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CLAIRE McGETTRICK “Illegitimate” Knowledge:
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OVER THE PAST TWO DECADES the Irish state has vigorously pursued a genealogical tourism strategy that encourages citizens at home and abroad to research their family histories.¹ Incentives include the provision of free online access to the 1901 and 1911 censuses; thousands of parish records; and historic birth, death, and marriage records. Concurrently, however, through a series of legislative and other obstacles the state impedes attempts by adopted people to access their personal data. Why are nonadopted people actively supported in the quest for family and personal information even as such searches are considered illegitimate for adopted people? This article explores Ireland’s closed, secret adoption system, including various state proposals to legislate on information rights. It also considers the many obstacles that deter adopted people from constructing their own identity narratives and exposes the challenges they face in the campaign for adoption rights. I argue, moreover, that a sociological research paradigm offers a possible alternative to the emphasis on emotional damage evident in some fields of adoption research—and also suggest that transitional-justice principles might help the Irish nation to address this troubled legacy.

CLOSED, SECRET ADOPTION IN IRELAND

The history of adoption in Ireland is fraught with decades of state-initiated barriers preventing adopted people from accessing their personal data.² Legal adoption was first introduced on 1 January 1953

1. See, for example, “The Gathering Ireland,” *Discover Ireland*, 2020, <https://www.discoverireland.ie/The-Gathering-Ireland>.

2. Such a closed, secret adoption system was not unique to Ireland.

when the Adoption Act (1952) came into force.³ That legislation facilitated a legal and genealogical fiction that the adopted person had been born to her/his adoptive parents and provided for the transfer of parental responsibility of children born outside of marriage to eligible applicants. To ensure that the adopted child passed as the natural offspring of the adopting parents and to facilitate a “clean slate” with no interference from natural mothers, section 24(a) of the act states that after an adoption order is made, the child is considered to have been born to the adopting parents.

Section 22(5), moreover, prohibits public viewing of the index making traceable the link between the register of adoptions and the corresponding entries in the register of births.⁴ Under the Irish civil-registration system birth certificates have been public records since 1864, and members of the public can visit the General Register Office (GRO) research facility and view the registers of births, deaths, and marriages.⁵ The index to the adopted children’s register is also a public record available for inspection.⁶ In practice, however, adopted people have no automatic right to their birth certificates and adoption files, and the absence of explicit statutory rights has resulted in ad-hoc policies and practices, often unprofessional and discriminatory. Witness testimony provided to the CLANN project depicts an obstructive system suspicious of adopted people making requests for information:

The . . . social worker . . . seemed more interested in finding out about my state of mind than in giving me information about my identity.

3. Adoption Act (25/1952), *Electronic Irish Statute Book* (hereafter cited as *EISB*), <http://www.irishstatutebook.ie/eli/1952/act/25/enacted/en/html>.

4. *Ibid.* An example of the preoccupation with interference from natural mothers can be found in Cecil J. Barrett, *Adoption: The Parent, the Child, the Home* (Dublin: Clonmore and Reynolds, 1952), 51–52.

5. Registration of Births and Deaths (Ireland) Act (1863), 26 & 27 Vict. c.II; Department of Employment Affairs and Social Protection, “Search Room at the General Register Office (GRO),” *Rialtas na hÉireann/Government of Ireland*, 9 June 2020, https://www.welfare.ie/en/Pages/GRO_Research.aspx.

6. Through its website the Adoption Rights Alliance (<http://adoption.ie>) provides information to adopted people on how to obtain their birth certificates by a process of elimination using the civil-registration system and other data, such as nonidentifying information provided by adoption agencies, personal data obtained through subject-access requests under data-protection legislation and, more recently, information acquired through DNA testing.

I can honestly say that [the religious sister] made me feel like a criminal, someone unworthy of her time and attention.

I felt like I was treated as a threat to my mother, and that the social worker tried to keep us apart for as long as possible.

It has been the most daunting, depressing, miserable, and lonely search. I have faced umpteen brick walls, and I don't know how to express it. All I know is that it has worn me out.⁷

Although the first people adopted under the 1952 legislation came of age in 1970, the state failed to offer concrete proposals on information access until 2001, when the Department of Health and Children published a “draft scheme of a bill on adoption information and post-adoption contact.”⁸ Had it been enacted, the legislation would have facilitated access to birth certificates for adopted people. However, the bill also provided for a “contact veto” mechanism whereby natural mothers who did not want contact from their adult children could register a veto to this effect. Most significantly, adopted people acting in breach of the veto would be fined or imprisoned.⁹ Mary Hanafin, then minister for children, declared that she hoped the proposed contact veto would provide reassurance that the legislation granting information rights would “not constitute a threat.”¹⁰ In 2003 that draft scheme was published as part of an adoption-legislation con-

7. Maeve O'Rourke, Claire McGettrick, Rod Baker, Raymond Hill, et al., *CLANN: Ireland's Unmarried Mothers and Their Children: Gathering the Data: Principal Submission to the Commission of Investigation into Mother and Baby Homes* (Dublin: Justice for Magdalenes Research, Adoption Rights Alliance, Hogan Lovells, 15 October 2018), pp. 88–89, 96, 105, http://clannproject.org/wp-content/uploads/Clann-Submissions_Redacted-Public-Version-October-2018.pdf, archived at <https://perma.cc/38CR-YLT2>. The CLANN project testimonies informed a submission made by Justice for Magdalenes Research (JFMR) and Adoption Rights Alliance (ARA) to the Commission of Investigation into Mother and Baby Homes.

8. Department of Health and Children, “Hanafin Announces New Draft Legislation on Adoption Information,” *An Roimn Sláinte/Department of Health*, 24 May 2001, <https://health.gov.ie/blog/press-release/hanafin-announces-new-draft-legislation-on-adoption-information>, archived at <https://perma.cc/D3M5-KB7T>.

9. Department of Health and Children, *Heads of Proposed Adoption Information, Post-Adoption Contact, and Associated Issues Bill* (Dublin: Stationery Office, 2001).

10. Department of Health and Children, “Hanafin Announces New Draft Legislation.”

sultation established to facilitate discussions on adoption reform.¹¹ After proposals to imprison adopted people who disregarded a contact veto were severely criticized, at the consultation's oral stage the new minister announced removal of this threat of criminalization.¹²

The 2001 information bill progressed no further, and in the years that followed, access to birth certificates for adopted people was repeatedly stalemated. The only concrete outcome of the consultation was the establishment in 2005 of the National Adoption Contact Preference Register (NACPR)—though it has never been placed on a statutory footing.¹³ The consultation had been designed to discuss the modernization of “all aspects of adoption legislation,” yet information rights remained unachieved.¹⁴ In 2010 Ireland ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, but the minister of the day refused to legislate for information rights in the Adoption Act (2010).¹⁵ He claimed that “an effective administration system” (i.e., the NACPR) was already in place for the provision of information and tracing services, although testimony provided to the CLANN project disputes this assertion.¹⁶

In the wake of revelations about the deaths of children at the Tuam mother-and-baby home, the state once again turned its attention to adoption-information legislation.¹⁷ In July 2015 the Department of Children and Youth Affairs published the General Scheme and

11. Department of Health and Children, *Adoption Legislation Consultation Discussion Paper* (Dublin: Stationery Office, 2003).

12. Michael Brennan, “Laws Could ‘Criminalise’ Adopted Children,” *Irish Examiner*, 23 July 2003, 10; Evelyn Ring, “Adopted Seeking Parents Not Criminal,” *Irish Examiner*, 18 Oct. 2003, 4.

13. Department of Health and Children, “Minister Brian Lenihan Launches the Adoption Board’s National Adoption Contact Preference Register,” *An Roinn Sláinte/Department of Health*, 30 March 2005, <https://health.gov.ie/blog/press-release/minister-brian-lenihan-launches-the-adoption-boards-national-adoption-contact-preference-register>, archived at <https://perma.cc/4CMA-NBGG>.

14. Department of Health and Children, *Adoption Legislation*, 2.

15. Adoption Act (21/2010), *EISB*, <http://www.irishstatutebook.ie/eli/2010/act/21/enacted/en/print.html>; The Hague Conference on Private International Law, *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (The Hague: The Hague Conference on Private International Law, 1993).

16. Conall Ó Fátharta, “A Hidden Heritage,” *Irish Examiner*, 20 April 2010, 8–9; O’Rourke et al., *CLANN*, 85–105.

17. Dan Barry, “The Lost Children of Tuam,” *New York Times*, 28 Oct. 2017.

Heads of the Adoption (Information and Tracing) Bill.¹⁸ It included a requirement for adopted people to sign a statutory declaration that they would not attempt to contact their natural parent(s) directly as a condition of obtaining their birth certificate.¹⁹ This proposed scheme also envisaged that there might be “a compelling reason, *such as may endanger the life of a person*, for not disclosing . . . information” to an adopted person.²⁰ Although the scheme was widely criticized, nonetheless the new minister for children brought forward virtually identical proposals under the Adoption (Information and Tracing) Bill (2016).²¹ This bill was also rejected by advocacy groups.²²

The 2016 bill lay dormant until mid-2018, when adoption came under the spotlight once more as Tusla (Ireland’s child and family agency) announced it had identified 126 illegal adoptions in records that were transferred to it by a former adoption society.²³ Advocacy groups continued to object to the bill, and in February 2019 the minister obtained cabinet approval to amend the legislation.²⁴ In June 2019 the minister signaled her intent to legislate for a new administrative system whereby Tusla would attempt to contact both natural parents when an adopted person requests access to their birth certifi-

18. Department of Children and Youth Affairs, “Minister Reilly Publishes Adoption Information and Tracing Legislation,” Press Release, 27 July 2015.

19. Department of Children and Youth Affairs, *Heads and General Scheme of the Adoption (Information and Tracing) Bill, 2015* (Dublin: Stationery Office, 2015).

20. *Ibid.*, 55. Emphasis added. Minister Reilly referred the heads of bill to the Oireachtas Joint Committee on Health and Children for prelegislative scrutiny. When its work was completed, the committee said that “based on the weight of evidence and the legal submissions received from witnesses, the committee [could] find no convincing reason for the inclusion of a statutory declaration in the bill.” See Oireachtas Joint Committee on Health and Children, *Report on the Pre-legislative Scrutiny of the General Scheme and Heads of the Adoption (Information and Tracing) Bill* (Dublin: Stationery Office, 2015), 12.

21. Adoption (Information and Tracing) Seanad Bill (100/2016), *Tithe an Oireachtais/Houses of the Oireachtas*, <https://www.oireachtas.ie/en/bills/bill/2016/100>.

22. Adoption Rights Alliance, *Briefing Note and Amendments to Adoption Information and Tracing Bill, 2016* (Dublin: Adoption Rights Alliance, 2019).

23. Conall Ó Fátharta and Elaine Loughlin, “Thousands May Have Been Illegally Adopted,” *Irish Examiner*, 30 May 2018.

24. Claire McGettrick, “‘Old Ireland’ Still Exists for Adoptees,” *Irish Examiner*, 2 June 2018; Conall Ó Fátharta, “Adoption Bill’s Privacy Provisions to Be Revised,” *Irish Examiner*, 27 Feb. 2019.

cate and other personal data.²⁵ Under the new proposals natural parents who opposed the release of information had a right to a hearing before the Adoption Authority of Ireland (AAI), which would then make a decision balancing the rights of everyone concerned.²⁶ Activist groups, including the Adoption Rights Alliance (ARA), raised concerns about the AAI hearings and characterized the proposals as “a grave interference with the privacy of both natural parents and adopted people.”²⁷ The ARA engaged in an intensive two-week consultation process with the minister and other members of parliament.²⁸ Additionally, ARA launched an email campaign calling on adopted people, natural family members, and the general public to contact members of parliament about the bill.²⁹ The *Irish Examiner* reported that over 650 emails were received by the office of the minister for children, and on 19 June 2019 the minister announced that committee stage of the bill would be deferred pending a consultation process.³⁰

Whether such a consultation process took place is unclear; however, in November 2019 the minister circulated four “options for a legislative pathway” on the 2016 adoption bill.³¹ Under the first two

25. “Adoption (Information and Tracing) Bill, 2016: Committee Stage,” *Seanad Debates*, 266 (12 June 2019), 2. This bill was initiated in the Seanad. It has yet to be debated in the Dáil.

26. *Ibid.*, 2.

27. Adoption Rights Alliance, “Adoption Rights Alliance Incredulous at Progression of Deeply Discriminatory Bill,” *Adoption Rights Alliance*, 8 June 2019, <http://adoption.ie/wp-content/uploads/2019/06/ARA-press-release-08-06-19.pdf>, archived at <https://perma.cc/76J5-8ZNH>. See also Caitriona Palmer, “The State Demonises Adoptees as a Threat to Their Natural Parents,” *Irish Times*, 28 June 2019, and Claire McGettrick, “Zappone’s Haste Risks Further Offending Adopted People,” *Irish Examiner*, 14 June 2019.

28. See, for example, Claire McGettrick, Susan Lohan, Mari Steed, and Angela Murphy, *Letter to TDs and Senators* (Dublin: Adoption Rights Alliance, 2019).

29. Adoption Rights Alliance, “Adoption Bill: Previous News,” *Adoption Rights Alliance*, 2019, <http://adoption.ie/adoption-bill-previous-news>, archived at <https://perma.cc/9ET6-FWCQ>.

30. Conall Ó Fátharta, “Adoptees Write to Zappone to Express Disgust,” *Irish Examiner*, 17 Aug. 2019; “Adoption, Information and Tracing: Statements,” (266 No. 5), *Seanad Debates*, 19 June 2019, *EISB*, <https://www.oireachtas.ie/en/debates/debate/seanad/2019-06-19/12>.

31. Department of Children and Youth Affairs, *Adoption (Information and Tracing) Bill, 2016: Options for Consideration, 5 November 2019* (Dublin: Stationery Office, 2019).

options the bill would proceed in its entirety, with “a presumption in favour” of the release of information to adopted people under option two. The third and fourth options provided for the safeguarding of records, while option three also included a statutory tracing service and put the National Adoption Contact Preference Register on a statutory footing. Meanwhile, ARA contacted the minister and other members of parliament with a draft adoption bill, supported by a legal opinion from leading legal academics, and the organization’s new *Information Guide for Adopted People*.³² In December 2019 the minister announced her intention to proceed with option three on the basis of responses received from stakeholders consulted on the four pathways.³³

INFORMATION RIGHTS OR A PROTECTIVE SERVICE?

As evidenced above, the Irish state has consistently taken a punitive and restrictive approach to providing adopted people with their personal data. Rather than advocating reparation for a closed and secret adoption system, government proposals have framed adopted people as untrustworthy individuals from whom their mothers need to be protected. Examining the enactment and implementation of Section 26 of the UK Children Act (1975), which gave English and Welsh adopted people the right to access their birth certificates, provides useful context for Irish policy. If, on one hand, the 1975 act was “a

32. Conor O’Mahony, Fred Logue, Maeve O’Rourke, et al., *Opinion on the Application of the Irish Constitution and EU General Data Protection Regulation to the Adoption (Information and Tracing) Bill, 2016, and the Government’s “Options for Consideration” Dated 5th November 2019* (n.p.: 2019), http://adoption.ie/wp-content/uploads/2019/11/OMahoney_Logue_ORourke-Opinion.pdf, archived at <https://perma.cc/WL2S-EW5F>; Claire McGettrick et al., *Information Guide for Adopted People* (Dublin: Adoption Rights Alliance, 2019), http://adoption.ie/wp-content/uploads/2019/11/ARA-Information-Guide_Nov-2019.pdf, archived at <https://perma.cc/YUE5-F87K>; Adoption Rights Alliance, “Adoption Bill,” *Adoption Rights Alliance*, <http://adoption.ie/my-front-page/adoption-information-and-tracing-bill-2016>, archived at <https://perma.cc/YXP3-GUMU>.

33. Department of Children and Youth Affairs, “Minister Zappone Announces Decision in Relation to Progressing the Adoption (Information and Tracing) Bill, 2016,” *Rialtas na hÉireann/Government of Ireland*, 11 Dec. 2019, <https://www.gov.ie/en/press-release/fdbb82-minister-zappone-announces-decision-in-relation-to-progressing-the-a>, archived at <https://perma.cc/RW66-NYQF>.

law for the provision of information,” Erica Haines and Noel Timms argue that it was also conceived of as legislation protecting natural parents.³⁴ Haines (a sociologist) and Timms (a social-work professor) conducted a three-year study on the compulsory-counseling requirement under the legislation. This often-overlooked study is a hidden gem in adoption research; indeed, I argue that Haines and Timms’s approach remains largely unmatched in the field, and throughout this essay I highlight pertinent elements of their findings.

Adopted people are managed as a distinct social group in policy and practice. Haines and Timms argue that in the UK context they are “made marginal by a set of social processes embodied in the structural arrangements for adoption,” and similar treatment occurs in Ireland.³⁵ They maintain that

adoption . . . presents problems for practitioners and for society as a whole. Consequently, adoptees also present a problem: we cannot place it or them easily. The uneasiness that is felt about the process is attributed to the individuals and extends to questioning their stability. In viewing adoptees potentially at least as damaged and in need of help, the psycho-pathological model attributes the uncertainty about adoption to the adopted people themselves.³⁶

According to John Triseliotis, in the months prior to the enactment of the Children Act strong opposition developed to birth-certificate access, with some members of parliament portraying adopted people as potential “blackmailers.”³⁷ Supporters of this position argued that Section 26 raised the likelihood of adopted people destroying the lives of others, and maintained that requiring compulsory counseling prior to the release of birth certificates would provide “a check or restraint against possible hasty actions by adoptees.”³⁸ Indeed, as Triseliotis notes, when the law came into force, some elements of the media represented adopted people as “potentially vindictive ‘sec-

34. Erica Haines and Noel Timms, *Adoption, Identity, and Social Policy: The Search for Distant Relatives* (Aldershot, UK: Gower, 1985), 19–21, 27.

35. *Ibid.*, 80.

36. *Ibid.*, 80–81.

37. John Triseliotis, “Obtaining Birth Certificates,” in *Adoption: Essays in Social Policy, Law, and Sociology*, ed. Philip Bean (London and New York: Tavistock, 1984), 46.

38. *Ibid.*

ond class' citizens" and anticipated harassment of natural mothers.³⁹ However, in his analysis of the research carried out on the impact of the act, he reports that "the calamities anticipated by sections of the media, politicians, and some organizations have not materialized."⁴⁰

This divergent treatment of adopted people extends to Ireland. Irish adopted people must use an extract from the Adopted Children's Register in lieu of a birth certificate. They are registered twice in the civil-registration system,⁴¹ once under their original identity in the register of births, and again in the index to the Adopted Children's Register under their adoptive identity, but they are denied access to the index linking the two registers. Adopted people are perpetually classified as children in the index to the Adopted Children's Register and are further infantilized by being placed under the remit of the Department of Children and Youth Affairs despite reaching the age of majority.⁴² And when they make subject-access requests under the General Data Protection Regulation (GDPR),⁴³ a significant effort is invested in redacting their files prior to release.

Fears associated with providing information rights to adopted people in Ireland today, as in the United Kingdom prior to 1975, rest on the mistaken belief that a release of records leads inevitably to an adopted person's decision to trace and contact natural family members and demand the right to a relationship.⁴⁴ In reality, however, information and actual contact remain separate issues; many choose to wait after obtaining their information before considering tracing their natural mothers.⁴⁵ Indeed, some adopted people who

39. Ibid.

40. Ibid., 51.

41. Unless they were illegally adopted and registered as the natural child of their adoptive parents.

42. The Department of Justice had responsibility for adoption until 1983; however, at that point it was transferred to the Department of Health (which subsequently became the Department of Health and Children). See Justice (Transfer of Departmental Administration and Ministerial Functions) Order (S.I.1982/327), *EISB*, <http://www.irishstatutebook.ie/eli/1982/si/327/made/en/print?q=S.I.+No.+327+of+1982>.

43. Prior to the introduction of the GDPR, these requests were made under the Data Protection Acts (1988–2018). Adoption records are exempt from freedom-of-information requests in Ireland.

44. For further information on adoption myths and facts, see Adoption Rights Alliance, *Briefing Note*, 4–6.

45. O'Rourke et al., *CLANN*, 92.

have obtained information about themselves and their natural family choose not to make contact at all—and if they reach out, asserts Triseliotis, the vast majority of them act thoughtfully and discreetly.⁴⁶

In their research on the counseling requirement under the Children Act, Haimes and Timms argue that focusing on adoption tracing can emphasize a “psychopathological image”; “instead of a picture of adoptees as ‘psychological vagrants’ rushing around looking for a new set of family relationships, a more rational picture is available: that is, of adoptees seeking to place themselves socially.”⁴⁷ These researchers maintain that adopted people are “seeking to place themselves in a narrative . . . in order to correct that part of their lives which gives them a marginal identity, that is, their ignorance about certain key people and events in their lives.” Haimes and Timms also contend that the so-called search for identity can best be understood as “a desire for the *ability* to ask, without censure, about one’s story and to ask others about their part in one’s story.”⁴⁸ They further observe that adoption inquiries made by participants in their study prior to the 1975 act were “secretive, individual, and fragmentary,” whereas afterward such inquiry was a legal and thus “socially sanctioned” procedure—helping to alleviate the shame they felt about being adopted.⁴⁹

ADOPTION NARRATIVES

With some notable exceptions cultural representations of adoption too often reflect extremes having little basis in reality.⁵⁰ But adopted persons who come of age under a closed and secret system lack the necessary facts about their personal stories and must depend on available versions of their experience. However, as Jo Woodiwiss warns, contemporary story-telling practices are dominated by a single narrative shaped by “therapeutic culture, pop-psychology, and self-help

46. Triseliotis, “Obtaining Birth Certificates,” 51.

47. Haimes and Timms, *Adoption*, 50.

48. *Ibid.*, 51. Emphasis in original.

49. *Ibid.*

50. See, for example, Caitriona Palmer, *An Affair with My Mother: A Story of Adoption, Secrecy, and Love* (Dublin: Penguin Ireland, 2016), and *Secrets and Lies*, directed by Mike Leigh (London: October Films, 1996), DVD.

literature.”⁵¹ In the absence of alternatives adopted people rely on popular adoption literature by authors such as Betty Jean Lifton and Nancy Newton Verrier not only to learn about the emotional aspect of adoption but also as a tool in constructing their own stories.⁵² Such strategies are inherently problematic since in Lifton and Verrier’s popular paradigm adopted people are susceptible to mental illness, drug abuse, crime, promiscuity, and a host of other manifestations of the “primal wound” or “cumulative adoption trauma.”⁵³ For Woodiwiss, then, popular self-help literature confronts readers “with a narrative framework . . . [that] makes it difficult to construct biographies that are not centered on damage.”⁵⁴

Heidi Marie Rimke, moreover, contends that such literature “exalts the individual over the social” and “ensures that norms of obligation, accountability, and responsibility continually turn the subject back on itself.”⁵⁵ Her argument resonates with the Irish case; for example, on one hand the government has yet to publish the report of an examination of illegal adoptions, but on the other, the public has been assured that the people who are affected have been offered counseling.⁵⁶ Moreover, in April 2019 the Department of Children and Youth Affairs refused to publish the full report of the Collaborative Forum on Mother and Baby Homes, instead announcing a suite of “well-being supports” for people who were in these institutions.⁵⁷ Whereas counseling and services are to be

51. Jo Woodiwiss, “What’s Wrong with Me? A Cautionary Tale of Using Contemporary ‘Damage Narratives’ in Autobiographical Life Writing,” in *Writing the Self: Essays on Autobiography and Autofiction*, ed. Kerstin W. Shands, Giulia Grillo Mikrut, Dipti R. Pattanaik, and Karen Ferreira-Meyers (Huddinge, SE: Elanders, 2015), 184.

52. See, for example, Betty Jean Lifton, *Lost and Found: The Adoption Experience* (New York: Dial Press, 1979); Nancy Newton Verrier, *The Primal Wound: Understanding the Adopted Child* (Baltimore: Gateway Press, 1993).

53. Verrier, *Primal Wound*, 1; Betty Jean Lifton, *Journey of the Adopted Self: A Quest for Wholeness* (New York: Basic Books, 1994), 7, 92–93.

54. Woodiwiss, “What’s Wrong,” 185. Also see Heidi Marie Rimke, “Governing Citizens through Self-Help Literature,” *Cultural Studies* 14:1 (2000): 70–71.

55. Rimke, “Governing Citizens,” 62, 72.

56. Jennifer Bray and Mark Hilliard, “Identifying People Adopted Illegally Is ‘Slow Work’, Says Tusla,” *Irish Times*, 25 April 2019; Conall Ó Fátharta, “No Date for Report on Scoping Exercise,” *Irish Examiner*, 16 Sept. 2019.

57. Joe Little, “Package of Supports for Mother and Baby Home Survivors Announced,” *RTÉ News*, 16 April 2019, <https://www.rte.ie/news/2019/0416/1043016-mother-and-baby-homes-zappone>; Conall Ó Fátharta, “Forum Members Dismayed

welcomed, such supportive measures are provided in the absence of transparency and accountability (including access to state reports as well as personal and administrative records for adopted people and natural family members). This lack of access renders invisible and impenetrable the very system that is under investigation in the first place.

Adopted people living under such closed, secret systems are further disadvantaged in constructing their own life narratives because they are prevented from accessing their birth certificates and their personal adoption records. Moreover, because they were infants or very young children when adopted, they cannot rely on their own memories to reconstruct their individual life stories. They are denied access to the administrative records of the agencies and individuals involved in their placement and are thus impeded from understanding how those narratives fit into the wider historical picture. Haimes and Timms report that participants in their study considered “their name, more than any other piece of information,” as associated with “the essence of their identity.”⁵⁸ And Anselm Strauss argues that a name “is a container; poured into it are the conscious or unwitting evaluations of the namer.”⁵⁹ But most adopted people in Ireland grew up without any knowledge of their original names—or indeed their natural parents’ names. And without access to their adoption files or contact with their natural families, they are unable to inquire about the reflections informing the choice of their own names.

Equally lacking for the adopted is information explaining why and how they were placed with particular families. In most cases names were given by the adopting parents, yet the decision-making process about placing children lay with the adoption agency and the Adoption Board.⁶⁰ Subjective evaluations on the part of social workers thus

by Refusal to Publish Mother and Baby Homes Report in Full,” *Irish Examiner*, 16 April 2019. The Collaborative Forum is a government-appointed group comprised of adopted people, natural mothers, and relatives of children who died in mother-and-baby homes.

58. Haimes and Timms, *Adoption*, 56–57.

59. Anselm L. Strauss, *Mirrors and Masks: The Search for Identity* (New Brunswick, NJ: Transaction Publishers, 1997), 17.

60. Anecdotal evidence suggests that some adoptive parents were brought to nurseries in institutions such as Temple Hill in Blackrock, Co. Dublin, and allowed to choose a child.

determined the family that adopted a daughter or son. But here too Irish adopted people lack access to their personal files, the administrative records of the relevant adoption agency, and the records of the institutions in which they may have been born. Those who have managed to obtain personal data through subject-access requests under the GDPR report that these materials are heavily redacted, with the names of third parties, including social workers, effaced.⁶¹ It is currently impossible, therefore, for an Irish adopted person to make “a request for an account” of how they came to have their adoptive identity because they do not know the names of those individuals holding the answers.⁶²

ADOPTION ACTIVISM: CIVIL RIGHTS OR PSYCHOLOGICAL NEEDS?

Since adopted people remain disadvantaged in compiling their own life histories, popular-psychology texts often fill the resulting lacuna. But adopted people experience what Miranda Fricker terms “hermeneutical injustice,” occurring when there is a gap in the shared tools of interpretation available to marginalized individuals and groups in articulating their experience.⁶³ For adopted people this means that it can be difficult to put into words what it means to be adopted. And in the absence of alternative understandings, the alleged psychopathology of adoption has become the dominant narrative propelling information-rights campaigns. Much psychological and self-help literature suggests that the wish to trace one’s origins stems from a deep psychological need—as a “self-therapy, correcting a psychopathological condition.”⁶⁴ But Haimés and Timms argue the contrary: participants in their study were “normal, well-adjusted adults” who

61. O’Rourke et al., *CLANN*, 85–105.

62. Haimés and Timms, *Adoption*, 51.

63. Miranda Fricker, *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford: Oxford University Press, 2007), 155, 158–59.

64. See, for example, Verrier, *Primal Wound*, 150–65; David M. Brodzinsky, Marshall D. Schechter, and Robin Marantz Henig, *Being Adopted: The Lifelong Search for Self* (New York: Anchor Books, 1993), 128–29; Marshall D. Schechter and Doris Bertocci, “The Meaning of the Search,” in *The Psychology of Adoption*, ed. David M. Brodzinsky and Marshall D. Schechter (New York: Oxford University Press, 1990), 71–85; Haimés and Timms, *Adoption*, 76.

did not conform to such assumptions.⁶⁵ Indeed, despite the failure of empirical evidence to support claims that adopted people suffer from a pathological condition, psychological research and psychopathological theories have played a prominent role in campaigns for adoption-information rights since the 1980s and 1990s, particularly in the United States.⁶⁶

Ireland's adoption-information rights movement emerged against an international backdrop focusing on the psychological damage of adoption and the need for healing and support. In 1990 Eileen Ryan and Patricia Murray founded the Adult Adoptees Association (AAA) as a support group holding monthly meetings.⁶⁷ To protect this foundational ethos of support, the organization's leaders dissuaded the group from engaging in political activism.⁶⁸ Two years later, Adoption Action was founded, initially as the "information and action committee" of the AAA, and later as an activist organization in its own right.⁶⁹ Although the history of the Irish adoption-rights movement has yet to be written, available evidence indicates that in these early years campaigners followed the lead of their American counterparts in basing their appeals on psychological need. In a 1992 letter to the *Irish Press*, Ryan makes her case clear:

Telling a child that he is adopted but that he has no right to his original records and birth history is not acceptable. . . . Growth into whole adulthood, with a secure sense of identity and capacity to achieve full potential, is seriously hindered by lack of birth information and cutting off from one's mother. . . . Dr. Betty-Jean Lifton, herself an adoptee, speaking on the psychopathology of adoption in Dublin recently, urged psychiatrists, therapists, and counsellors to tune into the "forbidden self" when treating adoptees and birth mothers who present with depression, eating disorders, adolescent acting-out, asthma, and

65. Ibid.

66. See, for example, E. Wayne Carp, *Adoption Politics: Bastard Nation and Ballot Initiative 58* (Lawrence: University Press of Kansas, 2004), 13–24.

67. Personal communication from early AAA member. See also Adopted People's Association, "The Adult Adoptee's Association," *adoptionireland.com*, May 2000, <http://www.connect.ie/~apa/apa/contacts/aaa.htm>, archived at <https://perma.cc/4PNU-7HJ3>.

68. Ibid.

69. "Adoption Action," *Irish Times*, 10 Nov. 1992, 29; Mairéad Nally, "Call for Free Information for Adopted Children and Both Sets of Their Parents," *Limerick Chronicle*, 13 Dec. 1994, 3.

many other psychological problems in numbers which exceed their proportion of the population.⁷⁰

In the same letter Ryan stresses that “the ‘need to know’ is not motivated by dissatisfaction with the adoptive parents.”⁷¹ But Haimes and Timms’s reflections on their research participants’ use of language offers a critical perspective in understanding the motivation to justify the “need to know.” They observed in their participants an attribute they labeled “just-talk,” in which adopted people used the word “just” in order to “normalise their request [for information], thus minimising its dramatic and therefore potentially threatening nature.” They argue that “something so self-evidently reasonable as . . . wanting to know who your parents are becomes immediately complex when needing explanation.”⁷²

Ireland was in the early stages of confronting its history of injustice against women and children in the early 1990s when Ryan and others began to speak out against a system that prevents adopted people from accessing their records. The only available script at the time—underscored by Lifton’s lecture in Dublin—was a model emphasizing the psychopathology of adoption. Hardly surprisingly, then, these early adoption advocates in Ireland campaigned on the basis of psychological need. However, strategies that pathologize adopted people run the risk of backfiring on the open-records movement by misrepresenting adopted people as potentially dangerous.

FROM PSYCHOPATHOLOGY TO SOCIOLOGY

How can the injustice of sealed records be acknowledged without simultaneously pathologizing adopted people? I argue that a sociological rather than a psychological lens offers one way forward. From the psychopathological perspective adopted people seeking information rights are considered, in Haimes and Timms’s memorable

70. Eileen Ryan, “Secret Adoption,” *Irish Press*, 25 Aug. 1992, 25. The AAA also reproduced Betty Jean Lifton’s charter, *Rights and Responsibilities for Everyone in the Adoption Circle*, in handouts provided to attendees at support meetings. See Lifton, *Lost and Found*, 274–79.

71. Eileen Ryan, “Secret Adoption,” 25.

72. Haimes and Timms, *Adoption*, 53.

phrase, as “psychological vagrants” looking for new relationships with family members.⁷³ This perspective rests on two assumptions: that accessing information automatically means contact with one’s natural family, and that reunion with that family represents a needed form of therapy. But as already pointed out, such assumptions do not rest on empirical evidence, even if informed by adoption-psychology literature, both academic and popular.⁷⁴

Many fields of psychology focus on traits of the individual rather than on the social structures that shape individual lives. But if the expert gaze in adoption research is steadfastly focused on the personal, findings will tend to emphasize the individual’s triumphs or failings (for example in adoption-outcome studies); such findings can sometimes be used to draw dubious and unverified assumptions.⁷⁵ Psychologist Myrna L. Friedlander’s pronouncement that “adoption works” stands out as one example, for she arrives at that assertion after reading literature reviews on the high levels of resilience among adopted children.⁷⁶ Such logic promotes adoption as a viable institution because adopted children are resilient; its conclusion is not only empirically dubious but also elides the power relations, inequalities, and other factors that can make children “adoptable” in the first place.⁷⁷

73. Ibid., 50. This paradigm also presumes that any approach made by an adopted person to his or her natural mother or family members will be unwanted.

74. See, for example, Verrier, *Primal Wound*, 150–65; Brodzinsky, Schechter, and Henig, *Being Adopted*, 128–29; Schechter and Bertocci, “Meaning of the Search,” 71–85.

75. See also Eleana J. Kim, *Adopted Territory: Transnational Korean Adoptees and the Politics of Belonging* (Durham: Duke University Press, 2010), 9.

76. Myrna L. Friedlander, “Adoption: Misunderstood, Mythologized, Marginalized,” *The Counseling Psychologist* 31:6 (2003): 745–52.

77. For example, in January 2010 the Irish government suspended intercountry adoptions from Vietnam because of two damning reports highlighting serious issues in that country’s adoption practices in which the principles of the Hague Convention had been flouted in favor of the demands of prospective adopters seeking “available” children. See Hervé Boéchat, Nigel Cantwell, and Mia Dambach, *Adoption from Viet Nam: Findings and Recommendations of an Assessment* (Geneva: International Social Service, 2009); Ministry of Labour, Invalids, and Social Affairs, *Creating a Protective Environment for Children in Vietnam: An Assessment of Child Protection Laws and Policies, Especially Children in Special Circumstances in Vietnam* (Hanoi: Ministry of Labour, Invalids, and Social Affairs, 2009); Department of Health and Children, “Minister

Although I do not suggest that all psychologists arrive at false assumptions or view adopted people as unstable, I would nevertheless argue for significant rethinking among the disciplines traditionally associated with adoption research: psychology, medicine, and social work. I further suggest that the discipline of sociology, which has long neglected adoption studies, expand its boundaries of research.⁷⁸

From a sociological perspective adopted people seeking information are far from psychologically impaired; they are attempting to place themselves within a system that has marginalized them. Haimes and Timms's research focused on the compulsory counseling requirement of the Children Act. In order to examine the relationship between "social identity and certain aspects of social policy," they studied the various social actors involved in this process, including parliamentarians, experts, local administrators, practitioners, and adopted people themselves.⁷⁹ They examined the impact of secrecy on an adopted person's social rather than ego identity, viewing the latter as insufficient to explain the phenomenon of adopted people making information requests. Haimes and Timms advocate shifting the focus to the social organization of adoption. This framework enables us to see that adopted people are at a disadvantage because they are unable to narrate their life histories—as when asked to pro-

Barry Andrews T.D. Announces Government Decision to Suspend Bilateral Inter-country Adoption Negotiations with Vietnam," Press Release, 14 Jan. 2010.

78. Since the 1990s historians, literary scholars, and others writing about the treatment of unmarried mothers and their children in Ireland have made an invaluable contribution to our understanding of the historical, social, and cultural contexts of adoption. For example, see Sandra L. McAvoy, "The Regulation of Sexuality in the Irish Free-State, 1929–35," in *Medicine, Disease, and the State in Ireland, 1650–1940*, ed. Greta Jones and Elizabeth Malcolm (Cork: Cork University Press, 1999), 253–66; Maria Luddy, "Sex and the Single Girl in 1920s and 1930s Ireland," *Irish Review* 35 (Summer 2007): 79–91; James M. Smith, *Ireland's Magdalen Laundries and the Nation's Architecture of Containment* (Notre Dame, IN: University of Notre Dame Press, 2007); Lindsey Earner-Byrne, *Mother and Child: Maternity and Child Welfare in Dublin, 1922–60* (Manchester: Manchester University Press, 2007); Jennifer Redmond, "'Sinful Singleness'? Exploring the Discourses on Irish Single Women's Emigration to England, 1922–1948," *Women's History Review* 17:3 (2008): 455–76; Donnacha Seán Lucey, *The End of the Irish Poor Law? Welfare and Healthcare Reform in Revolutionary and Independent Ireland* (Manchester: Manchester University Press, 2015), 82–118; Paul Michael Garrett, "Unmarried Mothers' in the Republic of Ireland," *Journal of Social Work* 16:6 (2016): 708–25.

79. Haimes and Timms, *Adoption*, 12, 63, 76.

vide basic information such as medical history, family background, or simply their name at birth. Haimés and Timms argue that a person's social identity "is precisely that which opens them to question, suspicion, friendliness, rejection, special-ness on the grounds of that which distinguishes them socially." For adopted people, "what distinguishes them from others is their adoptive status."⁸⁰ The inequity of closed adoption records is central to this paradigm, but—and this is pivotal—there is no inference of associated psychological damage. Again in the words of Haimés and Timms, a "social identity open to questioning does not imply, as a damaged ego might, a degree of psychological disturbance, but rather that extra care is needed to ensure the individual is taken as a serious, competent but non-threatening member of society."⁸¹

TRANSITIONAL JUSTICE AND ADOPTED PEOPLE

Although the Irish state has begun to redress the nation's treatment of women and children,⁸² current discourses around such human-rights violations generally characterize historical abuse as entirely institutional rather than systematic, widespread, and dependent on social classifications. Those discourses, moreover, have too often ignored closed and secret adoption as a form of injustice. Because all parties were expected to get on with their lives after the signing of an adoption order, silence and secrecy were inculcated within the adoptive family. Consequently, adoption was rarely discussed beyond being a given fact, and in some instances adoptive parents hid the fact that their daughter or son was adopted. Fearful of appearing disloyal, many adopted people have waited until their adoptive par-

80. *Ibid.*, 76–77.

81. *Ibid.*, 77.

82. In 1999 taoiseach Bertie Ahern apologized to people who had been abused in residential institutions as children. Following the apology the state set up the Commission to Inquire into Child Abuse and the Residential Institutions Redress Board. In 2011 the government established the Inter-departmental Committee to Establish the Facts of State Involvement with the Magdalen Laundries; however, an official state apology to Magdalen survivors would not come until 2013. In 2015 the government established a Commission of Investigation into Mother and Baby Homes.

ents have died before seeking information.⁸³ For adopted people, conforming to expected norms—for example, dutifully reporting a happy adoption experience—has been seen as “success,” whereas deviance from such norms—as in protesting against the closed system—has implied “failure.”⁸⁴ These factors exacerbate the difficulties faced by Irish adopted people, explaining why so few recognize that they are affected by historic injustice. Consequently, adoption-rights campaigners confront challenges in their efforts to achieve recognition of adoption as a key element underpinning the Irish state’s systemic human-rights violations against women and children.

Transitional justice includes four core principles: the right to know the truth about historic abuses and the fate of the disappeared; the state’s obligation to investigate and prosecute human-rights abuses; the right to reparations; and finally, the state’s obligation to prevent the recurrence of human rights abuses in the future.⁸⁵ For adopted people reparation and the right to know the truth are inextricably linked. In essence “redress” means equal access to personal data, for without these records no form of reparation is either possible or meaningful.⁸⁶ In 2015 the Irish government established a Commission of Investigation to examine abuse in mother-and-baby homes; however, its focus is almost entirely on institutional abuse—thus excluding the adoption system and adopted people as a core component of its investigative process, even though many adopted people were born and adopted from these very institutions.⁸⁷ In the CLANN

83. Vivienne Darling, “Social Work in Adoption: Vignette,” in *Social Work in Ireland: Historical Perspectives*, ed. Noreen Kearney and Caroline Skehill (Dublin: Institute of Public Administration, 2005), 187; O’Rourke et al., *CLANN*, 80.

84. Harold J. Abramson, *Issues in Adoption in Ireland* (Dublin: The Economic and Social Research Institute, 1984), 53.

85. UN Office of the High Commissioner for Human Rights, *Transitional Justice and Economic, Social, and Cultural Rights* (UN Doc. HR/PUB/13/5, 11 April 2014), 5.

86. The same is true of people raised in informal-care settings and others affected by historical abuse.

87. Precise figures for the number of adoptions from mother-and-baby homes, public hospitals, private hospitals, private nursing homes, etc., are not currently available. Commission of Investigation (Mother and Baby Homes and Certain Related Matters) (SI 2015/57), *EISB*, <http://www.irishstatutebook.ie/eli/2015/si/57/made/en/html>. ARA and JFMR are aware of over 180 agencies, institutions, and individuals that were involved with unmarried mothers and their children. For a critique of the Commission of Investigation and its processes and operation, see O’Rourke et al., *CLANN*, 129–34.

Project report, Adoption Rights Alliance and JFMR called on the Irish state to move from a fragmented, compartmentalized approach in investigating historical abuse, advocating instead a comprehensive transitional-justice process, including a capstone investigation.⁸⁸ This call has fallen on deaf ears.

Reform and a guarantee of nonrecurrence are vital components of the transitional-justice process, but Ireland's adoption history throws these components into sharp relief: the oppressive policies imposed on adopted people still today assure that past injustices continue.⁸⁹ More positively, significant progress has been made in reforming intercountry adoption in Ireland, both at policy and practice level.⁹⁰ Stricter regulations have ensured more child-centered policies; however, a culture of entitlement persists, with some accusing the state of ruining their chances to parent children.⁹¹ A comprehensive and independent investigation of the twentieth-century adoption system in Ireland would expose the underlying processes and power structures of the past.

Closed, secret adoption represents one of the last bastions of Ireland's twentieth-century system of oppression against women and children. Despite significant social change in recent years, as well as a new culture of embracing family genealogies and histories, much of the "old Ireland" survives for adopted people. The psychopathological research paradigms and literature associated with adoption further compound this situation. As I argue, however, embracing transitional-justice principles and shifting to sociological rather than psychopathological research frameworks will illuminate these injustices. Acting on such principles will mark the beginning of an effective response to historical abuse in Ireland, but only if access to information is prioritized as a fundamental right and a cornerstone of the reparations process.

88. O'Rourke et al., *CLANN*, 134–37.

89. See *ibid.*, 85–105. Donor-conceived children in Ireland have few identity rights, and although plans exist to outlaw anonymous egg and sperm donations, the relevant parts of the Children and Family Relationships Act (2015) have not been enacted.

90. Adoption Act (21/2010), *EISB*, <http://www.irishstatutebook.ie/eli/2010/act/21/enacted/en/html>.

91. See, for example, Rosita Boland, "Changes to Adoption Law Have Shattered My Hopes of Becoming a Parent," *Irish Times*, 8 March 2014.