most basic is, as we see it, to find out whether child abuse took place’.¹⁴² This represented a disappointing backward step. For the outspoken critic of the CICA, Bruce Arnold, it was indeed an ‘absurd’ question given Ryan’s previous role as chair of the Compensation and Advisory Committee through which he proposed the terms of compensation to be adopted by the RIRB and thus demonstrated his acceptance ‘of the terrible and multiple wrongs done to [the] victims’.¹⁴³

Ryan’s description of the role of the CICA made no mention of the survivors or of the requirement to provide them with the opportunity to recall their experiences. The new chair was, indeed, particularly critical of the clause in the 2000 CICA act which afforded all complainants the right to ‘recount in full’ the abuse they suffered in front of the committee of their choice.¹⁴⁴ He suggested this represented an ‘error of judgement’ on the part of the government,¹⁴⁵ and was ‘arguably the [CICA’s] greatest stumbling block’.¹⁴⁶ Ryan noted that

¹³⁹ While written statements were received from 1,800 complainants by June 2002, Ryan’s review suggested this figure was reduced to 1,712 by the time Laffoy resigned in 2003 (ibid, pp 20-1, § 3.1-4).

¹⁴⁰ Ibid, pp 27-9, § 4.3-8.

¹⁴¹ Katie Wright, ‘Remaking collective knowledge: an analysis of the complex and multiple effects of inquiries into historical institutional child abuse’ in *Child Abuse and Neglect*, 74 (2017), p. 17.

¹⁴² Seán Ryan, *Address by the chairperson* (Dublin, 2004), p. 1.

¹⁴³ *Irish Independent*, 9 September 2004.

¹⁴⁴ CICA Act, § 4 (6)a.

¹⁴⁵ *Irish Times*, 16 January 2004.

¹⁴⁶ Ryan, *Review of the CICA*, p. 49, § 6.8.

the Investigation Committee was ‘considering hearing as many witnesses as to individual experiences of abuse *as is necessary* to reach a conclusion whether abuse happened’.¹⁴⁷ Previous attempts to reduce the number of hearings proved unpopular. In 2003, for example, the Attorney General recommended that the Investigation Committee select a sample of cases to examine that were ‘sufficiently wide, objective, and representative’.¹⁴⁸ Yet, in an opinion poll conducted that year by the *Irish Times*, sixty per cent of respondents stated that the CICA should investigate all complaints.¹⁴⁹ Similarly, in March 2004, the Investigation Committee’s legal team met with over twenty special interest groups to convince them of the ‘practical and logistical problems’ associated with hearing each case in full. The representatives, however, remained opposed to any form of sampling.¹⁵⁰

While a solution acceptable to all stakeholders remained elusive, there was nevertheless consensus as to the CICA’s problems, thus explaining, if not for all parties justifying Ryan’s efforts to streamline the investigative process.¹⁵¹ In July 2005, Ryan’s proposals for changes to the procedure of the Investigation Committee were incorporated into the Commission to Inquire into Child Abuse (Amendment) Act, bringing an end to the deadlock which had seen the committee ‘bogged down in adversarial hearings’ for over three years.¹⁵² The 2005 Act ensured that the right for complainants to recount their experiences of abuse in full was restricted to those who appeared before the Confidential Committee.¹⁵³ This removed the requirement to investigate, in depth, all cases that were presented to the Investigation Committee. Despite significant and widespread resistance to sampling, the Investigation Committee was permitted, furthermore, to select cases from larger institutions that would not proceed to a full hearing.¹⁵⁴ Ryan determined that if it was possible for the Investigation Committee to draw appropriate conclusions having heard from fewer complainants ‘we will do so because the hearing of individual complainants, while important and even vital, is not the end of the matter’. Indeed, the new chair issued a reminder that the CICA was not ‘an inquiry into specific allegations of child abuse’.¹⁵⁵

¹⁴⁷ Ryan, *Address by the chairperson*, p. 6, emphasis added.

¹⁴⁸ Ryan, *Review of the CICA*, p. 34, § 4.23.

¹⁴⁹ *Irish Times*, 27 September 2003.

¹⁵⁰ *Ryan Report*, I, p. 6, § 1.27-8.

¹⁵¹ *Ibid*, I, p. 6, § 1.31.

¹⁵² *Irish Times*, 11 May 2004.

¹⁵³ Commission to Inquire into Child Abuse (Amendment) Act, 2005 (17/2005) (9 July 2005), § 4.

¹⁵⁴ Sample cases were selected from Artane, Letterfrack, Ferryhouse, Upton Industrial Schools and Daingean Reformatory (*Ryan Report*, I, p. 7, § 1.37).

¹⁵⁵ Ryan, *Address by the chairperson*, p. 6.

Mirroring the attitude and approach that would later be adopted by the McAleese Committee, Ryan clarified that the CICA could not ‘promise or deliver an inquiry into each and every one of the abuses alleged by complainants’.¹⁵⁶ Cases would be selected on the basis of a preliminary interview with the complainant, during which it would be determined whether their allegations had a realistic prospect of being proven. Couched in terms of concern for the survivors, Ryan contended that it would be ‘unfair’ and ‘unreasonable’, as well as ‘impracticable [...] to put [the complainant] to the ordeal of being examined and cross examined in respect of allegations which were of such a nature as to be unlikely ever’ to offer conclusive proof that abuse occurred.¹⁵⁷ This included cases, for example, where the accused was dead, untraceable, or otherwise prohibited from appearing before the Investigation Committee. However, this also presented the committee with a means of discarding more difficult, and therefore time-consuming, cases which may nevertheless have proven valid and worthy of further examination.

It was anticipated that only a small number of complainants would be removed from the process on these grounds.¹⁵⁸ Yet, of the 314 complainants who initially applied to the Investigation Committee to discuss their experiences of Artane Industrial School, Dublin, just seventy-eight were invited for a hearing.¹⁵⁹ It is possible that a number of these witnesses withdrew from the inquiry or transferred to the Confidential Committee following Ryan’s appointment. As a first step in what the *Irish Times* controversially, although not unreasonably, described as a ‘cull’ of witnesses, the Investigation Committee wrote to all complainants to ascertain the number who wished to proceed with their application. The complainants were reminded that the Confidential Committee offered an alternative means of engaging with the inquiry and they were also advised that it was not necessary for them to appear before either the Investigation or Confidential Committee to obtain compensation.¹⁶⁰ As a result, 143 complainants from across all institutions withdrew their request to give evidence to the Investigation Committee and a further 174 transferred to the Confidential Committee.¹⁶¹

The CICA observed that there remained, nevertheless, a ‘substantial body of witnesses’ whose first choice was to participate in the work of the Investigation Committee and, in early 2005,

¹⁵⁶ Ibid, p. 6.

¹⁵⁷ Ryan, *Review of the CICA*, p. 51, § 6.11.

¹⁵⁸ Ibid, p. 51, § 6.11.

¹⁵⁹ Ibid, p. 38, § 5.9; *Ryan Report*, I, p. 110, § 7.35.

¹⁶⁰ *Irish Times*, 16 January 2004.

¹⁶¹ *Ryan Report*, I, p. 7, § 1.39.

the committee introduced an alternative interview process. All complainants from the three largest institutions – Artane, Letterfrack, and Daingean – who were not invited to give evidence before the Investigation Committee were subsequently afforded the opportunity to attend an interview with a member of the legal team. Complainants from the other institutions were also informed that they had the option to proceed with an interview, rather than an adversarial hearing, if they preferred. A total of 552 witnesses were subsequently interviewed by the Investigation Committee.¹⁶² While the CICA recorded that the interview process was ‘greatly valued’ by complainants, survivor groups were divided in their response.¹⁶³ For example, Buckley, representing the Aislinn Education and Support Centre, viewed the CICA’s new method as a form of sampling and questioned how the cases that moved forward to full hearings would be fairly selected.¹⁶⁴ Others threatened to boycott the inquiry process entirely.¹⁶⁵ Indeed, it is revealing that of forty-two complainants invited to give evidence via full hearings regarding their experiences of St. Joseph’s Industrial School, Tralee, only fifteen testified.¹⁶⁶ Similarly, of seventy-eight complainants invited to present their testimony as part of the inquiry into Artane Industrial School, just forty-eight did so.¹⁶⁷ The Ryan Report did not address the specific reasons for the withdrawal of these witnesses from the inquiry process or the impact on its findings.

Colm O’Gorman, of One in Four, stated that he understood the anger and disappointment expressed by some complainants following the introduction of Ryan’s reforms. He argued, however, that the changes were necessary as ‘constitutionally there is no other way forward’ and concluded that the CICA ‘as initially conceived, was never a realistic format’. Under Ryan, he concluded, the commission ‘found a new lease of life’.¹⁶⁸ There was, indeed, satisfaction to be gained from the fact that all remaining complainants had an opportunity to speak to the Investigation Committee or a member of its legal team and, as such, contribute to the public record. However, the new approach placed ease of process before the needs of individual

¹⁶² Ibid, I, p. 63, § 5.13-19; in a later chapter, the Ryan Report recorded that 493 witnesses were interviewed by the Investigation Committee’s legal team. The reason for this discrepancy was not addressed (ibid, IV, p. 431, § 5.01)

¹⁶³ *Ryan Report*, I, p. 63, § 5.19.

¹⁶⁴ Founded by Buckley and fellow industrial school survivor, Carmel McDonnell-Byrne, the centre, since renamed the Christine Buckley Centre for Education and Support, helps survivors of institutional child abuse come to terms with past trauma through educational and art therapy (Christine Buckley Centre for Education and Support (<https://www.aislinn.org/about>) (3 December 2020)).

¹⁶⁵ *Irish Times*, 19 January 2005.

¹⁶⁶ *Ryan Report*, I, pp 395-6, § 9.06-7.

¹⁶⁷ Ibid, I, p. 110, § 7.35.

¹⁶⁸ *Irish Examiner*, 24 March 2005.

witnesses as the CICA failed to fulfil its pledge to the complainants that they would be able to present evidence to the committee of their choice.

The introduction of an alternative interview programme also denied many complainants the chance to confront their abusers. Buckley stressed that ‘all [that] the people who go to the Investigative Committee want is to look their abusers in the face and ask them why they did what they did’.¹⁶⁹ Through an examination of survivor responses to criminal and public inquiry processes, research has highlighted the importance of affording complainants an opportunity to engage in ‘face-to-face encounters’ with the accused. This direct engagement encourages offenders to ‘appreciate the impact of their actions on victims’ and take responsibility for their wrongdoing, which can in turn ‘have a powerful therapeutic effect on victims’.¹⁷⁰ By limiting the opportunity for direct confrontation between perpetrators and survivors, the CICA deviated from the principal framework adopted by the South African TRC and other truth commissions, thus detracting from its ‘restorative potential’.¹⁷¹

The Investigation Committee Report did not offer a breakdown of the number of complainants who applied to give evidence to the committee or, indeed, the number who successfully did so. This lack of transparency has subsequently led to a degree of confusion among journalists and academics regarding the number of witnesses to the CICA. It is commonly reported that 1,090 individuals spoke to the commission about their experiences of abuse and neglect across roughly 200 institutions.¹⁷² These figures refer only to those who met with the non-investigative Confidential Committee and do not include witnesses to the Investigation Committee. A report produced by the comptroller and auditor general in 2016 confirmed that a total of 2,107 applications were made to the Investigation Committee. Of these, just 1,007 - fewer than half of the total applicants - were listed as having ‘proceeded’ with the inquiry process.¹⁷³ It can therefore be calculated that 2,097 survivors, or, in a small number of cases, their family members, engaged with the CICA in some capacity through the work of the Investigation and Confidential Committee combined.

¹⁶⁹ *Irish Times*, 19 September 2003.

¹⁷⁰ McAlinden and Naylor, ‘Reframing public inquiries’, p. 299.

¹⁷¹ Brennan, ‘Facing what cannot be changed’, p. 261.

¹⁷² For example, *Irish Examiner*, 19 May 2019; Sinead Pembroke, ‘Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme’ in *Contemporary Justice Review*, 22, no. 1 (2019), p. 44.

¹⁷³ Comptroller and Auditor General, *Cost of child abuse inquiry*, p. 21, § 2.9, figure 2.2.

‘No one should feel excluded’: discriminatory practices in the selection of witnesses¹⁷⁴

The Investigation Committee selected, furthermore, to examine only those institutions where the number of complainants was more than twenty.¹⁷⁵ ‘On analysis of the figures’ the vast majority of complaints were in respect of a relatively small number of institutions and individuals; of 1,712 complainants who wished to appear before the Investigation Committee at the time of Ryan’s appointment, it was reported that 1,312 made allegations in respect of just twenty institutions.¹⁷⁶ As such, while the Confidential Committee addressed allegations of abuse across 216 separate institutions, the Investigation Committee examined just twenty-two.¹⁷⁷ The institutions within the CICA’s remit varied considerably in size. While the majority of industrial schools examined by the Investigation Committee housed between 100-200 children, Artane industrial school was certified to accept over 800 boys by the end of the nineteenth century.¹⁷⁸ Smaller institutions that accepted fewer children may therefore have been unjustly overlooked as the pool of potential complainants was limited.¹⁷⁹ The question therefore arises whether ‘greatest number of complainants’ was the correct means of determining which institutions were to be investigated.

On this basis, the Investigation Committee aimed to examine eleven industrial schools for boys; five industrial schools for girls; one boy’s reformatory; one boy’s detention centre; one school for deaf boys and two for deaf girls; and one boy’s school for the learning disabled.¹⁸⁰ Unlike the Confidential Committee, the investigative arm of the CICA did not, as a result, hear evidence from witnesses who experienced abuse in Irish children’s homes, hospitals, primary and secondary schools, hostels, Novitiates, residential laundries or in foster care.¹⁸¹ This approach led to a prioritisation of witnesses from industrial schools to the neglect of other types of institution which were, nevertheless, included in the CICA’s remit. The Investigation Committee’s methodology also created a gender imbalance, with fifteen institutions for boys included in its investigations, compared to seven for girls. This was despite the fact that Ireland’s industrial schools consistently accommodated more girls than boys, while girls were admitted at an earlier age and remained institutionalised for longer.¹⁸² Of 791 witnesses who

¹⁷⁴ *Ryan Report*, III, p. 423, appendix 7.

¹⁷⁵ *CICA: Executive summary*, p. 2.

¹⁷⁶ *Ryan, Review of the CICA*, p. 20, § 3.2.

¹⁷⁷ *CICA: Executive summary*, p. 12.

¹⁷⁸ *Ryan Report*, I, p. 105, § 7.02.

¹⁷⁹ *Ibid*, III, p. 268, § 14.28.

¹⁸⁰ *Ibid*, I, pp 105-579; *ibid*, pp 609-756; *ibid*, II, pp 1-234; *ibid*, II, pp 259-472; *ibid*, II, pp 479-560.

¹⁸¹ *Ibid*, III, pp 233-4, § 12.06.

¹⁸² *Ibid*, III, p. 33, § 4.32.

provided evidence to the Confidential Committee about their experiences in the country's industrial and reformatory schools, 413 were male and 378 female.¹⁸³ Unfortunately, the Investigation Committee did not similarly detail the demographic profile of complainants. Nevertheless, in 2003, the ratio of male to female complainants who applied to the Investigation Committee across all institutions was seventy-three per cent male to twenty-seven per cent female, thus explaining, if not justifying, the small number of girls' schools selected by the Investigation Committee.¹⁸⁴

Despite the limited nature of the Investigation Committee's sample, the pool of complainants eligible to participate in the hearing process was reduced further as the Ryan Commission selected to subject six institutions to a more limited form of investigation than by way of full hearings.¹⁸⁵ In the case of Our Lady of Good Counsel, Lota, which catered for children with learning disabilities, the Investigation Committee's work was restricted due to ongoing police inquiries into allegations of sexual abuse at the school. Evidence from three complainants heard prior to 2003, together with documentary evidence, formed the basis of the inquiry into this institution.¹⁸⁶ While the limited examination of Lota was the result of factors largely beyond the CICA's control, the decision to restrict inquiries into the remaining five institutions was more questionable. Oral hearings were not, for example, conducted into St. Joseph's Industrial School, Salthill, or St. Joseph's Industrial School, Glin, both operated by the Christian Brothers. The Investigation Committee deemed it unnecessary to carry out full hearings into these schools as 'the institutions themselves and the system of management and the nature of the complaints were all very similar to the matters that had been investigated in all the other Christian Brothers' schools'.¹⁸⁷

The Ryan Report's chapters on Salthill and Glin were instead based on the analysis of relevant documentary material received from the congregation, the Bishops of Galway and Limerick, the Department of Education, and the Health Service Executive, as well as written submissions from individual Christian Brothers.¹⁸⁸ The survivor experience and voice was thus largely absent. As such, while Br. Delano was the subject of repeated complaints of 'immoderate punishment' during his time in other schools, there were no documented complaints about his

¹⁸³ *Ryan Report*, III, p. 19, § 3.01.

¹⁸⁴ *CICA: third interim report*, p. 177.

¹⁸⁵ *Ibid*, I, p. 62, § 5.07.

¹⁸⁶ *Ibid*, I, p. 62, § 5.08; *ibid*, II, p. 195, § 5.04.

¹⁸⁷ *Ibid*, I, p. 62, § 5.07.

¹⁸⁸ *Ibid*, I, p. 489, § 11.01; *ibid*, I, p. 523, § 12.01.

treatment of boys in Salthill where he began his career.¹⁸⁹ It is possible that, had the Investigation Committee conducted full hearings into Salthill, witnesses would have come forward with additional information about Br. Delano. For the complainants from these institutions, it is likely that their exclusion from the investigative process appeared arbitrary. Indeed, had Salthill and Glin been addressed at the beginning of the Investigation Committee's inquiries, it is reasonable to conclude that these witnesses would have been invited to give evidence as part of a full hearing process.

As the CICA began its inquiries, it stressed that 'no one should feel excluded' from the investigation process 'because of his or her age, disability or medical situation'.¹⁹⁰ However, all three schools for deaf children were similarly excluded from the Investigation Committee hearings. The Ryan Report acknowledged that a number of complainants who attended these institutions were enthusiastic about participating in the inquiry. The Investigation Committee received sixty-five applications in relation to St. Joseph's School for Deaf Boys, Cabra; twenty-three regarding St. Mary's School for Deaf Girls, Cabra; and twenty-one for Mary Immaculate School for the Deaf, Beechpark, Stillorgan, totalling 109 applications. However, the Investigation Committee noted with regret that it 'proved impossible' to arrange full hearings for these institutions due to the difficulty of obtaining statements of evidence from 'a sufficient number of former residents'. As this 'first step' was 'not satisfactorily completed in reasonable time', it was deemed 'impracticable to prepare all the necessary materials and to arrange hearings in these cases'.¹⁹¹

The complainants from the relevant institutions were instead offered the opportunity to participate in the Investigation Committee's interview programme; a total of seventy-eight were subsequently interviewed by members of the Investigation Committee's legal team.¹⁹² The question arises, however, whether their impairment proved a barrier to full participation. During the Confidential Committee hearings, a number of complainants highlighted that communication difficulties not only restricted their ability to recall their experiences but also that sensory and other impairments limited their access to information about the work of the CICA.¹⁹³ It is unclear whether the unique difficulties these complainants faced in engaging

¹⁸⁹ Ibid, I, p. 529, § 12.39-40.

¹⁹⁰ Ibid, III, p. 423, appendix 7.

¹⁹¹ Ibid, I, pp 62-3, § 5.09-10.

¹⁹² Ibid, I, p. 63, § 5.11.

¹⁹³ Ibid, III, p. 259, § 13.127; the Confidential Committee heard fifty-nine reports of abuse from fifty-eight witnesses in relation to fourteen different special needs schools and residential services. Nineteen witnesses

with the inquiry were taken into sufficient consideration when the Investigation Committee criticised the ‘protracted and unproductive’ nature of the correspondence it received from them and their solicitors.¹⁹⁴ The CICA would have required additional resources to accommodate these complainants, including acquiring the services of an interpreter for multiple hearings. It was therefore the potential of significant additional costs, as well as the slow response to the request for statements, that arguably persuaded the Investigation Committee that it would be impracticable to proceed with full hearings into these schools.

The inquiries into Mary Immaculate, Stillorgan, and St. Joseph’s and St. Mary’s, Cabra, were subsequently confined to a review of discovered material including documents produced by the religious congregations, the Department of Education, the Catholic Institute for the Deaf, and the Garda Síochána, as well as the evidence gathered during interviews with survivors.¹⁹⁵ Where records were missing, damaged or otherwise limited, the Investigation Committee was unable to record conclusively whether abuse occurred. For example, records from St. Joseph’s revealed complaints dating from 1980-85 relating to a lay teacher, Mr. Ashe, regarding his threatening and aggressive behaviour towards pupils and staff.¹⁹⁶ Although the department stated that they were in possession of the relevant records, they reported that the file could not be located. They added, furthermore, that the earliest record of complaints against Mr Ashe dated from 1985, but that the file did not contain information as to the action taken by the Department of Education.¹⁹⁷ As in the case of Br. Delano, there is no way to determine whether the Investigation Committee could have shed light on the case against Mr. Ashe had they conducted full hearings with the complainants who applied to give evidence.

This also highlighted a missed opportunity to investigate modern allegations of abuse. The Confidential Committee recorded that seventy-six per cent of the witnesses who gave evidence in relation to Ireland’s industrial and reformatory schools were aged between fifty and seventy years at the time of their hearing.¹⁹⁸ In contrast, a ‘notably high proportion’ of witnesses reporting abuse in special needs facilities were in their twenties and thirties.¹⁹⁹ The Investigation Committee similarly recognised that St. Joseph’s, Cabra, was of ‘particular

recalled their experiences in day and residential schools and services for children with sensory impairments, principally sight and hearing (ibid, III, p. 235, § 13.03).

¹⁹⁴ Ibid, I, pp 62-3, § 5.10.

¹⁹⁵ Ibid, I, p. 559, § 13.30.

¹⁹⁶ Ibid, I, p. 560, § 13.35-6.

¹⁹⁷ Ibid, I, pp 562-3, § 13.52.

¹⁹⁸ Ibid, III, p. 24, § 3.20.

¹⁹⁹ Ibid, III, p. 236, § 13.08.

interest’ as it recorded abuse that occurred in more recent times.²⁰⁰ As such, the CICA would have been in a position to move the discussion beyond an unintended focus on the years 1936 to 1970 had the Investigation Committee accommodated complainants from Cabra and other special needs facilities. More importantly, the CICA’s failure to fully investigate any special needs institutions discriminated against witnesses with intellectual, physical, and sensory impairments. As children, these witnesses were especially vulnerable in institutional settings and many described their disability as ‘a barrier to communication and disclosure, both at the time and subsequently’.²⁰¹ As the Confidential Committee recognised, children who were unable to ‘adequately express themselves were at a complete disadvantage in environments that did not recognise or facilitate their right to be heard’.²⁰² The Investigation Committee continued to disadvantage these complainants and, ultimately, undermined their right to present their testimony to the committee of their choice, therefore restricting their ability to engage with the investigation process.

Witness and memory

The decision to prioritise survivor and other witness testimony presented the CICA with significant challenges. Although recognised as one of the oldest sources, the historical profession ‘kept oral testimony at arm’s length for some time’. In the 1980s, oral history was embraced by social scientists and historians seeking to uncover the experiences of groups ‘disregarded by conventional histories’ and thus largely overlooked in the written record, including women and minority ethnic groups. Yet, despite the popularity of what Abrams termed ‘recovery history’, many academics continue to question the value of oral history. Human memory, it is argued, is inherently unreliable and oral history fails to produce data which can be ‘verified and counted’ or ‘rigorously tested’.²⁰³ Subsequently, ‘historians tend to place higher in their hierarchy primary sources created closest to the date of events described’.²⁰⁴ For its critics, therefore, the legitimacy of oral testimony is fundamentally undermined by the temporal distance between the event and the witnesses’ description of it. Delays provide an opportunity for the deterioration and distortion of memory, as witnesses are

²⁰⁰ Ibid, I, p. 559, § 13.32.

²⁰¹ Ibid, III, p. 252, § 13.90.

²⁰² Ibid, III, p. 395, § 19.15.

²⁰³ Lynn Abrams, *Oral history theory* (Oxford, 2010), pp 4-5.

²⁰⁴ Corinna M. Peniston-Bird, ‘Oral history: the sound of memory’ in Sarah Barber & Corinna M. Peniston-Bird (eds), *History beyond the text: a student’s guide to approaching alternative sources* (Oxford, 2009), p. 117.

afforded time to reflect on and potentially revise their interpretation of their experiences, whether intentionally or subconsciously.

The age of many witnesses at the time the abuse occurred presented a particular difficulty for the CICA. A number of survivors reported that they had no memory of their own treatment as young children in institutions and, as a result, the Ryan Report was ‘largely silent on the abuse perpetrated on children who were too young to accurately recall their own experiences’. Consequently, rare examples of the abuse of babies or younger children were ‘almost exclusively confined’ to what other witnesses observed.²⁰⁵ For example, the Investigation Committee heard from nine witnesses who were resident in St. Patrick’s Industrial School, Kilkenny, the majority of whom were in the institution from the age of four to ten years and whose memories of life at the school were subsequently vague. Nevertheless, some of these witnesses recalled ‘very specific memories’ of abuse, the intensity of which, given their age when the abuse took place, highlighted the significant impact these experiences had on them at the time and in the years that followed.²⁰⁶

Oral history’s critics and advocates alike also note the potential distorting effect of external influences on human memory. Individual memories ‘are not created in a historical vacuum’, but are ‘influenced by the contemporary context in which they are recalled and how they have been retold over the years’.²⁰⁷ This was an issue recognised by the CICA, which pointed in particular to the release of the documentaries *Dear daughter* in 1996 and *States of fear* in 1999. The CICA concluded that these and other ‘outside events had the potential to influence evidence given by witnesses’, and considered their impact in the Ryan Report under a subheading of ‘contamination’.²⁰⁸ Although the report acknowledged that potential distorting influences on evidence were ‘not confined to complainants’, much of the discussion addressed the commission’s concerns about the reliability of survivor testimony, thus potentially encouraging a general and unfair dismissal of ‘contaminated’ complainant testimony.²⁰⁹

The Sisters of Mercy, for example, highlighted four key ‘mistruths’ that they argued appeared in *Dear daughter* and were replicated in the complainants’ testimony: that the children fought each other for scraps of food; were forced to drink from the toilets; were always referred to by

²⁰⁵ *Ryan Report*, III, p. 14, § 2.32.

²⁰⁶ *Ibid*, II, p. 480, § 13.11-13.

²⁰⁷ Johanna Sköld, ‘Historical abuse – a contemporary issue: compiling inquiries into abuse and neglect of children in out-of-home care worldwide’ in *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 14, no. 1 (2013), p. 13.

²⁰⁸ *Ryan Report*, I, p. 65, § 5.32.

²⁰⁹ *Ibid*, I, p. 66, § 5.39.

numbers rather than their names; and that babies were strapped to potties.²¹⁰ However, the Ryan Report concluded that each of the allegations highlighted by the documentary ‘had a basis in fact’. For example, the Investigation Committee stated that the demands of caring for large numbers of young children with inadequate staff ‘led to a regimented approach in which babies were left sitting on potties for long periods of time’, although it is likely that it was for a number of minutes, rather than hours as suggested. As such, the CICA stressed that, despite differences in perception between the congregation and the complainants, those who ‘referred to these elements did not thereby become unreliable witnesses’.²¹¹

The Ryan Report highlighted that Ireland and UK-based victim support groups, in which survivors shared information and recounted their experiences of abuse, also offered ‘another source of potential influence and suggestion to witnesses’.²¹² The Christian Brothers expressed particular concern about the impact of lobby groups on the reliability of survivor evidence, although they proved incapable of similar self-reflection. They failed to consider, for example, whether their own interpretation of events had been determined by a collective response to earlier clerical abuse scandals. During the hearing process, a number of witnesses were ‘questioned closely’ by counsel for the Christian Brothers about their involvement in support groups and there was ‘a clear implication by the Congregation that active association with a lobby group was indicative of a lack of objectivity’.²¹³ Although the CICA acknowledged that organising and attending such meetings was ‘not wrong’ and was, in fact, ‘entirely to be expected’, the commission nevertheless agreed that there were ‘grounds for concern’.²¹⁴ As such, the evidence of some witnesses was discounted where issues of collusion arose.²¹⁵ It does not follow, however, that these complainants deliberately sought to mislead the CICA. In such cases, the commission was faced with the possible phenomenon of ‘collective memory’, whereby individual incidents of abuse were subsumed into a broader shared experience which ‘might implant or exaggerate memories in those who claim to be victims’, leading to accounts of abuse that are to some extent ‘more constructed than uncovered’.²¹⁶

²¹⁰ Ibid, II, pp 309-310, § 7.363-4.

²¹¹ Ibid, II, p. 315, § 7.410-12.

²¹² Ibid, I, p. 65, § 5.33.

²¹³ Ibid, I, p. 101, § 6.238-9.

²¹⁴ Ibid, I, p. 65, § 5.34; ibid, I, p. 101, § 6.240.

²¹⁵ Ibid, I, p. 101, § 6.241.

²¹⁶ Mark Smith, ‘Victim narratives of historical abuse in residential care: do we really know what we think we know?’ in *Qualitative Social Work*, 9, no. 3 (2010), pp 313-14.

Potential mistruths presented in evidence to the CICA and McAleese Committee may therefore have been the result of genuine error, with memories distorted by the passage of time, the long-term traumatic effects of abuse, and the power of collective or co-constructed memories. Mark Smith argued that victim narratives therefore ‘demand the same methodological scepticism as any other form of knowledge’.²¹⁷ He highlighted in particular that the ‘lure of financial compensation’ could encourage survivors to make false or exaggerated claims.²¹⁸ Margaret Jarvis, legal adviser to the British False Memory Society, similarly suggested that the therapy system was ‘a machine for manufacturing false allegations’ and expressed her fear that the CICA encouraged people who had not been abused to seek redress. This was a greater concern for the RIRB than either the CICA or McAleese Committee, however, as neither inquiry was able to award compensation. Jarvis’ comments were subsequently deemed by One in Four to be ‘ill-informed’, as well as ‘deeply offensive’.²¹⁹

Nevertheless, in its assessment of child sexual abuse at Letterfrack Industrial School, the CICA noted that it was not necessarily the case that where a religious brother was found to have committed sexual abuse ‘every allegation against him was true’. Its findings were therefore drawn from evidence given by witnesses ‘whom the Committee considered to be credible and reliable’.²²⁰ The specific criteria used to determine the reliability of witnesses was not detailed in the report. In evaluating the validity of both complainant and respondent testimonies, the Investigation Committee stressed that witnesses were judged on a case-by-case basis. The accuracy of respondent evidence was, for example, questioned on the grounds that it may have been ‘affected by the gravity of the allegations made against respondents themselves or against their colleagues’, while loyalty and affection for their congregation ‘may also have had a distorting influence’.²²¹ In light of concerns surrounding the veracity of witness accounts, and given the volatile nature of oral testimony as a research tool, there are, therefore, grounds to suggest that ‘while it is proper to listen to those who recount abuse, their accounts should not be our sole source of knowledge’.²²² Yet, there is also a danger that witness testimony, and survivor narratives in particular, are subjected to greater scrutiny than documentary or other forms of evidence.

²¹⁷ Ibid, p. 317.

²¹⁸ Ibid, p. 311.

²¹⁹ *Irish Times*, 19 February 2004.

²²⁰ *Ryan Report*, I, p. 354, § 8.451.

²²¹ Ibid, I, p. 112, § 7.52-3.

²²² Smith, ‘Victim narratives of historical abuse’, p. 312.

Throughout the inquiry process, the Christian Brothers were particularly keen to highlight the drawbacks of survivor testimony. Despite the possibility of physical records being damaged or lost, the congregation prioritised contemporaneous documentation extracted from their archives in Ireland and Rome, and did not ‘place reliance on other possible sources of information’, including the recollections of those who worked in the institutions.²²³ The Christian Brothers also sought to discredit complainant and, indeed, respondent testimony where it appeared to contradict documentary evidence. For example, a witness to the Investigation Committee testified that he was sexually abused by a member of the congregation, known pseudonymously as Br. Dax, in the milking sheds at Letterfrack Industrial School. The brother did not dispute the witness’s evidence. However, during cross-examination, the congregation strongly argued that ‘the records proved that Br. Dax did not have farming duties’ and that it was therefore ‘impossible’ for him to have abused the complainant at the times and location suggested. Yet, the accused was responsible for the poultry farm and recalled that boys would occasionally come after their milking duties to help him. The Christian Brothers did not question Br. Dax on this issue at the hearing, yet continued to ‘express reservations’ about the complainant’s evidence, which they suggested ‘showed how a false allegation could be made on the basis of information obtained from sources other than the witness’s own experience’.²²⁴

The CICA noted a ‘marked contrast’ between the response of the Christian Brothers and the attitude of individual respondents, and found that the accused were ‘for the most part, more open and concessionary’ than the congregations as a whole.²²⁵ The Christian Brothers’ ‘adversarial and even confrontational’ stance,²²⁶ and in particular their scepticism regarding complainant testimony, was not conducive to the creation of the ‘informal’ and ‘sympathetic’ atmosphere required at the Investigation Committee’s hearings.²²⁷ As Green Party TD, John Gormley, observed, ‘certain [religious] orders [...] trampled over the survivors by challenging, denying and obstructing’ the investigative process.²²⁸ Ryan subsequently recalled that the

²²³ *Ryan Report*, I, p. 100, § 6.230.

²²⁴ *Ibid*, I, pp 342-3, § 8.360-5.

²²⁵ *Ibid*, I, p. 142, § 7.232.

²²⁶ *Ibid*, I, p. 346, § 8.390.

²²⁷ CICA Act, § 4 (6)a-b.

²²⁸ *Dáil Éireann* (12 June 2009), vol. 684, no. 4, col. 701.

commission ‘tried to say’ to the participants that ‘this is an inquiry, not a confrontation’,²²⁹ as the hearings became ‘unnecessarily distressing for complainants’.²³⁰

In stark contrast to the Christian Brothers, the Rosminian Institute of Charity was commended for its approach to the inquiry process.²³¹ The Investigation Committee examined two institutions operated by the Rosminians; St. Patrick’s Industrial School, Upton, and St. Joseph’s Industrial School, Ferryhouse. Sexual abuse was a chronic problem in both institutions, while the children were subjected to excessive corporal punishment and endured poor, unhygienic, and overcrowded living conditions.²³² The Rosminian Institute did not deny these allegations or seek to defend the actions of its management and members, and was thus unique among the religious congregations and orders examined by the CICA. Respondents from the Rosminian Institute were candid in their admissions, supportive of the work of the investigation, and sympathetic to the survivors.²³³ The Rosminians were ‘unusual, if not unique’ in that they had begun to reflect critically on the operation of the industrial schools as early as 1990, when, at the opening of a new development at Ferryhouse, the Provincial, Fr. James Flynn, apologised publicly for the historical abuse of children:

the greatest guilt has to be borne by those of us who utilised or condoned or ignored the extreme severity, even brutality which characterised at times the regime at old Ferryhouse [...] We have sinned against justice and against the dignity of the person in the past and we always need to be on our guard that we do not do the same today in more subtle or equally hideous ways.²³⁴

In singling out the Rosminian Institute for praise, the Ryan Report highlighted the deficiencies in the response of other religious congregations and orders. Indeed, having acknowledged that abuse occurred, and made a public commitment to prevent it from happening again, ‘the Rosminians sought to understand abuse, in contrast to other Orders who sought to explain it’.²³⁵

The Rosminians’ non-adversarial’ approach, their ‘sympathetic questioning of witnesses, and their proffering of apologies’ contributed to an atmosphere ‘very different from that of other hearings’, ensuring that the complainants and respondents were more willing to share their experiences.²³⁶ Indeed, the ‘most revealing’ evidence of sexual abuse at Ferryhouse was

²²⁹ Seán Ryan in ‘Redress: breaking the silence, episode 1’, *RTÉ One*.

²³⁰ *Ryan Report*, I, p. 346, § 8.390.

²³¹ *Ibid*, II, p. 132, § 3.453.

²³² *Ibid*, II, p. 46, § 2.216; *ibid*, II, p. 131-2, § 3.453.

²³³ *Ibid*, I, p. 64, § 5.27.

²³⁴ *Ibid*, II, p. 3, § 1.17.

²³⁵ *Ibid*, II, p. 3, § 1.19.

²³⁶ *Ibid*, II, p. 132, § 3.453.

presented by Br. Bruno, who worked as Prefect at the industrial school in the late-1970s and was convicted in 1999 of a number of counts of serious sexual abuse. Br. Bruno was ‘frank about the nature of his acts, the circumstances in which he committed them, and the extent of what he did’. Bruno’s description of the factors that allowed him to abuse ‘provided insight into the behaviour of a child abuser’ which ‘may well be relevant’ to others, as well as to Ferryhouse at other times in the past ‘when conditions were more likely to facilitate coercive, furtive and abusive behaviour’.²³⁷ The inclusion of such candid respondent testimony allowed ‘a more rounded approach’, bringing ‘some balance’ to debates which, Smith argued, can otherwise be ‘dominated and distorted by a small number of “victim” accounts’.²³⁸

While oral testimony was not the principal source of information for the inquiry into Ireland’s Magdalen laundries, the McAleese Committee engaged with a number of witnesses with first-hand experiences of the laundry system. The committee expressed its appreciation for the ‘generosity and courage’ of the women who lived and worked in the laundries who provided information that ‘added significantly to the outcome’ of the inquiry.²³⁹ JFM similarly thanked McAleese for allowing the group to engage with the committee, and for their sensitivity to their concerns throughout the investigative process.²⁴⁰ McAleese was ‘struck by the constructive nature’ of the contribution made by JFM and the other survivor groups, noting that it was ‘clear that significant amounts of work’ had been carried out.²⁴¹ Indeed, in addition to their report detailing state involvement with the Magdalen laundries, JFM submitted ‘twelve files of supporting material; two files of survivor testimony, totalling 795 pages, and ten files of archival and legislative documentation, totalling 3,707 pages’, representing the culmination of over three years of work.²⁴² Crucially, while JFM summarised the main themes of the survivor testimony in their principal submission to McAleese, the group stressed that they could not ‘overstate the importance of [the McAleese Committee] reading the testimony of the survivors and other witnesses in full’.²⁴³

²³⁷ Ibid, II, p. 86, § 3.143-5.

²³⁸ Smith, ‘Victim narratives of historical abuse’, p. 316.

²³⁹ McAleese Report, p. 68, § 75.

²⁴⁰ Justice for Magdalenes, *State involvement in the Magdalene laundries: JFM’s principal submissions to the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries* (Crocknahattina, Bailieborough, February 2013), p. 3.

²⁴¹ McAleese Report, p. 67, § 71.

²⁴² JFM, *Principal submissions to McAleese*, p. 3.

²⁴³ Ibid, p. 6.

McAleese and his advisor, Nuala Ní Mhuircheartaigh, also conducted meetings with a number of women who had spent time in Ireland's Magdalen laundries.²⁴⁴ The survivors were afforded the opportunity 'to tell their story in a natural and unprompted way' and were invited to subsequent meetings where the chair sought 'clarification on areas of particular interest'. The McAleese Report offered no further details on the nature of these meetings, such as where they were held, how long they lasted, or who was present. However, that they were referred to as a series of 'meetings', rather than interviews, suggests an informal approach. A total of 118 women 'shared their stories' with the McAleese Committee, including seven represented by JFM, fifteen from Magdalene Survivors Together, and thirty-one represented by the Irish Women Survivors Network.²⁴⁵ McAleese reassured the witnesses that the committee would 'reflect carefully on all contributions made', both in writing and orally.²⁴⁶ It is, again, interesting to note the language used in the McAleese Report which refers to the information provided by these witnesses as 'contributions' or, indeed, 'stories', rather than evidence. This suggests that witness testimony provided to the McAleese Committee was not valued or, rather, trusted in the same way as that presented by complainants to the CICA, where survivors examined by the Investigation Committee faced the rigours of a hearing process. Similarly, the promise to 'reflect carefully' on their submissions did not guarantee that McAleese would use the information provided.

The McAleese Committee also engaged in 'extensive conversations' with state representatives and others with first-hand experience of the Magdalen laundries.²⁴⁷ For example, the committee explored the experiences and memories of retired civil and public servants, including probation officers, Gardaí, and prison officers, and conducted, what in this case were referred to as 'interviews', with twenty-four retired factory inspectors.²⁴⁸ The McAleese Committee also drew on the reflections of a number of religious sisters who were responsible for operating the laundries.²⁴⁹ While the compilation and assessment of oral testimony was not critical to the work of the McAleese Committee, limited witness accounts of the laundry system were a feature of the final report. This exposed the McAleese Committee, as it had the CICA, to significant challenges and criticisms.

²⁴⁴ *McAleese Report*, pp 11-12, § 29.

²⁴⁵ *Ibid*, pp 928-9, § 13-16.

²⁴⁶ McAleese, *Interim report*, p. 9, § 48.

²⁴⁷ *McAleese Report*, p. 927, § 9.

²⁴⁸ *Ibid*, p. 52, § 9; *ibid*, p. 569, § 137.

²⁴⁹ *Ibid*, p. 52, § 12.

For example, McAleese did not speak to a representative sample of survivors. The majority of women who provided their testimony were admitted to the laundries following time in an industrial school.²⁵⁰ Yet, of the 8,025 admissions to the Magdalen laundries between 1922 and 1996 where route of entry was known, just 622 women, under eight per cent, were transferred from an industrial or reformatory school.²⁵¹ Others may have spent time in such institution at some stage prior to their admission to a Magdalen laundry. However, just twenty-three per cent of women who entered the Magdalen laundries for whom data was available had previously been institutionalised. This included those who had spent time in a prison, County or Mother and Baby Home, psychiatric hospital or institution for the intellectually disabled, as well as those who had been admitted to Ireland's industrial and reformatory schools.²⁵² The sample therefore drew disproportionately from those who had previously experienced Ireland's industrial school system. The witnesses' insight into and interpretation of the Magdalen laundry system was not universal, and it is likely their experiences differed significantly from those who were not accustomed to an institutional existence.

The McAleese Committee observed, furthermore, that, due to the passage of time, the sample of 118 women was 'biased towards more modern years', with the oldest respondents referring to their experiences in the 1940s. The report failed to state explicitly that many of the women consequently described the Magdalen laundries as they operated from the 1970s after their regimes had been relaxed and a number of improvements had been introduced. The McAleese Committee acknowledged that the number of women who provided 'direct information' was limited to a 'small proportion' of those who had lived and worked in the Magdalen laundries.²⁵³ The committee thus determined that, while it was in a position to identify common patterns in the survivor 'stories', it was not able to make 'specific findings on these points'.²⁵⁴ The McAleese Report cannot therefore be considered a comprehensive record of life in Ireland's twentieth-century Magdalen laundries. This was not the stated purpose of the inquiry, yet, given the advanced age of many survivors, the work of the committee represented a missed opportunity for them to contribute to the official record.

²⁵⁰ Ibid, p. 931, § 26.

²⁵¹ Ibid, p. 162, § 17.

²⁵² Data was unavailable for twenty-eight per cent of the 11,198 known admissions to the Magdalen laundries between 1922 and 1996 (Ibid, p. 180, § 53).

²⁵³ Ibid, p. 930, § 20.

²⁵⁴ Ibid, p. 928, § 12.

In contrast, the approach adopted by the CICA was held to ‘privilege’ survivor testimony. The risk in this case was a report that ‘has only “victims” and “abusers”’, and offers a ‘decontextualised, ahistorical account’ of institutional abuse.²⁵⁵ Arnold was more damning in his criticism, deeming the report’s historical analysis ‘defective’.²⁵⁶ As Eoin O’Sullivan acknowledged, the Ryan Report ‘does not explicitly and comprehensively address why the system of institutional care for children took such deep root in Ireland’ or consider ‘the longevity of the system or its scale’.²⁵⁷ O’Sullivan’s paper on residential child welfare in Ireland between 1965 and 2008 was included in the Ryan Report.²⁵⁸ Further historical context was provided via reports produced by other experts in the field including Diarmaid Ferriter and David Gwynn Morgan, who considered the social, economic, and family background of the children admitted to the industrial schools, and their routes of entry to such institutions.²⁵⁹ The value of these papers was undermined, however, by the decision to include them as appendices to the main analysis, rather than using such research to produce a comprehensive account of the conditions which allowed for the establishment and continued operation of Ireland’s residential schools into the twentieth century. Indeed, the CICA dedicated just fourteen pages to the history of Ireland’s industrial schools and reformatories, while the work of O’Sullivan, Morgan, and other specialists was presented as additional, and, therefore, seemingly non-essential reading.²⁶⁰

The report of the Confidential Committee, meanwhile, was based on survivor testimony and the supporting documentation these witnesses provided, including admission and medical records, birth certificates, and photographs.²⁶¹ Such criticism is, therefore, applicable to the work of the Confidential Committee if not the Ryan Report in full, and a number of issues raised by this committee were underdeveloped. It was observed, for example, that sixty-seven per cent of male witnesses admitted to an industrial or reformatory school reported that their

²⁵⁵ Eoin O’Sullivan, ‘The Ryan Report: reformatory and industrial schools and twentieth-century Ireland’ in Rosie Meade and Fiona Dukelow (eds), *Defining events: power, resistance and identity in twenty-first-century Ireland* (Manchester, 2015), p. 214.

²⁵⁶ Bruce Arnold, *The Irish Gulag: how the state betrayed its innocent children* (Dublin, 2009), p. 298.

²⁵⁷ O’Sullivan, ‘The Ryan Report’, p. 203.

²⁵⁸ Eoin O’Sullivan, ‘Residential child welfare in Ireland, 1965-2008: an outline of policy, legislation and practice’, *Ryan Report*, IV, pp 245-430.

²⁵⁹ Diarmaid Ferriter, ‘Report to the Commission to Inquire into Child Abuse’, *Ryan Report*, V; David Gwynn Morgan, ‘Society and the schools’, *Ryan Report*, IV, pp 201-44; David Gwynn Morgan, ‘Gateways to the institutions’, *Ryan Report*, V, pp 11-76.

²⁶⁰ *Ryan Report*, I, pp 35-49; a series of colour graphs in O’Sullivan’s report were also reproduced by the CICA in black and white, rendering them illegible (for example, O’Sullivan, ‘Residential child welfare in Ireland’, *Ryan Report*, IV, p. 267, 4.44, figure 7).

²⁶¹ *Ryan Report*, III, p. 13, § 2.27.

parents were married at the time of their birth, compared to just fifty per cent of female witnesses. Furthermore, of 229 witnesses who were children of either non-marital or extra-marital relationships, eighty-eight were male and 141 were female.²⁶² The London-based organisation, Tuairim, similarly determined that of 247 girls who entered Ireland's industrial schools in the year 1962-63, 237 (ninety-six per cent) were admitted due to 'lack of proper guardianship', compared to sixty-seven per cent of boys.²⁶³

There was therefore room for an examination of societal attitudes towards children born outside marriage and the daughters of unmarried mothers in particular. More specifically, the CICA could have considered whether girls born to unwed mothers were more likely than boys to be admitted to such institutions and, if so, whether this was due to a perceived lack of patriarchal figure to 'protect' or, indeed, control them, or whether it resulted from the fact that there were fewer educational and employment opportunities for girls. In his appended paper, Morgan noted that this imbalance may have reflected the Catholic Church's 'traditional concern with sex and sexual temptation'. He highlighted, as an example, that young girls were often admitted to industrial schools to avoid a 'scandal' - namely an incestuous relationship - if they were raised by their widowed father. However, Morgan determined that 'it is impossible to come to any definite conclusion on the question of whether the system was in some way biased in favour of sending girls to Industrial Schools' and did not expand on this issue.²⁶⁴ An in depth discussion was not required under the CICA's terms of reference, but its inclusion would have offered insight into the operation and existence of these institutions into the 1960s.

Despite the volatile nature of oral testimony and the particular challenges it presents, its extensive use in the Ryan Report humanised the history of institutional abuse. Survivor recollections of physical, emotional, and sexual abuse, alongside the refutations and admissions of the respondents, often proved more revealing, thought-provoking and, in many cases distressing than generalised or statistically-based discussions guided by documentary evidence, such as those presented in the McAleese Report. Through the work of the CICA, the survivors, many of whom previously felt unable to speak openly about their experiences, were offered a unique opportunity to contribute to the historical record, thus allowing a 'shared memory' to

²⁶² Ibid, III, p. 20, § 3.06.

²⁶³ 118 of 364 boys (thirty-two per cent) were admitted as they were 'uncontrollable', due to poor school attendance, or for indictable offences (Tuairim, 'Some of our children: a report on the residential care of the deprived child in Ireland (1966)', in Eoin O'Sullivan and Ian O'Donnell (eds), *Coercive confinement: patients, prisoners and penitents* (Manchester, 2012), p. 213.

²⁶⁴ Morgan, 'Society and the schools', IV, pp 223-4, § 3.77-9.

become a ‘public statement’.²⁶⁵ Furthermore, the CICA’s use and, in the case of the Confidential Committee, prioritisation of complainant testimony also demonstrated to the survivors of abuse in Ireland’s church-run institutions that the state finally recognised and accepted the truth in their accounts of abuse and neglect.

‘An institution without good records is one without memory’: locating documentary evidence²⁶⁶

Unlike the CICA, the McAleese Committee largely failed to acknowledge the value of collecting, evaluating, and presenting witness statements. Rather, McAleese determined that the committee’s work represented the ‘first opportunity for a holistic examination of all records in relation to the Magdalen Laundries’ and subsequently sought a wide range of physical evidence from both church and state.²⁶⁷ The sisters granted access to their archives, while records held in each diocese in which a Magdalen laundry was located were also searched.²⁶⁸ These files provided key information regarding the women who entered the laundries and also offered ‘valuable leads’ which assisted the committee in its examination of records held by various government departments.²⁶⁹ Searches were also conducted into historic government files deposited with the National Archive. All Oireachtas debates ‘over the full course of the time-frame’ addressed by the committee were similarly reviewed, while McAleese and his team also examined relevant ‘Reports and findings of Committees and Inquiries’, although these were not listed.²⁷⁰

In its search for relevant documentary evidence, the committee adopted a commendably loose definition of ‘the state’. While this term is often ‘instinctively understood’ as referring to the government and its departments, its meaning is considerably broader, encompassing a wide range of bodies and agencies.²⁷¹ Searches were, therefore, conducted into records held by a number of bodies including the probation service, An Garda Síochána, the courts and prison services, and the Health Service Executive. The committee also conducted searches of archives maintained by charitable and other voluntary organisations with links to the Magdalen laundry

²⁶⁵ Peniston-Bird, ‘Oral History: the sound of memory’, p. 116.

²⁶⁶ *Ryan Report*, II, p. 43, § 2.194.

²⁶⁷ McAleese, *Interim Report*, p. 4, § 14.

²⁶⁸ *McAleese Report*, p. 51, § 3; namely the Diocesan archives of Dublin, Limerick, Cork and Ross, Galway, Waterford and Ferns (ibid, p. 51, § 4).

²⁶⁹ Ibid, p. 65, § 62-3.

²⁷⁰ Ibid, p. 51, § 5-7.

²⁷¹ Ibid, p. 9, § 18.

system including the ISPCC and the Society of St. Vincent de Paul. In light of the committee's status as a non-statutory inquiry, these documents were surrendered voluntarily. Newspaper archives, academic publications, and other publicly available sources were similarly consulted.²⁷²

By prioritising the study of contemporaneous documentary evidence, the McAleese Committee largely avoided the obstacles surrounding the management of witnesses that frustrated the progress of the CICA. Nevertheless, the committee encountered a number of difficulties in carrying out its work, prime among which was the 'scattered and fragmented nature' of relevant government records, few of which had been digitised.²⁷³ The report similarly recorded that there was not an established system for the registration or tracking of files across government departments or state agencies, while various departments and individuals employed non-uniform and idiosyncratic file-naming systems. Given the subsequent likelihood of documents being misfiled, the committee endeavoured to consult any file where the title 'suggested any possibility of a link' to the Magdalen laundries.²⁷⁴ The McAleese Committee subsequently conducted extensive and laborious hand-searches of paper records across a number of archives and multiple locations.²⁷⁵

The McAleese Committee's commitment to uncovering misfiled or inadequately named documents is admirable. Yet, the difficulties the committee faced in locating these materials raises two key issues which were not directly addressed in the report. Firstly, that the historic failure of government departments to appropriately name and maintain files relating to the operation of the Magdalen laundries represented a degree of negligence on the part of the state and suggested a level of disinterest in the regulation of the laundry system. Indeed, as a means to illustrate the scale of the challenge it faced, the McAleese Committee noted that 'in all the searches conducted [...] only one file included in its title the words "Magdalen Laundry"'.²⁷⁶ Although the Magdalen laundries were church-run, they operated in the absence of adequate state welfare provision and the government had a duty of care to the women who entered the laundries as it did all Irish citizens. Accounts of the McAleese Committee conducting hand-searches of uncatalogued material in department basements, while demonstrating commitment to the inquiry process, raise questions about the number of government files produced in

²⁷² Ibid, pp 51-2, § 8-11.

²⁷³ Ibid, p. 50, § 1.

²⁷⁴ Ibid, p. 55, 22-4.

²⁷⁵ Ibid, pp 65-6 § 65.

²⁷⁶ Ibid, p. 55, § 24.

relation to the laundries and the way in which these records were handled by the state. Secondly, in light of these difficulties, it is surprising that the McAleese Committee persisted with its approach and did not issue an open invitation for witnesses to come forward to offer their memories of state involvement in the operation of the laundries.

Government records were similarly requested and examined by the CICA. For example, the Investigation Committee sought records from the Departments of Health and Children; Justice, Equality and Law Reform; and Education and Science.²⁷⁷ Laffoy emphasised that the commission's ability to complete its work 'in a fair, proper, efficient and cost-effective manner' was contingent on the Department of Education in particular 'engaging fully' with the inquiry as a respondent. However, the CICA was critical of the manner in which the department complied with directions for discovery and production of documents.²⁷⁸ Invited to produce an independent report into the conduct of the Department of Education in 2004, Matthias Kelly QC established that, although it voluntarily disclosed its historic archive to the Investigation Committee, there were a significant number of files relevant to the work of the CICA that were not included. For example, the documents provided by the department did not include early discharge papers, incident books, and other material 'separately held in safe storage within the department'.²⁷⁹

More damningly, Kelly determined that 27,000 pupil files were missing. In 2000, the CICA received a database from the Department of Education containing approximately 42,000 entries of pupils committed to the industrial schools and reformatories by the courts.²⁸⁰ The CICA stated that the department should therefore have been in possession of at least 41,000 pupil files, yet just 14,000 were located. Of the unlocated files, 18,000 related to children admitted to institutions from 1936 and who fell, as such, within the CICA's remit. Kelly concluded that these and other relevant files were 'thrown out in the Department's "general clear out"'.²⁸¹ This explanation was presented in the Ryan Report without criticism. Similarly, the CICA recorded that 'several files' were missing in relation to Our Lady of Good Counsel, Lota. The Department of Education stated that these files had gone missing at some point after they were catalogued in 2001. The Ryan Report noted that the department 'gave no explanation as to why

²⁷⁷ *Ryan Report*, IV, p. 37, § 1.187.

²⁷⁸ *CICA: third interim report*, pp 151-3.

²⁷⁹ *Ryan Report*, IV, pp 37-8, § 1.191-3.

²⁸⁰ This database did not include pupils who entered voluntarily or who were placed in a relevant institution by the local authorities under the Public Assistance Acts or the Health Acts (*CICA: third interim report*, p. 155).

²⁸¹ *Ryan Report*, IV, p. 38, 1.194-5.

these files have gone missing'.²⁸² Whether this was the result of deliberate obstruction or was due to a genuine, if significant, clerical error, the failure to locate these records is particularly difficult to excuse as the Investigation Committee's assessment of Lota relied on documentary evidence, rather than witness testimony.

The CICA acknowledged the 'enormity of the task' which the management of the national, industrial, and reformatory school records involved, and also recognised that, at times, a lack of clarity from the Investigation Committee made it difficult for the department to meet what were often tight deadlines. Nevertheless, during her time as chair, Laffoy argued that the department ultimately failed to deploy sufficient resources to comply with its obligations as respondent. Indeed, the 'degree and duration' of difficulties faced by the commission in obtaining material from the Department of Education gave rise to the perception that 'the attitude of the Department is that the Committee should take by way of recovery what the Department says it has and proffers and should not seek to look beyond that'.²⁸³ Unwilling to adopt this approach, the CICA scheduled fourteen procedural hearings between October 2001 and the publication of the third interim report in December 2003 to procure the cooperation of the department as respondent and gain access to the necessary documents.²⁸⁴

Although McAleese was similarly permitted to order the release of evidence from state departments and agencies, as a non-statutory committee it did not have recourse to procedural hearings if it suspected that evidence from non-state bodies had been withheld. This included records held by the religious congregations, which were maintained with varying levels of professionalism. The archive of the Good Shepherd Sisters was described in the McAleese Report as 'quite a full collection', while the records maintained by the Order of Our Lady of Charity were found to be 'quite [...] complete'. The archive of the Religious Sisters of Charity included registers for both Magdalen laundries operated by the congregation, as well as other records including annals, financial ledgers, and a number of individual case-files. In contrast, the archive of the Sisters of Mercy did not contain a register of entries to the Dún Laoghaire Laundry, while a 'very limited' number of entries to the Galway Laundry were presented in a partial register. The McAleese Report subsequently recorded that the Sisters of Mercy held a professionally maintained archive 'of all *surviving* information' in relation to its operations.²⁸⁵

²⁸² Ibid, IV, p. 42, § 1.224.

²⁸³ *CICA: third interim report*, pp 152-6.

²⁸⁴ Ibid, pp 163-7.

²⁸⁵ *McAleese Report*, pp 52-4, § 13-16, emphasis added.

The information provided in the laundry registers underpinned the McAleese Report's statistical analysis and proved critical in the committee's efforts to build profiles of the women who were admitted to the Magdalen laundries. The registers, where properly maintained, provided key details including the names of the women admitted, dates and routes of entry to the laundries, as well as dates of exit.²⁸⁶ However, as the Sisters of Mercy failed to locate sufficient material for the Dún Laoghaire and Galway laundries, these institutions were excluded from the committee's statistical analysis.²⁸⁷ The Sisters of Mercy informed the McAleese Committee that the 'likely explanation' for their failure to produce registers for the two Magdalen laundries was that they had previously operated autonomous houses where 'record-keeping was perhaps accorded less priority than in the more hierarchical structures of other Congregations'. The sisters noted that it was also possible relevant records previously held in individual houses were not centralised after the formation of the Congregation of the Sisters of Mercy in 1994.²⁸⁸ Through a preliminary examination of the information culture of the Sisters of Mercy in the nineteenth and early-twentieth century, Elizabeth Mullins concluded that, beyond material related to the congregation's foundress, Catherine McAuley, and 'other notable individuals', the Sisters of Mercy did not 'seem to have an explicit tradition of keeping, as opposed to creating, records'.²⁸⁹ However, in her study of the Sisters of Our Lady of Charity, Prunty determined that the 'self-governing or autonomous character of each house' in this instance allowed rather than militated against 'meticulous record-making' and, crucially, 'record-keeping'.²⁹⁰ The explanation from the Sisters of Mercy should not, therefore, have been presented in the McAleese Report without criticism.

The CICA similarly faced challenges gaining access to documentary evidence held by the religious congregations. For example, documents regarding applications for dispensations or disciplinary hearings in respect of more than 130 Christian Brothers were discovered to the CICA in 2004, four years after the commission began its inquiries. The files referred to at least forty cases of improper conduct with boys. In evidence to the CICA, Br. Gibson explained that the documents first came to the attention of the leadership team after they employed an archivist to examine the congregation's records in 2003. The CICA noted that it was 'surprising that

²⁸⁶ Ibid, pp 52-3, § 13.

²⁸⁷ Ibid, pp 159-60, § 7; see chapter four.

²⁸⁸ Ibid, pp 53-4, § 16.

²⁸⁹ Elizabeth Mullins, 'Information culture in the convent and the industrial school: a case study of the Congregation of the Sisters of Mercy in Ireland' in *Archives and records*, 40, no. 2 (2019), p. 135.

²⁹⁰ Jacinta Prunty, *The monasteries, Magdalen asylums and reformatory schools of Our Lady of Charity in Ireland* (Dublin, 2017), p. 33.

these files were only discovered to the [Investigation] Committee in 2004'.²⁹¹ However, it was not explicit in its condemnation of the congregation, and did not accuse the Christian Brothers of deliberate obstruction.

The Ryan Report nevertheless recorded that the Christian Brothers were often slow in supplying documentary evidence. This was true, for example, during the investigation into Br. Marceau, who was accused of physically abusing children in several schools from the 1940s until the 1960s, including Tralee Industrial School.²⁹² Significant correspondence relating to Br. Marceau was eventually uncovered during additional searches of the congregation's archive, including 'new collections' which had recently been acquired and were forwarded to the congregation's solicitors in December 2005. The Christian Brothers 'very much regretted' that, due to the then ongoing hearing on Artane, these files 'were not looked at and their true significance noted' until January 2006. As a result, this material was not furnished to the CICA until 12 January 2006, two days after the public hearing for Tralee. In this instance, the CICA expressed its dissatisfaction with this explanation, as 'the importance of these documents [...] should have been apparent'.²⁹³ Reflecting on the work of the CICA ten years after the publication of its report, Ryan recalled that the Christian Brothers adopted a 'strange attitude' regarding the release of evidence, as they knew that eventually 'all this material was going to come out'.²⁹⁴ The commission's chair thus hinted but did not specifically accuse the Christian Brothers of consciously impeding the work of the Investigation Committee.

The CICA similarly struggled to locate the industrial schools' punishment books. Pursuant to the 1933 Rules and Regulations for Certified Industrial Schools, each institution was required to record 'all serious misconduct, and the punishment inflicted for it' in a punishment book, which was to be presented to the Department of Education inspector during visits.²⁹⁵ These records would have offered valuable insight into the types and severity of punishments, and would have assisted the CICA in determining whether the use of corporal punishment amounted to abuse. However, the Investigation Committee received just three punishment books during the course of its inquiries. One book related to St. Joseph's Industrial School, Dundalk, operated by the Sisters of Mercy, which covered the years 1888 to 1950. The remaining two were from Upton Industrial School, managed by the Rosminian Institute, one

²⁹¹ *Ryan Report*, I, pp 89-90, § 6.161-68.

²⁹² *Ibid*, I, p. 401, § 9.46; *ibid*, I, p. 409, § 9.94-5.

²⁹³ *Ibid*, I, pp 410-11, § 9.103-4.

²⁹⁴ *Irish Times*, 20 May 2019.

²⁹⁵ *Ryan Report*, I, p. 53, § 4.02.

covering the period 1952-63, while the second referred to the years 1889-93 and was, as such, outside the commission's remit.²⁹⁶

The failure of the Sisters of Mercy to produce books in relation to all five industrial schools, despite the congregation's efforts to seek out 'everything from attics to whatever little pieces of paper were available', supports their assertion that record-keeping was not a priority for much of the twentieth century and mirrors their difficulties in locating complete registers for the Magdalen laundries.²⁹⁷ However, this failing was not unique to the Sisters of Mercy. None of the historical inspection reports examined by the Investigation Committee referenced industrial school punishment books being requested, although some stated vaguely that the 'records were well kept'. The CICA conceded that it was therefore possible that punishment books were used by some congregations, but were disposed of when it was determined they were no longer needed.²⁹⁸ This is not, however, entirely excusable, as 'an institution without good records is one without memory'.²⁹⁹ Indeed, the religious congregations' failure to keep or retain records not only hindered the work of the commission but it is likely led to cases of abuse being mismanaged while the schools remained open.

It is also possible that such records were simply not produced by the institutions, indicating a disregard for the rules and a lack of concern for the welfare of the children, with punishments so commonplace that it was deemed unnecessary to record them.³⁰⁰ In 1970, the Secretary to the Minister for Education, Michael O'Kennedy, informed the Dáil that 'no industrial school now keeps a punishment book'.³⁰¹ When asked to confirm whether this implied punishments were no longer inflicted on industrial school pupils, O'Kennedy clarified that 'it is not so suggested. Apparently for one reason or another' punishment books 'are not and have not been kept for some time'. He reassured the Dáil, however, that 'at visitations and inspections the inspectors go into all aspects including the treatment and discipline of children', and argued that the requirement to keep a punishment book was an unnecessary 'carryover from the last century'.³⁰² Although difficult to determine, it is therefore conceivable that the schools selected

²⁹⁶ Ibid, II, p. 466, § 11.92; *ibid*, II, p. 19, § 2.43.

²⁹⁷ Ibid, II, p. 247, § 6.70.

²⁹⁸ Ibid, IV, p. 30, § 1.151.

²⁹⁹ Ibid, II, p. 43, § 2.194.

³⁰⁰ Ibid, I, p. 60, § 4.27.

³⁰¹ Ibid, IV, p. 30, § 1.151.

³⁰² *Dáil Éireann* (16 December 1970), vol. 250, no. 8, col. 1273-4.

not to make note of punishments administered as this record, if complete, would ‘reveal unacceptably high or cruel levels of punishment and corroborate allegations of abuse’.³⁰³

There was, therefore, a lack of documentary evidence relating to the industrial schools’ punishment regimes and the discussion on physical abuse was subsequently led by complainant and respondent evidence. While this demonstrated the value of oral testimony, the CICA acknowledged that it presented difficulties for the Investigation Committee where there were discrepancies between witness accounts. For example, in evidence to the CICA, those who attended Newtownforbes Industrial School indicated that corporal punishment was widespread, severe, and ‘administered for trivial offences’. The Sisters of Mercy contended, however, that, although children in the school were hit with a cane, ruler, or leather strap for poor behaviour, their approach to corporal punishment was ‘not excessive or abusive’. In the absence of contemporaneous documentation, it was not possible for the CICA to determine conclusively whether corporal punishment in Newtownforbes was ‘so excessive or pervasive as to amount to abuse’.³⁰⁴ Thus, while a lack of documentary evidence did not indicate that an institution was free of abuse, it made the process of truth recovery more difficult.

Where other files similarly lacked detail, were recorded as lost or were reported as having never existed, oral testimony was frequently relied on by the CICA to address the gaps in knowledge. For example, a key, yet limited, resource were the medical and general inspection reports produced by the Department of Education Medical Inspector, Dr Anna McCabe, who was appointed in 1939 and retired in 1965.³⁰⁵ Using a standardised checklist, McCabe’s reports offered a general overview of conditions in Ireland’s industrial and reformatory schools and focused in particular on the children’s physical wellbeing, detailing concerns, for example, about their diet and clothing. However, the reports did not discuss everyday treatment of the children, including the use of corporal punishment. Although McCabe interviewed members of staff, there is little evidence she spoke with the children.³⁰⁶ One witness remarked that, when she was able to speak to the ‘nice woman Inspector’, she was ‘coached in what to say’ by the religious sisters.³⁰⁷ The children were as a result offered little opportunity to raise the issue of

³⁰³ Emilie Pine, Susan Leavy and Mark Keane, ‘Re-reading the Ryan Report: witnessing via close and distant reading’ in *Eire-Ireland: A Journal of Irish Studies*, 52, no. 1-2 (2017), p. 206.

³⁰⁴ *Ryan Report*, II, p. 439, § 10.79.

³⁰⁵ *Ibid*, IV, p. 20, § 1.111.

³⁰⁶ *Ibid*, IV, p. 20, § 1.114; *ibid*, IV, pp 451-2, § 6.06.

³⁰⁷ *Ibid*, III, p. 129, § 8.48.

abuse, indicating that ‘their voices and experiences were low priorities’ for the state authorities.³⁰⁸

From witness testimony, the CICA determined that the school managers were often warned in advance that an inspection was due. Witnesses described, for example, how ‘proper blankets, eiderdowns [and] dishes’ otherwise unused ‘were all on display’ during visits.³⁰⁹ A number of witnesses also recalled that toys and books were locked in a cupboard and were brought out only when visitors came.³¹⁰ These improvements were reversed once the inspector left. For example, complainants from one school recorded that newly renovated bathrooms were opened for the inspection but were locked once the visit ended. Children would also be ‘hidden’ during inspections if they were visibly injured.³¹¹ One complainant who was scalded as a punishment recalled that he was so badly burned that he was ‘hidden from sight’ during an inspector’s visit.³¹² As a result, witnesses to the CICA revealed that the inspectors were offered an inaccurate picture of conditions in the schools. Furthermore, inspections were not carried out annually, their frequency varying between schools and from year to year. For example, in 1947, Baltimore Fishery School, Cork, was visited three times, while Artane went three years without inspection between 1950 and 1952.³¹³ The Ryan Report was critical of the inspection process and consequently of the reports produced by McCabe. The failure, for example, to consult with the children was acknowledged as a flaw ‘in both the management of the school[s] and supervision by the Department [of Education]’.³¹⁴ Thus, had the CICA failed to compare the inspection reports to complainant accounts, it would not have gained an accurate impression of the abusive nature of the country’s industrial schools.

Internal inspection reports also shed light on conditions in Ireland’s industrial schools. As the reports were not intended to be seen by anyone outside the organisation, some members of staff were particularly candid in reporting their concerns regarding incidents of sexual abuse, and these records frequently contained information and comment that was ‘much more critical and disapproving than the Department of Education Inspector’s reports’. The visitation reports were thus considered by the CICA as the ‘single most valuable source of documentary evidence

³⁰⁸ Pine, Leavy and Keane, ‘Re-reading the Ryan Report’, p. 211.

³⁰⁹ *Ryan Report*, IV, p. 23, § 1.126.

³¹⁰ *Ibid*, III, p. 125, § 8.26.

³¹¹ *Ibid*, III, p. 129, § 8.49.

³¹² *Ibid*, III, p. 58, § 7.25.

³¹³ *Ibid*, IV, p. 22, § 1.121-2.

³¹⁴ *Ibid*, I, p. 455, § 9.441.

about life' in the Christian Brothers' industrial schools.³¹⁵ However, the Ryan Report also noted that, in many cases, internal inspection reports, like those of the state inspector, were cursory. Those produced by the Presentation Brothers, for example, often remarked briefly that the children 'appeared well cared for, well fed, happy and healthy'.³¹⁶ The CICA also identified a number of major omissions in these reports. For example, a report produced in the late-1950s after a visit to the Christian Brothers' Industrial School at Tralee recorded that the boys were 'exceedingly happy' yet failed to mention the death of a pupil from septicaemia the previous month.³¹⁷

Similarly, another visitation report from Tralee described Brothers Bevis and Cheney as 'excellent men', who were zealously devoted to their work.³¹⁸ Witness evidence revealed, however, that both men administered harsh physical punishments. One complainant stated, for example, that he witnessed a severe beating during which Br. Bevis placed a 'boy's head in between his legs and [...] flogged him ferociously'. Br. Bevis denied this allegation, and the visitation reports from Tralee failed to highlight such cases.³¹⁹ It was, as such, only through complainant testimony that the severity of punishments administered at Tralee was revealed. This disparity between complainant testimony and contemporary inspection reports was common across all institutions. Indeed, through their work with the Industrial Memories Project, Emilie Pine, Susan Leavy, and Mark Keane established that the language associated with the inspection reports was 'three times more positive' than the witness testimony describing abuse.³²⁰ This therefore highlights the importance of drawing on witness testimony as well as documentary evidence in the process of truth recovery.

The McAleese Committee nevertheless selected to conduct a document-based inquiry and was, as such, particularly motivated to establish the authenticity of the material it received. The majority of laundry registers presented to the McAleese Committee consisted of handwritten lists in bound, hardback ledgers. In three cases, entries were recorded more informally in paperback notebooks, while the Religious Sisters of Charity employed a system of record cards at Donnybrook from 1967.³²¹ The McAleese Committee verified the authenticity of the ledgers and concluded that there was no indication in any case that pages had either been removed or

³¹⁵ Ibid, I, p. 76, § 6.57-60.

³¹⁶ Ibid, II, p. 158, § 4.33.

³¹⁷ Ibid, I, p. 424, § 9.201.

³¹⁸ Ibid, I, p. 427, § 9.227.

³¹⁹ Ibid, I, p. 426, § 9.211-12.

³²⁰ Pine, Leavy and Keane, 'Re-reading the Ryan Report', p. 208.

³²¹ *McAleese Report*, p. 144, § 7.

added. The committee also observed a consistency in handwriting, as one sister in each laundry would have been responsible for maintaining that institution's register. The McAleese Report did not, however, address the greater potential for Donnybrook Laundry's record cards to be mislaid, either deliberately or in error. The committee similarly took steps to verify the electronic databases produced by the religious congregations in relation to each institution. The report highlighted that this was a time-consuming process, which involved cross-checking the information provided in the database with the hand-written laundry registers before checking this against state records.³²²

On the basis of this process, the committee was 'wholly satisfied as to the authenticity and reliability of the Registers and accompanying electronic records of the religious congregations'.³²³ However, while reassured of their validity, the McAleese Committee identified a number of gaps in the records presented by the congregations. The Magdalen laundry registers contained varying levels of detail for different institutions, even, in some cases, where laundries were operated by the same congregation. For example, the Good Shepherd's registers for the laundries in Waterford, Limerick, and Cork provided in the case of each admission the woman's name; class name; date of entry; age on entry; county of origin; family status, including whether their parents were living or dead; details of their referral; and the date they left the laundry. The McAleese Report noted somewhat vaguely that the register from the Good Shepherd Laundry at New Ross, Wexford, in contrast 'generally includes less detailed information'.³²⁴ There were, therefore, 'some unknowns' in respect of admissions to the laundries, including routes of referral and dates of departure.³²⁵

The McAleese Report recorded that the committee made a reasonable attempt 'wherever possible' to fill the gaps in evidence from the congregations with alternative sources of information. For example, the committee was able to identify a number of admissions to the Dún Laoghaire and Galway laundries from the records of other Magdalen laundries which referenced transfers to and from these institutions. The committee similarly stated that historic electoral registers were used to identify women who lived and worked in the two Sister of Mercy institutions.³²⁶ The report noted that between 1923 and the introduction of the Electoral Act in 1963, women living and working in the Magdalen laundries could not generally register

³²² Ibid, pp 145-6, § 8-13.

³²³ Ibid, p. 147, § 16.

³²⁴ Ibid, pp 52-3, § 13.

³²⁵ Ibid, p. 60, § 40; the impact on the report's statistical analysis is addressed in chapter four.

³²⁶ Ibid, pp 60-1, § 41-2.

to vote using the address of the institution since they were not deemed ‘ordinarily resident’ there, regardless of the length of their stay.³²⁷ In the case of four Magdalen laundries - Limerick; High Park; Donnybrook; and, crucially, Dún Laoghaire – the women, although deemed ineligible for registration, were nevertheless included on the electoral register at that address prior to 1963.³²⁸ With regards to the Galway Magdalen Laundry, however, ‘insufficient information is available to determine definitively whether or not the women who were admitted to and worked there were registered using the addresses of the institution’ even after the introduction of the 1963 legislation.³²⁹ The electoral registers were, therefore, a valuable resource regarding entries to the Dún Laoghaire Laundry, but would not have assisted the committee in identifying admissions to the Sisters of Mercy Laundry in Galway as the report claimed.

The McAleese Committee acknowledged that many of the records relevant to its work likely contained sensitive personal data. It was therefore deemed necessary to introduce legislation to allow the committee access to this information.³³⁰ The McAleese Committee was subsequently granted permission to process sensitive personal data on the basis that its work was of a public nature and conducted ‘for reasons of substantial public interest’.³³¹ Yet, the committee failed to access census material for the relevant period. Limited anonymised data has been made publicly available by the Central Statistics Office (CSO) from the 1926-1996 censuses, covering, for example, age, conjugal status, occupation, religion, and birthplace of the total population.³³² However, although the committee worked closely with the CSO, its officers were not permitted to share or disseminate information contained in unpublished census records.³³³

Arnold was particularly critical of the McAleese Committee’s failure to use the censuses, which, he argued, should have been the ‘basic record’ from which McAleese extrapolated ‘the true narrative of the lives of the laundry women’, thus ‘giving control to the Committee and not the Congregations’.³³⁴ Indeed, while outside the time period under investigation, a cursory examination of the 1901 and 1911 censuses gives some indication of the insight McAleese could have gained from these records. From the 1901 census, for example, it is possible to

³²⁷ Ibid, pp 817-18, § 9-13.

³²⁸ Ibid, p. 824, § 31.

³²⁹ Ibid, p. 829, § 47.

³³⁰ Ibid, p. 62, § 47-8.

³³¹ Data Protection Act 1988 (Section 2B) Regulations 2011 (486/2011) (27 September 2011), § 3-4.

³³² Central Statistics Office, *Census volumes 1926 to 1991: historical reports* (<https://www.cso.ie/en/census/censusvolumes1926to1991/historicalreports/>) (19 November 2019).

³³³ *McAleese Report*, p. 62, § 46; Statistics Act, 1926 (1926 no. 12) (18 March 1926), § 13-14.

³³⁴ *Irish Independent*, 11 February 2013.

identify forty-three women who lived and worked in the Dún Laoghaire Magdalen Laundry. All the women were Roman Catholic, the majority were born in Dublin, and all were listed as unmarried, with the exception of one woman who was widowed. Forty-one women were listed under the occupation of laundress, while one was a seamstress, and another a dressmaker. The two youngest women were eighteen, while the oldest was seventy, and the average age of the women was thirty-five.³³⁵ By 1911, there were forty-five women living in Dún Laoghaire Laundry. Both their occupation and relation to the head of house were given as ‘laundress’, and, again, the majority of the women were single and born in Dublin. The oldest resident was seventy-seven, while the youngest was just fourteen, and the average age of the women was forty-one.³³⁶

The census records for Dún Laoghaire also recorded the literacy levels of the women who lived and worked in the Magdalen laundry. In 1901, eleven women were listed as being capable of reading only, while eight could not read or write.³³⁷ By 1911, the literacy rate had improved, with just three women recorded as being unable to write, while five could not read.³³⁸ Where literacy levels or educational attainment were included, analysis of the census records may have allowed the McAleese Committee to chart progress in literary achievement and thus determine whether the women were receiving a more traditional education alongside their laundry work. This was particularly significant as many women stated that they entered a Magdalen laundry under the pretence that the laundries were ‘training centres’ where they would receive an education.³³⁹ Furthermore, by assessing the rates of illiteracy or low-level education among the women in the laundries, often indicative of a difficult or disadvantaged upbringing, the committee could have partly deduced how far the twentieth-century Magdalen

³³⁵ Registrar General of Births, Deaths and Marriages, *Census 1901: Residents of a house 13.1 in Crofton Road (Kingstown, Dublin)* (1901) (http://www.census.nationalarchives.ie/pages/1901/Dublin/Kingstown/Crofton_Road/1318665/) (19 November 2019).

³³⁶ Registrar General of Births, Deaths and Marriages, *Census 1911: Residents of a house 12 in Crofton Road (Kingstown No. 3, Dublin)* (1911) (http://www.census.nationalarchives.ie/pages/1911/Dublin/Kingstown_No__3/Crofton_Road/90825/) (19 November 2019).

³³⁷ *1901 Census: 13.1 Crofton Road, Dublin.*

³³⁸ *1911 Census: 12 Crofton Road, Dublin.*

³³⁹ Katherine O'Donnell, Sinéad Pembroke, and Claire McGettrick, ‘Oral history of Catherine Whelan’, *Magdalene Institutions: Recording an Oral and Archival History. Government of Ireland Collaborative Research Project, Irish Research Council* (2013), p. 4; O'Donnell, Pembroke and McGettrick, ‘Oral history of Kathleen’, p. 1; Jennifer Yeager, *The Waterford Memories Project* (2015) (<https://www.waterfordmemories.com/copy-of-the-recordings>) (1 June 2020).

laundry populations were drawn from the working and lower-classes, as they had been throughout the nineteenth century.

More importantly, by comparing the 1901 and 1911 censuses, it is possible to identify women who remained in the laundries for a minimum ten-year period. The census records indicate that at least six women, and potentially seventeen, were resident in Dún Laoghaire Magdalen Laundry in both 1901 and 1911. Errors made when the data was recorded and transcribed make it difficult to determine this number conclusively. It is likely, for example, that ‘Mary Torsney’, listed in 1901 aged forty-eight, is the same ‘Mary Torney’ aged fifty in 1911. This case and others demonstrate that census records, while illuminating, nevertheless present their own challenges. Indeed, spelling mistakes were a common occurrence. There are similar discrepancies in relation to the age of many of the women. For example, an ‘Anne Carr’ was listed in both censuses and recorded as an unmarried laundress from Wicklow. However, her age was given as sixty in 1901 and as seventy-seven ten years later in 1911.³⁴⁰ While it is possible that these records refer to two different people, it is more likely either that a mistake was made when recording Carr’s age or that she simply did not know how old she was. Furthermore, the censuses cannot be relied upon to chart all entries and exits to the laundries as they were produced every ten, and later five years, and therefore do not provide information in relation to the women who were admitted to and left the laundries in the intervening years.

For the Dún Laoghaire and Galway Magdalen Laundries, the 1926-1996 census records would have nevertheless presented a valuable, if limited, source of information regarding the populations of these institutions and may have assisted the McAleese Committee in locating sufficient material to include both laundries in its anonymised statistical analysis. This therefore raises the question why the census records were not released to the McAleese Committee under the 2011 regulations, which allowed sensitive personal data to be examined where it was necessary to the work of the committee.³⁴¹ Consequently, despite the efforts of the McAleese Committee, and the ‘great care’ taken to locate alternative sources of information, the McAleese Report stated that there were some gaps in knowledge and understanding ‘which will never be bridged’. The committee argued that this was ‘to be expected’ as ‘underlying or background information’ in individual cases would not typically be recorded.³⁴²

³⁴⁰ *1901 Census: 13.1 Crofton Road, Dublin; 1911 Census: 12 Crofton Road, Dublin.*

³⁴¹ Data Protection Act 1988 (Section 2B) Regulations 2011, § 4.

³⁴² *McAleese Report*, p. 61, § 44.

This, however, highlights a fundamental flaw in relying on documentary evidence, particularly in relation to marginalised communities which are typically under-represented or absent from the written-record.³⁴³ In the introduction to the report, McAleese acknowledged, for example, that ‘many girls and women were placed in the Magdalen Laundries by their own families, for reasons that we may never know or fully understand’.³⁴⁴ This is certainly true where registers, reports and other documents produced by church and state representatives are prioritised and the memories of the women who experienced the laundries first-hand are not adequately addressed. In evidence presented as part of the 2013 Magdalen oral history project, many survivors described the role of their family in their admission to the laundries. For example, using the pseudonym ‘Kathleen’, one witness described how she was abused by her step-father after returning to live with her family, having spent her childhood in an industrial school. Her mother subsequently ‘got in touch with the nun from the Industrial School and told her how unhappy I was and I didn’t fit in’. In 1964, at the age of sixteen or seventeen, Kathleen was sent by her family to the High Park Magdalen Laundry, Dublin, while her abusive step-father remained in the family home. She lived and worked in this institution for approximately four years.³⁴⁵

Intra-familial abuse and the lack, or loss, or parental support networks were common themes in the testimony of women admitted to the laundries by their families. For example, Cathleen Whelan explained how, after her mother died when she was six-years-old, she was emotionally and verbally abused by her step-mother. Lacking the support of a maternal figure, Whelan was sent by her father to the Good Shepherd Magdalen Laundry at New Ross, Wexford, at the age of fourteen. Whelan believed she was admitted to the laundry as it was ‘convenient’ for her father, who ‘did not know how to handle a young developing lady’. She remained in the Magdalen laundry from 1949 to 1953, and described feeling as if she had been ‘sort of thrown away’.³⁴⁶ The Magdalen oral history project demonstrated that many survivors were thus willing to discuss the role that their families played in their admission to the laundries. A widescale, state-led inquiry akin to a truth commission, such as that carried out by the CICA, would, therefore, have been in a position to identify common patterns in witness testimony that would offer insight into the role of the family in the existence and operation of Ireland’s Magdalen laundries.

³⁴³ Prunty, *Our Lady of Charity*, p. 34.

³⁴⁴ *McAleese Report*, p. iii, § 7.

³⁴⁵ O’Donnell, Pembroke and McGettrick, ‘Oral history of Kathleen’, p. 1.

³⁴⁶ O’Donnell, Pembroke and McGettrick, ‘Oral history of Catherine Whelan’, pp 1-6.

There are therefore both advantages and drawbacks associated with oral testimony and the examination of physical evidence. Commissions tasked with investigating historical abuse must weigh up the potential for mistruths and distortions in witness testimony against the difficulty of locating historic records held across a number of archives. The CICA's decision to prioritise witness accounts presented the Investigation Committee with a number of significant obstacles yet demonstrated the commission's willingness to listen to the survivors, a courtesy they had previously been denied. The approach of the child abuse inquiry was thus largely in keeping with the precedent set by the South African TRC and other truth commissions and aided the process of truth recovery and reconciliation. In contrast, the McAleese Committee relied on documentary evidence contained in the archives of the state, related bodies, and the religious congregations. Yet, as a non-statutory committee, McAleese and his team did not have the means of demanding the release of documents or the power to determine with certainty that all relevant material had been surrendered. Despite the committee's clear commitment to locating evidence held in historic archives, the McAleese Report's description of the challenges it faced therefore raises doubts about the ability of a small, unpaid, part-time, and non-statutory body to locate all relevant material during an investigation that lasted less than two years.

CHAPTER IV

‘Manufactured narratives’?: the CICA and McAleese Committee’s findings¹

Drawing on the experiences of men and women admitted as children to residential institutions and on the memories of those responsible for their care, the Ryan Report represented a unique opportunity for a comprehensive account of abuse in Ireland’s industrial schools, reformatories, and similar institutions. In contrast, the McAleese Report was based primarily on documentary evidence with the more limited aim of establishing the extent of state involvement in the operation of the Magdalen laundries. To determine the value of the reports as part of the wider process of recognition, reconciliation, and redress, it is necessary to assess whether the CICA and McAleese Committee prioritised, interpreted, and presented the evidence appropriately, whether they made adequate use of the material they located or if their focus and discussions were restricted. Highlighting potential omissions, bias, and inaccuracies in their analysis, the following considers how far the CICA and McAleese Committee met the requirements of their mandates and aided the process of truth recovery.

Missing data and miscalculations: statistical errors in the Ryan and McAleese Reports

Published in May 2009 following a protracted and, at times, tumultuous nine-year inquiry, the Ryan Report concluded that between 1936 and 1999, children admitted to Ireland’s industrial schools, reformatories, and other residential institutions, as well as primary and second-level schools were physically, psychologically, and sexually abused by both religious and lay staff. The large-scale institutionalisation of disadvantaged children was determined to be an outdated response ‘to a nineteenth century social problem’, as the institutions operated in a ‘severe and regimented manner’, thus failing to provide for the developmental, emotional, or educational needs of the children.² Standards of physical care were generally poor. Witnesses described insufficient and inedible food, inadequate clothing, and accommodation that was ‘cold, spartan and bleak’.³ Improvements in conditions were recorded from the 1960s, although were more common in the early-1970s.⁴ Academic education was not recognised as a priority, while the

¹ *The Irish Independent*, 11 February 2013.

² Seán Ryan, *Report of the Commission to Inquire into Child Abuse* (Dublin, 2009), IV, p. 451, § 6.01-2.

³ *Ibid*, IV, p. 456, § 6.31-4.

⁴ *Ibid*, III, p. 43, § 6.04; *ibid*, III, pp 46-7, § 6.18-24; *ibid*, III, p. 121, § 8.04; *ibid*, III, pp 125-6, § 8.24-30.

industrial training undertaken served the needs of the institution rather than the children.⁵ Abuse in Ireland's residential schools was systemic and did not consist of isolated incidents involving those operating beyond accepted boundaries. Rather, the harsh nature of the regime was 'inculcated into the culture of the schools by successive generations of Brothers, priests and nuns'.⁶

President Mary McAleese praised the Ryan Report for 'vindicat[ing]' the survivors' determination to break the 'silence and to have their voices heard'.⁷ The CICA's findings made headlines for days and were received by the state, church, and society with significant anger and regret. However, although the report's conclusions were broadly accepted, concerns were raised regarding the estimated number of admissions identified by the commission. The Ryan Report recorded that between 1936 and 1970, approximately 170,000 children entered the country's industrial schools, while 2,000-3,000 children spent time in a reformatory.⁸ This number was far in excess of Mary Raftery and Eoin O'Sullivan's previous estimate of 146,000 admissions over the longer period of 1858 to 1969.⁹ Highlighting this discrepancy, a 2013 study suggested that the CICA erroneously counted the stock figure, the total number of children in the institution on a particular day, rather than the flow figure, which represented all children admitted during the year.¹⁰ Consequently, many children were counted as new admissions across multiple years.

In 2019, Ryan acknowledged in a statement on the commission's website that the report indeed contained a 'seriously erroneous statistic' regarding the number of admissions to the industrial and reformatory schools. Ryan concluded that the total presented in the report was derived by adding the yearly figures for the schools' populations which did not account for the fact that children were counted each year they remained institutionalised. With the exception of those who died while resident in an industrial or reformatory school, all children were listed in the institutions' discharge registers when they left. The Department of Education subsequently proposed that an examination of the number of children discharged from the institutions would offer a more accurate estimate of the schools' populations, as this number should equate 'fairly

⁵ Ibid, IV, p. 457, § 6.37-8.

⁶ Ibid, IV, p. 452, § 6.10.

⁷ *Irish Independent*, 22 May 2009.

⁸ *Ryan Report*, I, p. 41, 3.01-4.

⁹ Mary Raftery and Eoin O'Sullivan, *Suffer the little children: the inside story of Ireland's industrial schools* (New York, 2001), p. 23; *ibid*, p. 27.

¹⁰ Fred Powell, Martin Geoghegan, Margaret Scanlon and Katharina Swirak, 'The Irish charity myth, child abuse and human rights: contextualising the Ryan Report into care institutions' in *British Journal of Social Work*, 43, no. 1 (2013), p. 8.

closely’ to the number of children who passed through the schools. The department calculated that the total number of children admitted to Ireland’s industrial and reformatory schools between 1930 and the 1970s was approximately 42,000 ‘or somewhat higher’, representing roughly a quarter of the CICA’s original estimate.¹¹

Prior to the release of Ryan’s statement, the figure of 170,000 was cited in ‘virtually every commentary’ on the report.¹² Irish state, society, the media, and academia therefore face the difficult task of reassessing their attitude regarding the scale, if not the severity, of abuse in these institutions. Yet, Ryan’s announcement was met with a degree of scepticism. There were suggestions, for example, of a ‘cover-up’, as the revelation came on foot of proposed legislation to seal the archives of the CICA and the RIRB for seventy-five years.¹³ As one online commenter remarked, ‘we will never know’ how far the new estimate reflects the truth ‘if [the Irish government] are willing to hide the evidence’.¹⁴ Furthermore, in light of research conducted from 2011 into a mass grave at the site of the Tuam Mother and Baby Home, it is questionable whether the number of deaths at Ireland’s industrial and reformatory schools were, in fact, statistically low enough to be discounted, and therefore how far an estimate based on discharges alone was justified.¹⁵ Finally, as the CICA proved capable of this serious miscalculation, were there similar mistakes in the Ryan Report that have yet to come to light?

While the CICA’s error was ‘embarrassing’, the Ryan Report was not damaged, nor its general findings undermined by the revised figure.¹⁶ At a quarter of the original estimate, the number of children affected remained in the tens of thousands. A reduction in the admissions figure did not, furthermore, alter the fact that the industrial schools and reformatories were found to be inherently abusive. In contrast, concerns surrounding the statistical analysis in the McAleese Report call into question a number of this committee’s principal findings. Published in

¹¹ Seán Ryan, ‘Statement of chairperson’ (25 November 2019) (<http://www.childabusecommission.ie/>) (9 December 2019).

¹² Eoin O’Sullivan, ‘The Ryan Report: reformatory and industrial schools and twentieth-century Ireland’ in Rosie Meade and Fiona Dukelow (eds), *Defining events: power, resistance and identity in twenty-first-century Ireland* (Manchester, 2015), p. 203; see for example Paul Garrett, ‘A “Catastrophic, Inept, Self-Serving” Church? Re-examining three reports on child abuse in the Republic of Ireland’ in *Journal of Progressive Human Services*, 24, no. 1 (2013), p. 49; Carole Holohan, *In plain sight: responding to the Ferns, Ryan, Murphy and Cloyne Reports* (Dublin, 2011), p. 25; and, more recently, Sinead Pembroke, ‘Foucault and industrial schools in Ireland: subtly disciplining or dominating through brutality’ in *Sociology: the Journal of the British Sociological Association*, 53, no. 2 (2019), p. 386.

¹³ *Dáil Éireann* (2 April 2019), vol. 981, no. 3; this is discussed in greater detail in the conclusion.

¹⁴ *The Journal.ie* (26 November 2019) (<https://www.thejournal.ie/child-abuse-inquiry-error-in-figures-4906187-Nov2019/>) (10 December 2019).

¹⁵ *The Guardian*, 4 June 2014; *Irish Times*, 7 June 2014.

¹⁶ *Irish Times*, 27 November 2019.

February 2013 after a much shorter eighteen-month inquiry, the McAleese Report concluded that there was ‘significant state involvement’ with the Magdalen laundries, challenging previous assertions that the church-run institutions operated without government intervention.¹⁷ The committee calculated that a total of 10,012 women and girls entered the Magdalen laundries between 1922 and 1996,¹⁸ and determined that almost twenty-seven per cent of all known referrals were made or facilitated by the state.¹⁹ This included women who entered via the criminal justice system, either through the courts, from prison, or on remand or probation, others who entered on the recommendation of the health and social service authorities, including women sent from psychiatric hospitals, and those who transferred from state-run institutions such as industrial schools, County Homes, and Mother and Baby Homes.²⁰

During the course of its inquiries, the McAleese Committee gained access to the archives of the Sisters of Our Lady of Charity, the Congregation of the Sisters of Mercy, the Religious Sisters of Charity, and the Sisters of the Good Shepherd. These records had not previously been made available to researchers nor combined for examination.²¹ The committee was thus afforded the singular opportunity to place anonymised data concerning those who were admitted to the Magdalen laundries into the public domain, and this was recognised as an ‘intended legacy’ of the inquiry.²² The committee received ‘expert assistance’ from the CSO in verifying the material obtained from the religious congregations and ensuring the ‘appropriate analysis’ of the data.²³ The McAleese Report subsequently recorded that there was a ‘rigorous statistical analysis’ of the available information.²⁴ Yet, this analysis was based on limited data. Indeed, the failure of the Sisters of Mercy to produce full records for the Galway and Dún Laoghaire Magdalen laundries, and the inability of the committee to bridge the gap in evidence, ensured that both institutions were excluded from the report’s statistical analysis.²⁵ The committee’s findings were subsequently based on information pertaining to just eight of the ten Magdalen laundries under investigation.

¹⁷ Martin McAleese, *Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* (Dublin, 2013), p. xi, § 29.

¹⁸ *Ibid*, pp 150-1, § 34.

¹⁹ *Ibid*, p. 163, § 19.

²⁰ *Ibid*, p. 152, § 38.

²¹ *Ibid*, p. 150, § 33.

²² *Ibid*, p. 142, § 3.

²³ *Ibid*, pp 61-2, § 45-6.

²⁴ *Ibid*, p. 156, § 48.

²⁵ *Ibid*, pp 159-60, § 7.

The decision to exclude so-called legacy cases was harder to justify. These were women who entered the Magdalen laundries prior to the establishment of the state on 6 December 1922, but who remained after this date. The committee identified 762 such cases, including women whose time in a laundry ‘simply coincided with the period around the establishment of the state’, but also those who entered prior to 1922 and remained as long-term residents. The McAleese Report offered little explanation for the exclusion of these women, noting vaguely that ‘in light of the different context of referrals prior to the establishment of the State’ the committee addressed legacy cases separately.²⁶ The survivor advocacy group, Justice for Magdalenes, was particularly critical of this approach, as they suggested McAleese ‘disclaimed any responsibility’ for the women who entered the laundries under British rule.²⁷ This would have been acceptable only if the committee had been founded with the exclusive aim of establishing the role of the Irish state in referring women to the laundries and had not been required to examine state interaction with the laundry system more broadly. Furthermore, the committee’s decision to exclude these women from the general statistical analysis was avoidable, as the start date of 1922 was self-imposed.

JFM rightly argued that, by ‘ignoring’ legacy cases, the McAleese Committee ‘dismissed many women whose experiences’, in particular the average length of their stay, ‘reveal[ed] a very different reality to that depicted by the Committee’.²⁸ The McAleese inquiry represented the first opportunity to use primary records to determine how long the women remained in the Magdalen laundries.²⁹ In his introduction to the report, McAleese highlighted that, while there was a perception that the ‘vast majority of women who entered the laundries spent the rest of their lives there’, the committee found that sixty-one per cent of women were, in fact, institutionalised for less than one year.³⁰ The report also recorded that just under eight per cent of women stayed in the laundries for ten or more years.³¹ However, where legacy cases were treated in isolation, the committee’s analysis presented a very different picture. Duration of stay was unknown for 411 of the 762 legacy cases. Yet, of the 351 women for whom length of stay was established, 220, or almost sixty-three per cent, stayed in the laundries for ten or more years. In contrast, only twenty-four women, just under seven per cent, remained in the laundry

²⁶ Ibid, pp 149-50, § 26-30.

²⁷ Justice for Magdalenes, *Death, institution and duration of stay: a critique of chapter 16 of the Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries and related issues* (n.p., 2015), p. 36, § 2.4.

²⁸ Ibid, p. 36, § 2.4.

²⁹ *McAleese Report*, p. 168, § 28.

³⁰ Ibid, pp vi-vii, § 18.

³¹ Ibid, p. 168, § 29.

for less than one year.³² Had these women been included in the general analysis, the McAleese Committee would have determined that in almost eleven per cent of cases where duration of stay was known, the women remained for ten or more years, while fifty-eight per cent stayed for less than one year. These final calculations, although based on information that is available in the McAleese Report, did not feature in the committee's findings.

The McAleese Report's claim that sixty-one per cent of women stayed in the Magdalen laundries for under one year requires further examination. The committee produced a merged database of the women who entered the Magdalen laundries between 1922 and 1996, consisting of 14,607 known admissions.³³ The data was analysed to locate repeat admissions with 'no usable data',³⁴ of which 3,409 were identified.³⁵ With these cases removed, the total available field of information consisted of 11,198 cases.³⁶ However, duration of stay was unknown for 5,047 women, representing forty-five per cent of the reduced dataset. The committee's analysis regarding the average length of stay was therefore based on the experiences of just 6,151 women.³⁷ It was misleading for McAleese to highlight in the introduction to the report that the majority of women remained for less than one year without the caveat that this referred to fifty-five per cent of individual admissions identified. Furthermore, the McAleese Report failed to adequately examine the possibility that, in the case of 2,060 women for whom length of stay was unknown, no exit date was recorded since they remained for life. The committee grouped together cases with insufficient data and listed the exit route for the 'majority' of these women as 'unknown', while acknowledging that an undefined number 'stayed in the laundry'.³⁸ The McAleese Report did not explain why these cases were discussed collectively or how the committee established that a minority remained institutionalised.

The committee's calculations regarding the average duration of stay were further distorted by the fact that it chose not to collate the stays of women who transferred between Magdalen laundries. The committee listed the entry route of 1,186 women as 'transfer[red] from another laundry'.³⁹ Similarly, in the case of 1,148 women, route of exit was given as 'to another Magdalen Laundry'.⁴⁰ By failing to carry over previous stays, the McAleese Report

³² Ibid, p. 195, § 79.

³³ Ibid, p. 159, § 6.

³⁴ Ibid, p. 160, § 9.

³⁵ Ibid, p. 150, § 34.

³⁶ Ibid, p. 160, § 10.

³⁷ Ibid, p. 168, § 29.

³⁸ Ibid, p. 171, § 37.

³⁹ Ibid, p. 162, § 17.

⁴⁰ Ibid, p. 170, § 35.

misrepresented the duration of stay for women and girls who transferred between laundries, and thus reduced the average stay across the total. Furthermore, the executive summary highlighted the median duration of stay, which was just under twenty-eight weeks, or approximately seven months, rather than the mean length of stay.⁴¹ The committee determined that the median was a ‘more informative figure’, as the average was ‘skewed by the small number of women who remained in the Magdalen Laundries for life’. In the body of the report, the committee listed the mean duration of stay as 167.5 weeks, or just over three years.⁴² This figure was presented in a table, rather than in the executive summary or main text of the report, yet it is in line with survivor testimony and has been supported by the findings of the Magdalen oral history project, and should, therefore, have been highlighted.⁴³

‘Large profits’ and tax exemptions: the McAleese Report and the exploitative nature of the Magdalen laundries⁴⁴

Another of the McAleese Committee’s more surprising findings was the revelation that the Magdalen laundry system operated on a subsistence basis. In the absence of direct information, the popular perception of the laundries was largely determined by fictional representations, prime among which was Peter Mullan’s 2002 film, *The Magdalene sisters*. Mullan drew attention to the economic exploitation of the women, depicting ‘the villain of the piece’, Sr. Bridget, ‘compulsively count[ing] rolls of banknotes and sift[ing] through stacks of invoices’, which she locked away in a metal safe ‘to secure the laundry’s profits’.⁴⁵ In 1956, Halliday Sutherland similarly questioned whether the women’s unpaid ‘imposed labour’ led to ‘large profits’ for the religious congregations.⁴⁶ In accordance with its mandate to examine state involvement in the operation of the laundries, the McAleese Committee consulted the financial records of the religious congregations with the primary intention of identifying whether the state contributed to the laundries’ operational costs. Although the state did not employ a

⁴¹ Ibid, p. xiii, § 4.

⁴² Ibid, pp 169-70, § 31-3.

⁴³ Although this project examined a small sample of eighteen women for whom duration of stay could be determined, the mean or average stay, in some cases across multiple institutions, can be calculated at just over three years (Katherine O’Donnell, Sinéad Pembroke, and Claire McGettrick, *Magdalene institutions: recording an oral and archival history. Government of Ireland collaborative research project, Irish Research Council* (2013)).

⁴⁴ Halliday Sutherland, *Irish journey* (London, 1956), p. 82.

⁴⁵ James M. Smith, ‘The Magdalene sisters: evidence, testimony ... action?’ in *Signs*, 32, no. 2 (2007), p. 436; *ibid*, p. 446.

⁴⁶ Sutherland, *Irish journey*, p. 82.

capitation system as it did for the country's industrial schools, the committee determined that the Magdalen laundries received direct financial assistance from the state. For example, the state made 'generalised payments' under the Health Acts where the laundries were observed to be performing a function or providing a service which would otherwise have been the responsibility of the public authorities.⁴⁷ The committee also established that payments were made to the Sisters of Our Lady of Charity of Refuge for women placed in the laundry at Sean McDermott Street, Dublin, on remand or as a condition of probation.⁴⁸

While outside its remit, the McAleese Committee recognised that there was also 'significant public interest' in addressing the financial viability and possible profitability of the laundries. The report concluded that the Magdalen laundries did not operate on a commercial or highly profitable basis and often struggled to break even.⁴⁹ However, the committee's analysis was based on an examination of contemporary material held by the religious congregations and on an assessment of the financial reports prepared by the congregations' own accountants.⁵⁰ For the avoidance of doubt, the laundries' financial records should have been examined by an external body independent of the congregations and the state such as the audit, accounting, and consulting group, Mazars, which conducted an inquiry into the finances of the reformatory and industrial schools on behalf of the CICA.⁵¹ Indeed, the McAleese Committee noted that it was 'conscious of the fact that none of the statements of income and expenditure' that were examined 'were subject to independent audit'.⁵² The fact that the Magdalen laundries were found to be non-profitable was nevertheless highlighted by McAleese in the introduction to the report, without the above caveat.⁵³

Ultimately, the McAleese Report failed to adequately address the exploitative nature of the Magdalen laundry system. For example, the McAleese Report recorded that the religious congregations qualified for charitable tax exemption where work was carried out by the women who lived in the institutions. Industries operated by the congregations that employed waged workers did not qualify for exemption. Thus, a 'knitting industry' operated by the Sisters of

⁴⁷ *McAleese Report*, p. xxiii, § 32.

⁴⁸ *Ibid*, p. 635, § 123.

⁴⁹ *Ibid*, p. 994, § 2-5.

⁵⁰ *Ibid*, p. 998, § 26-7.

⁵¹ *Ryan Report*, IV, pp 91-198; Mazars determined that, despite the assertions of the religious congregations, capitation grants were sufficient to clothe, feed, and accommodate the children in industrial schools to an adequate level and there was, therefore, no economic reason the children should have faced physical neglect (*ibid*, IV, p. 69, § 2.163).

⁵² *McAleese Report*, p. 1,000, § 36.

⁵³ *Ibid*, p. viii, § 18.

Mercy in Galway with non-resident paid employees did not qualify, while the Magdalen laundry managed by the same congregation enjoyed charitable tax exemption.⁵⁴ The report's critics argued that McAleese and his team tied 'themselves in linguistic knots' in an attempt to explain, or, indeed, 'obscure' the difference in approach to the congregations' paid and unpaid workers.⁵⁵ More importantly, the McAleese Report failed to acknowledge that this provided the congregations with a clear financial incentive to focus their industrial efforts on the Magdalen laundries.

There were, furthermore, few references to the fact that the women were unpaid. The McAleese Committee considered whether the women who worked in the laundries were entitled to social insurance or were excluded as they fell below a minimum income threshold. The committee determined that, after the introduction of new social welfare regulations in 1979, it was likely that the women working in the Magdalen laundries did not qualify as being in insurable employment 'as they would not have been in receipt of payment of greater than the threshold amount of £6 per week'.⁵⁶ This was an indirect way of addressing the fact that the women were unpaid. It was, indeed, only in the final chapter of the McAleese Report that the committee confirmed that 'wages were not paid [...] to the girls or women who worked in the Laundries'.⁵⁷ This was of paramount importance and should have been addressed in the introduction to the report.

'Wilful blindness': errors of omission in the Ryan and McAleese Reports⁵⁸

Although outside the McAleese Committee's remit, the question of living and working conditions in the Magdalen laundries, like that of the institutions' financial viability, had been a 'public concern for some time'. The committee subsequently determined that it was 'in the public interest' to address 'this particularly sensitive issue' and discuss the daily experiences of the women. McAleese suggested that assumptions had been made about conditions based on evidence of abuse in the country's industrial and reformatory schools and on the pre-state experience of the women in the Magdalen laundries, as well as representations in film and

⁵⁴ Ibid, pp 752-4, § 34-8.

⁵⁵ Simon McGarr, *How to read the McAleese Report into the Magdalen laundries* (6 February 2013) (<https://www.mcgarrsolicitors.ie/2013/02/06/how-to-read-the-mcaleese-report-into-the-magdalen-laundries/>) (2 December 2019).

⁵⁶ *McAleese Report*, p. 774, § 107.

⁵⁷ Ibid, p. 999, § 33.

⁵⁸ McGarr, *How to read the McAleese Report*.

media.⁵⁹ The chair was therefore keen to test common perceptions and potential misconceptions regarding the experience of the women and girls who lived and worked in Ireland's twentieth-century Magdalen laundries.⁶⁰ However, while it is admirable that the McAleese Committee extended its inquiries beyond its narrow remit, the result is one of the more disappointing and, indeed, misleading chapters in the McAleese Report.

In a departure from the committee's established approach, the discussion on daily life and conditions in the Magdalen laundries drew from witness testimony offered by those who had first-hand experiences of the laundry system and was not driven by documentary evidence. This included accounts provided by the religious congregations, former probation officers, and general practitioners, as well as John Kennedy, the manager of the laundry at Limerick between 1976 and 1982, and Patricia Burke Brogan, a novice at Galway Laundry for a week in the 1950s who wrote two plays set in a Magdalen laundry: *Eclipsed* (1992), and *Stained Glass at Samhain* (2002). However, 'as the most direct source of experience', the report stated that it relied 'mainly on the stories shared with the Committee by the women themselves who lived and worked in the Magdalen Laundries', which provided 'invaluable insight' into their operation.⁶¹ Yet, as the committee highlighted in the introduction, in the executive summary, and again in the body of the report, while it was in a position to identify 'common patterns in these stories', it was unable to 'make specific findings [...] in light of the small sample of women available'.⁶²

The committee's explanation for its failure to offer definitive conclusions on conditions in the laundries does not withstand scrutiny, however, as it did not issue an open invitation to give evidence and, more importantly, failed to use the witness statements submitted by JFM. The survivor advocacy group presented McAleese with just under 800 pages of transcribed testimony on behalf of eleven women, as well as seven family members and four 'additional witnesses'.⁶³ In the statements collected by JFM, the women who lived and worked in the Magdalen laundries revealed that they were 'completely deprived' of their liberty and denied contact with the outside world,⁶⁴ while working long hours in 'harsh' conditions without pay.⁶⁵

⁵⁹ *McAleese Report*, p. 926, § 1-6.

⁶⁰ *Ibid*, pp vi-viii, § 18.

⁶¹ *Ibid*, p. 927, § 7-9.

⁶² *Ibid*, p. vii, § 18; *ibid*, p. xxvii, § 50; *ibid*, p. 928, § 12.

⁶³ Justice for Magdalenes, *Press release: JFM welcomes call for immediate redress for Magdalene women based on human rights abuses* (n.p., 18 June 2013), p. 2.

⁶⁴ Justice for Magdalenes, *State involvement in the Magdalene laundries: JFM's principal submissions to the Inter-departmental Committee to establish the facts of State involvement with the Magdalene Laundries* (Crocknahattina, Bailieborough, 2013), p. 13, § 8.

⁶⁵ *Ibid*, p. 29, § 8.

Crucially, these witnesses stated that they were not only subjected to neglect and emotional abuse, including ‘forcible hair cutting, deprivation of identity, as well as humiliation and taunting’, but that they also suffered physical abuse.⁶⁶

Following the publication of the McAleese Report, JFM’s Claire McGettrick revealed that ‘not one syllable’ of the evidence submitted by the survivor group was included in the committee’s findings.⁶⁷ This issue was similarly raised by the UNCAT rapporteur, Felice de Gaer, who noted that, having been presented with ‘extensive survivor testimony’ by JFM, the McAleese Committee was aware of possible criminal wrongdoings associated with Ireland’s Magdalen laundry system, including physical and psychological abuse. However, despite the report’s length and detail, the UNCAT concluded that the committee failed to ‘conduct a fully independent investigation into allegations of arbitrary detention, forced labour or ill-treatment’.⁶⁸ The Department of Justice subsequently rejected this criticism, however, and noted that JFM relied on a ‘relatively small number of accounts’,⁶⁹ many of which were provided by individuals who had not been in the institutions and, therefore, did not have ‘direct knowledge of the facts’.⁷⁰ The department also remarked that the testimony presented by JFM had not been ‘tested’ in civil, criminal, or other proceedings, while many of the general allegations made by JFM were ‘not supported by the facts uncovered by the McAleese Committee’.⁷¹

The department’s suggestion that the material from JFM could not be included as it had not been adequately tested is perplexing, as it is unlikely the witnesses who provided evidence in meetings, conversations, or written correspondence with McAleese were cross-examined or subjected to rigorous questioning. Furthermore, the fact that only a small number of women were interviewed by JFM should not invalidate their testimony. Indeed, allegations of physical and psychological abuse should not require corroboration to be investigated. Finally, if the committee determined that the evidence presented by JFM contradicted the facts uncovered, this was, arguably, an even greater reason to include and interrogate this information, particularly as McAleese aimed to record ‘as comprehensive a picture as possible of the operation of the Magdalen Laundries’.⁷² The evidence from JFM, like that obtained from

⁶⁶ Ibid, pp 22-4, § 8.

⁶⁷ *Irish Times*, 29 October 2013; JFM, *Critique of chapter 16 of the McAleese Report*, p. 4.

⁶⁸ United Nations Committee Against Torture to H.E. Mr. Gerard Corr (Geneva, 22 May 2013), pp 2-3.

⁶⁹ *Irish Times*, 29 October 2013

⁷⁰ *Irish Examiner*, 12 January 2015.

⁷¹ *Irish Times*, 29 October 2013; *Irish Examiner*, 12 January 2015.

⁷² *McAleese Report*, p. i, § 4.

McAleese's 'very small sample' of women, should have been presented in the report with the qualification that it was unverified. This approach was successfully adopted by the CICA's Confidential Committee as well as the South African TRC, which responded to complaints that its evidence was untested by highlighting that 'the Commission is not a court of law [...] and, as such, was not bound by the same rules of evidence as are the courts'. Its conclusions, like those of the CICA and McAleese Committee, were thus 'findings rather than judicial verdicts'.⁷³ The failure of the McAleese Report to 'use, acknowledge or quote' the evidence submitted by JFM thus exposed the committee to allegations of 'wilful blindness'.⁷⁴ The result was a 'manufactured narrative', with evidence seemingly omitted if it challenged the committee's perception of the Magdalen laundry system.⁷⁵

A number of witnesses to the CICA similarly observed that the Ryan Report, despite its great length, did not include all available evidence or survivor testimony. In 2017, the survivor group, Reclaiming Self, published its assessment of the Ryan Report which included testimony from survivors who had engaged with the CICA. One former witness concluded that they did not 'believe in the Ryan Report' as they 'spent four and a half hours being interviewed [...] to find that when the report was published my story was not printed'.⁷⁶ It is unclear whether those interviewed by Reclaiming Self had previously met with the CICA's Investigation Committee, and could therefore reasonably expect their testimony to be included, or if they had engaged with the Confidential Committee. If the latter, witnesses were advised prior to attendance that the committee would produce a general report which would not name any specific person or institution, thus offering some explanation for the exclusion of their evidence.⁷⁷ It is also likely that individual testimony was not included where it was similar to, or replicated, evidence from other witnesses. However, in other cases, survivors argued that, had their testimony been presented, it would have altered the report's depiction of a particular institution. As the above witness explained, there were 'just a few lines' about the institution they attended in the report 'and one would think it was a nice place to have spent one's youth'. Another witness similarly recalled that they 'poured [their] story out', but discovered that the 'orphanage' they were admitted to was 'barely mentioned' in the Ryan Report.⁷⁸ Reclaiming Self concluded that these

⁷³ Truth and Reconciliation Commission, *Truth and Reconciliation Commission of South Africa Report* (Cape Town, 1999), vol. V, p. 208, § 64.

⁷⁴ McGarr, *How to read the McAleese Report*.

⁷⁵ *Irish Independent*, 11 February 2013.

⁷⁶ Reclaiming Self, *Ryan Report follow-up: submission to the United Nations Committee Against Torture* (n.p., 2017), p. 20, § 3.6.

⁷⁷ *Ryan Report*, III, p. 422, appendix 7.

⁷⁸ Reclaiming Self, *Ryan Report follow-up*, p. 20, § 3.6.

witnesses ‘felt personally “hurt”, “used” and “disrespected”’ that despite the difficulty of disclosure, their experiences were not included in the Ryan Report.⁷⁹

For many survivors, the CICA was a positive and therapeutic experience, which offered the opportunity to expose their personal experiences of abuse, confront those responsible, and contribute to the written record. However, the majority of witnesses interviewed by Pembroke for a study into survivor perspectives of the CICA and RIRB suggested that the trial-like process of recounting their experiences ‘triggered feelings of shame and stigma’ and exposed them to the risk of further traumatising. As a former witness to the CICA remarked, ‘I most times wished [...] that Bertie Ahern never apologised’ as ‘the more you rake it up [...] the worse you get’.⁸⁰ Where the Ryan Report subsequently failed to include testimony, or portrayed an institution more favourably than witnesses anticipated, these survivors determined that the inquiry process had not been worth the distress and upset it caused. Indeed, John Prior, who had previously been interviewed for *States of fear*, stated in RTÉ’s 2020 two-part documentary, *Redress: breaking the silence*, that the inquiry process gave him ‘no satisfaction’, but instead ‘added two or three years of misery’ to his life.⁸¹ Similarly, John Kelly, founding member of SOCA, poignantly remarked that ‘I would never have opened my wounds if I’d known this [the Ryan Report] was going to be the end result’.⁸²

Thus, although the Ryan Report offered a detailed analysis of child abuse in Ireland’s twentieth-century church-run institutions, the gaps in the CICA’s findings were stark. The Ryan Report did not, for example, examine the specific experience of minority groups within the institutional school system, including children from traveller and mixed-race backgrounds. Co-founded in 2013 by industrial school survivor, Rosemary Adaser, the Association of Mixed Race Irish (AMRI) campaigns for the acknowledgement of the ‘historic wrongs visited upon mixed race Irish children’.⁸³ In a 2019 submission to the UN Committee on the Elimination of Racial Discrimination (CERD), the AMRI stated that in Ireland in the mid-twentieth century,

⁷⁹ Ibid, p. 18, § 3.5.

⁸⁰ Sinead Pembroke, ‘Historical institutional child abuse in Ireland: survivor perspectives on taking part in the Commission to Inquire into Child Abuse (CICA) and the redress scheme’ in *Contemporary Justice Review*, 22, no. 1 (2019), p. 51.

⁸¹ John Prior in ‘Redress: breaking the silence, episode 1’, *RTÉ One* (2 March 2020) (<https://www.rte.ie/player>) (17 March 2020).

⁸² *Irish Examiner*, 21 May 2009.

⁸³ Association of Mixed Race Irish (AMRI) (<https://www.irishinbritain.org/who-we-are/our-members/119/association-of-mixed-race-irish>) (22 December 2019); Rosemary Adaser, ‘Why we, Mixed Race Irish, want to tell our story at the United Nations’ (2019), *The Irish World* (<https://www.theirishworld.com/rosemary-adaser-founder-and-ceo-of-the-association-of-mixed-race-irish-writes-for-the-irish-world/>) (22 December 2019).

unmarried mothers of mixed race children felt compelled to place their children in care due to the ‘double stigma of having a mixed race child out of wedlock’. The group argued that within Ireland’s church-run institutions, mixed-race children ‘suffered a distinct layer of abuse because of [their] racial identity’, concluding that racism was endemic both in the care system and in society. However, the AMRI highlighted that the issue of race has yet to form part of any investigation into child abuse in Irish institutions, including the work of the CICA.⁸⁴

Only a few, brief references to race or racial prejudice and abuse were included in the Ryan Report. For example, during the discussion on St. Joseph’s Industrial School, Clifden, the CICA quoted an inspection report from the mid-1970s which observed that ‘in the past many of the children admitted to Clifden were received into Care to be removed “out of sight out of mind”’. It was the inspector’s opinion that this policy ‘was applied especially to children of different racial backgrounds’.⁸⁵ Seven male witnesses to the Confidential Committee also reported being verbally abused due to their traveller or mixed-race background. The report presented evidence from one witness, for example, who recalled that a particular sister ‘called me Baluba; every time the Irish soldiers were attacked in the Congo she attacked me’.⁸⁶ The Confidential Committee similarly reported that female witnesses of mixed-race backgrounds were ‘referred to by derogatory names relating to their skin colour’ and subjected to racial slurs.⁸⁷ Meanwhile, the experience of children from traveller communities was discussed in the Ryan Report primarily in terms of their treatment by their peers, who ‘picked’ on them or ‘called them names’.⁸⁸

The persistence and prevalence of racism and racial stereotyping in the final years of the institutional school system was also highlighted in O’Sullivan’s paper on residential child welfare in Ireland between 1965 and 2008, published in the fourth volume of the Ryan Report. O’Sullivan recorded the observations of the inspector, Dr Charles Lysaght, in 1966, who expressed concern for the future of ‘a certain number of coloured children’ seen in ‘several schools’ who presented a ‘problem difficult of any satisfactory solution [...] since they’ and mixed-race girls in particular, were ‘not well received by either “black or white”’. Lysaght also observed that it was ‘quite apparent that the nuns give special attention to these unfortunate

⁸⁴ Association of Mixed Race Irish, *Shadow report to the UN Committee on the Elimination of Racial Discrimination: a response to Ireland’s combined 5th-9th periodic report* (n.p., 2019), pp 2-4.

⁸⁵ *Ryan Report*, II, p. 393, § 9.23-4.

⁸⁶ *Ibid*, III, p. 107, § 7.236.

⁸⁷ *Ibid*, III, p. 183, § 9.222.

⁸⁸ *Ibid*, II, p. 414, § 9.199; *ibid*, II, p. 521, § 14.176.

children, who are frequently found hot-tempered and difficult to control’.⁸⁹ These comments are included in the Ryan Report without further analysis or criticism, despite the fact that the suggestion that the sisters gave ‘special attention’ to ‘hot-tempered’ mixed-race children was both derogatory and contradicted by survivor testimony. The Ryan Report thus exposed many incidents of racial discrimination but ultimately proved reluctant to address this as a separate form of abuse.⁹⁰ Many survivors concluded that the experience of minority groups was ‘misrepresented’ and their history ‘airbrushed’ from the Ryan Report.⁹¹ As a result, the particular experience of mixed-race children in Ireland’s church-run institutions was not taken into account by the RIRB and was not, therefore, reflected in the compensation they were offered.⁹²

Children of Mary and teachers’ pets: the prioritisation of positive witness accounts

In their failure to use all relevant material, the CICA and the McAleese Committee face the charge of misleading by omission. However, it is also evident that both the McAleese and, to a lesser extent, Ryan Report prioritised witness testimony that emphasised positive aspects of the industrial schools and Magdalen laundries. The CICA’s decision to select institutions based on the greatest number of complaints raised concerns about the potential of ‘selection bias [...] whereby those who experienced the most damage would be more likely to give evidence’ either for ‘therapeutic purposes’ or to ‘seek restitution’, thus leading to a report skewed towards negative accounts.⁹³ This was also a concern for the inquiry into Ireland’s Magdalen laundries. As the McAleese Committee did not issue an open invitation to provide evidence and was not afforded the power to award compensation, there was little incentive for those who had not previously engaged with the movement for recognition and redress to become involved at this stage. Subsequently, fifty-three of the 118 women who gave direct evidence to the committee about their experiences of the laundries were represented or introduced variously by the advocacy groups JFM, Magdalene Survivors Together, or the Irish Women’s Survivors

⁸⁹ Eoin O’Sullivan, ‘Residential child welfare in Ireland, 1965-2008: an outline of policy, legislation and practice’, *Ryan Report*, IV, p. 291, § 4.93.

⁹⁰ Adaser, ‘Why we, Mixed Race Irish, want to tell our story’.

⁹¹ Reclaiming Self, *Ryan Report follow-up*, pp 18-19, § 3.5.

⁹² Although it will not be investigated as an individual module, the AMRI successfully campaigned for the issue of race to be included in the terms of reference of the forthcoming Mother and Baby Homes Commission (AMRI, *Shadow report to UNCERD*, p. 6).

⁹³ O’Sullivan, ‘The Ryan Report’, p. 213.

Network. Their association with these groups suggested that they were likely to have negative memories of the Magdalen laundries and would, therefore, be critical of the laundry system.

However, McAleese also collected evidence from fifty-eight women who were then living in nursing homes or sheltered accommodation under the care of the religious congregations.⁹⁴ The McAleese Committee may have anticipated a positive response from women who remained in church-run institutions as it could reasonably be assumed that they would not have stayed had they experienced significant abuse. Indeed, it is possible that a number of these women chose to remain as they had previously been promoted to the role of Consecrated Magdalen, also known as an auxiliary or ‘Child of Mary’. While below the rank of religious sister, these women dedicated their lives to the congregation and assumed a position of authority over the other Magdalen women, and were therefore more likely to have positive memories of the laundry system.⁹⁵ It would also have been difficult for such witnesses to criticise the religious congregations responsible for their ongoing care. However, others stayed in the laundries as they had become ‘too institutionalised to live in the outside world’, as they lacked the skills, means, or confidence to establish lives away from the former laundries, and were thus dependent on the care of the religious sisters.⁹⁶ Despite bringing testimonies in this regard to the attention of the committee, JFM noted that ‘at no point’ in the McAleese Report was there ‘any level of scrutiny or criticism of the life-long institutionalisation of these women’.⁹⁷

The CICA, meanwhile, actively encouraged applications from those with positive memories of Ireland’s industrial schools. For example, a newspaper advertisement for the commission published in 2003 explicitly appealed for women with positive memories of Our Lady of Succour Industrial School, Newtownforbes, to come forward.⁹⁸ This approach was criticised by members of the Aislinn survivor group who accused the CICA of inviting evidence from those who were ‘treated as pets’.⁹⁹ The Confidential Committee subsequently reported that 284 of 1,014 witnesses recounted the kindness of individual religious and lay staff. Yet, descriptions of kindness most commonly amounted to the absence of abuse, with witnesses noting that ‘kind’ staff members did not hit or shout at them. The Ryan Report recorded, for example, that witnesses had positive memories of those who referred to them by their first

⁹⁴ *McAleese Report*, p. 929, § 16.

⁹⁵ *Ibid*, p. 3, § 11.

⁹⁶ JFM, *Follow-up report to UNCAT*, p. 12, § 4.1.15.

⁹⁷ JFM, *Critique of chapter 16 of the McAleese Report*, p. 53, § 6.

⁹⁸ *Irish Times*, 18 February 2003.

⁹⁹ *Irish Times*, 25 February 2003.

name, rather than by a number or surname. Other religious staff demonstrated kindness by assigning the children chores in areas where they were less likely to be physically abused by other members of staff.¹⁰⁰ Yet, this revealed a general awareness of the abuse taking place, undermining suggestions from the Christian Brothers, for example, that the majority of brothers were ‘shocked’ by the allegations of abuse that emerged in the 1990s.¹⁰¹

More controversially, the Sisters of Mercy and Sisters of Charity were both permitted to summon positive witnesses to engage in the hearing process. The Sisters of Mercy, for example, requested the participation of one former pupil with positive memories of St. Joseph’s Industrial School, Clifden, and four who remembered Goldenbridge Industrial School favourably.¹⁰² The Sisters of Charity similarly invited two positive witnesses to offer their testimony regarding their experiences of St. Joseph’s Industrial School, Kilkenny.¹⁰³ That the religious sisters adopted this approach, while the male congregations failed to do so, arguably reflected the time they were afforded following the release of *Dear daughter* in 1996 to prepare their response. Ryan later recalled that, after the release of Lentin’s documentary, the Sisters of Mercy ‘got a person to do an investigation to inform them as to what position they should take’ regarding the CICA.¹⁰⁴ Furthermore, in the debates that followed the release of the documentary, some women came forward to share positive experiences of Goldenbridge Industrial School. Indeed, while Sr. Xavieria was accused in *Dear daughter* of emotionally and physically abusing the children in her care, Catherine Doyle remembered her fondly, stating that Xavieria was ‘like my mum’.¹⁰⁵

It is unsurprising that the religious sisters invited these women to participate in the work of the CICA. The commission’s decision to accommodate such witnesses was, however, unusual and potentially unjust given the significant number of complainants who applied to present testimony to the Investigation Committee but were not selected. Yet, the sisters’ efforts to encourage more positive recollections were not wholly successful. The positive witness for Clifden, for example, while concluding that the ‘good the Sisters did outweighed their shortcomings’, nevertheless offered ‘quite severe criticisms’ of the school’s regime.¹⁰⁶ It is likely this witness was selected by the sisters as she had been part of a group of children known

¹⁰⁰ *Ryan Report*, III, pp 199-200, § 10.03-04.

¹⁰¹ *Ibid*, I, p. 86, § 6.137-8.

¹⁰² *Ibid*, II, p. 395, § 9.34; *ibid*, II, p. 259, § 7.04.

¹⁰³ *Ibid*, II, pp 519-21, § 14.162-73.

¹⁰⁴ *Irish Times*, 20 May 2019.

¹⁰⁵ RTÉ Television Archives, ‘Prime Time’, *RTE One* (23 April 1996).

¹⁰⁶ *Ryan Report*, II, p. 418, § 9.230.

as ‘specials’. Considered ‘delicate’, these children were given a special supplementary diet. The witness accepted, however, that at times the children at Clifden were hungry. She also remarked that the religious sisters were not permitted to show the children physical affection. She described the school as ‘very regimented’, and recalled how she felt ‘very alone’.¹⁰⁷ The Investigation Committee noted that the evidence presented by this witness acquired ‘increased importance because she was advanced by the Congregation as a positive witness’.¹⁰⁸

The McAleese Committee’s propensity to highlight positive witness testimony was more pronounced. Despite the committee’s claim that the discussion on living and working conditions was based primarily on the experiences of survivors, significant space was given to the reflections of ‘others closely associated or holding direct experience’ of the laundries from the 1960s and 1970s onward and thus after considerable improvements had been made to the institutions.¹⁰⁹ For example, the McAleese Committee drew extensively from the evidence of Dr Michael Coughlan, general medical practitioner to the Galway Magdalen Laundry for three months in 1979, and again from 1981 until 1997. Coughlan reported that it was a ‘pleasant relief’ to discover in the laundry ‘a group of ladies who appeared quite happy and content [...] who presented with the type of symptoms and problems that reflected those of the wider Practice population’. Coughlan also reflected positively on the opening of a new purpose-built wing for the women in 1985 ‘which was fitted with modern equipment and furnishings [and] had hotel-style rooms for the residents’. However, this wing opened as the institution ceased to operate as a laundry in 1984. While Coughlan recognised that he was unable to comment on conditions prior to 1979, he noted that he encountered no ‘complaints, symptoms or clinical signs’ which might alert him to maltreatment in the past.¹¹⁰

In contrast, Dr Harry Comber, general practitioner for Sunday’s Well, Cork, from 1986 to 1992, acknowledged that two women complained that they had been physically abused in the 1940s or 1950s by one sister who ‘had frequently beaten them, sometimes with a heavy crucifix which she wore on her belt’.¹¹¹ However, this was presented as the exception rather than the norm. Indeed, Dr Donal Kelly, general practitioner to the Magdalen laundry at Donnybrook in Dublin from 1968 onwards, stated that he ‘never [...] witness[ed] any evidence of physical or mental

¹⁰⁷ Ibid, II, pp 412-14, § 9.181-202.

¹⁰⁸ Ibid, II, p. 418, § 9.230.

¹⁰⁹ *McAleese Report*, p. 926, § 4.

¹¹⁰ Ibid, pp 964-7, § 80-3.

¹¹¹ The Magdalen laundry at Sunday’s Well closed in 1977 (ibid, p. 971, § 93).

abuse'.¹¹² The doctors acknowledged that the women who continued to reside in the laundries in the later decades of the twentieth century were to a large extent institutionalised and were 'expected to be rather passive within the [religious] community'. Yet, Dr Malachy Coleman, who provided medical services to the Waterford Magdalen Laundry from 1984 until approximately 2000, concluded that 'while the ladies were very deferential to the nuns', he did not 'get an impression of coercion or fear'.¹¹³

There was, furthermore, limited reference to the possible long-term health effects of the work carried out in the laundries. For example, Comber recorded that the physical and medical complaints presented by the women in the 1980s and 1990s were common to women their age, although he noted that there were more cases of osteoarthritis than usual. This, he argued, was largely due to the fact that many of the women were overweight, but he also recalled that a 'number blamed repetitive work on treadle sewing machines for knee and ankle problems'. Comber did not confirm or quantify this claim, but stated vaguely that 'it seemed plausible at the time'.¹¹⁴ Many of the women who presented their testimony as part of the 2013 Magdalen oral history project explained that they had longstanding health issues, including knee problems, arthritis, and persistent backache, which stemmed from the physically demanding work they were required to carry out in the Magdalen laundries.¹¹⁵ However, none of the women who laboured in the laundries were directly quoted in the McAleese Report regarding accidental injury or the long-term effect of the work on their physical health. In contrast, the Ryan Report recorded that many witnesses with physical impairments determined that their condition was associated with childhood abuse or resulted from the failure to address illnesses or injuries they suffered while institutionalised as children.¹¹⁶

The McAleese Report therefore offered ample space for the recollections of five general practitioners who experienced the laundry system in the final years of its existence and, in many cases, provided medical assistance to women who remained in the institutions once they ceased to operate as Magdalen laundries.¹¹⁷ In contrast, the memories of 118 Magdalen women interviewed by McAleese were discussed collectively and their evidence was presented in

¹¹² Ibid, p. 969, § 89-90.

¹¹³ Ibid, pp 971-3, § 94-9.

¹¹⁴ Ibid, pp 969-70, § 91-3.

¹¹⁵ O'Donnell, Pembroke and McGettrick, 'Oral history of Margaret Burke', p. 67; 'Oral history of Evelyn', p. 56; 'Oral history of Kathleen R', p. 96.

¹¹⁶ *Ryan Report*, III, p. 224, § 11.79.

¹¹⁷ *McAleese Report*, pp 963-73, § 79-99.

short, paraphrased, sections.¹¹⁸ The women revealed that they were required to carry out ‘heavy and difficult work’ in poor conditions, often in silence and for long hours. One woman explained, for example, that at the end of the workday ‘at about 8 o’clock you’d really drop’. Another recalled the regimented nature of life in the laundries, describing her experience succinctly as ‘laundry and prayer, laundry and prayer’.¹¹⁹ From the inclusion of charitable institutions in the Factory and Workshop Acts in 1907, the Magdalen laundries were subject to the same general legislation and standards as commercial and non-institutional laundries. Thus, during the period examined by the McAleese Committee, the Magdalen laundries were inspected as workplaces by the Factories Inspectorate on the same terms and basis as commercial laundries. The records and recollections of former inspectors indicated that the Magdalen laundries were generally compliant with the requirements of the Factory Act. However, the McAleese Report conceded that ‘the standards of the time were not equivalent to current health and safety standards’.¹²⁰ Indeed, the women who met with McAleese were ‘at one’ in describing the ‘harsh and physically demanding’ nature of the work they were required to carry out.¹²¹

Placed in the Magdalen laundries alongside many older women, ‘a large number’ of the witnesses also spoke of the ‘very real fear’ that they would remain institutionalised for life. The McAleese Report noted that the women received little information about why they were there or when they would be able to leave. As one woman explained, ‘no one ever spoke why I was there. In our heads all we could think of is we are going to die here’. Subsequently, many of the women remained in the laundries for many months, and often years, as they were unaware of their right to leave. As a witness recalled, it was ‘devastating to hear that door locked and I was never ever to walk out [...] When that door was locked my life ended’.¹²² In evidence presented to the McAleese Committee, which did not feature in the final report, JFM highlighted that the witnesses agreed unanimously that, at least until the final years of the laundries’ operation, the women were not free to leave. As such, JFM determined that ‘incarceration in the Magdalene Laundries was very similar to being sent to Prison’.¹²³

¹¹⁸ Ibid, pp 932-58, § 31-59.

¹¹⁹ Ibid, pp 940-3, § 39.

¹²⁰ Ibid, pp 524-6, § 3.

¹²¹ Ibid, p. 940, § 39.

¹²² Ibid, pp 951-3, § 51-2.

¹²³ JFM, *Principal submissions to McAleese*, p. 59, § 92.

However, of the women and girls who made up the increasingly heterogeneous populations of the Magdalen laundries by the twentieth century, only a small number were officially detained.

The McAleese Report highlighted that, under the 1908 Children Act, the police were required to provide an institution other than a prison as a place of detention to ‘be used for remand or committal to custody of children’. Sean McDermott Street Magdalen Laundry was subsequently approved as a place of detention for the remand of children prior to their trial, conviction, or sentencing. The 1960 Criminal Justice Act similarly authorised the courts to remand girls aged between sixteen and twenty-one to so-called ‘remand institutions’ for short periods pending trial or sentencing. Those held on remand were deemed to be in legal custody and were not entitled to leave.¹²⁴ Remand placements were recorded at the Magdalen laundries of Sean McDermott Street; High Park; Limerick; Waterford; and Sunday’s Well, Cork.¹²⁵ With the earlier introduction of the 1907 Probation of Offenders Act, and the 1914 Criminal Justice Administration Act, the courts were also permitted to admit women to the Magdalen laundries on probation as an alternative to prison for periods ranging from six months to three years. This was the most common method by which women and girls entered the Magdalen laundries via the criminal justice system, as women were admitted for crimes ‘as varied as larceny and vagrancy to manslaughter and murder’.¹²⁶ Those who attempted to leave without permission, and thus failed to comply with the conditions of their probation, faced arrest.¹²⁷

Girls could also be forcibly returned to the Magdalen laundries if they attempted to leave during a period of post-discharge supervision following their transfer from an industrial or reformatory school.¹²⁸ Under the 1908 Act, following their discharge, children remained under the supervision of the industrial school manager until the age of eighteen. From 1941, this was extended to the age of twenty-one if supervision was deemed necessary for the individual’s ‘protection and welfare’.¹²⁹ None of the women who spoke to McAleese were aware of this practice.¹³⁰ During their period of post-discharge supervision, the children could be recalled and placed out on licence, which included placement in a Magdalen laundry. If they left the laundry without permission, they were deemed to have breached the terms of their supervision

¹²⁴ *McAleese Report*, pp 213-16, § 25-33.

¹²⁵ *Ibid*, pp 225-6, § 63.

¹²⁶ *Ibid*, p. 228, § 66.

¹²⁷ *Ibid*, p. 229, § 71.

¹²⁸ *Ibid*, pp 309-10, § 284-6.

¹²⁹ *Ibid*, p. 341, § 43.

¹³⁰ *Ibid*, p. 951, § 51.

and could be arrested without warrant.¹³¹ However, just under eight per cent of known referrals to the Magdalen laundries were those transferred from an industrial or reformatory school, while 646, an additional eight per cent, entered via the criminal justice system.¹³² As such, the majority of women who lived and worked in the Magdalen laundries during the period under investigation were not detained under law and were therefore, in theory, entitled to leave when they wished.

For Bill Donohue, president of the US Catholic League, the evidence ‘fully documented’ in the McAleese Report confirmed that ‘no one was imprisoned, nor forced against her will to stay’ in a Magdalen laundry.¹³³ This would have been a difficult stance to adopt had the McAleese Report included the survivor testimony presented by JFM. For example, one witness who was at High Park from 1947 to 1960 explained that ‘every window ha[d] bars on it [...] every door was locked’. Another witness who spent time in three Magdalen laundries between 1959 and 1965 similarly noted that the doors were locked ‘all the time constantly [...] and the nuns were the sole holders of the keys’.¹³⁴ Many believed, furthermore, that they could not leave until they were collected by a family member. As one woman explained to JFM, ‘it was a well-known fact that once you went [in the Magdalen laundry] you never came out [...] unless a family [member] of yours took you out [or] somebody claimed you’.¹³⁵ However, ties with their lives outside the laundries were largely severed upon entry, as visits from friends or family were restricted and supervised, while letters were read by the sisters and ‘didn’t get out or in if they didn’t suit’. For example, one woman revealed that a religious sister prevented her sending a letter in which she complained she ‘wasn’t getting school[ed]’.¹³⁶

Witnesses to the McAleese Committee also commented on the sisters’ efforts to persuade the women to remain in the Magdalen laundries. One woman explained, for example, that she made repeated requests to leave, but was convinced to stay as she was a ‘quiet person’ who would struggle to cope in the ‘big bad world’ outside, while others were encouraged to become auxiliaries, allowing them to assume an elevated position in the laundry.¹³⁷ Although this suggested the sisters were concerned for the welfare of the women, it also reflected a process

¹³¹ Ibid, p. 309-10, § 286.

¹³² Ibid, p. 162, § 17.

¹³³ Bill Donohue, ‘Myths of the Magdalene laundries’ (New York, 2013), *Catholic League for Religious and Civil Rights* (<https://www.catholicleague.org/myths-of-the-magdalene-laundries/>) (3 December 2019).

¹³⁴ JFM, *Principal submissions to McAleese*, pp 13-14, § 8.

¹³⁵ Justice for Magdalenes, *Submission to the United Nations Committee Against Torture, 46th session* (Crocknahattina, Bailieborough, 2011), p. 31.

¹³⁶ *McAleese Report*, pp 947-9, § 44-8.

¹³⁷ Ibid, p. 956, § 56.

of infantilization, as the women forfeited control of all aspects of their lives to the laundry managers and expected that they had to be ‘claimed’ in order to leave. Many of the women subsequently became acclimatised to institutional life and the routines of the laundry. In time, as one survivor explained in *Whispering hope*, the women became ‘so passive’ that they ‘accepted [their] lives, assuming they were normal’, and consequently did not seek to leave, suggesting a form of mental containment.¹³⁸ Others, wary of the stigma attached to the laundries and fearful of the life they would lead outside without the support of their family or wider society, remained because they felt they had nowhere else to go. As one woman explained to McAleese, she was ‘too ashamed to go home. I was put in there and it had a bad name and I’d have a bad name then too’.¹³⁹ While the McAleese Report presented survivor testimony which detailed the difficulties faced by those who sought to leave the Magdalen laundries, it failed to explicitly acknowledge and interrogate the impact of perceived, as compared to actual, imprisonment. Questions surrounding the contentious issue of whether the women were free to leave, and how far the sisters determined and controlled the duration of their stay, thus remain largely unanswered.

Mirroring the approach of the CICA, the McAleese Committee afforded the religious congregations the opportunity to respond to the survivors’ testimony and address the key issues they raised. The congregations primarily used this as a chance to explain their approach to the operation and management of the laundries, highlighting improvements made to living and working conditions from the 1960s, while expressing their ‘regret’ about the impact of institutional life on the women.¹⁴⁰ For example, the McAleese Report recorded that the practice of giving the women a ‘House’ or ‘Class’ name upon admission was ‘deeply upsetting’ for many women, who ‘felt as though their identity was being erased’.¹⁴¹ The sisters explained that their intention was not to undermine the individual’s identity, but to ‘preserve the[ir] anonymity and privacy’. They nevertheless acknowledged with regret the negative effect this had on ‘some women’. The McAleese Report did not challenge this explanation and, in particular, did not consider how the practice of adopting new names to ‘protect’ the women from discussion of

¹³⁸ Steven O’Riordan and Sue Leonard, *Whispering hope: the true story of the Magdalene women* (London, 2015), p. 44.

¹³⁹ *McAleese Report*, p. 957, § 57.

¹⁴⁰ *Ibid*, pp 958-9, § 61-4.

¹⁴¹ *Ibid*, p. v, § 14.

their past also perpetuated the image of the laundry workers as the deviant other who should be ashamed of, and therefore attempt to conceal, their past activities.¹⁴²

The religious congregations also noted that the daily routine of work and prayer in the Magdalen laundries was influenced by the pattern of religious life, while two congregations similarly highlighted that the lack of freedom in the laundries reflected the fact that they were enclosed orders.¹⁴³ As one sister explained, ‘there were a lot of things you would do differently if you had it again. But sure, we were institutionalised too’.¹⁴⁴ This fails to address the fact that the women who laboured in the Magdalen laundries had not chosen to lead a religious life, with the sacrifices and limitations this entailed. Other congregations observed that doors and entrances were locked, and movement restricted, in the interests of general security. As one congregation explained, ‘designated sisters held the keys and were on duty during the night to ensure safety’ but also, more ominously, ‘to prevent someone running away’.¹⁴⁵ The four congregations responsible for operating the Magdalen laundries ultimately expressed their ‘profound regret’ that, while their ‘intention was to provide refuge and a safe haven’ for the women, they were ‘increasingly aware [...] that for some, their experience of our care has been deeply wounding’.¹⁴⁶ The congregations’ explanations and expressions of regret are presented in the McAleese Report without criticism or comment. Indeed, the committee recorded that the Magdalen laundries could ‘legitimately claim to be a charitable outreach to the marginalised’, thus highlighting its failure to properly interrogate the sisters’ assertion that the laundries operated as a refuge.¹⁴⁷

Evidence submitted by state representatives regarding the treatment of those who entered the Magdalen laundries was similarly reproduced in the McAleese Report without being adequately evaluated or cross-referenced with survivor testimony. For example, the committee presented evidence from a Garda report, as well as interviews with former Gardaí, in which it was suggested that women and girls were only returned to the Magdalen laundries if they ‘escaped’ while on licence from an industrial school, or if there was a court order for their detention.¹⁴⁸ This was contradicted by a ‘significant amount of evidence’ submitted to the committee by JFM, which revealed that the religious sisters consistently requested and received

¹⁴² Ibid, p. 959, § 63.

¹⁴³ Ibid, pp 959-61, § 66-9.

¹⁴⁴ Ibid, p. 963, § 77.

¹⁴⁵ Ibid, p. 961, § 69.

¹⁴⁶ Ibid, p. 963, § 78.

¹⁴⁷ Ibid, p. 920, § 97.

¹⁴⁸ Ibid, pp 309-12, § 285-91.

the assistance of the police in returning ‘escapees’ to the laundries, regardless of the original reason for their referral. Witness testimony indicated that this practice occurred throughout Ireland and across a number of decades.¹⁴⁹ However, JFM’s evidence was not included in the McAleese Report. While the forcible return of some women to the laundries was justified under Irish law, this practice appeared arbitrary to the women in the Magdalen laundries, thus ‘cultivat[ing] the prison-like and punitive nature of the Laundries’. Witnesses interviewed by JFM explained that the fear of being caught by the police and punished on their return ‘scared the life’ out of them and prevented them from attempting to leave.¹⁵⁰ However, viewing the evidence through an ‘insistently bureaucratic glass’, the McAleese Report did not consider the possible psychological impact on the women who witnessed the apparent arrest and return of other women.¹⁵¹

Indeed, the McAleese Committee frequently focused on the legal basis for the state’s actions, yet failed to address the ethical implications. For example, the McAleese Report detailed the legislation which allowed for the transfer of girls from industrial and reformatory schools to the Magdalen laundries under the terms of the Children Act of 1908 and the amended act of 1941. As well as allowing for the admission of ex-industrial and reformatory school students to the laundries during a period of post-discharge supervision, this legislation ensured that young girls could be temporarily housed in the laundries if an industrial school was unable or unwilling to receive them.¹⁵² The McAleese Report highlighted that these transfers were permissible by law, but did not adequately acknowledge that it was inappropriate to move young girls into institutions for adult women, including those facing criminal charges. In such cases, the committee did not seek to establish the role of the state in the operation of the Magdalen laundries in order to right the wrongs of Ireland’s recent past but rather to determine whether the state acted outside the boundaries of contemporary law.

On the basis of the ‘stories’ shared by the women who lived and worked in the laundries, and the medical records and recollections of the doctors who attended them, the McAleese Report suggested that sexual and physical abuse were not endemic in Ireland’s twentieth-century Magdalen laundries.¹⁵³ Indeed, only one woman told McAleese that she was subjected to sexual

¹⁴⁹ Justice for Magdalens, *State involvement in the Magdalene laundries: a summary of JFM’s submissions to the interdepartmental committee to establish the facts of state involvement with the Magdalene laundries* (Crocknahattina, Bailieborough, 2012), p. 13, § 38-9.

¹⁵⁰ JFM, *Principal submissions to McAleese*, p. 85, § 171-4.

¹⁵¹ McGarr, *How to read the McAleese Report*.

¹⁵² *McAleese Report*, pp 328-9, § 6.

¹⁵³ *Ibid*, p. vii, § 18.

abuse during her time in a Magdalen laundry, while ‘a large majority of women’ who spoke to the committee stated that they had neither experienced nor seen others suffer physical abuse in the Magdalen laundries. One woman explained, for example, that she was shocked ‘to read in papers that we were beat and our heads shaved and that we were badly treated by the nuns’.¹⁵⁴ The McAleese Report conceded that a ‘small number’ of women described physical punishment on at least one occasion. For example, one woman explained how a sister would ‘dig’ the women with a ‘thick stick’ or cross and would ‘pull their hair and box their face’. Another stated that, if the women were discovered talking, they would ‘get a slap with a stick’.¹⁵⁵ These were depicted, however, as isolated incidents and were not held as evidence of systemic abuse. The McAleese Report acknowledged that the ‘overwhelming majority’ of women ‘described verbal abuse and being the victim of unkind or hurtful taunting and belittling comments’. For example, one woman stated that the religious sisters were ‘very nasty. They’d say “your father is a drunkard” in front of everyone. It would degrade me’.¹⁵⁶ From the evidence presented in the McAleese Report, it can therefore be determined that instances of verbal and psychological abuse were more prevalent in the Magdalen laundries than physical abuse.

Although the McAleese Committee was unable to make specific findings in relation to living and working conditions, Prunty suggested that its report ‘laid to rest some of the wildest accusations’ regarding the treatment of the women in the country’s Magdalen laundries.¹⁵⁷ The Permanent Mission of Ireland to the UN Office at Geneva also concluded that, while it was evident working conditions in the laundries were harsh and the work was physically demanding, there was ‘no factual evidence’ in the McAleese Report to suggest the women endured ‘systemic torture or ill treatment of a criminal nature’.¹⁵⁸ However, JFM and other survivors argued that the committee minimised the physical and psychological abuse suffered by the women in the Magdalen laundries.¹⁵⁹ This was due, in part, to the failure of the McAleese Report to address the witness testimony collected by JFM which ‘clearly outlined [...] a prevailing culture of abuse’ in Ireland’s laundries.¹⁶⁰ For example, several of the women interviewed by JFM recalled being hit with a leather strap if they made a mistake in their work

¹⁵⁴ Ibid, pp 932-3, § 31-5.

¹⁵⁵ Ibid, pp 936-7, § 36.

¹⁵⁶ Ibid, pp 937-9, § 37.

¹⁵⁷ Prunty, *Our Lady of Charity*, p. 25.

¹⁵⁸ The Permanent Mission of Ireland to the UN, *Follow-up material to the Concluding Observations of the UN Human Rights Committee on the Fourth Periodic Review of Ireland under the International Covenant on Civil and Political Rights*, TPN/063/20 15 (Geneva, 2015), p. 2.

¹⁵⁹ JFM, *Press release* (18 June 2013), p. 2.

¹⁶⁰ JFM, *Critique of chapter 16 of the McAleese Report*, p. 4.

or ‘answered back’ to the sisters. One woman explained that ‘if there was a tiny bit of a crease’ in the ironing, she would be hit ‘on the top of the head’ with a belt of ‘big heavy keys’. Another woman, who stated that she was slapped and hit across the head by the religious sisters, remarked that the women were ‘constantly being punished’.¹⁶¹

JFM also presented the testimony of ‘outside witnesses’ to instances of physical abuse. For example, a maintenance worker at the Limerick Good Shepherd Laundry in the mid-1970s suggested that some of the sisters would hit the women if they believed they did so unobserved. He stated that one sister ‘thought nothing of pulling the strap out’ and hitting the women ‘to get them to speed up’. A paid hand at Galway Magdalen Laundry in the 1950s similarly recalled witnessing a girl ‘all disfigured from the beating she got’, and whose head was shaved after she was found ‘in bed’ with another woman. Indeed, a number of those who spoke to JFM referred to forcible hair-cutting as a form of punishment. For example, one woman who entered the Good Shepherd Laundry at New Ross, Wexford, stated that she both witnessed women having their hair cut as punishment and experienced this ‘traumatic abuse’ herself.¹⁶² The majority of witnesses to the McAleese Committee stated that their hair was cut short on entry to the laundry. However, while this was acknowledged as an ‘upsetting and degrading’ experience, only three women were recorded in the McAleese Report as having either experienced or seen hair-cutting as a punishment.¹⁶³

In contrast to the material presented to the committee by JFM, the evidence provided by a number of the women who participated in the 2013 Magdalen oral history project supported the McAleese Report’s depiction of low-level physical abuse in the laundries. For example, Bernadette Murphy, who lived and worked in New Ross between 1958 and 1964, stated that she ‘never saw any beatings’ in the laundry.¹⁶⁴ Kathleen R. similarly recalled that, although she experienced ‘hard physical punishment’ in St. Dominick’s Industrial School, Waterford, she never witnessed the women being beaten in the Magdalen laundries.¹⁶⁵ However, others reported witnessing or being subjected to severe physical punishment in Ireland’s Magdalen laundries, often for minor transgressions. For example, one woman who spent a year at Sean McDermott Street in the late-1970s noted that, if the women made a mistake, ‘if you forgot

¹⁶¹ JFM, *Principal submissions to McAleese*, pp 22-3, § 8.

¹⁶² *Ibid*, pp 23-4, § 8.

¹⁶³ *McAleese Report*, pp 944-7, § 42-3.

¹⁶⁴ O’Donnell, Pembroke and McGettrick, ‘Oral history of Bernadette and Francis Murphy’, p. 5.

¹⁶⁵ O’Donnell, Pembroke and McGettrick, ‘Oral history of Kathleen R.’, p. 51.

[or] lost a sock or something, you'd be beaten to a pulp'.¹⁶⁶ She also stated that the women would be struck across the back of the legs with a thin stick if they were considered to be 'slacking'.¹⁶⁷

Martha, who worked in Waterford Laundry between 1967 and 1970-71, also stated that she was sexually abused by the sisters in the Magdalen laundry. She outlined her belief that her case was not unique, but that other women were 'slow in coming out' and exposing instances of sexual abuse because they were 'too ashamed' to address the issue.¹⁶⁸ Maureen Sullivan, who participated in both the Magdalen oral history project and the work of the McAleese Committee, subsequently expressed her surprise that the 'awful things [that] went on' in the Magdalen laundries were not 'put into the [McAleese] Report'. Indeed, Sullivan questioned how, given the report's length and the survivors' conversations with McAleese during which they described being beaten, the issue of physical abuse was not adequately addressed.¹⁶⁹ She subsequently referred to the McAleese Report as a 'whitewash'.¹⁷⁰ Thus, while a consensus on the extent and nature of abuse in the Magdalen laundries remains elusive, both JFM and the Magdalen oral history project gathered sufficient evidence to suggest that the McAleese Report's account of low-level physical abuse was not comprehensive or, indeed, accurate. Despite these uncertainties, Ireland's Magdalen laundries have, and will likely continue to be depicted as generally non-violent institutions based on the findings of the McAleese Report.¹⁷¹

The McAleese Report's depiction of abuse was arguably distorted by the fact that the sample of women who spoke to the committee was heavily weighted towards those who had previously attended industrial schools. This led to unnecessary and potentially misleading comparisons between the Magdalen laundries and the industrial schools. Indeed, of 1,000 witnesses who gave evidence regarding their memories as children in out-of-home care to the CICA's Confidential Committee, more than ninety per cent reported experiencing physical abuse.¹⁷² Corporal punishment was the 'option of first resort' for maintaining discipline in residential boys' schools where the children were frequently subjected to 'prolonged, excessive beatings'

¹⁶⁶ O'Donnell, Pembroke and McGettrick, 'Oral history of Lucy', p. 5.

¹⁶⁷ Ibid, pp 38-9.

¹⁶⁸ O'Donnell, Pembroke and McGettrick, 'Oral history of Martha', pp 17-18.

¹⁶⁹ O'Donnell, Pembroke and McGettrick, 'Oral history of Maureen Sullivan', pp 48-9.

¹⁷⁰ Yeager, 'Oral testimony of Maureen Sullivan',

(https://www.youtube.com/watch?time_continue=4286&v=RpjLxBtQUOU&feature=emb_logo) (5 June 2020).

¹⁷¹ For example, referencing the McAleese Report, James Franklin determined that, 'contrary to some popular perceptions', there were 'almost no' allegations of sexual abuse or severe physical abuse in Ireland's Magdalen laundries (James Franklin, 'Covent slave laundries? Magdalen asylums in Australia' in *Journal of the Australian Catholic Historical Society*, 34 (2013), p. 78).

¹⁷² *Ryan Report*, III, p. 393, § 19.06.

by both lay and religious staff. As there was ‘little variation in the use of physical beating from region to region, from decade to decade, or from Congregation to Congregation’, the Ryan Report determined that there was a ‘culture of understanding’ within the institutional school system that it was acceptable and appropriate to physically reprimand boys. Although the industrial school regulations imposed greater restrictions in girls’ schools, the use of corporal punishment in such institutions was nevertheless ‘pervasive, severe, arbitrary and unpredictable’, leading to a ‘climate of fear’ among the children.¹⁷³ Of 378 female witnesses to the Confidential Committee,¹⁷⁴ 374 reported physical abuse, including being beaten, force-fed, burned, and physically restrained.¹⁷⁵

The Ryan Report recorded, however, that, while sexual abuse was endemic in boys’ schools, it was not systemic in institutions for girls.¹⁷⁶ The Confidential Committee heard evidence from 413 male witnesses in relation to twenty-six industrial and reformatory schools.¹⁷⁷ Of these witnesses, 242, or fifty-nine per cent, reported sexual abuse.¹⁷⁸ In contrast, 127 (thirty-four per cent) of female witnesses to the Confidential Committee reported sexual abuse.¹⁷⁹ This was not, however, to minimise the evidence of sexual abuse in girls’ schools, which the Ryan Report noted ranged from non-contact abuse, such as enforced nudity and voyeurism, to contact sexual abuse, including rape.¹⁸⁰ The Ryan Report similarly recorded that children in both boys’ and girls’ schools were subjected to ‘disturbing’ levels of emotional abuse by religious and lay staff, which included public humiliation, criticism and verbal abuse, deprivation of affection and approval, as well as the loss of secure relationships, family contact, and a sense of identity.¹⁸¹

The McAleese Committee particularly welcomed witness testimony which offered a ‘clear distinction’ between some of the practices in the country’s industrial schools and conditions in the Magdalen laundries.¹⁸² Many of the women who engaged with the McAleese Committee stated ‘clearly that the widespread brutality which they had witnessed and been subjected to in industrial and reformatory schools was not a feature of the Magdalen Laundries’.¹⁸³ However,

¹⁷³ Ibid, IV, p. 453, § 6.14-6.

¹⁷⁴ Ibid, III, p. 133, § 9.01.

¹⁷⁵ Ibid, III, p. 134, § 9.06.

¹⁷⁶ Ibid, IV, p. 453, § 6.18.

¹⁷⁷ Ibid, III, p. 53, § 7.01.

¹⁷⁸ Ibid, III, p. 78, § 7.110.

¹⁷⁹ Ibid, III, p. 150, § 9.70.

¹⁸⁰ Ibid, III, p. 150, § 9.69.

¹⁸¹ Ibid, IV, p. 457, § 6.39; *ibid*, III, p. 101, § 7.213; *ibid*, III, p. 176, § 9.190.

¹⁸² *McAleese Report*, p. 928, § 15.

¹⁸³ *Ibid*, p. 932, § 34.

those who endured and became accustomed to ‘grievous abuse’ in the industrial schools, and subsequently compared their time in the laundries to these experiences, may not have fully appreciated the abusive nature of the Magdalen laundries.¹⁸⁴ As Elizabeth, a witness to the Waterford Memories Project explained, her time at Tralee Industrial School was ‘all abuse and starvation and whipping and beating’. Subsequently, when she met with McAleese to discuss her experiences of two Magdalen laundries, she recalled that ‘he asked me if I ever saw any abuse, but I was thinking more of physical abuse. But on reflection now, it was physical abuse because we were restricted in our movement’.¹⁸⁵ Indeed, the question presented in the McAleese Report should not have been whether the women were abused in the laundries as they had been in the industrial schools, but rather how far the Magdalen laundries were abusive in their own right.

The McAleese Committee has similarly faced deserved criticism for adopting a narrow definition of ‘physical abuse’.¹⁸⁶ Punishments deemed ‘non-physical’ by the committee included women placed in isolation or deprived of food, being made to kneel for a number of hours or required to ‘walk in front of all the women in the refectory and lie on the ground and kiss the floor’, and, as a punishment for wetting the bed, having the soiled sheet pinned to their back.¹⁸⁷ Arguably, such punishments were not only physical, but also in their public nature a means to humiliate the women involved and act as a deterrent to others. The IHRC thus concluded that the women were exposed to a ‘punitive regime’, which was both ‘harsh by the standards of the time’ against which the religious congregations asked to be judged, and by current standards.¹⁸⁸ Furthermore, by equating physical abuse with corporal punishment, the McAleese Report failed to acknowledge that the system itself was abusive. As JFM argued, in alleging that there were low levels of physical abuse, the McAleese Report ‘completely ignore[d] the fact that deprivation of liberty and forced labour are grave physical abuses in themselves’.¹⁸⁹ Indeed, ‘the absence of graphic violence does not lessen the widespread violation of Irish females and their basic human rights’ in Ireland’s Magdalen laundries.¹⁹⁰

¹⁸⁴ Ibid, p. 926, § 3.

¹⁸⁵ Jennifer Yeager, ‘Oral testimony of Elizabeth’, *The Waterford Memories Project* (2015) (<https://www.waterfordmemories.com/copy-of-the-recordings>) (1 June 2020).

¹⁸⁶ JFM, *Critique of chapter 16 of the McAleese Report*, p. 4.

¹⁸⁷ *McAleese Report*, pp 939-40, § 38.

¹⁸⁸ Irish Human Rights Commission, *Follow-up report on state involvement with Magdalen laundries* (Dublin, 2013), p. 96, § 241.

¹⁸⁹ JFM, *Critique of chapter 16 of the McAleese Report*, p. 4.

¹⁹⁰ *Irish Independent*, 6 February 2013.

Neither the McAleese nor the Ryan Report explicitly acknowledged the experiences of the women and children who entered the country's Magdalen laundries, industrial schools, and other church-run institutions as an infringement of their human rights. In the examination of historical abuse cases, it is misleading to apply modern standards and expectations of acceptable conduct that were not legally binding at the time. Nevertheless, the right to equal treatment and personal liberty were enshrined in the 1922 Constitution of the Irish Free State,¹⁹¹ and again in the 1937 Constitution of Ireland, which ultimately militated against the methods adopted in the country's Magdalen laundries and industrial schools.¹⁹² As witnesses to the CICA and McAleese Committee revealed, the industrial schools and laundries where younger girls were admitted undermined the state's commitment to providing children with a 'certain minimum education', as well as its guarantee 'to protect the Family' as the 'natural primary and fundamental unit group of Society'.¹⁹³ Furthermore, both types of institution demonstrated the failure of the state to uphold its commitment 'to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused'.¹⁹⁴

The McAleese Committee uncovered extensive and previously unexamined contemporary material which related to the function and management of the Magdalen laundries. However, in light of the committee's principal fact-finding mission, its report largely failed to interrogate this evidence and address the 'gap in understanding' regarding potential human rights violations.¹⁹⁵ Following the publication of the McAleese Report, the IHRC subsequently sought to establish the human rights standards which were overlooked by the state as it allowed the laundries to operate with minimal oversight. The IHRC noted, for example, that the Magdalen laundries discriminated on the basis of gender, thus undermining the guarantee of equality and non-discrimination established under the 1937 Constitution and the European Convention on Human Rights (ECHR), ratified in Ireland in 1953. Furthermore, the IHRC determined that many of the women 'were not in the Laundries of their own free will and [...] were subjected to a form of forced or compulsory labour', as they feared the 'penalty' if they left the Magdalen laundry or refused to work. The IHRC concluded that this was in clear contravention of the state's obligations under the 1930 Forced Labour Convention, ratified in

¹⁹¹ *Constitution of the Irish Free State (Saorstát Eireann) Act, 1922*

(<http://www.irishstatutebook.ie/eli/1922/act/1/enacted/en/print.html>) (31 December 2019), article 6.

¹⁹² *Constitution of Ireland, 1937* (<http://www.irishstatutebook.ie/eli/cons/en/html>) (27 August 2020), article 40, § 1; *ibid*, article 40, § 4(1).

¹⁹³ *Ibid*, article 42, § 3(2); *ibid*, article 41, § 1(1-2).

¹⁹⁴ *Ibid*, article 45, § 4(2).

¹⁹⁵ IHRC, *Follow-up report on state involvement with Magdalen laundries*, p. 4.

1931.¹⁹⁶ These issues were not explored in the McAleese Report as the committee determined that an examination of the state's commitment to upholding human rights law fell outside the remit of its inquiry.

In 2011, Carole Holohan and Amnesty International produced a similar study in response to the findings of the Ferns, Ryan, Murphy, and Cloyne inquiries. Holohan noted that each report documented cases of clerical child abuse and outlined the response of the church and state to the allegations, while the Ryan Report 'in particular describe[d] how children in residential institutions were subject[ed] to physical, sexual and emotional abuse and gross neglect'.¹⁹⁷ However, the reports failed to specifically identify the experiences of the children as violations of human rights law.¹⁹⁸ The prohibition of torture, cruel, inhuman and degrading treatment or punishment was first outlined in the UN Universal Declaration of Human Rights (UDHR). This was adopted in 1948, and Ireland became a member of the United Nations in 1955. From 1953, Ireland was also bound by Article 3 of the ECHR, which similarly forbade the use of torture and inhuman or degrading treatment or punishment.¹⁹⁹ Holohan concluded that much of the abuse detailed in the Ryan Report fell within the scope of Article 3 and was thus prohibited under the UDHR and ECHR.²⁰⁰ Furthermore, while state representatives were not actively involved in the sexual, physical, and emotional abuse of women and children in Ireland's residential institutions, the state had an obligation to intervene if it suspected abuse was taking place. As such, the state was guilty of violating human rights where it 'failed to take reasonable steps to prevent, investigate or punish' abuse perpetrated by non-state actors.²⁰¹ This was not adequately acknowledged in either report.

Anonymity and the Ryan and McAleese Reports

The question of whether to present evidence in the reports anonymously, or to name, and potentially shame those involved was a particularly contentious issue for the CICA. Following the precedent established by the South African TRC, the CICA was founded on the grounds that the Investigation Committee would be permitted in its report to identify institutions where abuse occurred, name the perpetrators of the abuse, and identify those who were responsible

¹⁹⁶ Ibid, pp 111-14, § 292-8.

¹⁹⁷ Holohan, *In plain sight*, p. 47.

¹⁹⁸ Ibid, p. 17.

¹⁹⁹ Ibid, pp 52-3.

²⁰⁰ Ibid, p. 58.

²⁰¹ Ibid, p. 28.

for managing or supervising the institutions where abuse took place.²⁰² However, in 2003, the Christian Brothers launched a vigorous legal campaign against the CICA's right to name perpetrators which threatened to 'fatally undermine' the CICA's work,²⁰³ and revealed the vulnerability of the inquiry to 'co-option by powerful forces in society, who will mobilize the law to protect themselves'.²⁰⁴ Highlighting their right to fair procedure, the congregation raised concerns about naming the accused in light of the 'prejudice arising by reason of lapse of time between the date of the alleged incident and the date of intended adjudication', and expressed particular concern about the Investigation Committee's power to identify and make findings against deceased, elderly, infirm, or untraceable religious brothers who were not in a position to defend themselves.²⁰⁵ A number of complainants also 'generously acknowledged' that a process which allowed the CICA to 'name and shame' individuals posed the risk of creating a 'new class of victim in people who are wrongly labelled as abusers'.²⁰⁶

Following his opening address at the Shelbourne Hotel, Dublin, in May 2004, Ryan distributed a position paper which stated that the CICA would not be able to complete its work if the Investigation Committee proceeded on the basis of naming abusers. Given 'the difficulties of proof' common to cases of historical abuse, the chair noted that 'there would probably be many abusers in respect of whom the evidence fell short'.²⁰⁷ The CICA act was subsequently amended in 2005 to ensure that an individual would be named in the final report only if they had been convicted of an offence in respect of abuse by the Irish courts.²⁰⁸ The CICA concluded that, as a result, only a 'very small number' of respondents would be named and determined that 'the supposed benefits of being able to name persons who committed abuse were outweighed by the disadvantages'.²⁰⁹ As such, the Investigation Committee assigned pseudonyms to all respondents, including those who had been found guilty of a criminal offence at trial. The identity of complainants was similarly protected.²¹⁰

²⁰² The TRC was 'obliged to identify all persons, authorities, institutions and organisations involved in gross violations of human rights' (TRC, *South Africa Report*, I, p. 87, § 137); Commission to Inquire into Child Abuse Act, 2000 (7/2000) (26 April 2000), § 13 (2)a-b.

²⁰³ Carol Brennan, 'Facing what cannot be changed: the Irish experience of confronting institutional child abuse' in *Journal of Social Welfare and Family Law*, 29, nos. 3-4 (2007), pp 253-4; *The Irish Times*, 16 May 2009.

²⁰⁴ Carol Brennan, 'Trials and contestation: the Ryan Commission' in Johanna Sköld and Shurlee Swain (eds), *Apologies and the legacy of abuse of children in 'care'* (Basingstoke, 2015), p. 64.

²⁰⁵ Seán Ryan, *Review into the working of the Commission to Inquire into Child Abuse* (Dublin, 2004), pp 57-8, § 7.4.

²⁰⁶ Seán Ryan, *Address by the chairperson* (Dublin, 2004), pp 4-5.

²⁰⁷ *Ryan Report*, I, p. 7, § 1.35.

²⁰⁸ Commission to Inquire into Child Abuse (Amendment) Act, 2005 (17/2005) (9 July 2005), § 8.

²⁰⁹ *Ryan Report*, I, p. 66, § 5.42-3.

²¹⁰ Seán Ryan, *Report of the Commission to Inquire into Child Abuse: executive summary* (Dublin, 2009), p. 2.

In its decision not to name the accused, the CICA deviated from the precedent set by the TRC and adopted an approach closer to that of Queensland's Forde Inquiry (1999), where specific abusers were not generally identified. However, the Forde Report differed from the Ryan Report as it named the accused where there was sufficient evidence to refer the case for criminal prosecution or disciplinary action.²¹¹ Thus, while the use of pseudonyms removed a significant obstacle to the CICA's progress, it ultimately limited the capacity of the Investigation Committee to operate, as envisaged, on the principles of a truth and reconciliation commission. For many, the 'protective cloak of anonymity' offered to the clergy perpetuated the culture of secrecy historically associated with Ireland's church-run institutions and denied justice for the complainants, particularly in terms of public recognition of wrongdoing.²¹² In its efforts to overcome the resistance of the congregations to the investigation process, the CICA had, it was argued 'had its teeth pulled'.²¹³ Many survivors therefore expressed their concern that the perpetrators of abuse, having previously been protected by the religious congregations, were now shielded from public scrutiny and criminal prosecution by the state.²¹⁴

In contrast to the TRC - and the CICA at its foundation - the McAleese Committee was established and proceeded to operate on an entirely confidential basis. McAleese 'determined from the outset' that the women who worked in the Magdalen laundries would not be named or identified in the report.²¹⁵ While data protection laws then in place applied only to living persons,²¹⁶ the McAleese Committee guaranteed the privacy and confidentiality of all the women involved, whether living or dead, 'in light of the sensitivity of the materials' discussed.²¹⁷ Although not enshrined in legislation, the McAleese Report similarly noted that materials were disclosed to the committee by the religious congregations 'on the basis of a mutual understanding of confidence'.²¹⁸ The institutions and congregations were subsequently discussed collectively, with no identifying links made between events or complaints and specific institutions, while names were redacted where witnesses identified individuals. Consequently, the possibility of localised abuse was not explored.

²¹¹ Brennan, 'Facing what cannot be changed', p. 260.

²¹² Powell, Geoghegan, Scanlon and Swirak, 'The Irish charity myth', p. 7; Anne-Marie McAlinden, 'An inconvenient truth: barriers to truth recovery in the aftermath of institutional child abuse in Ireland' in *Legal Studies*, 33, no. 2 (2013), p. 203.

²¹³ *Irish Times*, 16 May 2009.

²¹⁴ Reclaiming Self, *Ryan Report follow-up*, p. 19, § 3.5.

²¹⁵ *McAleese Report*, p. 63, § 55.

²¹⁶ Data Protection Act, 1988 (25/1988) (13 July 1988), § 1(1).

²¹⁷ *McAleese Report*, p. 63, § 53.

²¹⁸ *Ibid*, p. 63, § 54.

The McAleese Report acknowledged that the decision to present evidence anonymously was motivated by both practical and ethical considerations. ‘The first and primary reason’ was the difficulty the committee faced determining whether the data subjects were living or dead given the limited nature of the documentary evidence available.²¹⁹ Although not explicitly stated, the McAleese Committee may also have hoped to avoid any legal challenges similar to those that previously hampered the work of the CICA. Furthermore, in light of the committee’s non-statutory footing, the guarantee of confidentiality was a means of ensuring the cooperation of the religious congregations. Indeed, as the sisters worked with the committee voluntarily and were not compelled to give evidence, it is questionable how far they would have engaged with the inquiry had it been determined that individual institutions, congregations, and their members would be named.

If the committee’s decision was based wholly on these or other practical considerations, there would be significant grounds for the criticism that the McAleese Committee ‘did not trouble’ itself with addressing the concerns of the women who determined that the loss of their name and identity whilst institutionalised was a form of abuse. The failure to name the women in the McAleese Report was thus held to be a continuation of their maltreatment.²²⁰ However, the McAleese Report noted as a ‘second and more general’ concern that the committee adopted this position as the ‘fact of or the reason for a woman’s presence in a Magdalen Laundry’ may have been ‘deeply personal and sensitive to more than that woman alone’. The guarantee of confidentiality was therefore ‘intended to ensure respect for the privacy and dignity of these women’, but nevertheless denied the women a choice in being named.²²¹ The committee’s decision to publish amalgamated and anonymised data has also presented significant and, indeed, often insurmountable difficulties for survivors, their families, and researchers who seek to extract information about specific religious congregations, institutions, or individuals. As Prunty observed, ‘there is simply no way of matching certain statistical findings or personal testimony’ contained in the McAleese Report with a particular Magdalen laundry, which is just as the committee intended.²²²

²¹⁹ Ibid, pp 63-4, § 56.

²²⁰ McGarr, *How to read the McAleese Report*.

²²¹ *McAleese Report*, p. 64, § 57.

²²² Prunty, *Our Lady of Charity*, pp 42-3.

Unwieldy texts and hidden meanings: the size and structure of the Ryan and McAleese Reports

Like the McAleese Report, the CICA's Confidential Committee report discussed the institutions collectively and presented the committee's findings anonymously, with thematic chapters on everyday life experiences, records of abuse, and the experiences of survivors in particular types of institution, rather than individual schools or homes. However, the first two volumes and, indeed, the greater part of the Ryan Report focused on the findings of the Investigation Committee and considered named-institutions separately. Following brief introductory chapters that addressed the establishment of the CICA, the history of the industrial schools and reformatories, and the preliminary issues the Investigation Committee faced,²²³ the report considered the twenty-two institutions examined by the committee individually.²²⁴ There were, furthermore, additional chapters on the Christian Brothers, the Rosminian Order, the Sisters of Mercy, and the Sisters of Charity,²²⁵ as well as a chapter dedicated to one offender, known pseudonymously as John Brander.²²⁶

The Ryan Report does not specify why Brander's case was isolated in this way. Brander began his teaching career in the 1930s as a Christian Brother, working in St. Mary's CBS Marino primary school in Dublin, before seeking a dispensation from his vows in the late-1950s. He continued working as a lay teacher across a number of national schools, often in senior positions, during which time he sexually and physically abused the children in his care. Despite being repeatedly removed from schools for his conduct, the former brother was able to secure new positions in different schools until his retirement in the mid-1980s.²²⁷ Brander did not work in any of the institutions in the Investigation Committee's sample. It is therefore likely, although not explicitly stated, that this chapter was included as Brander's case would not otherwise have been addressed in the Investigation Committee's report despite his conviction for historical child sexual abuse crimes in 1999, which was widely reported on at the time.²²⁸

Brander's case highlights the possibility that key cases were overlooked in the Ryan Report as a result of the Investigation Committee's decision to focus on a small sample of schools. Indeed, the question arises how far a study which focuses on a limited sample of cases can truly

²²³ *Ryan Report*, I, pp 1-67.

²²⁴ *Ibid* I, pp 105-579; *ibid*, I, pp 609-756; *ibid*, II, pp 13-234; *ibid*, II, pp 259-472; *ibid*, II, pp 479-560.

²²⁵ *Ibid*, I, pp 69-104; *ibid*, II, pp 1-12; *ibid*, II, pp 235-258; *ibid*, II, pp 473-78.

²²⁶ *Ibid*, I, pp 581-608.

²²⁷ *Ibid*, I, p. 581, § 14.01-4.

²²⁸ *Irish Independent*, 10 February 1999.

reflect the extent of abuse. The result, as McAlinden argued, was an inquiry that ‘tried to use individual truth narratives pertaining to particular survivors of abuse’ selected from a limited number of institutions ‘to map an over-arching account of institutional abuse as a whole’.²²⁹ O’Sullivan similarly stated that to properly understand the ‘complex web of institutions’, the inquiry needed to ‘move beyond the micro-level descriptions of the abuse of power within specific institutions to macro-level explanations of how power was distributed and exercised’ at that time.²³⁰ Thus, the Investigation Committee’s inquiry process allowed the Ryan Report to address the nature of institutional life, and led to the conclusion that it was systematically abusive, but did not facilitate a fuller examination of the causes and context of this abuse.

As a consequence of the Investigation Committee’s institution-by-institution approach, and in contrast to the McAleese Report, the CICA produced a report of tremendous value for survivors, researchers, and others seeking detailed information about a particular institution or religious congregation. However, this approach led to lengthy, narrative-heavy and, at times, repetitive chapters from which it proves inherently difficult to identify and extract the committee’s analysis and conclusions. At five volumes and over 2,600 pages, the Ryan Report ‘makes for daunting reading’, and thus remains ‘one of the least read, though most important, texts in Irish history’.²³¹ Indeed, it is evident, and perhaps unsurprising, that many rely on the shorter and far less detailed executive summary, allowing them to ‘gloss over the complexity of the role, function and longevity of the system’.²³² More importantly, however, the Ryan Report’s size and structure militated against identifying wider patterns of abuse and neglect, as well as failures in management across the institutional system as a whole. Recurring themes and critical links between the institutions are ultimately, if unintentionally, concealed within the report’s linear narrative and are only visible if the CICA’s findings are ‘read laterally and cumulatively’.²³³

The Ryan Report recorded, for example, that although the congregations understood the recidivist nature of abusers, they engaged in a practice similar to ‘parish shuffling’, whereby offenders were transferred to another residential or day school upon the discovery of their

²²⁹ McAlinden, ‘An inconvenient truth’, p. 198.

²³⁰ O’Sullivan, ‘The Ryan Report’, p. 204.

²³¹ Emilie Pine, Susan Leavy and Mark Keane, ‘Re-reading the Ryan Report: witnessing via close and distant reading’ in *Eire-Ireland: A Journal of Irish Studies*, 52, no. 1-2 (2017), pp 199-201.

²³² O’Sullivan, ‘The Ryan Report’, pp 203-4.

²³³ Pine, Leavy and Keane, ‘Re-reading the Ryan Report’, p. 201.

abusive behaviour.²³⁴ Others were permitted to take a dispensation from their vows, rather than face dismissal. This allowed perpetrators of abuse to take up new teaching positions elsewhere, sometimes within days of receiving their dispensation. The Ryan Report poignantly remarked that this demonstrated that ‘the safety of the children in general was not a consideration’.²³⁵ However, while the chapters on individual institutions referred to such transfers, it is difficult to establish the extent of this practice and its impact on the children without following the course of an individual’s career across all institutions, and therefore, multiple chapters.

One solution would have been for the Investigation Committee to adopt a thematic approach. For example, the report could have examined the institutions collectively in a series of chapters that addressed the three key types of abuse – physical, sexual, and psychological - before considering the historical response of the religious congregations and the state to evidence of abuse, including the transfer of abusive brothers between institutions. Individual cases, naming specific schools, reformatories, and perpetrators from across the twenty-two institutions could have been included throughout these chapters to provide evidence of the claims made, thus allowing survivors and researchers to locate institution or congregation-specific information. Indeed, the Investigation Committee Report as published ‘might have been more appropriate as an appendix to a principal report containing a thorough and reflective’ and, crucially, system-wide analysis of the matters the commission was mandated to examine.²³⁶

Conscious of this significant defect in the presentation of the CICA’s findings, a team from University College Dublin, led by Pine and funded by the Irish Research Council, created an exploratory web interface and database as part of the Industrial Memories Project.²³⁷ Launched in 2018, the database allows users to search for sections of the Ryan Report by institution, religious congregation or order, individual, or theme, therefore ensuring that information and, in particular, survivor testimony that is potentially ‘hidden’ in the report is accessible.²³⁸ During the process of creating the database and ‘intervening in and analysing the text’ of the Ryan Report, Pine and her team were in a position to identify and highlight recurring themes and

²³⁴ Francis D. Murphy, *The Ferns Report* (Dublin, 2005), p. 255; Yvonne Murphy, *Report of the Commission of Investigation into the Catholic Archdiocese of Dublin* (Dublin, 2009), p. 9, § 1.30; *Ryan Report*, IV, p. 454, § 6.21-2.

²³⁵ *Ibid.*, IV, p. 454, § 6.22.

²³⁶ Tom O’Malley, ‘Responding to institutional abuse: the law and its limits’ in Tony Flannery (ed.), *Responding to the Ryan Report* (Dublin, 2009), p. 105.

²³⁷ Susan Leavy, Mark Keane and Emilie Pine, ‘Patterns in language: text analysis of government reports on the Irish industrial school system with word embedding’ in *Digital Scholarship in the Humanities*, 34 (2019), p. 114.

²³⁸ Emilie Pine, Mark Keane and Susan Leavy, *Industrial Memories* (2018) (<https://industrialmemories.ucd.ie/>) (8 December 2019).

‘hidden meanings’ in the CICA’s findings.²³⁹ For example, the team produced a graph offering a visual representation of the transfer of religious brothers between the various institutions and similarly created network graphs depicting the high level of interaction between relevant bodies and individuals, thus demonstrating the interconnections and level of communication within the industrial and reformatory school system.²⁴⁰ The Industrial Memories Project is an invaluable resource which permits a system-wide analysis of the CICA’s findings and, as such, of the industrial and reformatory school system. It is significant, however, that an external team of academics was required to carry out this work.

While considerably shorter than the Ryan Report at a little over 1,000 pages, the McAleese Report similarly failed to present the committee’s findings clearly or concisely. Although the report is to be commended for the inclusion of vast quantities of previously unexamined material, the McAleese Committee succumbed to the ‘temptation which afflicts anyone who does research - to just publish all [its] notes’.²⁴¹ Clarity and accessibility were largely forfeited for the sake of detail and raw material is presented without adequate explanation or analysis. For example, chapter fourteen examines state contracts with the Magdalen laundries for laundry services, which were discussed as evidence of ‘indirect’ state financial support for the system.²⁴² In the opening pages of the chapter, the committee noted that the Magdalen laundries secured a number of state contracts with a variety of government departments and agencies, including the education, defence, and health authorities. The report also stated that the Magdalen laundries were not afforded preferential treatment, but applied for contracts alongside commercial laundries and were only successful if they offered the lowest price or their bid was uncontested.²⁴³ These were presented as the pertinent facts and were dealt with briefly in the opening four pages of the chapter.

The remaining eighty-four pages of chapter fourteen offered a narrative of the process for the tender of laundry contracts and reproduced correspondence between state representatives and the managers of the Magdalen and commercial laundries.²⁴⁴ While it was important to provide

²³⁹ Pine, Leavy and Keane, ‘Re-reading the Ryan Report’, p. 205.

²⁴⁰ Pine, Leavy and Keane, ‘The transfer graph’, *Industrial Memories* (<https://industrialmemories.ucd.ie/project/the-transfer-graph>) (8 December 2019); *ibid*, ‘Network maps’, (<https://industrialmemories.ucd.ie/project/networks>) (8 December 2019).

²⁴¹ McGarr, *How to read the McAleese Report*.

²⁴² *McAleese Report*, p. 657, § 2.

²⁴³ *Ibid*, p. 658, § 6-7.

²⁴⁴ The McAleese Report covers tenders and contracts issued by the Department of Education for laundry services at preparatory colleges (*McAleese Report*, pp 665-700), contracts between the Magdalen laundries and the defence forces (*ibid*, pp 700-32), and those with the health authorities (*ibid*, pp 733-8).

evidence in support of the claims made in the opening paragraphs, the chapter ultimately risks being overlooked by the reader unless they are a particular ‘fan of Requests for Tender dating back to the 1920s’.²⁴⁵ There were, nevertheless, key points embedded in this material that were not referenced in the opening of the chapter, nor adequately analysed in the main body of the text. For example, the McAleese Report recorded that state contracts for laundry services were standardised and were issued only where the laundries met a number of conditions, including the payment of ‘fair wages’ to those performing the services in question.²⁴⁶ McAleese noted that the application of the ‘fair wages clause’ to charitable institutions was ‘controversial’ and was subsequently considered by the Government Contracts Committee in 1927. The McAleese Report provided correspondence from the secretary of this committee stating that ‘there was no objection to the placing of these contracts with convents provided the lowest tender was accepted in each case’.²⁴⁷ However, the report did not address or criticise the fact that the Magdalen laundries were in a position to offer the lowest tender as the women were unpaid.

Following this brief discussion, the McAleese Report presented correspondence dating from the mid-1950s between the Department of Defence and Thomond Laundry, a private commercial laundry, regarding a contract awarded to the Good Shepherd Magdalen Laundry for the provision of services to Sarsfield Barracks, Limerick. Having failed to secure the account, Thomond Laundry queried whether the successful Magdalen laundry observed the fair wages clause.²⁴⁸ The department responded that it was in receipt of no information to suggest this was an issue at the Good Shepherd Laundry.²⁴⁹ Yet, in internal memoranda the Department of Defence acknowledged that:

allowing even no payment at all to the inmates of the institution doing the laundry, the cost of keep, clothing, medical attention and all the other factors in the running of the [Good Shepherd Magdalen Laundry] would more than amount to the equivalent of a fair wage.²⁵⁰

The difference between the department’s definition of a ‘fair wage’ in its internal records, when compared to that offered in its correspondence with Thomond Laundry, is striking and highlights a number of key issues that were not explicitly addressed in the McAleese Report. This evidence not only indicated a wider awareness and acceptance by the department that the women worked in the Magdalen laundries without financial remuneration but also suggested

²⁴⁵ McGarr, *How to read the McAleese Report*.

²⁴⁶ *McAleese Report*, p. 723, § 165-6.

²⁴⁷ *Ibid*, p. 723-4, § 167-9.

²⁴⁸ *Ibid*, pp 726-7, § 174.

²⁴⁹ *Ibid*, pp 727-9, § 176-9.

²⁵⁰ *Ibid*, pp 731-2, § 185.

that the state was reluctant to discuss the inner-workings of the Magdalen laundry system with external bodies. The McAleese Report also included a brief note produced for internal use by the Department of Defence, which revealed that the suggestion to raise the issue with the Good Shepherd Laundry was considered, but not acted upon.²⁵¹ The McAleese Committee should have been critical of the fact that the department selected not to approach the managers of the Magdalen laundry for confirmation of the institution's wage policy. The committee could have questioned, for example, whether this demonstrated a reluctance on the part of the state to challenge the work of the Good Shepherds in particular, and the operation of the Magdalen laundry system more widely. Thus, while the McAleese Report presented substantial documentary evidence in this case, it did not succeed in adequately assessing or explaining the significance of the records uncovered.

Mirroring criticism of the Ryan Report, it can be argued that much of the documentary evidence included in the body of the McAleese Report would have been better placed in the appendices or as supplementary material to a broader discussion offering a system-wide analysis of the role of the state in the operation of the Magdalen laundries. The IHRC also criticised the structure of the McAleese Report for the 'segmented nature' in which contemporary documentation was presented 'across Government Departments and time'. This ultimately made 'it difficult to identify whether the State ever considered there was a legitimate objective in allowing the Magdalen Laundries to operate as they did'.²⁵² The McAleese Report did not include a chapter which specifically detailed the Irish state's policy regarding the existence and operation of the Magdalen laundries. While chapter five lists the legislation that allowed state interaction with the Magdalen laundries, it is only by reading the McAleese Report in full that it 'emerges' that the state did not have a 'thought out policy in relation to the use of the Laundries as places of detention', but rather 'relied on the Laundries in an *ad-hoc*' manner.²⁵³

'The victims [...] were innocent elderly nuns and priests and brothers': apportionment of blame in the Ryan and McAleese Reports²⁵⁴

While the role of the state was at the heart of the McAleese inquiry, the Ryan Report faced criticism for 'downplaying' the responsibility, and thus moral and legal culpability, of the state

²⁵¹ Ibid, pp 730-1, § 180-4.

²⁵² IHRC, *Follow-up report on state involvement with Magdalen laundries*, p. 35, § 72.

²⁵³ Ibid, p. 35, § 73.

²⁵⁴ Terry Prone, 'Bricks on the road to hell', in Flannery, *Responding to the Ryan Report*, pp 84-5.

for the failings of Ireland's church-run residential school system.²⁵⁵ Subsequently, in the immediate aftermath of the report's publication, 'blame was laid squarely (and understandably) at the door of the Roman Catholic Church'.²⁵⁶ Indeed, members of the public wrote to the *Irish Times* in significant numbers to express their anger at 'the vile and sadistic' actions of the religious congregations detailed in the Ryan Report. Many called for the congregations involved to be closed or face a 'root and branch cleansing' in order to 'restore some sort of trust in them'. Others recommended a boycott of the Catholic Church, while one reader suggested that a 'fitting memorial' to those abused in the schools would be to erect a monument 'opposite, or possibly in place of' the Papal Cross at Dublin's Phoenix Park.²⁵⁷

Religious commentators expressed their frustration that the Catholic Church had been 'scapegoated', with the blame for the system's failures 'loaded unfairly on just one segment of those who were responsible'.²⁵⁸ Guilt among religious congregations and members of the church was indeed 'assumed to be uniform and homogenous' and, during a period of heightened anti-clericalism, it was reported that nuns were 'spat upon' or had their 'veil[s] yanked off in public'. As such, broadcaster and writer, Terry Prone, while equating isolated assaults on religious figures with the systemic abuse of children in Ireland's church-run institutions, remarked that:

history repeated itself [...] except instead of innocent children damaged by religious in whom their care had been vested, the victims, this time around, were innocent elderly nuns and priests and brothers and the attackers were the state, the media, the general public – and their own.²⁵⁹

While the church's 'grave shortcomings' cannot be ignored or denied, Garrett suggested that in the public and press response to the Ryan, as well as the 2005 Ferns and 2009 Murphy Reports, the Catholic Church was, indeed, 'hyper-responsibilized for failing to protect children'.²⁶⁰ Arnold was particularly frank in his criticism, concluding that the Ryan Report let 'the State off the hook'.²⁶¹

²⁵⁵ Reclaiming Self, *Ryan Report follow-up*, p. 18, § 3.5.

²⁵⁶ Lindsey Earner-Byrne, 'Child sexual abuse, history and the pursuit of blame in modern Ireland' in Katie Holmes and Stuart Ward (eds), *Exhuming passions: the pressure of the past in Ireland and Australia* (Dublin, 2011), p. 51.

²⁵⁷ *Irish Times*, 27 May 2009.

²⁵⁸ Donal Dorr, 'Who was responsible?', in Flannery, *Responding to the Ryan Report*, p. 112.

²⁵⁹ Prone, 'Bricks on the road to hell', pp 84-5.

²⁶⁰ Garrett, 'A "Catastrophic, Inept, Self-Serving" Church?', p. 61.

²⁶¹ Bruce Arnold, *The Irish Gulag: how the state betrayed its innocent children* (Dublin, 2009), p. 304.

In light of the Ryan Report's account of the abusive nature of the church-run institutions, the initial focus on the religious congregations is unsurprising. Mirroring the findings of the regional Ferns and Murphy inquiries into clerical abuse in late twentieth-century Ireland, the Ryan Report concluded that the contemporary response of the religious brothers and sisters to allegations and evidence of sexual abuse was inadequate and inappropriate.²⁶² The industrial and reformatory schools did not have an established complaints procedure and the CICA determined that the managers of the institutions frequently failed to listen to or believe children who made allegations of abuse. In a number of cases, the children were, in fact, 'blamed and seen as corrupted by the sexual activity' and were subsequently punished. The congregations embraced and perpetuated a culture of silence, managing cases of sexual abuse with a 'view of minimising the risk of public disclosure and consequent damage' to the congregation, thus protecting the perpetrators, and prioritising the reputation of the institutions over the welfare of the children. Allegations of abuse were dealt with internally and were neither reported to the Gardaí, nor consistently brought to the attention of the Department of Education. Although the religious authorities acknowledged that sexual abuse was a 'persistent problem' in male religious communities throughout the period under investigation, 'each instance of sexual abuse was treated in isolation and secrecy'. As a result, the church made no attempt to address the systemic nature of the problem, particularly in boys' schools.²⁶³

Although the immediate public and press response focused primarily on the failings of the Catholic Religious, the Irish state was implicated in the Ryan Report. Indeed, one of the twenty-two institutions addressed by the Investigation Committee was Marlborough House, Glasnevin, Dublin, a state-managed detention centre for boys which operated between 1944 and 1972.²⁶⁴ An 'anomaly', Marlborough House was certified by the Department of Justice and managed by the Minister for Education. Responsibility for the detention centre was an area of dispute between the two departments, leading to 'chronic problems' in its management. As a place of detention, the Department of Education did not consider Marlborough House 'as being rightfully in its remit'.²⁶⁵ Subsequently, the department did not conduct formal or regular inspections of the institution and the children were thus 'offered less protection than those in the industrial and reformatory schools'.²⁶⁶ None of the children received regular instruction or

²⁶² The Ferns and Murphy Reports are discussed in greater detail in chapter two.

²⁶³ *Ryan Report*, IV, pp 454-5, § 6.20-9.

²⁶⁴ *Ibid*, I, p. 729, § 16.01-02.

²⁶⁵ *Ibid*, I, pp 729-30, § 16.02-06.

²⁶⁶ *Ibid*, I, pp 730-1, § 16.12-13.

training and witnesses to the CICA spoke of facing ‘multiple severe beatings’. The Ryan Report noted that senior officials in the Department of Education either ignored or responded slowly to complaints of physical abuse.²⁶⁷ By the 1950s, the building had also reached ‘an extreme state of dilapidation’. Following storms in November 1959, wooden shorings were placed against the building’s front wall to prevent its collapse (see, illustration 3). Marlborough House was not evacuated and remained operational under the care of the state until its closure.²⁶⁸



Illustration 3. Marlborough House, Dublin, 1971 (*Ryan Report*, I, p. 742, § 16.85).

The Ryan Report was candid in its assessment of the state’s management of Marlborough House. The Investigation Committee concluded that the detention centre was a ‘chaotic facility, housed in an inappropriate and delapidated [sic] building with poor management and inadequate staff’. In common with criticism levelled at the religious congregations, the report stated that changes to the detention centre were recommended by the state in order to avoid criticism of the Minister and the Department of Education and were not driven by a desire to meet the needs of those in care. While it was ‘logical’ that the detention centre should have been the responsibility of the Department of Justice, rather than Education, the CICA nevertheless concluded that ‘the Department of Education’s behaviour in respect of Marlborough House was indefensible’.²⁶⁹ The department was held to be ‘negligent in the

²⁶⁷ Ibid, I, p. 738, § 16.66; *ibid*, I, p. 753, § 16.152.

²⁶⁸ Ibid, I, pp 741-5, § 16.82-99.

²⁶⁹ Ibid, I, pp 745-6, § 16.100.

management and administration of Marlborough House’ which ‘caused neglect and suffering to the children’.²⁷⁰

Addressing the industrial and reformatory school system more broadly, the CICA was also critical of the state’s method of regulating the residential schools. Inspections were largely limited to an assessment of the physical welfare of the children and were conducted by an inspector who lacked independence from the Department of Education. They were thus deemed to be ‘fundamentally flawed and incapable of being effective’. The CICA found that, in the schools investigated, the department was aware that the regulations regarding the use of corporal punishment were not observed.²⁷¹ Furthermore, complaints from parents and others regarding the injuries children sustained while being punished were not properly investigated by the Department of Education, which generally sought to ‘protect and defend’ the religious congregations.²⁷² The CICA similarly determined that allegations of sexual abuse, when brought to the attention of the department, were dealt with inadequately and were usually ‘dismissed or ignored’.²⁷³ In his appended paper, David Gwynn Morgan also noted that ‘the “big issues” in regard to the Schools were raised only seldom’ in the Dáil ‘and then usually without preparation, passion or persistence’.²⁷⁴ Finally, the Ryan Report criticised the system of state funding through capitation grants. This led to demands from managers to commit children to the industrial schools ‘for reasons of economic viability’, thus prolonging the system and allowing for the continued institutionalisation of vulnerable and disadvantaged children.²⁷⁵

While blame for the failings of the industrial and reformatory school system was initially focused on the Irish Catholic Church, the direct role of the state in the operation of such institutions was thus acknowledged and detailed in the Ryan Report, and has gradually ‘come into focus’.²⁷⁶ However, Anne-Marie McAlinden cautioned that efforts to assign blame often prove a distraction and obscure a ‘meaningful and effective review of institutional policies’, missing the opportunity to learn from the past.²⁷⁷ Although it has subsequently been the subject of much public, media, and academic commentary, this was largely avoided by the Ryan Report

²⁷⁰ Ibid, I, p. 756, § 16.168.

²⁷¹ Ibid, IV, pp 451-2, § 6.06-09.

²⁷² Ibid, IV, p. 453, § 6.13.

²⁷³ Ibid, IV, p. 455, § 6.30.

²⁷⁴ David Gwynn Morgan, ‘Society and the schools’, *Ryan Report*, IV, p. 227, § 3.91.

²⁷⁵ *Ryan Report*, IV, p. 451, § 6.05.

²⁷⁶ Earner-Byrne, ‘Child sexual abuse, history and the pursuit of blame’, p. 51.

²⁷⁷ McAlinden, ‘An inconvenient truth’, p. 199.

as the CICA attempted to produce a comprehensive account of the nature and extent of abuse, rather than determine the role, and thus culpability, of a particular player. This, in contrast, was precisely what the McAleese Committee was requested to do. Indeed, rather than attempting to understand the nature of the Magdalen laundries, the reason for the existence of the system, or the experiences of the women, the committee was established to determine the role of the state in the operation of the laundries. Arnold argued that this focus was ‘primitive and clumsy’, and ensured that the committee’s objective was to establish where former governments had failed in their interactions with the Magdalen laundry system, and where they had not, in order to determine where and how far ‘the state was at risk from legal pursuit’.²⁷⁸

The McAleese Committee’s limited fact-finding mission allowed it to focus on tangible evidence of state involvement with the Magdalen laundries while it failed to acknowledge the indirect role of the state in the operation of the laundry system. The state was responsible for the welfare of anyone who entered an institution as, under the 1937 Constitution, it guaranteed ‘to respect, and, as far as practicable [...] to defend and vindicate the personal rights of the citizen’.²⁷⁹ The laundries, like the industrial schools, were established in the absence of a state alternative, and continued to operate due to the failure of the state to provide assistance to unmarried or vulnerable women.²⁸⁰ As then-Tánaiste Eamon Gilmore observed, to ‘draw a straight line’ between the women referred to the laundries by the state and those who entered by other routes is ‘to ignore how the very fabric of Irish public, civic and private life, supported those institutions’.²⁸¹ Yet, neither the McAleese or, indeed, Ryan Report addressed the conditions and attitudes that prevailed in twentieth-century Ireland which facilitated the existence of the Magdalen laundry and industrial school systems. Gilmore’s comments also highlighted an area underdeveloped in the McAleese Report and in the discussions that followed the publication of the Ryan Report; how Irish society, through indifference if not overt support, allowed for the continued existence of the Magdalen laundries, industrial schools, reformatories, and other church-run institutions for marginalised communities.²⁸²

²⁷⁸ *Irish Independent*, 11 February 2013.

²⁷⁹ Constitution of Ireland, 1937, article 40, § 3(1).

²⁸⁰ See chapter one.

²⁸¹ Eamon Gilmore, *Tánaiste’s Statement on the Magdalen laundries Report* (19 February 2013) (<https://merrionstreet.ie/en/News-Room/Speeches/tanaistes-statement-on-the-magdalen-laundries-report.html>) (27 August 2020).

²⁸² See chapter one.

The full story?

Reflecting on the Ryan Report ten years after its publication, James Gallen remarked that, while ‘considerable data and information’ has been gathered by various inquiries, there remains ‘the sense among researchers and survivors [...] that the full story’ of historical institutional abuse has yet to be told.²⁸³ The structure of the Ryan Report militated against the identification of wider patterns and abusive practices across the system as a whole, while the CICA’s decision to grant the accused anonymity protected the perpetrators of abuse and denied the survivors justice. While limiting, these factors did not alter the CICA’s principal findings and in particular did not undermine the revelation that many children were physically, psychologically, and sexually abused in twentieth-century residential institutions. In contrast, the shortcomings of the McAleese Committee encourage questions to be asked of the accuracy, reliability, and thus validity of its findings. Inaccuracies in its report reflected the difficulty of obtaining data, but also resulted from the selective omission of evidence. The description of conditions in the laundries was distorted, for example, by the committee’s prioritisation of documentary and oral evidence from state representatives, and above all by its failure to use the material submitted by JFM and others who described physical abuse in the laundries. As such, although the McAleese Report correctly acknowledged that there was ‘significant state involvement’ in the operation of the church-run laundries, it minimised the exploitative and abusive nature of the Magdalen laundry system.²⁸⁴ Thus, while the CICA’s primary difficulties arose from its efforts to obtain evidence, the McAleese Committee’s greater failing was the manner in which it prioritised, interpreted, and presented the information it located.

²⁸³ *Irish Examiner*, 19 May 2019.

²⁸⁴ *McAleese Report*, p. xi, § 29.

CONCLUSION

In 1996, following the release of Louis Lentin's groundbreaking documentary on the Irish industrial school system, *Dear daughter*, Labour Party TD, Eric Byrne, remarked that Ireland had been 'forced to look into the mirror' of its past and was presented with 'a portrait of intolerance, bigotry and [...] a narrow morality which places conformity above compassion'.¹ In the late-twentieth century, Ireland began a process of self-evaluation which was marked most prominently by the 2009 Ryan Report into Ireland's twentieth-century residential institutions for disadvantaged children and the 2013 McAleese Report into the country's Magdalen laundries for women who it was held had broken moral boundaries. While facilitating a broader understanding of the institutions and their populations, neither attempt to engage with this history was wholly successful. At best, the inquiries' shortcomings reflected a degree of naïveté regarding the numbers affected and the evidence available, as well as the diversity of attitudes towards the institutions. The limitations of the reports suggested an inability to recognise the particular needs of the survivors and their desire for restorative justice. In this light, the reports, and the McAleese Report in particular, were produced to satisfy the general public that 'the original problem has been isolated and solved' while failing to adequately confront Ireland's institutional history.²

The CICA struggled, for example, to find a balance between its therapeutic and investigative aims. This was most clearly demonstrated by its decision to grant the accused anonymity in an effort to overcome resistance from the religious congregations, while limiting face-to-face encounters between the survivors and the perpetrators of abuse. Many were ultimately denied the opportunity to meet with the committee of their choice. The Investigation Committee examined a small sample of institutions which received the highest number of complaints. Its report subsequently focused on the church-managed industrial school system and was largely limited to boys' schools. As a result, many smaller institutions, including children's homes and hospitals, were unjustly overlooked by the investigative arm of the CICA. Additionally, none of the schools which provided care to children with disabilities were fully investigated, while the unique experiences of children from mixed-race and traveller backgrounds were not adequately examined. Moving forward, equivalent inquiries must aim to investigate a representative sample of relevant institutions.

¹ *Dáil Éireann* (13 March 1996), vol. 463, no. 1, col. 264.

² Kate Kenny, 'Organisations and violence: the child as abstract-boundary in Ireland's industrial schools' in *Organization Studies*, 37, no. 7 (2016), p. 944.

The CICA's findings were nevertheless hugely significant as the Ryan Report concluded that physical, emotional, and sexual abuse were endemic in many of the country's twentieth-century residential institutions for children. Due to the scale of the report and its 'moral resonance', this narrative is largely trusted.³ Although a number of applicants were excluded from the full investigative process, the Ryan Report drew extensively from survivor experiences and this testimony is now reinforced rather than contradicted by the official record. The CICA's unique two-committee approach, and the establishment of the Confidential Committee in particular, ensured that the inquiry was accessible to survivors who were reluctant to engage in an exclusively adversarial process. This model for accommodating survivors has shaped the approach of a number of subsequent inquiries. Established in Australia in 2012, the Royal Commission into Institutional Responses to Child Sexual Abuse, for example, allowed witnesses to make a submission in a private meeting as an alternative to participation in a public hearing.⁴

However, the CICA's survivor-driven approach was not adopted by the McAleese Committee. McAleese did not issue a public invitation to encourage survivors to engage with the inquiry, and the report's description of conditions in the Magdalen laundries was subsequently based on the testimony of just 118 women. Their accounts were supplemented, and often overshadowed, by evidence provided by religious sisters, a number of doctors, and other external witnesses who largely encountered the laundries in their final years of operation. This reflected the limited focus of the inquiry which aimed to identify the role of the state in the operation of ten institutions, rather than detail the experiences of the women who entered them. Thus, while the CICA struggled to accommodate both its therapeutic and investigative functions, the administrative and fact-finding nature of the McAleese Committee ensured that it was not required to overcome this paradox.

The limited scope of the inquiry and the decision to prioritise documentary over survivor evidence allowed the McAleese Committee to complete its work in under two years at a cost of just over €11,000.⁵ This was in stark contrast to the nine-year inquiry conducted by the CICA, which rose to costs of approximately €82 million, despite an initial forecast of €2.5

³ Emilie Pine, Susan Leavy and Mark Keane, 'Re-reading the Ryan Report: witnessing via close and distant reading' in *Eire-Ireland: A Journal of Irish Studies*, 52, no. 1-2 (2017), p. 213.

⁴ Anne-Marie McAlinden and Bronwyn Naylor, 'Reframing public inquiries as "procedural justice" for victims of institutional child abuse: towards a hybrid model of justice' in *Sydney Law Review*, 38, no. 3 (2016), p. 290.

⁵ Martin McAleese, *Report of the Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries* (Dublin, 2013), p. x, § 26.

million.⁶ While the inquiry into Ireland's Magdalen laundries was completed swiftly and at little cost, this was at the expense of investigative and analytical rigour. Indeed, the committee was unable to make specific findings regarding conditions in the laundries due to the small sample of women interviewed. Furthermore, while the committee was chaired by an independent figure, it was composed of state representatives and therefore, unlike the CICA, did not conduct an independent inquiry. Similarly, while the CICA possessed statutory powers to compel non-state witnesses to release evidence, the McAleese Committee was established on a non-statutory footing and subsequently relied on voluntary participation. With the failure of the Sisters of Mercy to produce records for the Galway and Dún Laoghaire Magdalen laundries, the McAleese Committee's conclusions were drawn from incomplete data and the committee's statistical analysis, representing the bulk of its work, must be treated with caution.

Despite the McAleese Committee's evident flaws, its success in identifying that there was significant state involvement in the operation of the Magdalen laundries was hugely important. Two weeks after the publication of the report, then-Taoiseach, Enda Kenny, apologised 'unreservedly' on behalf of 'the state, the government and our citizens' for 'the hurt that was done' to the women who entered the laundries and 'for any stigma they suffered'.⁷ However, the McAleese Report failed to address the indirect role of the state and its agencies in the existence of the laundries. The report provided little sense of the conditions and attitudes that prevailed between 1922 and 1996 which facilitated the laundries' continuation, including the perpetuation of the male bread-winner model and strict proscriptions on women's sexuality. The UNCAT subsequently concluded that the inquiry into Ireland's Magdalen laundries 'lacked many elements of a prompt, independent' and, crucially, 'thorough investigation'.⁸

Furthermore, while the McAleese Report acknowledged that the state played a role in financing and referring women to the Magdalen laundries, it minimised the extent to which these institutions were exploitative and abusive. The committee adopted a narrow definition of abuse and highlighted witness testimony which suggested that those who lived and worked in the laundries were not physically abused. This conclusion was not supported by the evidence collected by the advocacy group Justice for Magdalenes, which was omitted from the report.

⁶ This included the cost of an additional inquiry into allegations of vaccine trials carried out on children in residential settings in the 1960s-1970s. In 2003, it was determined that this inquiry fell beyond the legal boundaries of the CICA and was abandoned, resulting in a 'non-effective expenditure' of €2.6 million. (Comptroller and Auditor General, *Special report: cost of child abuse inquiry and redress* (Dublin, 2016), p. 10).

⁷ *Dáil Éireann* (19 February 2013), vol. 793, no. 1.

⁸ United Nations Committee Against Torture to H.E. Mr. Gerard Corr (Geneva, 22 May 2013), p. 3.

Thus, while the official narrative presented in the Ryan Report largely aligned with survivor accounts, this was not achieved by McAleese. In light of the McAleese Committee's selective use of evidence, Kenny's claim that the report represents a 'document of truth' rings hollow.⁹ This depiction of Ireland's Magdalen laundries as largely non-abusive has nevertheless been repeated by academics and other commentators.¹⁰

The McAleese Committee's shortcomings arguably reflected the hard-learned lessons from the expensive and protracted work of the CICA. Yet, an evident preoccupation with reducing costs can also be held as evidence of a hierarchy of victimhood. In this respect, the core differences between the extensive survivor-driven inquiry into Ireland's residential schools and the more limited investigation into the country's Magdalen laundries indicates that there was greater concern for the men and women abused as children than those who endured the stigma of being institutionalised as adult women for supposed moral crimes. In nineteenth-century rhetoric, women who failed to adhere to strict, middle-class standards of sexual morality were held to be 'fallen women'.¹¹ With the foundation of the state, a desire to promote a unique brand of Irish Catholic morality ensured that, throughout much of the twentieth century, women who engaged in extra-marital sexual activity, or who were otherwise considered promiscuous, continued to be depicted as the deviant other.

Today, references to 'fallen women' are, rightly, uncommon. However, the difficulties the Magdalen laundry survivors faced obtaining recognition and redress by the end of the twentieth century revealed their struggle to obtain legitimate victim status, and suggested that the stigma surrounding these institutions and their populations was not entirely eradicated. In light of the limited nature of the McAleese inquiry, many Magdalen laundry survivors believe that more has been achieved by JFM and historians than the state in their efforts to uncover the history of the laundries.¹² As a result, the publication of the McAleese Report was followed by calls for a full inquiry into the Magdalen laundries, operating as a 'broader truth-telling process',¹³ and overseen by an independent body with 'definite terms of reference' as well as statutory

⁹ *Dáil Éireann*, (19 February 2013), vol. 793, no. 1.

¹⁰ For example, James Franklin, 'Convent slave laundries? Magdalen asylums in Australia' in *Journal of the Australian Catholic Historical Society*, 34 (2013), p. 78, and Bill Donohue, 'Myths of the Magdalene laundries' (New York, 2013), *Catholic League for Religious and Civil Rights* (<https://www.catholicleague.org/myths-of-the-magdalene-laundries/>) (3 December 2019).

¹¹ *Freeman's Journal*, 10 December 1877.

¹² Jennifer Yeager, 'Oral testimony of Maureen Sullivan', *The Waterford Memories Project* (2015) (<https://www.waterfordmemories.com/copy-of-the-recordings>) (1 June 2020).

¹³ Office of the United Nations High Commissioner for Human Rights, *Committee against Torture considers report of Ireland* (Geneva, 28 July 2017).

powers to compel and retain evidence.¹⁴ The survivors must be central rather than peripheral to this process.

Legacy and impact

There are signs that the criticisms of the McAleese Committee have been recognised and the lessons applied to the Mother and Baby Homes Commission established in 2015 under the chairmanship by Judge Yvonne Murphy. The commission was tasked, for example, with conducting a thorough examination of the ‘living conditions and care arrangements’ experienced by mothers and their children, and was required to consider the extent to which the women participated in the decision to enter and leave such institutions.¹⁵ Unlike the non-statutory McAleese Committee, the Commission of Investigation into Ireland’s Mother and Baby Homes was afforded a wide range of coercive powers to seize documents.¹⁶ Furthermore, the commission established a Confidential Committee to provide an informal forum for witnesses to present their testimony.¹⁷ To avoid the difficulties the CICA faced managing its time and expenses, Murphy’s Commission was permitted to use sampling techniques from its establishment.¹⁸ It is perhaps for this reason that, despite requests from survivors, the Magdalen laundries were not included in the commission’s remit. Nevertheless, the commission’s three-year deadline has twice been extended, and the publication of its report continues to be delayed as it failed to meet its rescheduled deadline of February 2020.¹⁹

Attempts to uncover Ireland’s institutional history represent not the end but rather a crucial first step in the healing process for many survivors. There was an expectation, for example, that the publication of the Ryan Report would lead to the pursuit of further criminal convictions against perpetrators of historical child abuse.²⁰ However, in 2011, the UNCAT expressed concern that despite the report’s findings, the state forwarded only eleven cases to prosecution,

¹⁴ UNCAT to H.E. Mr. Gerard Corr, p. 3.

¹⁵ Commission of investigation (Mother and Baby Homes and certain related matters) order, 2015 (57/2015) (17 February 2015), § 1(I-II).

¹⁶ The Permanent Mission of Ireland to the UN, *Follow-up material to the Concluding Observations of the UN Human Rights Committee on the Fourth Periodic Review of Ireland under the International Covenant on Civil and Political Rights*, TPN/063/20 15 (Geneva, 2015), p. 6.

¹⁷ Commission of investigation (Mother and Baby Homes), § 3.

¹⁸ *Ibid.*, § 14.

¹⁹ Mother and Baby Homes Commission of Investigation (<http://www.mbhcoi.ie/mbh.nsf/page/Latest%20News-en>) (22 July 2020).

²⁰ *Irish Examiner*, 19 May 2019.

of which eight were rejected.²¹ This led many survivors to conclude that they had been denied justice.²² Furthermore, it is increasingly evident that, while the central role of the Catholic Church and state agencies have been acknowledged, Irish society is yet to fully accept responsibility for facilitating the existence of the institutions. As the nineteenth-century philanthropist, Frances Power Cobbe, observed ‘we are, each of us, “our brother’s keeper”; never more emphatically so than when we shut him up in the walls of our workhouse’ or, by the twentieth century, in an industrial school or Magdalen laundry.²³ Such institutions were, indeed, ‘creature[s] of Irish society’, which reflected ‘its attitudes towards the poor [and] the different’ and its desire to contain and control those who subverted accepted behavioural norms.²⁴

For Catholic cleric, John Littleton, forgiveness is made easier where ‘expressions of sorrow are accompanied by gestures of atonement’.²⁵ In 2002, the religious congregations and orders pledged €128 million to the RIRB, which was established to provide compensation to survivors of childhood abuse in residential institutions. Following the publication of the Ryan Report, the congregations offered an additional €352 million in response to calls for further contributions.²⁶ The final cost of the redress scheme, however, was €1.25 billion, with an average award of approximately €62,000.²⁷ For a number of survivors who struggled with alcohol or other addictions, receiving their award as a single payment was unhelpful and, in many cases, damaging. As the industrial school survivor Phyllis Morgan-Fann explained, many saw it as ‘hush money [...] and it would be gone. They’d blow it’. Another survivor similarly questioned the value of financial redress as ‘justice is not writing a cheque’ but rather ‘making sure people are helped to rebuild their lives’.²⁸

²¹ United Nations Committee Against Torture, *Consideration of reports submitted by States parties under article 19 of the Convention: concluding observations of the Committee against Torture, Ireland, 46th session*, CAT/C/IRL/CO/1 (9 May–3 June 2011), p. 2.

²² Reclaiming Self, *Ryan Report follow-up: submission to the United Nations Committee Against Torture* (n.p., 2017), p. 1.

²³ Frances Power Cobbe, ‘Workhouse sketches (1861)’ in Frances Power Cobbe, *Essays on the pursuits of women, also a paper on female education* (London, 1863), p. 214.

²⁴ Carol Brennan, ‘Facing what cannot be changed: the Irish experience of confronting institutional child abuse’ in *Journal of Social Welfare and Family Law*, 29, nos. 3–4 (2007), p. 261.

²⁵ John Littleton, ‘Putting children first’ in Tony Flannery (ed.), *Responding to the Ryan Report* (Dublin, 2009), p. 128.

²⁶ This figure was revised to €225.6 million in 2015 (Comptroller and Auditor General, *Cost of child abuse inquiry and redress*, p. 37, § 6.5).

²⁷ *Ibid.*, p. 10.

²⁸ ‘Redress: breaking the silence, episode 2’, *RTE One* (3 March 2020) (<https://www.rte.ie/player>) (17 March 2020).

In 2013, an independent state body, Caranua, meaning ‘new friend’ in Irish, was established to provide additional support to the survivors of childhood institutional abuse. The body provided information and advice to enable applicants to access health, welfare, and educational services.²⁹ €110 million from the religious congregations’ contribution was set aside to fund this work and applications were accepted until 2018.³⁰ Many viewed this process positively, with one applicant commending their ‘kind’ and ‘attentive’ caseworker for assisting them ‘every step of the way’.³¹ However, while acknowledging that the ‘idea behind Caranua was well intentioned and good’,³² others described it as ‘bureaucratic and unnecessarily unwieldy’.³³ Indeed, the funds were only accessible to those who had previously received compensation through the Redress Board or the courts.³⁴ The RIRB, meanwhile, was found to be ‘adversarial’ and ‘difficult’, with the effect of re-traumatising many of the survivors.³⁵ For Mary Lodato, for example, being forced to relive her experiences was like being ‘put on an operating table [...] cut open, and [...] left there to fester’.³⁶

With the establishment of the Magdalen laundries redress scheme in 2013, the government made a greater effort to provide for the unique wishes and requirements of those affected. Following the release of the McAleese Report, then-Tánaiste, Eamon Gilmore, acknowledged that it was necessary to provide a ‘tangible expression’ of the state’s ‘regret, and acknowledgement of the wrong that was done’.³⁷ After a three-month investigation, Judge John Quirke, president of the Law Reform Commission, presented a compensation scheme based on the findings of the McAleese Committee.³⁸ Quirke advised that the women who lived and worked in the Magdalen laundries should be provided with a health card offering access to a comprehensive range of free medical services, including home support and counselling.³⁹ He

²⁹ Comptroller and Auditor General, *Cost of child abuse inquiry and redress*, p. 35, figure 5.1.

³⁰ Ibid, p. 16, figure 1.1.

³¹ Caranua, *Applicant experiences* (<https://caranua.ie/from-my-first-contact-with-caranua-i-was-treated-with-respect-kindness-and-professionally/>) (21 July 2020).

³² Barbara Walshe and Catherine O’Connell, *Consultations with survivors of institutional abuse on themes and issues to be addressed by a survivor led consultation group* (Dublin, 2019), p. 17.

³³ Ibid, p. 4.

³⁴ Ibid, p. 17.

³⁵ Ibid, p. 4.

³⁶ ‘Redress: breaking the silence’, *RTÉ1* (3 March 2020).

³⁷ *Dáil Éireann* (19 February 2013), vol. 793, no. 1.

³⁸ John Quirke, *The Magdalen Commission Report: on the establishment of an ex gratia scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen laundries* (Dublin, 2013), p. 17, § 3.01.

³⁹ Ibid, pp 35-6, § 5.05.

also recommended that the women who laboured in the laundries without pay should receive the equivalent of a state pension to which they may not otherwise have been entitled.⁴⁰

Quirke also developed a scheme of ex-gratia monetary awards, ranging from €11,500 to €100,000 depending on the number of years the applicant was institutionalised. Payments over €50,000 were made payable as tax-free weekly income until the death of the recipient, thus avoiding much of the criticism levelled at the RIRB,⁴¹ yet angering survivors who feared they would not receive the full amount before their death.⁴² Prior to the publication of Quirke's report, the UNCAT expressed their concern that his calculations were premised on the 'incomplete investigations' carried out by McAleese and would not, therefore, take full account of the hardships the women faced.⁴³ Indeed, Quirke recorded that the women who entered the laundries were 'degraded, humiliated, stigmatised and exploited', but did not refer specifically to physical abuse.⁴⁴ Crucially, the awards did not comprise 'full and complete damages' to compensate for 'injury and loss caused by the wrongdoing of the state' as it was held such awards can only be offered 'after a detailed (and usually lengthy) adversarial process', as demonstrated by the RIRB.⁴⁵ Payments were thus offered as an expression of the 'sincere nature of the State's reconciliatory intent', rather than for unpaid wages or for the neglect and abuse the women suffered.⁴⁶ Yet, by accepting compensation under Quirke's scheme, the women waived the right to take further action against the state.⁴⁷

To the disappointment of the state and the survivors, the religious congregations declined to contribute to the compensation fund, basing their decision on an assessment of available capital and their ongoing responsibilities to those in their care, but also, more significantly, on the findings of the McAleese Report.⁴⁸ Reflecting on this decision, Eoin O'Sullivan concluded that the sisters were 'no longer willing to have the label of "abusers" attached to them' as they argued that the findings of the McAleese Committee showed 'a more complex reality' than that expressed by survivor advocacy groups.⁴⁹ The McAleese Report's inaccurate depiction of the

⁴⁰ The state pension is paid to persons from the age of sixty-six who have made sufficient social insurance contributions (ibid, pp 38-40, § 5.14).

⁴¹ Ibid, pp 42-3, § 5.19

⁴² *Irish Independent*, 27 June 2013.

⁴³ UNCAT to H.E. Mr. Gerard Corr, p. 3.

⁴⁴ *Quirke Report*, p. 19, § 3.03.

⁴⁵ Ibid, p. 35, § 5.06.

⁴⁶ Ibid, p. 40, § 5.15.

⁴⁷ Ibid, p. 46, § 5.22.

⁴⁸ *Irish Examiner*, 14 March 2017.

⁴⁹ Eoin O'Sullivan, 'The Ryan Report: reformatory and industrial schools and twentieth-century Ireland' in Rosie Meade and Fiona Dukelow (eds), *Defining events: power, resistance and identity in twenty-first-century Ireland* (Manchester, 2015), p. 204.

Magdalen laundries as largely non-abusive allowed the religious congregations to maintain that they offered a service to women who had been rejected by their friends, family, and wider society in institutions where they laboured without pay but ‘did get their keep’.⁵⁰ The state was therefore left to bear the full brunt of the costs and, by 2019, approximately 700 applicants had received over €26 million in compensation.⁵¹

Financial redress was just one of the hoped-for outcomes of the inquiries. Many of the survivors who spoke to the CICA’s Confidential Committee were motivated, for example, by their desire to contribute to a greater understanding of the circumstances in which abuse occurred in order to assist in the future protection of children.⁵² As Maeve Lewis, executive director of One in Four Ireland, explained, protecting children in care today would be a ‘suitable memorial’ to those who suffered abuse in the past.⁵³ The Ryan Report advised that national childcare policy should be clearly articulated and reviewed on a regular basis and that those responsible for the care of children should prioritise the well-being of children ‘above personal, professional or institutional loyalty’. The CICA highlighted that the rules must be enforced, breaches reported, and sanctions applied following independent inspections.⁵⁴ These recommendations were accepted, and an implementation plan was prepared in 2009.⁵⁵

In an interview marking the ten-year anniversary of the publication of the Ryan Report, Seán Ryan observed that, throughout the hearing process, the commission was presented with ‘pictures of the kind of world we had left behind’.⁵⁶ Enda Kenny similarly consigned institutional abuse to history as he declared that ‘today we live in a very different Ireland’, one of ‘compassion, empathy, insight and heart’.⁵⁷ However, for Colm O’Gorman, founder of One in Four and executive director of Amnesty International Ireland, ‘the past only becomes history once we have addressed it, learnt from it’ and, crucially, ‘made the changes necessary to ensure that we do not repeat its mistakes’.⁵⁸ The best measure of the success of the Ryan and McAleese

⁵⁰ ‘The God slot: the Magdalen laundries – the nuns’ story’, *RTÉ Radio One* (8 March 2013), (<http://www.rte.ie/radio1/the-god-slot/programmes/2013/0308/375700-the-god-slot-friday-8-march-2013/?clipid=1025939>) (14 March 2013).

⁵¹ *BBC News* (2 June 2018) (<https://www.bbc.co.uk/news/world-europe-44344206>) (22 July 2020); *The Journal.ie* (11 February 2019).

⁵² Seán Ryan, *Report of the Commission to Inquire into Child Abuse: executive summary* (Dublin, 2009), p. 12.

⁵³ *Irish Examiner*, 21 May 2009.

⁵⁴ *Ryan Report*, VI, pp 462-3, § 7.06-18.

⁵⁵ *Irish Examiner*, 19 May 2019.

⁵⁶ *Irish Times*, 20 May 2019.

⁵⁷ *Dáil Éireann* (19 February 2013), vol. 793, no. 1.

⁵⁸ Holohan, *In plain sight*, p. 8.

Reports, therefore, is the extent to which they encouraged church, state, and society to improve the lives of ‘today’s outcasts and aliens’.⁵⁹

Following the McAleese Report, the Irish Human Rights Commission expressed its concern that a ‘cohort of persons with intellectual disabilities’ remain institutionalised on a long-term basis in Ireland’s psychiatric hospitals where conditions fall ‘well below’ acceptable standards. The IHRC pointed to a lack of services in the community for those with mental health problems ‘resulting in an overreliance on in-patient treatment’, thus mirroring the conditions that facilitated the operation of the Magdalen laundries and industrial schools throughout the twentieth century.⁶⁰ In 2017, for example, the Health Information and Quality Authority recorded ‘evidence of institutionalised practice’ at two Dublin-based centres for the care of adults with intellectual disabilities, where the residents were not adequately protected from abuse.⁶¹ Similarly, in 2020, police in Northern Ireland investigated multiple claims that residents were physically and psychologically abused at Muckamore Abbey Hospital, County Antrim, which caters for adults with severe learning disabilities and mental health needs.⁶² The allegations prompted an independent review and led to the suspension of sixty staff members.⁶³ As such, although Ireland no longer engages in the largescale institutionalisation of women and children, society must not allow ‘simplistic narratives that paint the past as a different country’ to prevent it from scrutinising care systems in place today.⁶⁴

Parallels have also been drawn between Ireland’s twentieth-century Magdalen laundries and industrial schools and the country’s current system of direct provision centres for asylum seekers (see, illustration 4). In 2000, the government approved plans for the housing of migrants awaiting approval of their application for international protection in prefabricated accommodation, mobile homes, hotels, and hostels. This was intended as a temporary measure pending the construction of permanent sites. However, the system remains in place two decades later, with many asylum seekers accommodated in centres for periods far exceeding the six-month stay initially envisioned, and often for a number of years.⁶⁵ In 2017, over 5,000 people

⁵⁹ *Irish Times*, 8 September 1993.

⁶⁰ Irish Human Rights Commission, *Follow-up report on state involvement with Magdalen laundries* (Dublin, 2013), pp 120-121, § 315-18.

⁶¹ Health Information and Quality Authority, *Post inspection review: adults services Palmerstown designated centre 5* (n.p., 2017), p. 4; Health Information and Quality Authority, *Post inspection review: Stewarts adults services Palmerstown designated centre 3* (n.p., 2017), p. 4.

⁶² *Belfast Telegraph*, 7 August 2020.

⁶³ *Irish News*, 29 June 2020.

⁶⁴ *Irish Examiner*, 19 May 2019.

⁶⁵ *Dáil Éireann* (10 May 2000), vol. 518, no. 6, col. 1607.

lived in direct provision centres across thirty-four sites, at a cost of approximately €67 million.⁶⁶

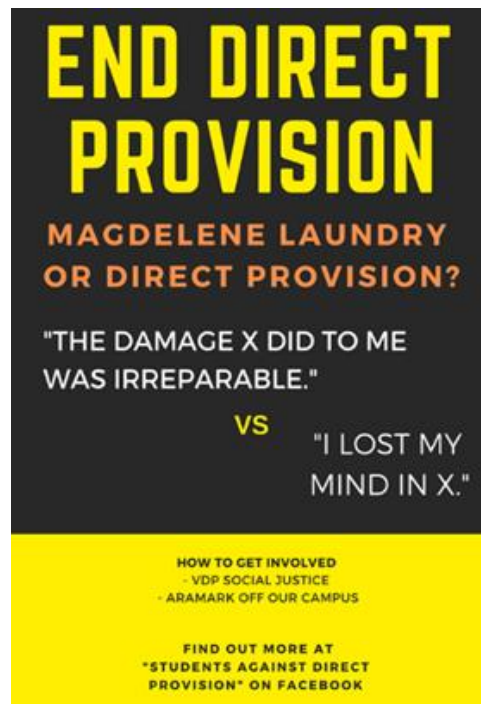


Illustration 4. *Students Against Direct Provision* (2019).

Mirroring the testimonies of women and children institutionalised throughout the twentieth century, those who have experienced direct provision have described feeling segregated from the community, as they face restrictions in relation to visitors and travel, and are deprived of ‘basic rights such as cooking, working, and pursuing ambitions’.⁶⁷ Particular concern has been expressed for children raised in direct provision who share a ‘hostile space’ with strangers where there is little opportunity for play or mental stimulation.⁶⁸ Adopting a tactic reminiscent of the methods used to silence children who were abused in Ireland’s industrial schools, the centres’ managers have been recorded threatening residents with deportation if they complain

⁶⁶ This is the latest period for which annual statistics are available (Reception and Integration Agency, *Annual Report* (Dublin, 2017), p. 8).

⁶⁷ Bulenlani Mfaco, ‘Introduction’ in Stephen Rea and Jessica Traynor (eds), *Correspondences: an anthology to call for an end to direct provision* (Dublin, 2019), p. xiii. In 2017, the prohibition on asylum seekers securing paid employment was deemed unconstitutional (Peter Tyndall, *The Ombudsman & Direct Provision: the story so far* (Dublin, 2019), p. 6).

⁶⁸ Donnah Vuma, ‘905976-14’ in Rea and Traynor, *Correspondences*, p. 63.

about conditions.⁶⁹ The system has subsequently taken a significant toll on the mental wellbeing of many asylum seekers and suicide attempts among this group are common.⁷⁰

Since 2014, the Movement of Asylum Seekers in Ireland (MASI) has campaigned for the right of asylum seekers to ‘justice, freedom and dignity’ and has called for the end of direct provision.⁷¹ However, this system remains in place seven years after the release of the McAleese Report and over a decade after the publication of the Ryan Report. By repeating the mistakes of the past, direct provision demonstrates that Ireland is not in all respects ‘wiser or more careful or compassionate than it was in the 1950s’, and suggests that state and society have been slow to learn the lessons highlighted by the institutional abuse inquiries.⁷² There was, nevertheless, a promising development with the publication of Ireland’s new Programme for Government in 2020, which included a commitment to ending the direct provision system and replacing it with an accommodation policy ‘centred on a not-for-profit approach’.⁷³

The slow and partial application of improvements to residential institutions in the wake of the Ryan and McAleese inquiries is a reflection, in part, of the public’s relatively short-lived interest in the findings of the CICA and McAleese Committee.⁷⁴ While the reports received extensive media coverage immediately after their publication, this swiftly abated, leading to fears that ‘decades of scandals’ had encouraged ‘public apathy’.⁷⁵ However, apparent public indifference alone cannot account for this phenomenon. Efforts by the media and academics to engage with the Ryan and McAleese Reports have been severely hindered by their inability to gain access to the relevant records. The McAleese Committee archive, for example, is currently held in the Department of the Taoiseach and is inaccessible.⁷⁶ This collection does not include the records that were disclosed to the committee by the religious congregations, which were either destroyed or returned to the congregations and are held in private archives.⁷⁷

In 2019, a draft Retention of Records Bill was introduced in the Dáil which sought to seal the archives of the RIRB and CICA for seventy-five years to ensure the records ‘are not destroyed,

⁶⁹ Mfaco, *Correspondences*, pp xi-xii.

⁷⁰ For example, in 2016, You Jung Han from South Korea was found hanged in her room at Kinsale Road Direct Provision Centre, Cork (Ibid, pp xii-xiii).

⁷¹ MASI – *The movement of Asylum Seekers in Ireland* (<https://www.masi.ie/>) (24 July 2020).

⁷² Emilie Pine, ‘Repeating the mistakes of the past’ in Rea and Traynor, *Correspondences*, p. 38.

⁷³ Fine Gael, Fianna Fáil and the Green Party, *Programme for government: our shared future* (Dublin, 2020), p. 88.

⁷⁴ Holohan, *In plain sight*, p. 20.

⁷⁵ *Irish Examiner*, 19 May 2019.

⁷⁶ *Irish Examiner*, 16 August 2018.

⁷⁷ Martin McAleese, *Inter-departmental Committee to establish the facts of State involvement with the Magdalen Laundries: interim progress report* (Dublin, 2011), p. 7, § 35.

but are instead retained for posterity’.⁷⁸ The proposed bill was strongly opposed by many survivors who believed that it undermined the Taoiseach’s apology and the work of the CICA. Mary Harney expressed her fear that the legislation, if implemented, would ‘make the survivors of the industrial schools invisible once more’. Similarly, Carmel McDonnell-Byrne, Director of the Christine Buckley Centre for Education and Support, highlighted that those who gave their testimony did not consent to the destruction or sealing of their records, as many wished that future generations would have the opportunity to learn from their experiences. She stressed that the survivors have a right to decide whether to access this material, noting that it is ‘very important on our healing journey that we are empowered to make decisions and choices, something denied us as children’.⁷⁹ In early-2020, the bill lapsed with the dissolution of the Dáil and Seanad. This presents an opportunity to develop an alternative approach, with Catriona Crowe, Head of Special Projects at the National Archives of Ireland, advocating for the creation of a publicly accessible database containing anonymised material relating to Ireland’s industrial schools, Magdalen laundries, and other institutions.⁸⁰

A desire to move forward and avoid being consumed by the mistakes of the past is an understandable response to the surge of abuse scandals and inquiries from the 1990s. With the publication of the Ryan and McAleese Reports, it is evident that many ‘paid attention for a while and then washed their hands’, satisfied that the reports had been written ‘and all, therefore, was taken care of’.⁸¹ Yet, continuing these discussions, however difficult, offers the clearest sign to the survivors of institutional abuse that they are being listened to and believed after many years of societal selective amnesia. States that are challenged by a dark or difficult past have a responsibility to engage with the survivors and to attempt to understand their experiences in order to apply the lessons moving forward and avoid abuse in the future. A critical assessment of the Ryan and McAleese Reports provides a clear sense of what has been achieved thus far in the process of recognition, reconciliation, and redress and, crucially, what is left to be done. This thesis therefore contributes to the efforts of those who seek to continue these discussions in the hope that society can learn from the past in order to work towards a better future.

⁷⁸ *Dáil Éireann* (2 April 2019), vol. 981, no. 3.

⁷⁹ Joint Committee on Education and Skills, *Retention of Records Bill 2019: discussion* (26 November 2019).

⁸⁰ *Irish Examiner*, 18 October 2017.

⁸¹ Joe O’Riordan, ‘A young person reflects on the Ryan Report’ in Tony Flannery (ed.), *Responding to the Ryan Report* (Dublin, 2009), p. 172.

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